

Active versus Passive Land Policies

Urban Area Development in the Netherlands
from a Municipal Perspective



Matthijs Witting

4279689

P5 Report

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Colophon

Active versus Passive Land Policies:

Urban Area Development in the Netherlands from a Municipal Perspective

Master Graduation Thesis (P5)

31-01-2020

Name: **A.M. (Matthijs) Witting**
Student number: 4279689
Contact: matthijswitting@hotmail.com
+31 6 13073728

Institution: Technische Universiteit Delft
Faculty: Architecture and the Built Environment
Master track: Management in the Built Environment
Department: Urban Development Management

Mentors: Dr. Ir. Erwin W.T.M. Heurkens
Dr. Mr. Fred A.M. Hobma



Delegate from board
of examiners:

Ir. H. Plomp

Abstract and Keywords

Abstract

The Dutch institutional system for urban development has traditionally been known for its implementation of active land policy by municipalities. This is an approach to land development that includes a municipality acquiring land, servicing it with infrastructure and public amenities and disposing it to a real estate developer, in which the value increase of the land through its development in principal should cover the costs of the operation. In recent times, critical remarks about this way of approaching land development have increasingly occurred, especially since Dutch municipalities lost considerable amounts of money due to investments in land during the 2008 Global Financial Crisis. After this, the collective idea seemed to be that municipalities had to get rid of this way of land development, adopting merely passive land policies. However, as it turns out municipalities have not abandoned the active land policy at all. This research aims at unraveling the characteristics and specifics of land policies and at finding out how municipalities decide on which type to apply. Through a literature review, the spectrum of different land policies is researched, after which an empirical research is done through case studies of eight municipalities to find out how the process of choosing and implementing a land policy in Dutch municipalities currently works. In the end, the lessons from practice will be compared to the existing literature, and a recommendation on how to treat land policy within municipalities will be done.

Keywords

land development – active land policy – passive land policy – urban area development – Dutch municipalities – land policy

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Preface

A year ago, I didn't know land policy existed.

With that statement I would like to start off. Because it's true, but also because I liked to remind myself of this during the research, at moments I wondered if I actually understood what I was working on. This then gave me the idea that I came a long way already, and if I just went on doing the same it would probably work out fine in the end. So, this is the end. I spent so much time trying to figure out how to formulate my conclusions, that I hardly even noticed when they were finished. But now, I'm writing my preface, and I know that I am almost done graduating.

Many thanks to my tutors Fred and Erwin, and to Martin and the other people from the advisory group Ruimte, Wonen en Economie, at TwynstraGudde, who all helped me to make sense of what I was doing. I hope the report will provide some insights that are new to you as a reader.

Matthijs Witting

January, 2019

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Management Summary

Context, aanleiding en relevantie

Actief en passief grondbeleid

Nederland staat traditioneel gezien bekend om de hoge kwaliteit van zijn stedelijke omgeving. Deze hoge kwaliteit wordt hoofdzakelijk toegekend aan de wijdverspreide toepassing van actief grondbeleid in gebiedsontwikkelingsprojecten. Actief grondbeleid houdt in dat gemeenten plannen maken voor een ontwikkeling, het grondgebruik reguleren, zelf grond aankopen en verzamelen, deze grond bouwrijp maken en voorzien van infrastructuur en doorverkopen aan ontwikkelaars die vervolgens opstal realiseren. Actief grondbeleid wordt in Nederland op grote schaal toegepast sinds de wederopbouw, waarbij gemeenten grote hoeveelheden bouwgrond voorbereiden en die voor een vaste lage prijs doorverkochten aan woningbouwcorporaties. De tegenhanger van actief grondbeleid is passief grondbeleid (vaak ook: faciliterend), waarbij de gemeenten ook plannen maken en het grondgebruik reguleren, maar vervolgens alle verdere ontwikkeling van de grond over laten aan private partijen.

Veranderende context en kritiek

Naast het voorzien van bouwgrond voor sociale huur, zijn er in de afgelopen decennia meer redenen geweest voor gemeenten om actief grondbeleid toe te passen. Een belangrijke reden die in de academische literatuur wordt genoemd is het winstperspectief dat er in veel gevallen is wanneer de gemeente grond aankoopt en de waarde hiervan stijgt door het aanleggen van voorzieningen (baatafoming). In een grotere internationale context is er daarnaast een beweging te zien richting de liberalisering en privatisering van markten, voornamelijk gestuurd door de EU.

In de academische literatuur wordt als kritiek op actief grondbeleid onder andere genoemd dat er mogelijk belangenverstremming kan ontstaan wanneer een gemeente zowel als regulerend orgaan functioneert, als marktpartij die grond aankoopt en verkoopt. Daarnaast is de grootste kritiek dat de gemeente financieel risico loopt, omdat actief grondbeleid slechts financieel effectief is voor zover de marktomstandigheden goed zijn. De negatieve gevolgen die dit risico kan hebben werden op een pijnlijke manier duidelijk tijdens de financiële crisis van een decennium geleden. Gemeenten verloren veel geld door de daling in waarde van hun gronden, maar ook door langere looptijden van exploitaties en de extra rente die daarover betaald moest worden. Volgens sommigen was dit debacle genoeg reden om actief grondbeleid voorgoed af te schrijven.

De Wro van 2008 werd aangehaald als argument waarom actief grondbeleid niet meer nodig zou zijn, omdat deze in de vorm van het exploitatieplan handvatten biedt om kostenverhaal veilig te stellen. Hierdoor werd het probleem van 'free riders' (private ontwikkelaars die weigerden bij te dragen aan publieke voorzieningen in het ontwikkelgebied en daarmee weg kwamen) en was actief grondbeleid niet meer nodig.

Aanleiding onderzoek

De kritieken op actief grondbeleid, evenals het momentum dat er lijkt te zijn passief grondbeleid, lijken een verschuiving aan te geven naar een dominantere rol voor passief grondbeleid. Desalniettemin toont een onderzoek van Bregman et al. (2018) aan dat er sinds 2004 geen relatieve stijging is geweest van het aantal passieve grondexploitaties, maar dat de verhoudingen min of meer gelijk zijn gebleven. Blijkbaar zijn er dus nog goede redenen om

actief grondbeleid toe te passen, die ondanks de kritieken belangrijk zijn in het besluitvormingsproces, maar niet aangestipt worden in de academische literatuur. Daarom is dit onderzoek gecentreerd rondom de vraag: *Welke overwegingen spelen er binnen gemeenten voor het toepassen van actief dan wel passief grondbeleid in stedelijke gebiedsontwikkeling?*

Methodologie

Het onderzoek is uitgevoerd in twee fasen. In de eerste fase is er een uitgebreide literatuurstudie uitgevoerd. In deze literatuurstudie is met name onderzocht wat de belangrijkste kenmerken zijn van beide typen grondbeleid. Dit is gedaan door op een rij te zetten welke juridische instrumenten er bij beide wijzen van grondbeleid voeren horen, maar ook door uit te zoeken welke voor- en nadelen beide typen hebben. Daarnaast is er onderzocht welke varianten er zijn in het toepassen van grondbeleid, gezien over het algemeen niet volledig actief of volledig passief wordt ontwikkeld. De sub-onderzoeksvragen die beantwoord worden in de literatuurstudie zijn:

- *Wat zijn de karakteristieken van zowel actief- als passief grondbeleid op het gebied van juridische instrumenten, voordelen en kritieken?*
- *Welke verschillende varianten van actief- en passief grondbeleid bestaan er?*

In de tweede fase is er een empirisch onderzoek uitgevoerd aan de hand van casestudies. De sub-onderzoeksvragen die beantwoord worden in het empirisch onderzoek zijn:

- *In hoeverre is er consistentie tussen het geschreven grondbeleid en de uitvoering van grondbeleid in projecten?*
- *Hoe en waarom besluiten gemeenten een bepaald type grondbeleid in te zetten in gebiedsontwikkelingsprojecten?*

Er is gekozen voor gemeenten als cases in plaats van projecten, om zo een overzicht te krijgen van wat er binnen gemeenten gebeurt in het besluitvormingsproces rondom grondbeleid. Dit houdt in dat bij een totaal van 8 gemeenten semigestructureerde interviews zijn afgenomen.

Voor het selecteren van gemeenten is er in eerste instantie een voorselectie gemaakt. Deze is gebaseerd op de volgende criteria:

- De gemeente mag niet te groot of te klein zijn (49.000-180.000 inwoners).
- De gemeente mag niet onlangs gefuseerd zijn.
- De gemeente moet groeiperspectief hebben.
- De gemeente moet in een positie zijn om te kunnen kiezen tussen beide vormen van grondbeleid.
- De gemeente heeft bij voorkeur lopende projecten in de initiatieffase waarbij keuzes worden gemaakt omtrent grondbeleid.

Van de 355 Nederlandse gemeenten zijn er 38 opgenomen in de voorselectie. Van deze gemeenten zijn vervolgens de relevante beleidsdocumenten bestudeerd, waaruit een volgende selectie is gemaakt op basis van informatievoorziening, of interessante standpunten. Zo roept weinig informatieverstrekking over hoe grondbeleid behandeld wordt de vraag op hoe er dan wel wordt besloten hoe er grondbeleid wordt ingezet. Bij veel informatieverstrekking valt er goed na te trekken of de betreffende gemeente inderdaad zo te werk gaat. Interessante standpunten, zoals een uitgesproken voorkeur voor actief grondbeleid, duiden op een onderliggend proces voorafgaand aan de keuze dat kan leiden tot relevante inzichten. Als laatste is het criterium toegevoegd dat de gemeente benaderbaar moet zijn en er medewerkers bereid moeten zijn mee te werken aan het onderzoek. *Tabel a* toont de selectie aan van 14 gemeenten

die is overgebleven. De dikgedrukte gemeenten zijn uiteindelijk gecontacteerd met behulp van de afdeling Ruimte, Wonen & Economie, van TwynstraGudde, om deel te nemen aan het onderzoek.

| | | |
|-------------------|-----------------------|-------------------|
| <i>Haarlem</i> | <i>Delft</i> | <i>Zeist</i> |
| Amersfoort | <i>Roosendaal</i> | <i>Nieuwegein</i> |
| Zaanstad | <i>Hoorn</i> | <i>Roermond</i> |
| Zwolle | Katwijk | Barneveld |
| Leiden | Stichtse Vecht | Rotterdam |

Tabel a. Voorselectie van de geschikte gemeenten voor casestudies. Uiteindelijke selectie dikgedrukt.

Literatuurstudie

In dit onderzoek wordt de scheidslijn tussen actief en passief grondbeleid getrokken bij de eigendomspositie van de gemeente. Daarom wordt er uitgegaan van actief grondbeleid wanneer de gemeente bewust grondeigendom heeft of heeft verworven, individueel of in een samenwerking. Passief grondbeleid wordt gezien als de methoden waarbij de gemeente niet noodzakelijk grond hoeft te verwerven.

Actief grondbeleid

Juridische instrumenten

Het eerste instrument dat gebruikt wordt voor actief grondbeleid is dat van de minnelijke verwerving. Hierbij wordt grond direct gekocht van de eigenaar tegen een marktconforme prijs. Daarnaast zijn er twee andere instrumenten die de gemeente kan inzetten om grond te verwerven. Dit zijn de Wet Voorkeursrecht Gemeenten (WvG) en de Onteigeningswet. Bij de eerste wijst de gemeente een gebied aan waar zij vervolgens altijd als eerste de grond aangeboden moet krijgen wanneer deze in de verkoop gaat. Bij de tweede kan de gemeente een eigenaar ontdoen van zijn/haar grond, als hier een gegronde reden voor is in het publieke belang. De eigenaar moet wel redelijkerwijs worden gecompenseerd. Deze twee instrumenten maken het makkelijker voor gemeenten om benodigde grond te verkrijgen, wat vaak een reden is dat private partijen het waarderen wanneer de gemeente hierin een actieve rol inneemt. Als laatste kan de gemeente bij de verkoop van haar verworven gronden door een privaatrechtelijke verkoopovereenkomst sturen op wat er met de grond gebeurt, of het kan in een tender eisen stellen aan de ontwikkeling.

Kritieken

De belangrijkste kritiek op actief grondbeleid is op het financieel risico dat de gemeente loopt bij het zelf voeren van een grondexploitatie. Zoals genoemd is er veel geld verloren gegaan in de meest recente financiële crisis. Hierdoor zijn de kritieken aangewakkerd. De verliezen zijn voornamelijk veroorzaakt door langere looptijden van rente op leningen, doordat gemeenten hun met leningen gekochte grond niet kwijt konden. Daarnaast is de waarde van veel grond gedaald. Volgens sommigen is het gegronde om in economisch voorspoedige tijden actief grondbeleid toe te passen om winst te maken, volgens anderen mag winst nooit een motivatie zijn om voor actief grondbeleid te kiezen. Een bijkomende oorzaak voor de grootte van de verliezen is dat gemeenten werden gestimuleerd door provincies en de nationale overheid om zoveel mogelijk bouwgrond te produceren. Hierdoor was er een overdaad aan grond en werd er meer verlies geleden dan nodig. De kritiek is niet zozeer gegrond op de verliezen die geleden werden, maar op de achterliggende risico's die gelopen werden door gemeenten (met gemeenschapsgeld). Dit leidde tot het advies aan gemeenten door de Raad voor Financiële Verhoudingen (2015) om in principe enkel passief grondbeleid te voeren.

De tweede grote kritiek op actief grondbeleid in de academische literatuur wordt de 'dubbelepetten' problematiek genoemd. Dit houdt in dat de gemeente, wanneer zij acteert op de grondmarkt, tegelijkertijd als democratisch gekozen overheidsorgaan en als marktpartij handelt. Aan de ene kant kan dit belangenverstrengeling opleveren, wanneer de gemeente bijvoorbeeld een keuze moet maken die bij een bepaalde uitkomst haar eigen projecten meer zou kunnen bevoordelen dan andere projecten. Aan de andere kant is het de vraag of de gemeente als overheidsorgaan wel op de grondmarkt zou mogen ingrijpen, daar zij vanwege haar democratische oorsprong iedereen gelijk zou moeten behandelen, waar dit lastig kan zijn wanneer er als marktpartij moet worden opgetreden. Het laatste argument van deze kritiek is dat de gemeente bij een te grote financiële betrokkenheid de financiële gezondheid van het project boven de publieke doelen die het probeert te halen stelt. Het risico is dat de gemeente zo eerder de publieke doelen naar beneden bijstelt ten bate van het winstperspectief. De vraag is daarom of de gemeente wel zou moeten willen optreden als marktpartij.

Voordelen

Naast kritieken zijn er ook voordelen van het voeren van actief grondbeleid beschreven in de academische literatuur. Er wordt inmiddels weer winst gemaakt door gemeenten met actieve grondexploitaties, waar dit voor de crisis ook gebeurde. Deze winst kan worden ingezet om publieke voorzieningen te treffen die private partijen zouden laten liggen. Dit laten liggen kan worden gezien als 'markt falen' en is volgens sommigen daarom een reden om actief grondbeleid te rechtvaardigen. Zo is het bij publieke infrastructuur die een groter gebied dient dan het plangebied moeilijker om de kosten hiervoor te verhalen op de ontwikkelaars, waar bij actief grondbeleid de winst ingezet kan worden zoals de gemeente belieft. In Nederland gebeurt dit echter enkel indirect, gezien het niet toegestaan is deze kosten direct binnen het project te verevenen. De opbrengsten van grondexploitaties in het ene project kunnen wel worden gebruikt voor het financieren van andere verlieslatende projecten. Hier is zelfs op ingezet door de nationale overheid door in de jaren 90 schaarste te creëren, zodat gemeenten hogere opbrengsten uit grondexploitaties zouden kunnen gebruiken ter vervanging van subsidies (Tweede Kamer der Staten-Generaal, 2013).

Een tweede voordeel dat wordt genoemd in niet alleen academische maar ook vakliteratuur is dat de gemeente door financieel betrokken te zijn haar eigen belang ook dient met het in stand houden van een stabiel investeringsklimaat. Dit lijkt echter niet vaak een doorslaggevende overweging te zijn om actief grondbeleid toe te passen, maar wordt eerder gezien als positieve bijkomstigheid.

Een derde voordeel van actief grondbeleid is dat het op gang houden van gebiedsontwikkeling en daarmee het produceren van woningen door de gemeente gestimuleerd wordt. Dit kan nodig zijn omdat stijgende grondwaarde voor ontwikkelaars een motivatie kan zijn om te wachten met ontwikkelen (bekend als het 'hold-out' probleem). Dit speelt voornamelijk een rol in economisch voorspoedige tijden. Daarnaast kan het zo zijn dat een gemeente te maken heeft met bevolkingskrimp. Om toch aantrekkelijk te blijven voor ontwikkelaars is het nodig dat de gemeente initiatief neemt door middel van actief grondbeleid. Hiermee toont zij aan dat ze vertrouwen heeft in de ontwikkeling.

Als vierde wordt er in de literatuur genoemd dat de mogelijkheden om te sturen op de ruimtelijke ontwikkelingen groter zijn met actief grondbeleid. Het hebben van eigendom stelt de gemeente in staat om meer controle uit te oefenen op de ontwikkeling. Zo kunnen er bijkomende eisen worden gesteld in de verkoopovereenkomst, die met publiekrechtelijke instrumenten niet zijn af te dwingen. Daarnaast heeft de gemeente een betere positie in de

onderhandelingen, omdat het meer te bieden heeft aan de ontwikkelaars wanneer die gevraagd worden om extra investeringen te doen.

Varianten (publieke grondexploitatie)

Publieke grondexploitatie houdt in dat gemeenten zonder tussenkomst van private partijen verantwoordelijk zijn voor het gehele exploitatieproces. Zo wordt de gemeente aanbieder van bouwgrond. Traditioneel gezien is deze variant gevoerd door gemeenten om controle uit te oefenen op wie uiteindelijk de grond van ze kocht.

Varianten (bouwclaim model)

In het bouwclaim model leveren de private partijen hun grond onder bepaalde voorwaarden in bij de gemeente, die deze voorziet van infrastructuur en bouwrijpe kavels aflevert. De private partijen hebben vervolgens het recht om de grond terug te kopen wanneer deze klaar is. Deze variant kan handig zijn wanneer het grondeigendom van verschillende partijen versplinterd is. Het kan ook zijn dat een bepaald stuk grond nodig is voor de bereikbaarheid van het gehele gebied. In dat geval kan de gemeente een vergelijkbaar stuk grond terug leveren aan de private eigenaar.

Varianten (concessie model)

In het concessie model organiseert de gemeente een tender waarbij het vervolgens eisen stelt aan de grond op het gebied van kwaliteit en programma. De grond- en opstalexploitatie wordt vervolgens overgelaten aan de private partijen.

Varianten (PPS)

Als laatste kan de gemeente een nieuwe organisatie oprichten samen met private partijen, waarbij de risico's en opbrengsten worden verdeeld. Naast het verdelen van risico's kan dit ook belastingtechnisch voordelig zijn. Gemeenten hebben in afgelopen decennia deze structuur gezien als risicomijdend, maar gedurende de financiële crisis hebben veel marktpartijen zich teruggetrokken uit de samenwerkingsverbanden, de gemeenten met het risico achterlatend.

Passief grondbeleid

Juridische instrumenten

Het exploitatieplan wordt gezien als het meest centrale juridische instrument van passief grondbeleid. Het werd geïntroduceerd in de Wro van 2008 als verzekering van kostenverhaal, waar eerder private partijen soms ongestraft weigerden bij te dragen aan publieke infrastructuur die hun eigen ontwikkeling diende. Het exploitatieplan hoeft enkel gemaakt te worden wanneer de gemeente en private partijen geen afspraak weten te maken over een bijdrage aan de publieke voorzieningen in het plangebied; het fungeert slechts als stok achter de deur. De ontwikkelaar betaalt een in het exploitatieplan berekende bijdrage betalen bij de vergunningsaanvraag. Wanneer er wel een overeenkomst wordt gesloten is dit meestal een anterieure overeenkomst. Dit is een privaatrechtelijke overeenkomst die afspraken bevat over de verdeling van kosten die gemaakt worden ten behoeve van het plangebied. De anterieure overeenkomst geniet over het algemeen de voorkeur boven het exploitatieplan.

De anterieure overeenkomst bedraagt slechts afspraken over kosten die gemaakt worden in het plangebied zelf. Daarnaast kan er 'kostenverhaal bovenwijkse voorzieningen' worden gepleegd, wat inhoudt dat de ontwikkelaar om een bijdrage kan worden gevraagd voor het aanleggen van bijvoorbeeld een brug naar het plangebied, die ook een groter gebied dient. De ontwikkelaar hoeft dan slechts dat deel van de investering bij te dragen, dat zijn plangebied uitmaakt van het profiterende gebied. Daarnaast kan er een bijdrage worden bedongen via de 'financiële bijdrage ruimtelijke ontwikkeling'. Dit betreft over het algemeen zaken als natuurgebieden in de

omgeving waar aan wordt bijgedragen. Deze bijdrage kan in de anterieure overeenkomst worden opgenomen, mits de ontwikkeling van zo'n gebied in de structuurvisie is overgenomen.

Ook de structuurvisie is een product van de Wro van 2008. Deze bestaat uit een visie van de gemeente of provincie waarin kaders worden gesteld voor de ontwikkeling van hun gebied. Het dient ook als globaal startpunt voor het opstellen van tenders en is verplicht om op te stellen.

Het bestemmingsplan dient voor meer gedetailleerde plannen. Ontwikkelingen worden hierin vastgelegd en het document is juridisch bindend. De gemeente kan echter een optie inbouwen om het bestemmingsplan nog te kunnen wijzigen, wat haar ruimte geeft om te onderhandelen met ontwikkelaars alvorens het bestemmingsplan aan te moeten passen. Met de aankomende omgevingswet zal het bestemmingsplan veranderen in het omgevingsplan, wat een breder aantal bepalingen bevat. Het richt zicht niet enkel op programma en ruimtelijke ordening, maar op alle facetten van de fysieke omgeving.

Een ander instrument dat enkel in theorie nog aanwezig is, is de baatbelasting. Voor de Wro van 2008 was de heffing van baatbelasting gebruikelijker. Een deel van de waardevermeerdering van omliggende grond van een ontwikkeling kon door de gemeente worden afgeroomd. Met de Wro werd het echter verboden om de belasting te heffen wanneer er al een anterieure overeenkomst of exploitatieplan was opgesteld.

Kritieken

Eén van de belangrijkste kritieken op passief grondbeleid betreft de beperkingen aan de bijdrage die gevraagd kan worden aan marktpartijen voor publieke voorzieningen. Het Nederlandse rechtssysteem staat enkel het verhalen van kosten toe die intern aan ontwikkelingen zijn toe te rekenen. De Regeling Plankosten Exploitatieplan geeft mogelijkheden om bovenplanse kosten te verhalen, maar die kunnen slechts naar proportionaliteit worden verhaald, wat vaak niet alle kosten dekt. Een meer ideologisch vraagstuk ligt achter dit facet van grondbeleid: wie heeft het recht op de waardevermeerdering van grond door aanleggen van voorzieningen? Is dat de eigenaar, of de gemeenschap?

Een tweede belangrijke kritiek op passief grondbeleid is de juridische complexiteit die wordt ervaren. Wanneer er geen anterieure overeenkomst kan worden bereikt, moet een exploitatieplan worden opgesteld. Dit wordt soms echter gezien als 'noodzakelijk kwaad' en complex om op te stellen. Daarnaast moet de gemeente er specifieke kennis voor in huis hebben.

Voordelen

Het belangrijkste voordeel van passief grondbeleid is dat de gemeente geen risicovolle investeringen hoeft te doen. De Duitse passieve methode is gebleken vrij robuust te zijn tijdens de financiële crisis, in tegenstelling tot het Nederlandse actieve grondbeleid. Een ander gebied waarop de Duitse passieve methode goed werkt is het tegengaan van speculatie. Waar in Nederland kosten voor gemeenten worden opgedreven door ontwikkelaars die strategische aankopen doen met het zicht op komende ontwikkelingen, voeren de Duitsers een verplicht herverkaveling uit. De gemeente herverdeelt de kavels en krijgt een bijdrage voor de veronderstelde waardevermeerdering die hierdoor plaatsvindt, maar blijft zelf buiten de invloeden van marktwerking van de grond.

Een ander voordeel van passief grondbeleid is dat de gemeente nog steeds ontwikkelingen kan faciliteren wanneer het niet de ambtelijke of financiële capaciteit heeft om zelf grond te ontwikkelen.

Ook is het zo dat de gemeente bij het voeren van passief grondbeleid een duidelijke publieke rol uitoefent. Dit is in eerste instantie voordelig omdat de publieke doelen niet gelinkt worden aan

financiële doelen. Volgens Valtonen et al. (2017) hoeft er minder publieke doelen naar beneden toe bijgesteld te worden ten gunste van financiële gezondheid van een project, omdat de gemeente zelf niet financieel betrokken is. Daarnaast ontwijkt de gemeente de dubbele-petten problematiek, door zich slechts bezig te houden met haar overheidstaken. In deze rol wordt er nog steeds actief gestuurd op doelen en programma van de ontwikkelingen.

Varianten (publieke grondexploitatie)

Private grondexploitatie houdt in dat de volledige exploitatie van de grond door marktpartijen uitgevoerd. Dit gebeurt hoofdzakelijk wanneer zij zich beroepen op het recht tot zelfrealisatie. De eigenaar van grond kan dit doen wanneer deze kan aantonen dat hij/zij de beoogde plannen voor zijn grond kan en wil uitvoeren.

Varianten (stedelijke herverkaveling)

Stedelijke herverkaveling is een manier van passief grondbeleid die nog relatief onbepoefd is in Nederland. Het is een vrij complexe methode, omdat er vaak veel verschillende (onprofessionele) eigenaren bij betrokken zijn, met verschillende belangen. Het wordt voornamelijk toegepast in Azië, Israël, Duitsland en Spanje. De grondeigenaren leveren hun grond in bij de gemeente, die deze herverkavelt naar een efficiëntere indeling, die ideaal gezien voordelig is voor alle eigenaren. Daarmee stijgt de totale waarde van de grond in het gebied, die de gemeente afroemt om de procedure te betalen. In Nederland is er de mogelijkheid om dit instrument te gebruiken, maar het is slechts mogelijk wanneer alle grondeigenaren hiermee instemmen. Volgens sommigen maakt dit gebrek aan verplichting het instrument onbruikbaar, omdat er over het algemeen in relevante situaties vrijwel altijd een onwillige eigenaar is.

Conclusies literatuur

Na beide typen grondbeleid bestudeerd te hebben, kan er in eerste instantie worden geconcludeerd dat er geen van de twee altijd superieur is boven de ander. Dit is ook waarom veel gemeenten kiezen voor een situationeel grondbeleid.

Als de voor- en nadelen van actief en passief grondbeleid naast elkaar worden gelegd, lijkt er een zekere balans te zijn. Op sommige momenten is er voor gemeenten niet echt sprake van een keuze. Bijvoorbeeld wanneer er zonder actief grondbeleid niets ontwikkeld wordt. Als dit soort aanleidingen voor een besluit worden weggelaten, zouden de onderwerpen moeten overblijven die een rol spelen in het maken van een beslissing voor actief en passief grondbeleid wanneer die keuze wel mogelijk is. De punten die als overkoepelend kunnen worden gezien zijn dan de mogelijkheden tot *baatafoming*, de *democratische legitimiteit* van de grondbeleidstypen, en de

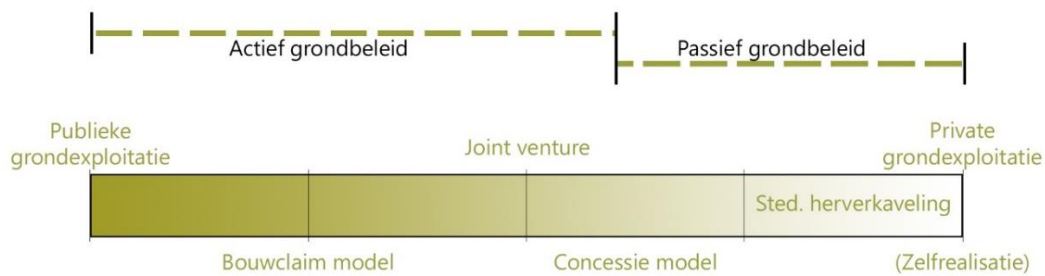


mogelijkheden tot *sturing* die beide typen bieden. De eerste twee lijken meer politieke dilemma's te zijn. Bij de baatafoming is het de vraag aan wie de winsten van bepaalde grondexploitaties zouden moeten toekomen. De voorkeur hierin kan afhangen van politieke overtuigingen binnen de gemeenteraad. Ook het vraagstuk van democratische legitimiteit is een soortgelijk dilemma, waar het gaat over wat de rol

Figuur a. Dilemma's als uitkomst literatuurstudie.

van de overheid zou moeten zijn in gebiedsontwikkeling. Het dilemma van sturingsmogelijkheden onderscheid zich door een overduidelijke pragmatische oorsprong. De vraag hierbij is vooral hoe de doelen die gesteld zijn het beste kunnen worden bereikt. Natuurlijk wordt baatafoming ook praktisch ingezet voor het financieren van voorzieningen waar anders geen geld voor beschikbaar zou zijn, maar de achterliggende vraag is of dit ideologisch gezien te verantwoorden is.

Deze drie dilemma's (*figuur a*) dienen als uitgangspunt voor het empirisch onderzoek, gezien het vanuit de literatuur mogelijk lijkt te concluderen dat op deze drie punten de keuze lijkt te worden gemaakt. Daarnaast is in *figuur b* het spectrum weergegeven van verschillende varianten van actief en passief grondbeleid.



Figuur b. Spectrum van grondbeleidsvarianten.

Empirisch onderzoek

Cases



Figuur c. Locaties van onderzochte gemeenten.

Zoals genoemd zijn er 8 cases geselecteerd voor het empirisch onderzoek (*figuur c*). Het geschreven grondbeleid van de gemeente Amersfoort bevat een beslissingsmatrix gebaseerd op potentie en urgentie: hoe hoger de urgentie, hoe meer er noodzaak is voor actief grondbeleid. Bij een hogere potentie maar lage urgentie is passief grondbeleid passend. Wanneer zowel potentie als urgentie hoog zijn wordt er 'sturend' grondbeleid toegepast; een derde variant.

De gemeente Zaanstad verschaft in haar paragraaf grondbeleid weinig informatie over hoe het grondbeleid wordt bepaald, maar zegt het wel dat er drie hoofddoelen zijn met het uitvoeren van grondbeleid: het stimuleren van sociaal gewenst ruimtegebruik; de kwaliteit van de ruimte, de publieke participatie en de marktwerking op de grondmarkt vergroten; en

het stimuleren van een rechtvaardige verdeling van kosten en baten binnen de gemeente.

De gemeente Zwolle is één van de twee gemeenten die buiten de randstad liggen en gebruikt een beslissingsmatrix gebaseerd op eigendom en prioriteit. Hoge prioriteit vereist actief

grondbeleid, lage prioriteit passief en afhankelijk van het bezit van grond wordt dit dan verkocht of verworven.

Leiden heeft net als Katwijk en Stichtse Vecht een beslisboom in hun grondbeleidsnota staan op basis waarvan de keuze wordt gemaakt. Als een initiatief niet als gewenst wordt beschouwd wordt het niet gesteund, maar wanneer dit wel zo is wordt er gekeken naar de financiële haalbaarheid, of de risico's acceptabel zijn en of er genoeg expertise en capaciteit is voor het voeren van actief grondbeleid. Wanneer het antwoord op al deze vragen positief is wordt er voor actief grondbeleid gekozen, maar als het antwoord op één van die punten negatief is wordt passief gekozen. De gemeente Katwijk voorziet naast de eerdergenoemde beslisboom ook nog in een beslisboom voor wanneer grond aan te kopen en presenteert zes 'ontwikkellijnen' die gevolgd kunnen worden na het besluit voor actief of passief grondbeleid.

De gemeente Barneveld is een uitzondering, gezien het de enige gemeente is die een voorkeur uitspreekt voor actief grondbeleid. Onder het mom van "actief, maar behoedzaam", is het de ambitie om tot aan 2030 door te groeien tot maximaal 70.000 inwoners, waar er nu ongeveer 58.000 mensen in Barneveld wonen. Voor het uitvoeren van actief grondbeleid zijn er drie grote aanleidingen, te weten: er is een aanzienlijk maatschappelijk en sociaal belang bij het project, private partijen initiëren de beoogde ontwikkeling niet, het is gewenst om het project (deels) op korte termijn te realiseren.

De laatste gemeente is Rotterdam. Dit is de grootste gemeente van alle cases met circa 645.000 inwoners. De gemeente heeft geen leidend grondbeleidsdocument, maar beschrijft in de paragraaf grondbeleid van de jaarlijkse begroting dat er op korte termijn gestart wordt met de productie van 18.000 nieuwe woningen. Interessant aan de gemeente is dat er momenteel het Nationaal Programma Rotterdam Zuid (NPRZ) wordt uitgevoerd. Dit project behelst onder andere grootschalige ruimtelijke vernieuwing in het grootste deel van Rotterdam Zuid, waaronder het opkopen en saneren van verouderde woningvoorraad valt.

Resultaten

Traditionele aanpak grondbeleid

Zoals eerder al is benoemd, hebben veel gemeenten door de crisis hun traditionele voorkeur voor een actief grondbeleid aangepast naar voorkeur voor een passief grondbeleid. Dit is echter niet het geval bij alle gemeenten. De gemeenten Amersfoort, Leiden en Zwolle passen enigszins in dit profiel. Deze drie gemeenten hebben actief grond verworven voor de crisis, maar hebben aanzienlijk gas terug genomen toen deze aanving. Het devies werd situationeel met een voorkeur voor passief. De gemeente Rotterdam is op dit gebied een vergelijkbare case. Het had geen expliciet grondbeleidsdocument, maar was aanzienlijk actiever op de grondmarkt voor de crisis. De bezetting van het grondbedrijf is aanzienlijk geslonken als gevolg van de crisis. Deze oriëntatie op passief is daarnaast mede een gevolg van een politieke keuze in 2002 om minder actief grondbeleid in te zetten.

De gemeenten Katwijk en Stichtse Vecht zijn beide voortgekomen uit fusies. In Katwijk gebeurde dit in 2006, waarna actief grondbeleid de voorkeur kreeg omdat twee van de drie fuserende gemeenten dit voerden. Ook zij zijn echter door de crisis meer passief georiënteerd geworden. In Stichtse Vecht, dat tot stand kwam in de nadagen van de crisis, werd vanaf het begin af aan besloten dat het niet de rol is van een gemeente om grond te ontwikkelen, met een voorkeur voor passief grondbeleid als gevolg.

De gemeenten Zaanstad en Barneveld hebben hun grondbeleid niet fundamenteel veranderd door de crisis. In Zaanstad werd er al langer een overwegend passief grondbeleid gevoerd vanuit de historie. In 2005 werd er concreet besloten dat de gemeente de middelen niet had

voor actief grondbeleid. In Barneveld wordt er sinds 2006 een overwegend actief grondbeleid gevoerd, vanwege de groeiambities die de gemeente al die tijd heeft gevolgd. Die werden vastgelegd in een structuurvisie die tot op heden nog leidend is. Tijdens de crisis is de gemeente naar eigen zeggen wel voorzichtiger geworden.

Huidige aanpak grondbeleid

Behalve door de gemeenten Zaanstad en Barneveld, wordt er door elke onderzochte gemeente aangegeven dat het geschreven grondbeleid een update krijgt. In de gemeente Katwijk wordt dit geweten aan de update die het grondbeleid elke paar jaar krijgt. In Zwolle wordt de paragraaf grondbeleid in de begroting elk jaar herzien, maar wordt er momenteel gewacht op een ruimtelijke visie. In Amersfoort, Stichtse Vecht en Leiden is het argument: de tijden zijn veranderd. Hiermee wordt bedoeld op het verbeteren van de economische situatie in de laatste paar jaar. Actief grondbeleid lijkt weer terrein te winnen. In Rotterdam is er traditioneel gezien geen geschreven grondbeleid, maar momenteel wordt ernaar gekeken hoe er een nota grondbeleid kan worden opgesteld die een leidraad geeft voor het maken van overwegen in plaats van dat het keuzes voorschrijft. Hier wordt ook in Amersfoort over nagedacht.

Enkel de gemeenten Zaanstad en Barneveld hebben een redelijk onveranderd grondbeleid sinds voor de crisis en zien dit ook in de komende jaren niet veranderen. In Zaanstad heeft de gemeente een uitgebreid afwegingskader dat leidend is in het maken van de keuze voor een type grondbeleid. In Barneveld wordt er sinds 2006 actief geacteerd op de grondmarkt, als gevolg van een structuurvisie waarin een aanzienlijke groeiambitie uitgesproken is. In de crisis is hiermee doorgegaan, hoewel voorzichtiger, waardoor de gemeente nu nog steeds erg actief is.

Ambities van deze tijd

De meeste gemeenten benoemen hoe actief grondbeleid meer in trek komt, omdat het effectiever zou zijn in het aanpakken van de grote opgaven die er liggen. Hiermee wordt voornamelijk bedoeld op de klimaatverandering en het stijgende woningtekort.

Mogelijkheid tot uitbreiden

Van de onderzochte gemeenten hebben alleen Zwolle en Barneveld serieuze opties om uitleglocaties te bebouwen. Dit zijn de enige twee gemeenten buiten de randstad (*zie figuur c*).

Subsidies door middel van een lagere grondprijs

De gemeenten Zaanstad en Amersfoort geven geen subsidie door het verkopen van grond voor een lagere prijs. Wanneer woningcorporaties of andere instanties subsidie nodig hebben kunnen zij deze aanvragen, al is in Amersfoort erfpacht nog onderhandelbaar. In Rotterdam en Leiden wordt erfpacht vaker ingezet als instrument om de bouw van sociale huur te mogelijk te maken. In Barneveld en Katwijk gebeurt dit met name door een lagere verkoopprijs van grond.

Overwegingen voor het kiezen voor actief grondbeleid

Eén van de redenen die gemeenten geven voor het voeren van actief grondbeleid is het voorkomen van *hold-outs* (*zie pagina 10*). Zo werd er in Leiden een kavel aan het stationsplein bewust niet ontwikkeld door de eigenaar, wat een slechte invloed had op de kwaliteit van het gebied. In Barneveld wordt er grond op de markt gebracht omdat private eigenaren liever wachten tot hun grond meer waard wordt en zo schaarste in stand houden. Wanneer de gemeente de grond bezit, kan het bij verkoop een bouwplicht opleggen, of een terugleverplicht of boete wanneer de eigenaar niet binnen een bepaalde termijn een vergunning aanvraagt.

Een andere voor de hand liggende reden voor het kiezen voor actief grondbeleid is dat de beoogde ontwikkeling *niet aantrekkelijk* wordt geacht door *marktpartijen*. Het gaat hier bijvoorbeeld om wijken die slecht te boek staan en waar de gemeente wil herontwikkelen. Een voorbeeld hiervan is een actieve exploitatie in Zwolle, maar veel grootschaliger wordt dit

gedaan in Rotterdam Zuid. Vaak gaat het hierbij ook om het saneren van bestaande woningen, wat duur is en compensaties vereist.

Nog een mogelijke reden om grond te kopen is *om het plangebied vol te maken*. Wanneer het grootste deel van een plangebied in gemeentelijke handen is en er komt een stukje in de verkoop te staan, is dit voor vrijwel alle gemeenten aanleiding om die grond te kopen.

Openbare ruimte van prominente locaties, zoals de directe omgeving van een centraal gelegen treinstation, wordt vaak geacht van hoge kwaliteit te zijn. Enkele respondenten geven aan dat dit soms moeilijk is met private partijen, gezien die niet altijd de bijkomende bijdrage willen leveren. Daarom is dit makkelijker te realiseren met een eigen exploitatie.

Er wordt ook genoemd dat *het verplaatsen van bestaande functies* een reden kan zijn om grond te verwerven. Zo wordt er bijvoorbeeld grond ontwikkelt om hoogwaardige glastuinbouw te centreren en te 'ontsplinteren'. Daarnaast werden er door respondenten ook voorbeelden gegeven van een tankstation en een regionale afvaloverslag.

Grondeigendom dat historisch gezien in eigendom is van de gemeente wordt ook nu nog gebruikt voor actief grondbeleid. Zo ook grond van oude scholen die terugvalt in de handen van de gemeente.

Ook de *fasering* van een project kan een reden zijn om actief grondbeleid toe te passen. Sturen op fasering gaat makkelijker wanneer de grond in bezit is van de gemeente. Fasering kan ook worden opgenomen in het exploitatieplan, maar dit is achteraf moeilijk aan te passen.

Als laatste reden wordt er genoemd dat het willen sturen op *programma* een aanleiding kan zijn om actief grondbeleid te willen voeren. Vrijwel alle respondenten geven aan dat dit over het algemeen prima kan met het bestemmingsplan, maar in een aantal gevallen is actief grondbeleid toch gewenst. Zo noemt de gemeente Stichtse Vecht dat het in kleinere projecten lastig is sociale huur te realiseren en willen ze dat in een eigen exploitatie compenseren. Een specificatie op het sturen op programma is het gebruik van erfpacht, waarbij de gemeente altijd toestemming moet geven wanneer de pachter een verandering in de opstal wil aanbrengen. Ook wordt de canon opnieuw berekend bij een functiewijziging of uitbreiding van de opstal. In de gemeente Rotterdam is er een lange traditie van het toepassen van erfpacht en worden in de overeenkomst de bepalingen uit het bestemmingsplan vaak specifiek uitgewerkt.

Tabel c. Overzicht van overwegingen om voor een actief grondbeleid te kiezen. *

| | Voorkomen van hold-outs | Onaantrekkelijke ontwikkeling | Vol maken plangebied | Kwaliteit openbare ruimte | Verplaatsen bestaande functies | (Historisch) eigendom | Fasering | Programma |
|-----------------------|-------------------------|-------------------------------|----------------------|---------------------------|--------------------------------|-----------------------|----------|-----------|
| Amersfoort | | | | x | x | x | | |
| Zaanstad | | | | x | | x | | |
| Zwolle | | x | x | | | x | | |
| Leiden | x | | x | x | | | | x |
| Katwijk | | x | | | x | x | | |
| Stichtse Vecht | | | x | | | x | | x |
| Barneveld | x | | x | | x | x | x | x |
| Rotterdam | x | x | | | | | x | x |

*leeg vakje betekent slechts dat het onderwerp niet direct is besproken tijdens de interviews, niet dat het geen rol speelt

Overwegingen voor het kiezen voor passief grondbeleid

Het kiezen voor passief grondbeleid gaat gepaard met minder financieel risico en is daarom meestal makkelijker te onderbouwen. Er wordt vaak voor passief grondbeleid gekozen wanneer het *eigendom* in het plangebied al in handen is van private partijen. Over het algemeen valt dit vaak samen met positieve economische omstandigheden.

Daarnaast is er in de vorige paragraaf al genoemd dat het *sturen op programma* goed mogelijk is met het bestemmingsplan, door het specificeren van verschillende prijsklassen.

Het beeldkwaliteitsplan wordt door respondenten benoemd als een handig instrument voor het *sturen op esthetische kwaliteit*. Het kan specificaties bevatten voor de kwaliteit van de gevels, het gebruikte hekwerk, of voor de publieke ruimte in het algemeen.

Ook het laten *functioneren van de markt* wordt genoemd als reden om voor een passief grondbeleid te kiezen. Wanneer de markt dusdanig functioneert dat deze voorziet in de behoefte is er geen noodzaak om bij te sturen. Dit wordt beaamd in de gemeente Zaanstad. Ook in de gemeente Leiden zijn er veel private initiatieven en ziet men over het algemeen weinig reden om daar bij in te grijpen.

Unieke bevindingen afhankelijk van de gemeentelijke context

In de gemeente Katwijk wordt in tenders voor actief grondbeleid ook beoordeeld op *social return*. Inschrijvende partijen maken meer kans wanneer zij bijvoorbeeld op een bepaalde manier kwetsbare groepen betrekken in het project. De gemeente Rotterdam neemt in de erfpachtovereenkomst op dat wanneer er malafide praktijken plaatsvinden op de grond, deze terug in handen van de gemeente valt wanneer dit niet binnen een bepaalde termijn stopt.

Een andere situatie is dat de gemeente Leiden grond probeert te ontwikkelen die het over heeft genomen van een corporatie die vanwege nationaal beleid moest vertrekken uit de regio. De corporatie probeerde de grond kwijt te raken, maar slaagde daar niet in en bood het aan de gemeente aan. In Katwijk werd een vervuילend autobedrijf in een woonwijk onteigent om publieke gezondheidsredenen.

In Barneveld wordt soms ook voor actief grondbeleid gekozen om meer keuze te hebben in samenwerkingspartners. De gemeente heeft een prioriteit voor de lokale bevolking en ondernemers en hebben ook goede banden met lokale ontwikkelaars. Ook kunnen ze door het selecteren van verschillende partners meer differentiatie in het uiteindelijke aanbod bereiken.

Baatafoming, democratische legitimiteit & sturingsmogelijkheden

Uit de literatuurstudie werden drie dilemma's gehaald die essentieel zouden zijn voor de keuze tussen actief en passief grondbeleid (*figuur a, pag. 13*). Deze dilemma's zijn ook aangekaart tijdens de interviews.

Bij *baatafoming* is het winstperspectief van een locatie van belang, dat over het algemeen hoger is bij uitleglocaties dan bij binnenstedelijke ontwikkelingen. Laatstgenoemde zijn vaak complexer en kunnen daarmee eerder uitmonden in verliezen. Zo is er in de gemeente Zaanstad veel vervuilde grond, wat de mogelijkheden tot winst zeer drukt. In de gemeente Stichtse Vecht is er bij een kleinschalig project gekozen voor actief grondbeleid vanwege het winstperspectief, maar dit was incidenteel en had ook andere aanleidingen. In de gemeenten Zwolle en Barneveld is nog meer ruimte voor uitleglocaties. Er wordt bevestigd dat de mogelijke opbrengsten worden meegenomen in de overweging, maar ontkend dat dit een doorslaggevend aspect is. De algemene overtuiging lijkt te zijn dat geld verdienen met grondbeleid iets is van het Vinex-

tijdperk. Echter, het voorkomen van een negatieve balans is bij veel gemeenten een uitgangspunt. Er zijn daarbij wel uitzonderingen mogelijk voor belangrijke locaties.

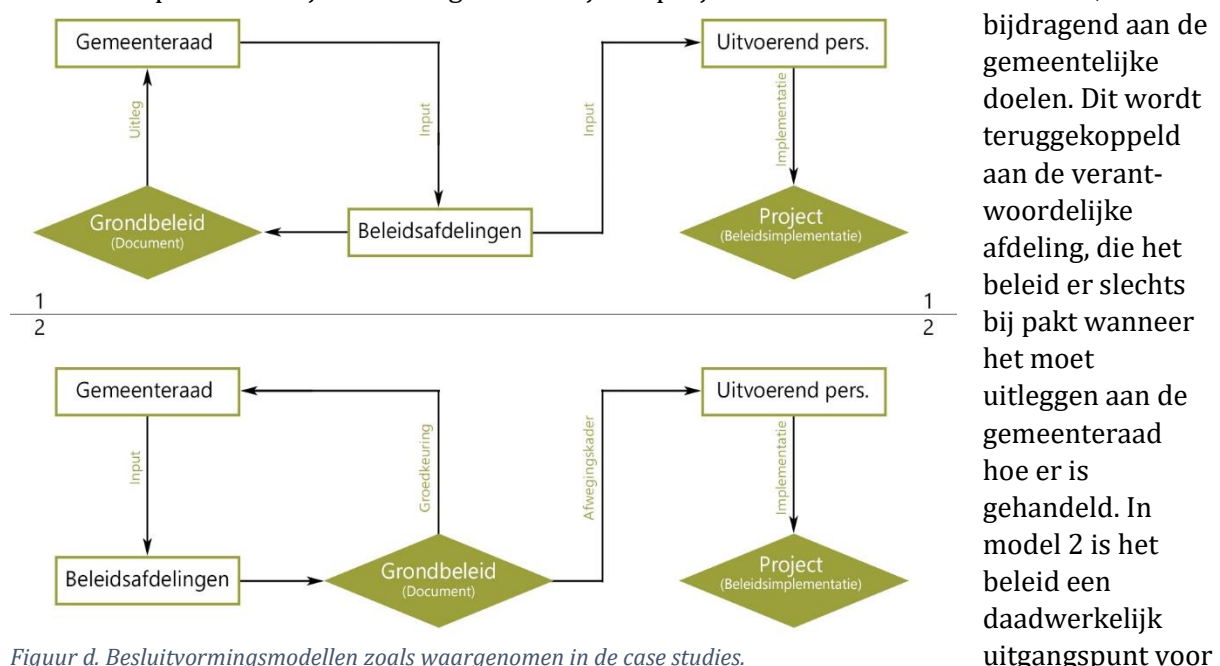
Overwegingen omtrent de *democratische legitimiteit* van het uitvoeren van bepaald grondbeleid is volgens de meeste respondenten niet op de voorgrond aanwezig. Uitzonderingen zijn de gemeente Stichtse Vecht, waar na de fusie in 2012 expliciet werd uitgesproken door de gemeenteraad dat zij het niet de taak van een gemeente achtte om grond te ontwikkelen, en de gemeente Rotterdam, waar in 2002 werd besloten om af te stappen van het grootschalig toepassen van erfpacht. Het vraagstuk van de 'dubbele-pet' komt wel eens op, maar dit is meestal een gevolg van een zich voor doende situatie dan een overweging vooraf.

Sturingsmogelijkheden zien alle gemeenten als belangrijke factor in het kiezen voor actief- of passief grondbeleid. Dit betreft voornamelijk proces gerelateerde zaken, zoals het zelf in gang zetten van een gewenste ontwikkeling, of bij hold-outs. Daarnaast is het bij locaties waar nog essentiële infrastructuur ontbreekt vaak lastig om private partijen er toe te brengen hierin te investeren. Hierin moet de gemeente dan het voortouw nemen om zo de ontwikkeling van het volledige gebied mogelijk te maken. Een ander proces gerelateerd aspect is de fasering. Met eigendom van grond kan de gemeente beter sturen op de termijn en fasering waarbinnen de realisatie moet plaatsvinden. De sturingsmogelijkheden met betrekking tot de uiteindelijke opstal in bijvoorbeeld een verkoopovereenkomst of een tender worden vaak gezien als welkom, maar zijn meestal niet doorslaggevend in het maken van de keuze.

Analyse

Beleid- en besluitvoering

Van elke case is het geschreven grondbeleid bestudeerd. Respondenten geven aan dat het geschreven beleid vaak niet wordt opgevolgd of niet leidend is in het handelen. Twee manieren van het gebruiken van geschreven grondbeleid zijn weergegeven in *figuur d*. In model 1, toepasbaar op 6 van de 8 cases, wordt het beleid voornamelijk gebruikt om aan de gemeenteraad te verklaren hoe er gehandeld wordt. De gemeenteraad stelt kaders volgens haar politieke overtuiging, dat als *input* voor het grondbeleid wordt gebruikt door de verantwoordelijke beleidsafdelingen (RO, grondbedrijf, ...). De projectmanagers en het uitvoerend personeel kijken vervolgens hoe zij hun project het beste kunnen uitvoeren,



Figuur d. Besluitvormingsmodellen zoals waargenomen in de case studies.

het maken van keuzes door het uitvoerend personeel. De visie van de gemeenteraad dient opnieuw als input voor beleid, maar nadat dit beleid is goedgekeurd dient het als kader voor het opstellen van een ontwikkelstrategie. Hiermee is het door de raad goedgekeurde beleid tegelijk een onderbouwing van de keuze.

Eigendom en verwerving

Soms verwerft of krijgt de gemeente grond zonder dat er een ruimtelijke motivatie aan ten grondslag ligt. Dit kan zijn vanwege het uitzetten van eigenaren ten behoeve van de publieke veiligheid, of vanwege het terug in eigendom vallen van grond die eerder door publieke instanties werd gebruikt. Dit wordt gelabeld als 'ad hoc' grondbeleid en wordt verder niet meegenomen in de uitwerking van de resultaten van dit onderzoek.

Overwegingen

In *tabel d* zijn de gevonden overwegingen om voor actief of passief grondbeleid te kiezen opgesomd. De proces gerelateerde overwegingen zijn gericht op het stimuleren van de ontwikkeling zelf, waar de realisatie gerelateerde overwegingen gericht zijn op de uiteindelijke

Tabel d. Overzicht van overwegingen voor actief of passief grondbeleid.

| Overwegingen voor actief grondbeleid | Overwegingen voor passief grondbeleid |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|
| <p><i>Overwegingen m.b.t. proces</i></p> <p>Voorkomen van hold-outs</p> <p>Onaantrekkelijke ontwikkeling voor de markt</p> <p>Vol maken van plangebied</p> <p>Sturen op fasering</p> <p><i>Overwegingen m.b.t. realisatie</i></p> <p>Kwaliteit openbare ruimte</p> <p>Verplaatsen bestaande functies</p> <p>Sturen op programma</p> | <p>Marktwerking</p> <p>Sturen op programma</p> <p>Sturen op esthetische kwaliteit</p> <p>Privaat grondeigendom</p> |

opstal. De oorsprong van de overwegingen voor een passief grondbeleid lijken vooral uit te drukken in wanneer het niet nodig is in te grijpen. Een mogelijke observatie zou kunnen zijn dat wanneer actief grondbeleid overwogen wordt het publiekrechtelijk instrumentarium tekortschiet. Het valt daarnaast op dat er per gemeente ook een aantal zeer specifieke of unieke redenen zijn om voor een bepaald grondbeleid te kiezen.

Expertmeeting

Om de resultaten te valideren en mogelijk extra inzichten te verschaffen is er een expertmeeting gehouden waarin resultaten en conclusies aan vijf gebiedsontwikkeling-adviseurs van bureau TwynstraGudde zijn voorgelegd.

Externe validatie

Het panel herkent de gevonden overwegingen, maar plaatst daarbij als noot dat het denkt dat het mogelijke winstperspectief een grotere rol speelt in de keuze dan dat de respondenten mogelijk doen blijken. Mochten er geen uitleglocaties zijn, dan wel bij zogenaamde 'pareltjes' binnen de gemeentegrenzen. Daarnaast bevestigt het panel dat er in de huidige tijd veel gezocht wordt naar een goede manier om met grondbeleid om te gaan.

Bijkomende inzichten

In de eerste plaats ziet het panel dat er door ontbonden grondbedrijven en ontslaggolven in de crisis veel expertise is verloren bij gemeenten. Daarnaast zijn gemeenteraden een belangrijkere rol gaan spelen in de totstandkoming van het grondbeleid en hebben door de crisis een aversie tegen financieel risico opgelopen, waardoor in de beleidsstukken een duidelijke voorkeur voor passief grondbeleid is ontstaan. Projecten zelf zijn echter niet zo fundamenteel veranderd door de crisis en het is vaak nog steeds nodig om actief grondbeleid te voeren, waardoor er vaker wordt afgeweken van het gestelde beleid en dus ook moet worden verklaard aan de

gemeenteraad waarom er wordt afgeweken. Verder is er een aantal bijzondere situaties gevonden in de resultaten. Het panel reageert daarop met dat er in bijzondere situaties vaak actief grondbeleid nodig is en dat op die situaties moeilijk beleid te vormen valt. Het beleid vraagt nu vaak een passieve houding, terwijl er van projectmanagers wordt verwacht met deze problemen om te gaan. Dit laatste wordt als probleem gezien, omdat het beleid vaak weinig ruimte biedt voor ad hoc oplossingen waar actief grondbeleid voor nodig is.

Conclusie

Het expert panel onderschrijft de gevonden overwegingen en bevestigt de resultaten over hoe er de afgelopen jaren met grondbeleid is omgegaan. Het voegt nog toe dat het verlies van expertise een grote stempel heeft gedrukt op de huidige stand van zaken, waardoor de beleidsvorming verder van de praktijk is komen te staan.

Het inzicht dat projecten zelf door de crisis niet zozeer veranderd zijn, waar beleid een grondige wijziging heeft doorgemaakt, verklaart deels de observatie die in de inleiding is benoemd dat er weinig verandering zit in de verhouding tussen projecten met actief en passief grondbeleid.

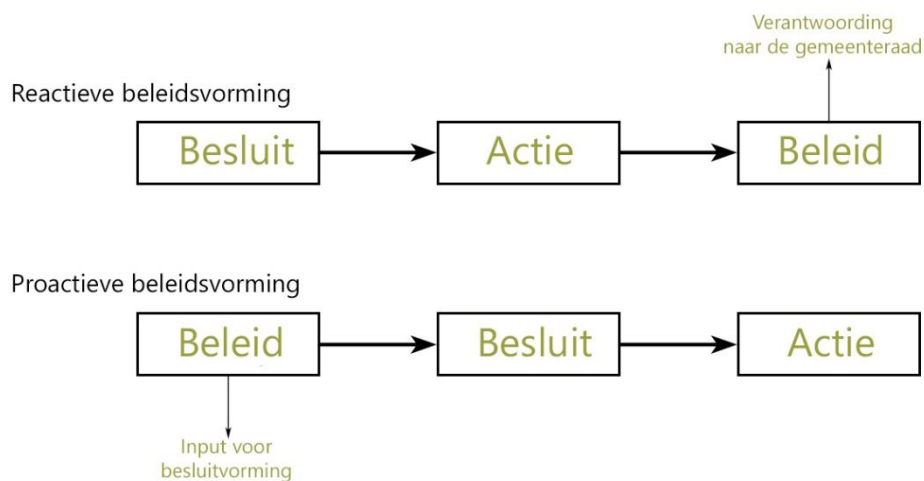
Conclusies

Algemene opmerkingen

Dit onderzoek kan worden gezien als een momentopname van de situatie rondom grondbeleid. De economische crisis is al een aantal jaren uit zicht en de investeringscapaciteit van publiek en privaat is omhooggegaan. De twee grootste uitdagingen zijn momenteel de klimaatverandering en het stijgende woningtekort. Deze uitdagingen vormen de basis voor de ambities die gemeenten stellen. Voor veel gemeenten is dit een reden gebleken om zich (weer) te roeren op de grondmarkt. Zo is met de tijd ook de rol van grondbeleid verandert. De ideologische standpunten over hoe kosten en baten verdeeld zouden moeten worden, raken nu vaak overschaduwde door de ambities en opgaven waarvoor gemeenten staan.

Het beantwoorden van de onderzoeksvragen (pag. 8)

Wat betreft de consistentie tussen het beleid en de praktijk, is er in de analyse besproken hoe het geschreven grondbeleid op twee manieren wordt gebruikt. Deze zijn in *figuur e* 'reactief' en 'proactief' genoemd. Bij proactieve beleidsvorming gebruikt de gemeente het beleid om vooraf aan de keuze een kader op te stellen dat voorschrijft hoe de keuze gemaakt moet worden. Bij reactieve beleidsvorming gebruikt de gemeente het beleid slechts ter verantwoording naar de

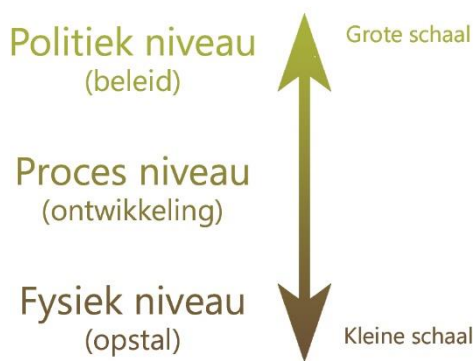


Figuur e. Twee manieren van geschreven grondbeleid gebruiken in besluitvorming.

gemeenteraad en bevat het enkel een beschrijving van hoe de zaken meestal verlopen. Bij reactieve beleidsvorming verloopt de 'houdbaarheid' van het beleid zodra de context verandert. Daarnaast worden er mogelijk keuzes gemaakt die achteraf onvoldoende onderbouwd blijken te zijn, of lagen er kansen met het project die niet zijn opgepikt door de projectmanagers, ondanks goede bedoelingen.

Het is echter ook zo dat er een project zich onverwacht kan voordoen dat de volledige gemeenteportefeuille beheerst, bijvoorbeeld vanwege onverwachte gebeurtenissen, ongerelateerd aan ruimtelijke ontwikkeling. Beleid vormen op deze gevallen is lastig, zo niet onmogelijk. Toch lijkt een bruikbaar kader nodig om de minder exceptionele projecten in goede banen te leiden en desnoods een startpunt te vormen voor verdere beleidsvoering bij bijzondere projecten.

Wat betreft het *hoe* en *waarom* van de keuze voor een bepaald grondbeleid, zijn er drie lagen te onderscheiden (*figuur f*). In de eerste laag wordt het grondbeleid geschreven. Dit betreft alle projecten binnen de gemeente. Deze laag bevat kaders voor verdere besluitvorming. In de tweede laag worden beslissingen gemaakt met het ontwikkelingsproces van projecten. Keuzes in deze laag betreffen individuele projecten en gaan bijvoorbeeld over de termijn van de realisatie. De derde laag betreft besluiten die gaan over de uiteindelijke opstal en openbare ruimte en de eisen die daaraan worden gesteld. De onderste twee lagen gaan direct over de projecten zelf en de bovenste laag, die sterk beïnvloed wordt door de politieke tendens kan soms enigszins los raken van de onderste twee.

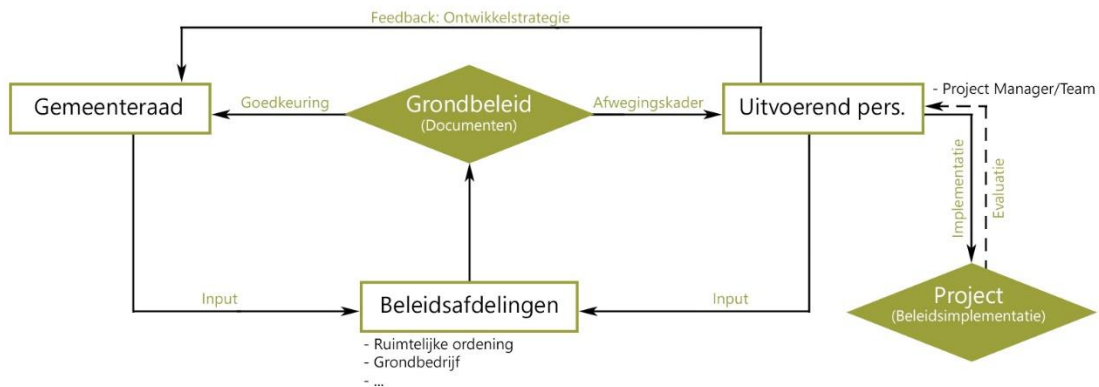


Figuur f. Drie lagen van grondbeleidsbesluiten

Deze lagen zijn van belang voor het beantwoorden van de hoofdvraag. De besluitvorming op politiek niveau is niet doorslaggevend voor welk type grondbeleid er wordt gevoerd. Er wordt meer besloten op basis van hoe er het best met de omstandigheden en eigenschappen van het project kan worden omgegaan. Het politieke niveau heeft door de crisis een fundamentele verandering doorgemaakt, maar de situatie in het proces- en fysieke niveau zijn relatief onveranderd gebleven. Besluitvorming is in deze lagen dus ook niet veranderd en dit verklaart waarom de verhouding tussen het aantal actieve- en passieve exploitaties weinig is veranderd, terwijl de grondbeleidsstukken van gemeenten vrijwel allemaal een voorkeur voor passief weergeven. Dit politieke niveau staat door de opgaven van deze tijd en de verbeterde economische situatie echter weer in toenemende mate open voor actief grondbeleid.

Aanbevelingen voor de praktijk

Gebaseerd op de observaties in de cases over hoe het grondbeleid wordt gebruikt, is er een aanbeveling gedaan over het totstandkomen van het grondbeleid. Dit valt samen te vatten in *figuur g*. De gemeenteraad heeft een bepaalde visie en overtuiging, die dient als input voor het grondbeleid. Daarnaast hebben de projectmanagers en projectteams nuttige kennis en ervaring die ook dient als input voor het grondbeleid. Dit alles wordt door de verantwoordelijke beleidsafdeling gebruikt om het beleid samen te stellen. Hierbij wordt ook een afwegingskader ontworpen dat zich niet zozeer richt op welk grondbeleid de voorkeur heeft, maar op wat het project nodig heeft om de gestelde doelen te bereiken. Hierin worden de directe fysieke doelen meegenomen, maar zouden ook eventuele bredere doelen van andere beleidsvelden die in het project meegenomen zouden kunnen worden. Dit beleid, inclusief het afwegingskader, wordt



Figuur g. Aanbevelingsschema voor het vormen van grondbeleid (zie Appendix 3 voor grotere versie).

goedgekeurd door de gemeenteraad, waarna het afwegingskader wordt gebruikt door het uitvoerend personeel in het bepalen van een effectieve ontwikkelstrategie. Deze wordt direct teruggekoppeld naar de gemeenteraad, wat uiteindelijk tot verhoging moet leiden van wederzijds begrip en het verkleinen van de afstand tussen politiek en praktijk. Wanneer de ontwikkelstrategie is bepaald met behulp van het al goedgekeurde afwegingskader, moet het goedkeuren relatief snel gaan. Wanneer zich uitzonderlijke situaties voordoen, worden deze toegelicht en wordt de motivatie voor de behandeling hiervan besproken bij de terugkoppeling. Daarna voert het projectteam de gekozen strategie uit. Dit wordt geëvalueerd, hierbij doet het nieuwe kennis en ervaringen op, die vervolgens opnieuw als input dienen voor de beleidsafdelingen. Mogelijke bouwstenen voor het afwegingskader zijn te vinden in *figuur h*.



Figuur h. Mogelijke bouwstenen afwegingskader grondbeleid.

Zie voor een uitgebreidere behandeling van deze aanbeveling hoofdstuk 6.2.1 (pag. 86) en Appendix 3 en 4.

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1. Context, relevance and research questions

1.1 Introduction and context

The Dutch urban planning system has been famous for its high spatial quality in urban developments (Janssen-Jansen, 2016). The widespread application of an *active land policy* is deemed to be the cause of this (Buitelaar, 2010; Van der Krabben, 2011; Buitelaar & Bregman, 2016). Active land policy (also known as public land development or municipal land development) can be defined as that “public bodies make plans, regulate the use of land, purchase and assemble the land, provide the infrastructure and finally dispose the land to real estate developers who construct on the land and dispose the built property” (Muñoz Gielen et al., 2017, p. 123). The fact that it is called active stems from the phenomenon that local governments get financially involved in the process and share in profit from market functioning as well in the risks of investing in developments. This method became the dominant approach after the Second World War, when the Netherlands were facing a large housing shortage. By acquiring land, municipalities could service it and then sell it for a fixed and low price to housing associations, who in turn would develop quality social housing to tackle the shortage that arose after the war (Buitelaar, 2010). Apart from this subsidizing of rather social purposes, many more reasons to apply such policy have emerged over time, but also criticism has been expressed concerning the financial risk that the municipality is exposed to. Opposed to the active approach, municipalities can also choose to go with a *passive land policy* (in Dutch often called: *facilitair grondbeleid*). This approach also encompasses the development of plans by public bodies, and the regulation of land use, but the public bodies “allow private bodies to perform the remaining actions” (Muñoz Gielen et al., 2017, p. 123). Therefore, this approach is also referred to in literature as private land development. These two approaches are considered to be the two extremes of a spectrum of ways to deal with land development (Hartmann & Spit, 2015; Muñoz Gielen et al., 2017). In between these two approaches lie several other options for municipalities, such as partnerships and land readjustment. The latter option has only recently been considered as an optional land management tool in the Netherlands and in a wider area (Muñoz Gielen, 2016), but is in the European context only widely applied within the German and Spanish planning systems (Muñoz Gielen & Tasan-Kok, 2010; Hartmann & Spit, 2015; Muñoz Gielen et al., 2017). However, it will be added to the instruments municipalities have in the new Environment and Planning Act (in Dutch: *Omgevingswet*) that is due somewhere around 2021, but in a voluntary form (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, 2019a).

Changing context

As mentioned, the Dutch planning system has traditionally been dominated by active land policy and it has been very well known for its realization of high quality public space and relatively high share of social housing in the national housing stock (Buitelaar, 2010). Apart from this quality achievements, an important reason to pursue an active land policy is mentioned in literature to be the financial incentive (Buitelaar, 2010; Van der Krabben & Jacobs, 2013). This financial incentive rests upon the possibilities that financial involvement in the land development creates to recover the costs made by local governments to service the land with amenities and infrastructure. On top of the cost recovery, municipalities can even make profit through the value increase of the land that occurs after it is developed, further referred to as *value capturing*. Also, in the Scandinavian context, active land policy can be considered a more effective tool for the recovery of costs and capturing of value and to reach a higher spatial

quality than passive land policies (Valtonen et al., 2018). Nevertheless, in a wider context of privatization and liberalization of markets, mostly steered upon by the EU (Segeren et al., 2007), the Dutch planning system in recent decades has been argued to be moving towards an increased application of passive approaches. It was seen as an important shift in recent times that private financing of infrastructure is more and more pursued by Dutch municipalities (Muñoz Gielen et al., 2017).

Criticism

Not only the EU is a factor in this shift. Also questions on the democratic legitimacy of this classic Dutch approach have risen, seeing that realizing profits and high spatial quality can only be done if the municipality not only acts as a regulatory body, but also as a market actor actively intervening in the land market. The criticism stems from the possible conflict of interest that can occur when municipal executives could be tempted to prioritize their own projects over projects which are developed by the private sector (De Zeeuw, 2018). Furthermore, opting for the profits of land development also means that municipalities carry the major share of the risks, inherently meaning that this way of value capturing is only as good as the market circumstances (Samsura et al., 2015). This aspect of active land policy became painfully visible during the late global financial crisis (GFC), during which Dutch municipalities made great losses due to lost investments (Ten Have et al., 2012). Municipalities owned large amounts of land, which dropped in value due to plummeting housing prices and on top of that had to deal with interest payments over unsold land (De Wolff & Groetelaers, 2017). Ever since, critical remarks on this way of land management have appeared more frequently (Van der Krabben & Jacobs, 2013; Samsura et al., 2015; Muñoz Gielen et al., 2017; De Zeeuw, 2018; Muñoz Gielen & Lenferink, 2018). In recent times, the Dutch system has experienced a movement towards increased stimulation of private initiatives in urban developments, leaving behind the traditional active approach (Van der Krabben, 2013; Heurkens & Hobma, 2014; Muñoz Gielen et al., 2017). Some even believe that the losses during the GFC have shown an insurmountable vulnerability of active land policy, commencing a movement towards the end of it (Buitelaar & Bregman, 2016). Those who do mention the 2008 Spatial Act (WRO) as a legislative change that has smoothened the way for a sheer application of passive land policies throughout the Netherlands. This law introduced legal tools for cost recovery, which previously had been absent, making it possible to secure contributions from private developers who were not inclined to financially contribute, but still benefitted of the development of public space by these municipalities, also known as the free rider problem (Tulner & Herder, 2005; Samsura et al., 2015). The law not only entails legal tools for cost recovery, but also for guiding urban development in general and the realization of social housing, so even contributions for outside the project area can be asked (Janssen-Jansen & Woltjer, 2010; Buitelaar & Sorel, 2010; Buitelaar & Bregman, 2016). The emphasis for cost recovery still lies on voluntary agreements between the municipality and private parties, in the shape of an anterior or posterior agreement. However, the law includes that if a private party is reluctant to contribute in this way, a site development plan (in Dutch: exploitatieplan) is drawn up by the municipality, and the private party will be charged a contribution when applying for a permit (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties et al., 2019). The site development plan is not meant to be the usual route via which costs are retrieved but serves as a big stick for the municipality to give private negotiators an incentive to settle.

Emerging gap

After the introduction of the 2008 Spatial Act and the shown weaknesses of active land policy during the 2008 GFC, it would seem evident that there would be a shift towards passive approaches. The 2008 Spatial Act was even meant to be a catalyst for this by handing local governments extra tools to recover costs (Buitelaar, 2010). Remarkably, while the financial

incentives for applying an active land policy seem to have become obsolete, and Dutch municipalities have also started experimenting with different types of development, it is still widely applied throughout the Netherlands (Hartmann & Spit, 2015). A little more than half of the Dutch municipalities holds positions on the land market (De Zeeuw, 2018) and even though not all of them have fully recovered from their losses (Muñoz Gielen et al., 2017), Dutch municipalities have made again considerable profits from their land development practices in recent years (Korthals Altes, 2018). Moreover, recently it has become clear that this shift towards passive approaches isn't occurring as fast as thought, while it has been collectively embraced that a shift was going on for several years (Bregman et al., 2018). The application of both active and passive policies has stayed more or less the same in relation to each other. Apparently, it's still very attractive for municipalities to apply an active land policy, since it's still widely applied. However, there is no clear answer in literature to why this is the case.

1.2 Problem definition

The problem that can be identified from all that is described above is that there is no clear reasoning available in scientific literature about why municipalities in the Netherlands still apply active land policies in urban area development. Where it seemed that it was a given fact that passive land policies would take over and municipalities would prefer it over active land policy in the future. Naturally, this shift towards passive approaches would not be done in a short amount of time, as Woestenburg et al. (2018, p. 805) mention: "public land development strategies are not given up soon but slightly change over time". However, a decrease in the application of active land policy in urban development projects should be visible to conclude that this shift is happening, which appears to be not occurring at all (Bregman et al., 2018). The fact that this was only recently discovered and the absence of literature on what still makes active land policy attractive to local governments seems to point at a gap in the body of knowledge.

1.3 Aim of the research and research questions

The aim of this research is to contribute to the knowledge on land policies in the Netherlands and the characteristics, effects, and considerations behind different types of policy. In order to do so, the following question is central: *"What are the considerations that lead municipalities to opt for active or passive land policies in urban area development?"*

In order to answer this question fully, it seems evident that it's necessary to understand what the choice for one or the other policy entails. In other words, it is vital to know what the characteristics, advantages and disadvantages of both active and passive approaches are, and what the different variants are of both types. Therefore two sub-questions arise that will be attempted to be answered in this report: *"What are the characteristics of both active and passive land policies in terms of legal tools, negative- and positive aspects?"* and *"What different variants of active and passive land policy exist?"*

A quick look ahead in literature seems to point out that currently the main incentive to go with an active approach rather than a passive approach is the difference in steering possibilities on public objectives between the two (Fokkema, 2016; Valtonen et al., 2017; Bregman et al., 2018). A quick look ahead also shows that several municipal documents seems to point out that often municipalities state that they in principal wish to only apply a passive land policy (e.g. Gemeente Leiden, 2019; Gemeente Roermond, 2019; Gemeente Zaanstad, 2019). However, as was mentioned, it turns out that the relative number of projects carried out through a passive land policy hasn't considerably increased (Bregman et al., 2018). This raises the question of what happens in between the formation of the policy and eventual implementation in projects.

Therefore, the empirical research is aimed at finding out what exactly it is that brings municipalities to this choice. The two questions that arise from this, which will be attempted to be answered in the empirical research are: *“How and why do municipalities decide on applying a certain land policy in urban development projects?”* and *“To what extent is there a consistency between land policy memoranda of municipalities and the land policy implementation in projects?”* All research questions are displayed in box 1.1 – 1.5.

“What are the considerations that lead municipalities to opt for active or passive land policies in urban area development?”

Main question

Box 1.1 Main research question

“What are the characteristics of both active and passive land policies in terms of legal tools, negative- and positive aspects?”

Sub-question 1 (Literature review)

Box 1.2 Sub-question 1

“What different variants of active and passive land policy exist?”

Sub-question 2 (Literature review)

Box 1.3 Sub-question 2

“How and why do municipalities decide on applying a certain land policy in urban development projects?”

Sub-question 3 (Empirical research)

Box 1.4 Sub-question 3

“To what extent is there a consistency between land policy memoranda of municipalities and the land policy implementation in projects?”

Sub-question 4 (Empirical research)

Box 1.5 Sub-question 4

1.4 Outline research report

In the continuation of this report, the chosen methodology will be discussed first in the next chapter. It addresses both the way the literature review is done, as well as the choice of method for the empirical research. Consecutively it addresses the way in which cases are selected for the empirical research. The third chapter will concern the literature review. The results of the empirical research, along with an elaboration on the studied cases will be presented in chapter four. Chapter four also contains an analysis of the results, a report on the expert meeting that was held, and an update on the literature study. In chapter five, the results will be further interpreted in the form of conclusions. Chapter six then includes the recommendations that are based on the results and conclusions, as well as suggestions for further research. The report will end with a reflection of the author on the research process in chapter seven.

2. Methodology

In this chapter, the applied methodology to the research is described. The research was split up in two parts. The first part consists of an extensive literature research, of which the applied methods are described in chapter 2.1. The second part consists of an empirical research. The methodology of the empirical research is part of the research proposal as such, that it has not been carried out yet, opposed to the literature review, which is presented in chapter 3. The proposed methodology for the empirical research is written down in chapter 2.2. The chapter will be concluded with a conclusion that links both parts of the research and analyses how both interact and complement each other.

2.1 Literature review

The literature review in this report was meant to answer the first two sub-questions as formulated in chapter 1.3: *“What are the characteristics of both active and passive land policies in terms of legal tools, negative- and positive aspects?”* and *“What different variants of active and passive land policy exist?”*. A literature review is meant to clarify certain concepts in academic literature in such a way that it adds value (Van Wee & Banister, 2016). In other words, a literature review is not only a summary of existing knowledge in the field of relevance about a certain topic: it has a more far-reaching goal. It certainly can be a way for unexperienced researchers to gain the knowledge that is relevant before commencing their research, but most of all, it is meant to sharpen the questions that remain about the topic. Also, Yin (2002, p.9) endorses this statement by mentioning: “experienced investigators review previous research to develop sharper and more insightful questions about the topic”.

In order to fulfill this purpose of the literature review, a start was made by doing an extensive literature study on the subject of land policy in the Netherlands. In addition, several explorative interviews have been conducted, in order to verify the relevance of the topic in current times. However, the content of the literature review itself is derived from studying existing academic literature on the topic. The ‘added value’ that was mentioned takes shape in the form of the analysis that was done afterwards, which is presented in the conclusion of chapter 3. This analysis shows that there are several open ends that deserve an emphasis in the empirical research, sharpening and detailing the questions that will be answered through it.

Gathering information

A start in the gathering of literature was made by accessing online libraries of academic literature through the search engine Scopus. Besides this search engine, the author found relevant sources through recommendations of mentoring academic staff. Using this literature, more relevant sources were found through sources that are referred to in the studied papers, a concept known as ‘snowballing’. The author also searched the library of Delft University of Technology to find literature on the subject, resulting in the discovery of several books that have been used in the literature review.

While academic literature was the main source of information, also non-academic sources have been consulted, such as articles from prominent figures in the field of urban area development. Also, policy documents such as on municipal land policy, as well as national documents on the legal context of the subject. The former document types are also known as ‘land policy memoranda’ (in Dutch: grondbeleidsnota). These are not mandatory for municipalities to have, but they do have to include a paragraph on land policy in their municipal budget (Art. 16, BBV,

2003). The latter document types are believed to be essential in understanding the context of the academic literature as well, because this legal context sets the stage for the practice that is studied to receive the input for academic publications on the subject. Not only literature was consulted, but simultaneously some explorative interviews were done with municipal executives and consultants on area development in order to gain an extra perspective on the theoretical sources and to verify the relevance of the subject. All gathered information was categorized in a structure which sorts the different types of land policy, presenting it in a comprehensive manner, which is the same for both policy types in order to be able to adequately compare both approaches. This structure consists of two parts:

- legal tools, criticism, and benefits;
- different variants of land policy.

As visible, the first part is again divided in three aspects. This is done for a reason. The legal tools that are used implement a certain type of policy tell a lot about the policy itself and what it implicates to select it. For example, the legal tools for active land policy mainly arrange municipal land assembly, where those of passive land policy mainly arrange cost recovery. This indicates that the two approaches themselves need to be supported by a legal framework in different ways, having different strengths. The criticism on both policies also exposes their weak sides, or in other words the reasons why one should not desire to apply the approach, where the benefits embody the positive aspects of an approach, making it attractive to apply it. The second part of the structure is more straightforward. The variants of both land policy types are displayed in order to answer the second sub-question of the research and with it gain a better understanding of what the choice is actually about.

After structuring the information, a conclusion is drawn in which the beforementioned question is answered. This answer is supposed to narrow down the main research question towards the gap that is still to be filled by the empirical research and the presented information is meant to clarify the relevant concepts in land policy.

Organizational theory

In the end of the literature review, after exploring the main concept, a quick overview of institutional and organizational theory will be included. This theory will be used to tie conclusions to once the empirical research data is gathered. It serves as a framework to which the results can be tested and might in that way provide extra insights, in an explanatory manner.

2.2 Empirical research

After the literature review is completed, it is time to execute the empirical research. This research is meant to answer the third and fourth sub-questions as addressed in chapter 1.3: *“How and why do municipalities decide on applying a certain land policy in urban development projects?”* and *“To what extent is there a consistency between land policy memoranda of municipalities and the land policy implementation in projects?”* In this section, the methodology of the empirical research is described, along with a substantiation for the choice of methods. This is done using academic literature on the subject of methodology as well as more general literature on the context of the research topic. Studying this literature opens the door to designing a research that is not only designed to answer the research questions, but also to fit into the context in which these questions are asked, to clarify them.

2.2.1 Research method selection

According to Yin (2002), there are three main conditions by which one can determine what research method to apply (p. 4):

- ➔ *“the type of research question posed;*
- ➔ *the extent of control an investigator has over actual behavioral events;*
- ➔ *and the degree of focus on contemporary as opposed to historical events.”*

The goal of this research is to find out what are the considerations of municipalities are when deciding for an active or passive land policy. The nature of this question can be explained as that it is aimed to find out *why* municipalities choose something, and *how* this choice is made. With this type of question, Yin (2002) selects three possible research methodologies: experiments, historical research, and case studies.

When looking at the second condition, it can be concluded that this study mainly is about tracing events and decision-making that already has occurred and the researcher only has control over the emphasis on the several aspects of the topics, but has no influence on these events and decision-making itself. This rules out the method of experiments.

The third and last condition focuses on the time in which the studied events take place. The research subject is of a contemporary nature, as relevant events only occurred recently and still are affecting how current-day decision-making evolves, as was argued in section 1.1. Therefore, also the historical research method can be ruled out, leaving case studies as a suitable method. An overview of the three conditions and relevant research methods can be found in *table 1*.

Table 1. Comparison of relevance of research methods for current study. After Yin (2002).

| | Historical | Experiment | Case study | Current study |
|---------------------------------|------------|------------|-------------------|----------------------|
| Type of research question | How, why | How, why | How, why | How, why |
| Control over behavioural events | None | Yes | None | None |
| Focus on contemporary events | None | Yes | Yes | Yes |

Not only the use of these conditions leads to the method of case studies as best fitting. When the characteristics of case studies are put to light, it seems to very well fit the goal of the research. Following Schramm (1971, p.6): “... the essence of a case study, the central tendency among all types of case study, is that it tries to illuminate a decision or a set of decisions, why they were taken, how they were implemented, and with what result.” Seeing this is exactly the aim of the empirical research, this statement supports the choice for the case study method.

Yin (2002, p. 15) states that cases studies can be quantitative as well as qualitative research. This standing point is not shared by everyone. Merriam & Tisdell (2015, p. 242) argue the following: “One of the assumptions underlying qualitative research is that reality is holistic, multidimensional, and ever-changing; it is not a single, fixed, objective phenomenon waiting to be discovered, observed, and measured as in quantitative research”. An important difference in those can be indicated by the way sampling is done. In the case of quantitative case studies, samples are selected by their measured representativeness, where in qualitative case studies, the samples are purposefully selected to contain as much information richness as possible (Crabtree & Miller, 1992, cited in Meyer, 2001, p.333). Not entering the discussion whether case studies should always be qualitative, or can also be quantitative, this research will make use of qualitative sampling and can therefore be regarded as a qualitative study.

The most common approach to derive theories from qualitative studies is the inductive approach, meaning that the generated data is analysed without applying predetermined theory or a theoretical structure on it (Burnard et al., 2008). In short, the conclusions are drawn by analysing and structuring the actual data itself. This does not imply that no theory can be used to support the research. In fact, it is essential to understand the research field in order to achieve relevant results. Yin (2002, p. 27) calls this theory development. Especially when opted for case studies as a research method this is important, because theory development will contribute to a clear research design which will point in the direction of the data that need to be collected. In this research, the theory development has taken place through the literature review. The outcome of it has indeed clarified and exposed the most relevant issues and standing points concerning the research topic. The exposure of these issues can be treated as a

"Anchored in real-life situations, the case study results in a rich and holistic account of a phenomenon."

Merriam (1998, p.41)

clear indication of what relevant data would be. Logically, the data from the empirical research would provide information about these issues as well. This, in turn, would not merely indicate relevant information, but would verify the insights derived from literature or inspire new insights concerning the relevant issues.

2.2.2 Research design

Now that the choice of methodology has been established to be case study methods, a move can be made towards shaping the conditions for the actual cases. In order to do that, it is important to make the underlying propositions to the research question explicit (Yin, 2002). These propositions will point out a direction in which should be searched for answers, once carrying out the case studies.

The questions of *"How and why do Dutch municipalities decide on applying a certain land policy in urban development projects?"* and *"To what extent is there a consistency between land policy memoranda of municipalities and the land policy implementation in projects"*, suggest a certain context of the institution of a Dutch municipality. In this institution, there is a decision-making process going on from forming policies to eventually implementing them in a certain way. From studying land policy memoranda of municipalities can be learned that these often do not state detailed considerations that have been made in projects, but rather describe the tools municipalities use, accompanied by a somewhat politically coloured, more general explanation of how to choose between these tools. From the beforementioned explorative interviews (2.1), it has become clear that these documents do not guarantee a consistent application of the policy as described in practice. In other words, the way a land policy is defined by policy makers is different than the way it is eventually carried out by the executors.

The tension here lies in whether the case study encompasses a project, or also a wider context in which the project is organized and how it fits in the bigger picture of the developments within a city. In essence, the analysis of projects can show what the effects of the implementation of a certain type of land policy are. From the characteristics of the project, the process could be traced back up the ladder to how the decision of applying the policy came into existence at the initiation of the project. However, this would only show the relevant context of a certain project.

Table 2. Level of detail of different units of analysis.

| | Project analysis | Process analysis |
|-------------------------|------------------|--------------------|
| Decision making context | Low detail | High detail |
| Case specific | High detail | Low detail |

This project might be an exemplary case in which conclusions can be generalized to the bigger picture, but the focus would be on the details of the case. Analyzing the wider context of the institution, would shed light on not only the decision-making in a project, but on

that of many more projects that happened within the context of a municipality. In fact, this research is about the decision-making process that leads to the application of land policies. Therefore, it's necessary to analyze the institution in which this decision takes place and the structure that facilitates this decision-making. Embedded in this process, projects can be analyzed and treated as examples of how such a process might turn out, providing valuable information about the incentives to make certain decisions as well. However, these projects will not be central to the research and therefore the emphasis will not be laid on the details of the cases, but on the institutional context in which the cases are carried out.

After establishing what aspects of the to be examined case are important, the next step is to decide, before collecting data, if a single-case, or a multiple-case design will suffice for the research. Single-case designs are common when there is a specific theory that is believed to be true in a specific scenario, or when the case represents an extreme- or unique situation. Another reason could be that the case itself was not possible to scientifically research before, and the research itself will provide lots of new insights merely by describing it (Yin, 2002). Multiple-case designs are considered to be more robust in their results but are not fit for these unique situations. Since the purpose of this research does not fit the main reasons why one would conduct a single-case study, it seems evident to opt for the multiple-case design with the advantage of having more data to draw conclusions from. Also, multiple cases, even though a small amount would not support generalizability of the results, allow for comparison and might expose differences that would considerably change one's perspective on the results of a single case (Meyer, 2001). The research question is still quite broad, covering all possible considerations that might play a role in land policy decision-making. Therefore, scope is chosen over depth. Researching only two or three cases would allow for more depth but would only provide insight in the considerations that are relevant for the specific context of these few cases. In order to still be able to reach a certain quality in data collection, and to take time limitations into account, the amount of cases cannot be that numerous. Therefore, an amount of eight cases is established. According to Yin (2002), a multiple-case approach should make use of analysis that is done after conducting the case studies separately. The exact method to do this is visible in *figure 1*. The case studies will be executed in parallel through interviews and by studying relevant documents. In these cases, most attention will go out to the reasons why a certain land policy was carried out, what the expected effects were and how these effects match the original objectives.

2.2.3 Case selection

Following the definition of the case studies, proper cases must be selected. In this section the criteria for selecting these cases will be presented, as well as the method of case selection. The criteria are used as a starting point for narrowing down the possible municipalities to study. First, they will be summed up, after which there will be motivated how they are relevant. Second, the selection method elaborates somewhat more on how these criteria are used to execute this selection.

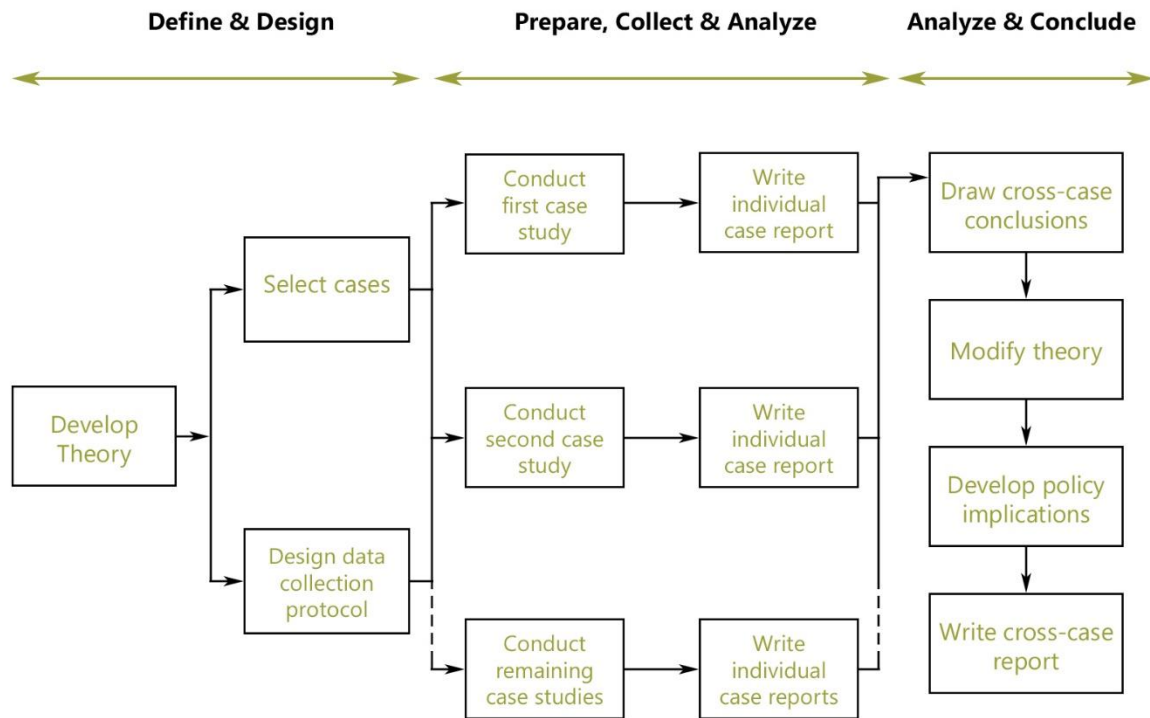


Figure 1. Case study method. (Source: COSMOS Corporation in Yin, 2002, p. 49).

Selection criteria

In the Netherlands there are 355 municipalities (CBS, 2019). To be able to select well-fitting cases for this research, several criteria are put up to narrow down the choices to a much smaller amount. This narrowing down serves to group the municipalities that are relevant to research, as well as to make the choice for a municipality to research more profound. The criteria that have been put up are the following:

1. The selected municipality cannot be too big (< 180.000 inhabitants).
2. The selected municipality cannot be too small (> 50.000 inhabitants).
3. The selected municipality cannot be one that only recently came into existence through a merger of several smaller municipalities.
4. The selected municipality must have a considerable growth perspective concerning the amount of inhabitants.
5. The selected municipality must be in a position to make a choice between both types of land policy.
6. The selected municipality preferably has urban (re-)development projects running that are in the initiation or definition phase.

The first selection criterium has been put up, because many of the Netherlands' larger cities are considerably too unique or complex to research. This is a methodological choice as well as a practical one, for it could take too much time to research a municipal organization of that size. In contrast with this, municipalities that are too small are ruled out as well, because the municipal organization has to be of a certain size in order to do projects to which the choice to opt for a land policy is relevant. The amount of inhabitants that has been decided on for both criteria seems quite arbitrary but is came up with through a more general knowledge of municipalities that fall inside and just outside the borders.

As mentioned, there are currently 355 municipalities in the Netherlands. This is the record at January 1, 2019, where since 1900 the number of municipalities have shrunk from 1121 to the

current amount. Municipalities that have only recently come into being might still be formulating and shaping their new civil service. Therefore, they might not be suited for the research.

Even though the total population of the Netherlands is expected to continually increase (CBS, 2018), some areas in the Netherlands have to deal with a shrinking population. In order to find municipalities for which the choice of land policy is relevant, there has to be a prognosis of new projects, or current projects have to be running. In municipalities that have to deal with shrinking population there often is a lack of market initiative, and they have sufficient ownership positions to fulfill their needs. The necessity to make a choice between land policies therefore seems well-nigh absent. Therefore, the fifth criterium is put up.

The sixth concerns the fact that urban development projects often have a running time of over a decade. The relevance of this research is very much intertwined with the context of current times. Seeing that the decisions concerning land policy often take place during the first phases of the process, projects that are currently in a later stage are often not relevant anymore. This, in combination with that it is harder to find and interview key figures who have a clear recollection of the decision-making process that took place a decade ago, validates the requirement.

Selection method

The municipalities that are selected as optional case studies have been subject to a selection method. This method has been carried out after formulating selection criteria. First, all 355 municipalities have been ordered by size, using numbers of the Dutch Central Bureau of Statistics (CBS) (2019). The largest and smallest municipalities have been ruled out, as well as the municipalities that have only recently merged into a new one, leaving 75 municipalities.

Again, using numbers of the CBS, the prognosis of the population growth until 2040 has been placed against the current amount of inhabitants. Municipalities with a considerable population growth can be expected to be planning ahead and to be initiating urban (re-)development projects. Municipalities with a negative growth, or negligible growth have been ruled out, leaving 38 municipalities.

From these 38 municipalities, formal land policy documents have been searched through with the aim to find out their views concerning land policy. If available, the land policy memorandum has been studied. When a municipality has not put up such a document, the municipal budget document is taken as a guideline, since it is mandatory for municipalities to include a paragraph on land policy in their budget (Art. 16, BBV, 2003). Three additional criteria have been introduced to assess the municipal views on land policy and in order to narrow down relevant cases further:

1. The municipality has a very clear description of how to select the appropriate land policy for a certain project;
2. The municipality provides relatively few information about how land policy is treated or selected for a project;
3. The municipality has clearly gone through a decision-making process about land policies only recently, judging by the provided information in their formal documents.
4. The selected municipality is approachable and open to cooperation.

When municipalities have a clear protocol in place to select the fitting land policy for a project, it can be very interesting to research how in reality this protocol is being treated, and if it really is being used as a leading instrument in the decision-making process. When a municipality has no such thing in place, it is just as relevant to know how they reach a decision on land policy. Some

municipalities describe how in certain projects a deliberate choice has been made for an active or passive land policy. This makes it probable that selecting them would provide valuable data about their decision-making processes. After studying the municipal documents and applying these three criteria, 14 municipalities were left that were deemed appropriate to select (table 3, see Appendix 1 for motivation). The municipalities in bold are the municipalities that were eventually included in the research in the end.

Table 3. Preliminary selection of municipalities fit for case studies, the eventual cases in bold.

| | | |
|-------------------|-----------------------|-------------------|
| <i>Haarlem</i> | <i>Delft</i> | <i>Zeist</i> |
| Amersfoort | <i>Roosendaal</i> | <i>Nieuwegein</i> |
| Zaanstad | <i>Hoorn</i> | <i>Roermond</i> |
| Zwolle | Katwijk | Barneveld |
| Leiden | Stichtse Vecht | Rotterdam |

The municipality of Rotterdam was not selected through the regular criteria, but was added as an exception, because it does not fit with the criterium of the maximum amount of inhabitants. The researcher had direct access to several municipal executives, Rotterdam was included as one of the cases. At first, the case was considered as extra, but it was included after all when the results appeared to be very useful in the face of the research, and since the municipality complies with all other selection criteria than that of the maximum size.

The municipalities in table 3 were attempted to contact through the network of associated professionals from TwynstraGudde, a Dutch consultancy company that is active and advises on, among other things, urban area development. Through their network of (former) municipal clients, key figures from the municipalities of Rotterdam, Amersfoort, Zaanstad, Zwolle, Leiden, Katwijk, Barneveld, and Stichtse Vecht could be found who were willing to cooperate by being interviewed.

Case study method: documents and interviews

The cases will be researched through studying documents and conducting interviews. For the document study, primary policy documents on land policy, such as the land policy memorandum or the municipal annual budget, will be used, as well as national, regional, or municipal documents on more general information concerning the cases at hand.

For the method of interviewing, there has been chosen for a semi-structured interview. This method leaves room for questions and answers that are subject to case-specific context, at the same time providing a structure for the interviewer to keep to, serving as a guideline to retrieve relevant information. The question list has been taken up in the report as Appendix 2.

Expert meeting

After all data has been gathered and analyzed, an expert meeting is organized with five professionals from TwynstraGudde. The researcher presents his main findings, after which the panel of professionals will discuss these. This meeting is held for several reasons.

The first one is to validate the results, and in that way establish what Bryman (2012, p. 48-49) calls *external validity*. In other words, the expertise the panel has and the members' view on the broader context allows them to point out if the results from the research are generalizable to a wider context than that of the studied cases.

The second reason is to organize the expert meeting is that the panel might have valuable additions to the results. The discussion the panel will have about the information they are

provided with, might generate new insights, or expose issues that the research has not sufficiently dealt with up until that point.

The third reason is to compromise possible subjectivity from the researcher. As Bryman (2012, p. 405) also mentions, qualitative research is sometimes criticized for how the importance and significance of the results are sometimes prone to subjectivity from the researcher. A panel of experts can indicate how the results from the researched cases and the interpretation of these by the researcher might be relevant to their field of expertise and verify what the significance of the results is.

2.3 Conclusion

As is visible from the structure of this chapter, this research exists of two parts. In this section will be explained how these two parts complement and relate to each other.

Literature was studied in two stages. In the first stage, an explorative literature study was carried out in order to establish the research problem. This was done in a goal-oriented way, finding a gap and formulating questions of which the answers could fill this gap. Then the second stage commenced, where the information that was gathered in the first stage was used as a starting point. This second stage literature study, described here as the literature review, was meant to answer sub-questions and with that provided a broad overview of the main topic and issues that relate to it. Merriam (1998, (as referred to in Yazan, 2015, p. 141)) mentions that a literature review, which constructs a theoretical framework, is the essential step before conducting empirical research. In the literature review, a research problem is identified, and research questions are formulated and sharpened. Also, Yin (2002, p. 27) mentions 'theory development' as the first step of doing case study research (see *figure 1*). The outcome of the literature review in this case is a set of three dilemmas that are regarded to be the essential to what type of land policy a municipality would prefer.

This information is taken into the empirical research, which exists of case studies, studying several municipalities in the process of selecting which land policy to apply to their urban development projects. Through interviewing executives within a municipal organization, it is attempted to discover if the dilemmas that were identified from theory are the same as those that are relevant in practice, if there are more dilemmas, or even if there are dilemmas that have not been considered yet (the step 'modify theory' in *figure 1*). Thus, the output of the literature review is not only knowledge and an answer to some of the sub-questions, but also generates input for the empirical research, since it clarifies what the empirical research should emphasize and provides a direction to look into.

3. Literature review

The Dutch 'Council for Living Environment and Infrastructure' (Rli) (2017, p.32/33) states that an important difference between active and passive land policy mainly lies in the emphasis of the instruments that are available to implement both policies. In an active land policy, the emphasis of the legal instruments that local governments have lies on the acquisition of land, where the emphasis for passive land policy instruments lies on a fair distribution of costs and benefits for all parties involved. Partnerships are mentioned as a third option next to public and private land development in the 'Reiswijzer gebiedsontwikkeling' (travel guide to area development), composed by the Dutch ministry of internal affairs, together with representing bodies of local and regional governments and with input from market organizations (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties et al., 2019). However, in this research the several approaches and tools on the beforementioned 'spectrum' will be distinguished on basis of the position of landownership a municipality has. Therefore, when referred to active land policy, all types of policies that entail a municipality possessing and/or acquiring land by itself or in a partnership are meant, while passive land policy is used to describe all tools and methods that don't require the municipality to acquire a position of landownership in the development area. It should be mentioned however that land policy is a complex matter and it can differ per situation which form fits a project best. This is acknowledged by national regulators as well as local governments, where they often state in their land policy memoranda that they adopt a situational land policy, meaning the choice is made depending on the nature of projects (Gemeente Hardenberg, 2015; Gemeente Schiedam, 2015; Gemeente Groningen, 2017; Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, 2019a).

In this chapter an attempt is made to answer the question displayed in box 1.2: *"What are the characteristics of both active and passive land policies in terms of legal tools, negative- and positive aspects?"*. Through answering this question, the concepts of both active and passive land policy are clarified. These two approaches are used to categorize the spectrum of different forms of land development the municipality can decide to go with which are the outcome of answering the second question that is addressed in this chapter. This is, as displayed in box 1.3: *"What different variants of active and passive land policies exist?"*. Different 'middle'-forms like common land development companies and PPPs are categorized under these two main categories as well, based on the financial involvement of the municipality and the roles public and private parties take on. Chapter 3.1 contains all gathered information about active land policies. This includes legal tools, the main criticism on the method, the benefits of the method and considerations to prefer it, as well as different forms of active land policy. Chapter 3.2 will display the same, but for passive land policies. In the end of the chapter, in section 3.3, a conclusion will be laid out in which it is attempted to answer the questions of this chapter.

3.1 Active land policy

As explained in the chapter 1.1, active land policy has been the most dominant way of land management in the Dutch tradition. This has been the case since the Second World War, after which the housing need in the Netherlands was mainly addressed by housing associations. Local municipalities would provide them with land at a centrally fixed and relatively low price (Buitelaar, 2010). Active land policy has been almost exclusively applied in the Netherlands, or at least the Dutch example received the most attention in academic literature. Also, in Scandinavian context it has been applied for some time (Valtonen et al., 2018). In this section

the characteristics of active land policy will be treated first, after which the several forms of the policy will be described.

3.1.1 Legal tools, Criticism and Benefits

This section addresses the legal tools that make this type of policy possible and which municipalities can use when it is deemed to serve the public interest. The legal tools are presented as how they will be formulated in the new Environment and Planning Act (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, 2019a) that is due around 2021. Thereafter the criticism that was already shortly addressed as well in chapter 1.1 will be elaborated on. The section ends with the aspects of active land policy that make it attractive to apply.

3.1.1.1 Legal tools for active land policy

The first tool that municipalities can apply is that of the regular purchase of land through private law. A municipality can do an offer to a private landowner, proposing to purchase land against a fair price. Next to this regular way of purchasing land, two more legal tools are seen as essential for the implementation of active land policy: the municipal pre-emption right (Wet Voorkeursrecht Gemeenten), and the right to expropriate land, or 'compulsory purchase' (Buitelaar, 2010; Rli, 2017). The former gives municipalities the right to be the first party whom land is offered to once it goes up for sale. However, the land that is to be acquired through the pre-emption right must be in a by the municipality appointed area. The latter one gives municipalities the right to expropriate unwilling landowners, once they can prove that expropriating them is to the benefit of the public. Landowners must be fairly compensated for their lands, fairly meaning that they should be paid the full market value, plus extra compensations, for instance for the time that is spent on looking for a new location. These two tools make it easier for municipalities to acquire the land they need for the developments ahead. Also, private parties appreciate it when the municipality takes an active role in land assembly, because they didn't have these legal tools themselves (Van der Krabben & Jacobs, 2013), saving them the trouble and legal expenses. As mentioned at the beginning of this section, the emphasis with active land policy lies on the assembly of land. Therefore, the legal tools that support this type of policy are mainly making it easier for municipalities to acquire the necessary lands. The disposal of the land is not necessarily organized in a specific instrument but is organized through the framework of private law. Within the purchase agreement municipalities can incorporate demands for what happens with the land after its sold.

3.1.1.2 Criticism on active land policy

Criticism on the financial aspect

The GFC of 2008 created, as it did in many other fields, a wave of shocked reactions on the effects it had on land management. As already shortly addressed in chapter 1.1, municipalities made considerable financial losses in this period of time (Ten Have et al., 2012). Some municipalities are still processing the aftermath and have not yet completely recovered from these financial setbacks (Muñoz Gielen et al., 2017; Rli, 2017; Valtonen et al., 2017).

Reasons for these losses are that local governments invested in land which they could eventually only sell for a lower price, due to a loss in value, and unforeseen extra interest payments they had to deal with due to delays in building projects (Woestenburg et al., 2018). These two aspects have only affected the municipal budget because of its financial involvement. Now that municipalities are making profits again through land development (Korthals Altes, 2018), municipalities argue that these profits are a valid reason to apply an active land policy in prosperous times (Woestenburg et al., 2018). According to the late Dutch 'Raad voor Financiële Verhoudingen' (Rfv, Financial Relations Council) (2015), the incentive to make profit should never be a reason to apply an active policy and the value of lands should not be used to fill up

the gap in the municipal budget. Part of size of the losses has to do with the number of sites that local governments were stimulated to develop by provincial boards and the national government. This led to an overflow of building locations which caused the municipalities to suffer more losses than necessary once the demand plummeted (Rfv, 2015). The losses are only exposing the actual weakness of the active approach but are not the essence of the criticism: the high financial risk that is involved with financial investment in land is the core of this critique. The graph that displays the financials of a land development scheme is also known as the 'bathtub', for reasons of its visual characteristics (*figure 2*). In the figure, the brown line depicts the cumulative balance, showing that only in later stages of the project profits will be realized. Because of the long period of time a project runs, prospects for profit can differ considerably when a project is halfway compared to when the project started off. The low point of the graph depicts the moment in time when the municipality has acquired all lands through loans and is preparing them for sale and eventually for construction. For many projects, the GFC struck when the bathtub was at its low point, stretching the period of time over which the municipalities had to pay interest over their loans because there were no buyers for the land. Also, the profits that were calculated were not realized, because of decreased land value, causing the cumulative balance to result in a negative value.

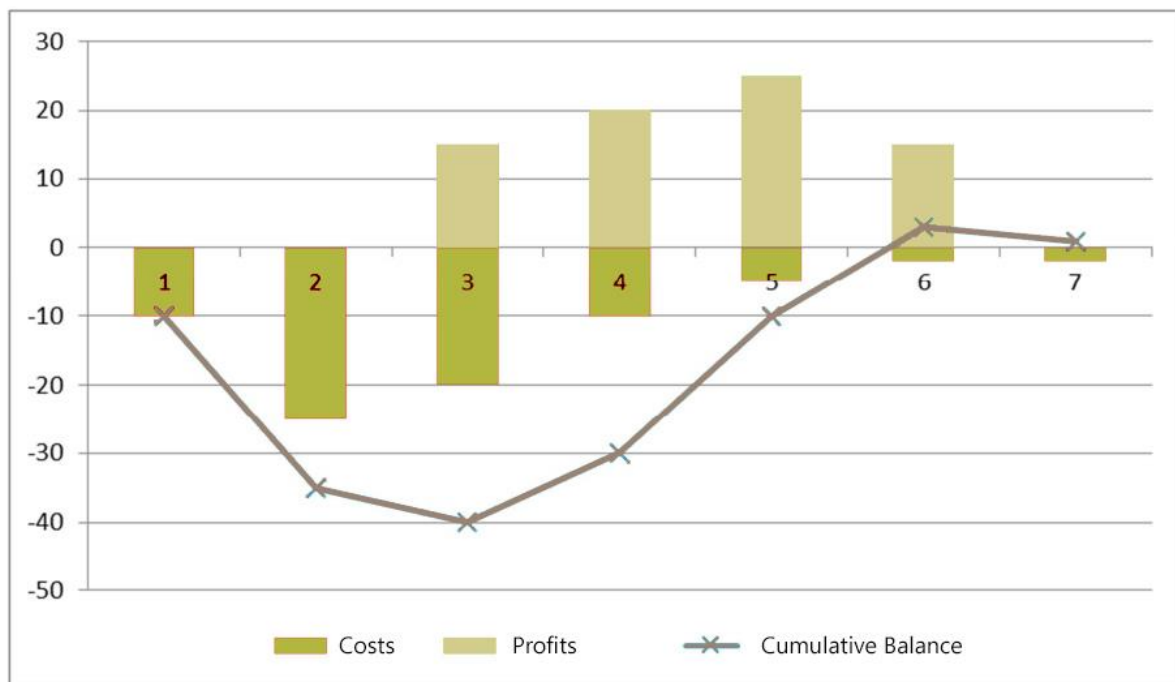


Figure 2. Financial graph, known as the 'bathtub'.

Even though active land policy is still applied nowadays, it is not so that things have remained the same. Lessons have been learned after the financial debacle. In the advice the Rfv (2015) brought out it is stated, among other things, that passive land policy should be applied in default, unless there are strong societal demands that can only be realized through active land policy. Several municipalities have manifested in their land policy memoranda that they wish to pursue a passive land policy whenever possible (Woestenburg et al., 2018). But this has not become default. In recent years, the belief in practice has remained that active land policy can be applied, but under certain conditions and with better risk management (De Zeeuw, 2017). This type of policy is still considered to have quite some benefits and often not the approach itself, but the way municipalities went about it in times of crisis is mentioned as the reason that they

suffered such substantial financial losses, lacking proper risk calculations and management. More on this can be found in chapter 3.1.1.3.

Criticism on democratic legitimacy ('double-hat')

The second main criticism on active land policy is what is called the 'double-hat' dilemma. This dilemma can be explained as that a municipality, when applying an active land policy, takes on two roles simultaneously. In the first place, it fulfills the role of democratically elected governmental body, which has the duty to act as a regulatory institute, formulating policy and land use plans in order to serve the public interest. In the second place, one financially involved in a project, the municipality has the role of market actor, who, next to serving the public interest, has an interest in the financial performance of the project. Several sources mention this phenomenon as a reason for criticism (Van der Krabben & Jacobs, 2013; Rfv, 2015; De Zeeuw, 2017). These two roles can cause a conflict of interest, meaning that it can occur that municipalities from their governmental powers are forced to make a choice which could either benefit a project in which they are involved, or a project in which they have no financial stake (De Zeeuw, 2018). Acknowledging this as a possible problem, the Dutch parliament accepted an amendment in 2012 as part of the Competition Law (in Dutch: Mededingingswet) in which, among other things, is included that if a government carries out economic activities as well as oversees them as an administrative body, the civil servants cannot be involved with both tasks (De Wolff & Groetelaars, 2017). This dilemma doesn't only occur when a municipality has to make a choice, but it can also be argued that a democratically elected governmental body should in default, in its ideal democratic nature, treat everybody equally. This is hard to carry out once a municipality participates in the land market as a market actor, forcing themselves to behave strategically and to be selective in what partners they choose to work with (Valtonen et al., 2018). Lastly, the two roles cause also the financial goals of the municipal body as a market actor to become intertwined with the public goals that are pursued by them as a local government. This can be problematic because municipalities might be inclined to prioritize the financial success of the project over the qualitative aims for the developed area, causing them to compromise on public goals for the sake of their financial stake (Van der Krabben & Jacobs, 2013; Woestenburg et al., 2018). According to the parliamentary inquiry concerning house prices, this is exactly what happened during the 1990s, when the profitability of projects was given priority over the public goal of realizing enough housing to meet the demand (Tweede Kamer der Staten-Generaal, 2013). This resulted in higher housing prices due to scarcity.

3.1.1.3 Benefits of applying an active land policy

Value capturing and financing of public amenities

In spite of the criticism, some municipalities still mention the financial benefits as substantiation for their choice to go with an active land policy when the market is right (Woestenburg et al., 2018), even though it's controversial: the Rfv (2015) states that profit should never be a reason to go with an active approach, and they are not alone (De Zeeuw, 2017; Bregman et al., 2018; Woestenburg et al., 2018). Not only in the Netherlands, but also in Scandinavia value capturing seems to be more effective when applying an active land policy (Valtonen et al., 2018). However, profit doesn't have to be only for the benefit of the municipal budget. A reason to apply active land policy at least partly in urban development area is often to finance public amenities that would otherwise not be developed by private parties. This refrainment from private parties to finance these public facilities, can be seen as a 'failure' of the market and could therefore legitimize an active approach (Buitelaar, 2010; Van der Krabben & Jacobs, 2013). This last point is enough reason for some to legitimize active land policy. As a democratic body the local government can emphasize the public interest of the planning intervention by capturing the value increase of the land and by using it to finance necessary

public infrastructure, but also social housing (Muñoz Gielen et al., 2017). At one case, mentioned in Bregman et al. (2018, p. 20), a municipality sought to connect a new area to a larger road network, and found no financing from private parties, regional-, or national governments. The road would benefit the entire area but had to be paid out of revenues from the development area. This aspect of active land policy seems to be directly opposing the criticism about the democratic legitimacy of the approach, be it from a perspective that the end justifies the means.

Financing of public amenities by profits of active land policy, however, is something that is more applied in other countries than the Netherlands. In the Netherlands, profits generated by land development cannot be used to finance public amenities within the same project. Generated funds through active land policy can be used to finance, for example, infrastructure that serves a wider area than the plan area, or for the creation of sports fields, but this only happens indirectly. This is useful when costs are made that cannot be recovered through cost recovery for reasons of proportionality (see section 3.2.2.1).

These opportunities for profit can be used by municipalities to balance the losses that are sometimes made in other areas. It was even steered upon by the Dutch government. The beforementioned report of the parliamentary inquiry regarding house prices shows that the national government even enhanced scarcity of land during the 1990s, so that municipalities could make more money of public land development, giving the national government the ability to cut the subsidies for local governments (Tweede Kamer der Staten-Generaal, 2013).

Enhancement of stable investment climate

A benefit of using active land policy is that municipalities bind themselves to a project in the long-term. This means that they will protect the stakes that are in the project. This involvement will secure continuity of the project, because the municipality will stay aware of the political changes that have too much of an impact on the investment climate (De Zeeuw, 2018). Public as well as private parties support this idea that the municipality can lower uncertainty by being financially involved (De Zeeuw & Hagendijk, 2015; Jager, 2016; Fokkema, 2016). Where it is sometimes argued that a dominant role prevents private parties from taking the initiative, it seems to actually be the case that private parties need local governments to be actively involved in order to take a position towards several issues private parties have no opportunity for to solve, such as matters of complex ownership division (Rli, 2017). From literature it seems that this is not something that municipalities willingly do this way. It seems more like a positive externality, or neutralization of the uncertainty of political change that is mainly beneficial to private parties that wish to be financially involved in a project and want to avoid carrying the risks themselves.

Stimulation of development

Another reason to pursue an active land policy as a municipality is to stimulate the commencement of urban development, where otherwise nothing would happen. When it comes this, there are two opposite situations.

Firstly, market forces influence land prices and to not develop available land might be attractive for private parties. Not only because the land value might rise, but also because revenue in other areas close by might increase due to scarcity of dwellings, making it more attractive to deliver dwellings at a later moment in time when average returns are higher. When this presence of market pressure can increase the incentive for private developers to halt development, it could be argued that an active land policy is effective, developing the land and disposing it on the condition of development in the near future, as was done in the case of Amsterdam (Korthals Altes, 2019). Notably, Amsterdam is the capital and largest city of the Netherlands and is incredibly popular, with a 'booming' housing market, since approximately 2015 (Boelhouwer,

2017). This means that this municipality has the luxury that if it offers land for sale, there will always be a buyer. However, this was also the case with the development of the area of Waalsprong in Nijmegen (Valtonen et al., 2017, p. 253). In the plans, the land for the entire development had to be done at once, for it was believed to increase efficiency, but no private party showed interest in taking this on. This is closely related to the holdout problem, meaning the halting of development because of other interests private parties prioritize over direct development, for example when the prognosis of the housing market is that prices will increase steadily.

Secondly, opposed to these market factors that hinder development, the scenario of a shrinking population can be a reason to opt for an active land policy as well. In the case of Delfzijl, a municipality that has to deal with shrinkage, the municipality explicitly states that they pursue an active land policy (Woestenburg et al., 2018). In this way they mean to show that they believe in the further development of the city, and commence developments where private parties find the area not attractive enough to initiate it.

Steering on public objectives

Active land policy is used to steer spatial development (Buitelaar, 2010; De Zeeuw, 2018; Ministerie van Binnenlandse Zaken en Koninkrijksrelaties et al., 2019). To exercise control over the design and the layout of spatial development, it is used alongside regulatory tools such as zoning (Buitelaar, 2010). It is argued that municipalities can to a larger extent influence the outcome of urban development when using an active approach, because they own land. They can set additional conditions to the buyers of their lands through purchase agreements, next to the conditions that are in place due to the public law framework (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties et al., 2019). The use of private law seems thus to prove more effective in practice in order to realize public goals such as the quality of public space, or realization of public amenities and social housing. When applying active land policy, the municipality can practice more public control over developments, because when they have a land position, they are able to limit the extent to which they have to negotiate with private parties about giving up some of their freedom in order to realize public goals (Valtonen et al., 2017). In other words, owning land gives the municipality leverage in negotiations, as well as the possibility to place demands with the new owners when disposing the land about what has to happen with it.

3.1.2 Different types of active land policy

There are several forms of active land policy that mainly differ in terms of ownership. In this section, they are displayed all together, explaining their differences and characteristics.

3.1.2.1 Public land development

Public land development means that without interference of private parties, a (local) public authority is responsible for the entire process of land development. Thus, the authority becomes a supplier of developable serviced building plots to the property markets (Valtonen et al., 2018). This is a way of significant market intervention by a government. One of the reasons municipalities traditionally have held the major share of building land provision is because in that way they could keep control over who would buy it from them. For example, if they wish they can sell it to a housing association or other parties that had a specific purpose that the municipality supported (Van der Krabben & Jacobs, 2013).

3.1.2.2 Development rights model (Bouwclaim)

If the municipality does not own all land that is up for (re-)development, the development rights model (in Dutch: Bouwclaimmodel) might be a fitting way to organize the land development.

This model entails that the private party who is the owner of the remaining land hands it over to the municipality under certain conditions. The municipality then services the land altogether and hands out the right to the private party to buy it back once the land goes up for sale (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties et al., 2019). It can be applied when the ownership of lands by developers intended to be developed is very much scattered, making it unsuitable for the particular development. Another reason to apply can be when a developer owns land that is needed for the accessibility of the area. The landowner then hands over his lands to the municipality, in exchange for a different plot later on (Hobma & Jong, 2016).

3.1.2.3 Concession model

Apart from the two approaches above, a municipality can also choose to apply a concession model. Through this, municipalities organize a public tender, in which they set constraints according to public law, concerning quality and program. The land development as well as the real estate development are left to private parties. Public bodies opt for this method if they are unwilling to carry risks, or if they do not have the capacity to develop the land themselves. Because the development is organized through a tender, the plans have to be very clear at the beginning of the project, for changing the outcome during the project is very hard to achieve (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties et al., 2019). After the development is finished, the public spaces are handed over to the municipality (Rli, 2017). An example of this is the area of Ypenburg in the city of The Hague. The municipality first acquired the land of the old airport that was located there and consecutively wrote out the tender.

This model is placed under active land policy because of the lands that have to be in ownership of the municipality to arrange such a model, but dependent on the conditions that are set and the framework the municipality uses to select a market party, it can also in practice have the characteristics of a more passive approach, leaving the development itself to a market party.

3.1.2.4 Joint venture

In the joint venture, both municipality and private parties hold 50 per cent of the shares in a common land development company. The risks as well as benefits are shared (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties et al., 2019). Next to this risk sharing, it can also be a beneficial structure in the face of taxes (Hobma & Jong, 2016). Municipal councils often have embraced this structure as risk-avoiding, but at times of the GFC, in several cases across the country, market parties found a way to quit these companies and municipalities were left with the eventual risks (De Wolff & Groetelaers, 2017).

3.2 Passive land policy

Notably, a passive land policy doesn't mean that municipalities don't have to be actively involved in the process. They might be even more pro-actively involved, lobbying for their interests and to realize the public agenda (Heurkens & Hobma, 2014). This active attitude with a passive land policy is also corroborated by several municipalities themselves in their land policy memoranda (Gemeente Alkmaar, 2013; Gemeente Alphen aan den Rijn, 2014; Gemeente Nieuwegein, 2015). Also, passive land policy does not necessarily mean that a municipality has no land position at all. A municipality can acquire some land in order to be able to make tradeoffs. When they are withholding from even few land positions, this is called private land development. Private land development is very dominant in the British context and has a strong focus on the roles both private and public bodies fulfill within the project, protecting different interests and taking on separate tasks (Janssen-Jansen & Woltjer, 2010; Heurkens & Hobma, 2014). A positive factor about passive land policy is the way private and public parties are associated in negotiating planning projects. Also, private parties take on additional obligations

within their plan or project. They use their profit to benefit local infrastructure and parks, which they see as an investment in their own real estate. (Janssen-Jansen & Woltjer, 2010). In the Netherlands it is also applied, but it is traditionally not very dominant. Still, several forms of passive land policy are being explored, or have been applied already quite often. These can be found in chapter 3.2.2. Before this, section 3.2.1 will display more in depth what the characteristics of passive land policy are, in the form of legal tools, existing criticism, and benefits of or considerations to apply this type of land policy. Because the Dutch planning tradition is dominated by active land policies, also examples from other (European) countries will be given concerning the benefits of passive land policies.

3.2.1 Legal tools, Criticism and Benefits

Just as with the legal tools for the active land policy (3.1.1), the legal tools for passive land policy that are displayed in this section are derived from the explanation of the to be implemented Environment and Planning Act (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, 2019a). Following the elaboration on the legal tools, the criticism on passive land policy and the benefits of applying it will both be addressed.

3.2.1.1 Legal tools for passive land policy

There are several legal tools that municipalities can use when applying a passive land policy. In the chapter 1.1, the 'site development plan' (exploitatieplan) was already mentioned. This is considered the most central one of the legal tools for passive land policy (Rli, 2017). The site development plan was introduced to the Dutch urban planning system in the 2008 Spatial Act. Before 2008 it had occurred that private parties simply refused to pay a contribution to the municipality for the costs that it had made to service their privately owned lands. The site development plan mainly entails calculations on infrastructure costs, the appraisal of land values and other costs and returns (Samsura et al., 2015). If a private party does not come to an agreement with a municipality about contributions for land development, the private party is charged a fee based on the beforementioned calculations in the development plan, once applying for an environmental permit that is necessary to start construction (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties et al., 2019). If cost recovery is already ensured through another type of agreement, it is not mandatory for the municipality to put up a site development plan (Lam et al., 2012). In the period between 2010 and 2015 it was only used in only 10% of the cases (Bregman et al., 2018), but it mainly serves as a catalyst to reach agreement between private parties and public parties, because it serves as an insurance that costs will be recovered (Rli, 2017). The agreement usually takes the shape of an 'anterior agreement'. The anterior agreement is an instrument that falls under private law and contains more far reaching agreements than what can be included in the site development plan (Gemeente Groningen, 2017). In practice, arrangements about cost recovery are preferably organized in an agreement, because in that way the often complex procedure for cost recovery through a site development plan can be avoided (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, 2019a).

The cost recovery that is described above, only applies to costs that are directly made in service of the project location, such as costs for sewage and public space. There are two more ways in which cost recovery can take place. The first one concerns, for example, certain infrastructural investments that might benefit the development, but also a wider area, such as a bridge leading towards the plan area which also benefits traffic flows of surrounding areas (in Dutch: *bovenwijken*). These investments can be partly recovered from the developer of the area, according to the proportionality principal (Van de Brand et al., 2008). The second additional way of cost recovery is that of a 'financial contribution to spatial development'. Spatial

development in this context is not exactly defined anywhere, but mostly concerns developments like natural areas somewhere outside the plan area. The contribution can be included in the anterior agreement, but a condition for this is that the development of this natural reserve is taken up in the municipal 'structure vision' (Van de Brand et al., 2008).

The 'structure vision' is another product of the 2008 Spatial Act (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties et al., 2019). This is a document that entails the vision of local or regional governments, which is mandatory for them to draw up. It serves as a way to establish a framework in which their domain should be developed. They are also used as a starting point to determine conditions before the start of a selection or tender. Concluding, it is a document, containing more general plans for the to be developed area.

An instrument for more detailed plans that is still in place is the land use plan. Part of the idea behind the Spatial Act was to bring a more central role to the land use plan, but the role of the instrument more or less remained the same as before the law (Buitelaar & Sorel, 2010). Through the land use plan, developments are documented in a legally binding manner. Municipalities can choose the level of detail in which they describe the plans. Reasons to keep it less detailed is so that it will be less hard to change plans and to support flexibility. If the municipality chooses to keep the land use plan less detailed, but does not keep the option open to change it later on, it has to put up a site development plan that is linked to the land use plan (Ministerie van Binnenlandse Zaken et al., 2019). The municipality can also choose to include an option to change the land use plan (*wijzigingsbevoegdheid*), which buys them time to avoid having to draw up a site development plan by making anterior agreements with landowners. An important note is that the land use plan will be replaced by the environmental plan once the Environment and Planning Act will be implemented (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, 2019a, p. 47). This environmental plan is meant to have a much larger scope than the land use plan, focusing not only on functions and spatial planning, but on all aspects of the physical environment. Apart from this, the plan will play a role in the decentralization of legislation, containing several rules that are now still nationally organized.

One instrument from public law that can be used by municipalities in order to establish value capturing from private parties when a passive land policy is applied is the benefits tax (in Dutch: *baatbelasting*). However, in reality this way of cost recovery is only rarely applied (Rli, 2017). Before the introduction of the 2008 Spatial Act, the benefit tax was a more common way to secure cost recovery, because the possibilities to retrieve costs from free riders were more limited, but nowadays it is only an option in theory. In its current form, it has become less effective over time (Hobma, 2014). In the 2008 Spatial Act, it was taken up that once an agreement was made about cost recovery for a project (in the shape of an anterior agreement or a site development plan), benefits tax was prohibited to apply for municipalities (Ministerie van Binnenlandse Zaken, 2019). Outside of projects it can (theoretically) still be collected (Van de Brand et al., 2008). The introduction of the site development plan considerably increased the position of the municipality to charge private parties for the servicing of land and construction of public space. With the introduction of the site development plan, the possibility to collect benefit taxes was somewhat restricted as well, transforming the tool merely into more of a theoretical option, but formally it is still there (Schep, 2012).

3.2.1.2 Criticism on passive land policy

Criticism on effectiveness of cost recovery

It is considered to be less effective in the Netherlands to use the passive land policy, because the municipality can only retrieve minimal contributions from market actors (Muñoz Gielen et al., 2017). The reality of this policy is that less funds are available from the revenue of land

development to invest in public amenities. This does not mean that there is no possibility to finance public amenities other than those which are addressed in the anterior agreements, it mainly means that passive land policies often do not provide sufficient opportunities to finance public amenities in inner-city developments (Rli, 2017). That this is the case is mainly because of the Dutch legal system that does only allow cost recovery that covers the costs that are made internal to the land development, excluding costs that are made to realize amenities that do benefit the area, but aren't part of the development of the plots. The Site Development Plan Costs Regulation (Regeling Plankosten Exploitatieplan, 2017), provides possibilities for retrieving costs that are outside of the direct project area. However, the amount of retrievable costs is based on proportional benefit for the development itself, which is for a larger infrastructural change often only a small part of the costs, since also the wider environment would benefit from such a development. A fundamental question of a rather ideological nature plays a part here: who should benefit of the value increase of land that occurs when it is developed? (Muñoz Gielen, 2010). From a conservative liberal perspective, the landowner is the one whom the value increase belongs to, while from a more socially oriented tradition it would be advocated that this value increase belongs to the community. This seems more of a political question and therefore it seems that the criticism on this is also more of an ideological nature.

Criticism on (legal) complexity

A source of criticism is what is considered as the central instrument of passive land policy: the site development plan. Because the municipality has no landownership when it applies a passive land policy, a lot has to be arranged through procedures and legal tools. Often, instead of setting demands with the sale of land, municipalities make an anterior agreement with private parties in order to avoid having to retrieve costs and to steer through procedures. However, it still happens that no agreement is made. The application of the site development plan is experienced badly. Apart from that it can be very costly when a lawsuit is filed against its content (Lam et al., 2012), it is considered too complex to put together. As quoted in Bregman et al. (2018, p.20): “Operational plans in combination with site development plans give [...] a lot of extra work and headaches”. In Lam et al. (2012, p.19) experiences with drawing up a site development plan are described as a “necessary evil”. The site development plan is a tool that, as mentioned in chapter 3.2.1.1, mainly functions as a big stick and is not applied that much, but when it has to be applied turns out to be very complex and expensive to use (Rli, 2017). This complexity also requires a team of experts who sufficiently know how to deal with these instruments, and not all municipalities have this expertise inhouse.

3.2.1.3 Benefits of applying a passive land policy

Absence of financial risk and involvement

As in line with the criticism on the financial risks of active land policy, described in chapter 3.1.1.2, passive land policies require no financial involvement in land developments and therefore the municipality is subject to a low financial risk. The German passive land policy, having a focus on procedures more than on implementing plans, has proven fairly robust during the GFC (Hartmann & Spit, 2015) that cost the Dutch municipalities such large amounts of money, in contrast with active land policies in the Netherlands (Ten Have et al., 2012).

Counteracting speculation

The Dutch municipality, being able to buy land, but also to change the land use plan, allowing different type of land use, has a lot of power to steer speculation on land prices. The German system provides a good example of how this possible speculation is counteracted through the application of passive land policy. Private developers in the Netherlands might acquire locations strategically, knowing that the local government is planning on buying it for a future development. The German approach of mandatory land readjustment neutralizes the

opportunities for speculative behaviour, by keeping the municipality financially out of the development. In the Dutch situation, once it comes out that a municipality might want to develop an area and acquire it, this might raise acquisition costs for local governments considerably. The local governments in Germany merely act as a regulator, carefully testing if planning interventions do not distort land markets and placing the planning under democratic control (Hartmann & Spit, 2015). For the specific Dutch situation, this might be related to the argument of value capturing, and the political nature of the discussion, for speculation can also cause increasing land values in certain areas, which can deliver profits to municipalities as well. This has been a welcome source of income for municipalities for many years (Rfv, 2015). This again gives rise to the question if the municipality should be the one to profit from this. However, speculation does not only increase profits for municipalities, but can also cost it a lot of money. Through passive land policies it can be avoided that the land will be 'warmed up'. The municipality of Dordrecht (2014, p. 58), among others, uses this concept to describe the phenomenon that an owner of land on which the municipality has, for example, laid the pre-emption right will know that the municipality desires to acquire his land and make profit of it, causing him to raise the asking price. This would raise the initial investment and therefore decreases the chance to make profit.

Lack of capacity to realize

Municipalities might not always have the financial or professional capacity to invest in certain land positions or to execute a land development project. In multiple land policy memoranda, it is mentioned that this is a reason for municipalities to apply a passive land policy (e.g. Gemeente Hardenberg, 2015; Gemeente Wassenaar, 2015). The municipality must however still have enough capacity to test plans, make agreements and possibly put up a site development plan (Gemeente Wassenaar, 2015). This aspect of passive land policy is much more of a choice between no realization or realization through a passive approach, and is not so much a choice between active or passive approaches.

A clear public role

Something that might be considered beneficial when going with a passive approach is that the municipality only is involved as a public authority. Where in active approaches the municipality acts as both market actor and regulatory public body, with passive approaches the municipality clearly only has the role of the regulatory public body. This can be beneficial for two reasons. Firstly, in that way financial goals are not linked to public goals. According to Valtonen et al. (2017) the integrity of public land development is at stake because it could be the case that the qualitative goals of an urban area development project can be easily scaled down in order to ensure a financially healthy project. Therefore, less compromises would be made on qualitative goals in the public interest if the municipality would not be financially involved in the land development. Secondly, the municipality directly avoids the critique on active land policy of the double-hat dilemma that is discussed in chapter 3.1.1.2, by restricting itself to the role of governing body. In this role, municipalities still steer upon public goals and are actively involved in the process (Heurkens & Hobma, 2014). This is different than in the German case of passive land policy, where municipalities mainly focus on following procedures and seeing to it that these are followed correctly, without involving themselves too much in the qualitative details of the plan (Hartmann & Spit, 2015).

3.2.2 Different types of passive land policy

In this section several forms of passive land policy will be addressed. Private land development is a more common form of land development. Land readjustment, described in chapter 3.2.2.3, is not yet a very familiar tool in the Dutch planning system.

3.2.2.1 Private land development

Private land development mainly takes place in the British context and has a strong focus on the roles both private and public bodies fulfill within the project, protecting different interests and taking on separate tasks (Janssen-Jansen & Woltjer, 2010; Heurkens & Hobma, 2014). In the Netherlands this mainly happens when a private party can successfully claim the right to self-realization, but this happens in only few cases. This right can be claimed once the owner of the land can prove that he can by himself realize the plans that are envisioned for his land, be it in the form of development, operation, or maintenance (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, 2019a). The owner must not only prove that he is able to carry out the plans, but also show that there are executable plans to do this. The right to self-realize has not been without controversy. In the time of the large 'Vinex'-developments, the dominant role of the municipalities transformed to a large-scale market of building rights (Rli, 2017). Private parties used the right to gain a position of power, since municipalities are not allowed to expropriate them once they can prove that they are able to develop. This protection comes from the link to property rights and the protection thereof in the constitution and the European Convention on Human Rights (Rli, 2017). In order to counter this, it is likely that in the new Environment and Planning Act the right to self-realization will be linked to a duty to build (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, 2019a). This will expectably prevent private parties from holding out and undesired trade in building claims.

3.2.2.2 Land readjustment

Land readjustment is a way of passive land development that is not commonly applied at all in the Netherlands, but there are voices that endorse the tool as useful for the Dutch system (Van Baardewijk, 2012). It is often a fairly complex matter, because of the large quantity of landowners, locations, to be relocated real estate, different interests and so on (Rli, 2017). The Dutch government issued an inquiry to explore possibilities for more common practice of the legal instrument (Muñoz Gielen, 2016). It's mainly applied in Asia, Israel, Germany, and Spain as an actual tool. In land readjustment, the landowners all hand over their land to the municipality, which re-parcellates the land and gives it back to the landowners. With land readjustment, the local government does not acquire ownership of the lands, but uses its regulative power, applying legal tools to re-parcellate – or readjust – the ownership of the lands. Landowners receive land back that is comparable in size and functionality. This supposedly more useful new division of plots and ownership, the adjustment of the land use plan, or the construction of infrastructure that happens along the way with this method increase the value of land, which is used to cover the costs of the land development. It differs per country to whom this increase in value is attributed. In Germany, a 'Readjustment Charge' exists, through which the landowners are charged for the servicing of the land, recovering the costs for the development. In Spain and the Netherlands, a larger part of the value increase through the beforementioned three methods can be compulsorily charged from the landowners (Muñoz Gielen, 2016).

There is a possibility for applying land readjustment in the Netherlands, but the Dutch government decided that municipalities cannot force unwilling landowners to participate, leaving it to be strictly a voluntary tool (Muñoz Gielen, 2016). Applying it without consent of 100% of the landowners means that the municipality would have to expropriate, which would become a very costly legal process because the cases almost always include several non-professional landowners (Muñoz Gielen, 2016). The Rli (2017) concludes that it is hardly a useful tool, considering that there is no legal force that serves as a big stick. In the current situation, landowners who are holding back will in almost all cases steer the process towards expropriation, but land readjustment could be a useful tool to assemble this land in a more efficient way. The Rli (2017, p. 49) refers to company law, in which a major shareholder can buy

the other shareholders out once he holds 95% of all shares. The tool will be added to the legal instruments municipalities have, but, as mentioned, strictly as a voluntary tool, through the Environment and Planning Act that is due in 2021 (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, 2019a). The consideration behind the voluntary nature of the instrument is that it would have too much of an impact of landowners. If the land of an unwilling landowner is really deemed to be necessary for realization of public goals, the instrument of expropriation can be applied (p. 21). More recently, it has been made known that the ministry still leaves the door open for a possible mandatory variant of land readjustment, encouraged by lessons from practice and expert opinions (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties & Kadaster, 2019).

3.3 Conclusions

In this chapter both active and passive land policy have been researched by consulting academic literature and governmental documents. Both policy types were structured according to their supporting legal instruments, their main causes for criticism and their positive aspects. In this way, it was attempted to provide an answer to all aspects of the first sub-question, which was formulated as: *“What are the characteristics of both active and passive land policies in terms of legal tools, negative- and positive aspects?”*

It must be noted that, when looking at both policy types, strong aspects of both approaches are also sided by weak aspects, so it is impossible to say that one of the approaches is superior to the other or is in almost every situation preferred over the other. This point of view is also endorsed by a lot of Dutch municipalities, as mentioned at the beginning of this literature review, through the choice for a situational land policy.

If the benefits of and criticism on both active and passive land policy are laid next to each other, there seems to be a certain balance. There are arguments that support applying one or the other land policy, but in which no real choice is embedded. For example, when a municipality has no capacity to develop land themselves, there is no other option than passive land development. Then we have arguments that are mainly relevant for a different context than that of the Netherlands, such as the counteracting of speculation, which is mainly applicable to Germany. When we cross out these arguments, it is assumed that the leading issues in the choice for active and passive land policy remain present. Combining the positive and negative aspects of both policy types, these ‘dilemmas’ are roughly that of value capturing, democratic legitimacy, and of steering possibilities. In value capturing it is about who should own the value increment of land when it is developed; should it be the community, or the private owner/use of the land? Democratic legitimacy is about the role of the municipality in urban area development, and if it is a problem that they wear two hats. Steering possibilities on public goals that have to be realized with a project mainly concern considerations on how these goals should be achieved.

It seems to be the case that in the face of democratic legitimacy and possibilities for value capturing, the incentive to opt for active or passive land policy is motivated politically. Depending on ideological or political convictions, municipalities can decide which policy type fits their point of view best. That political considerations seem to play a large role here, can be considered as part of the answer to the main question. Still the aspect of steering remains. Steering is not so much of a political aspect, but more of pragmatism. Steering focuses on the method to realize certain goals, but the choice of method is not necessarily related to the political vision behind the goals. From this literature review, the conclusion can be drawn that despite the financial risks and the possible conflict of interests, municipalities find the steering possibilities of active land policy attractive enough to often prefer it over those of passive land

policy. This could point at shortcomings of passive land policy in steering possibilities, pointing out a key incentive for municipalities to opt for active over passive land policy. This is something that can be researched further through the empirical research. The three dilemmas that were mentioned are summed up in *figure 3*.

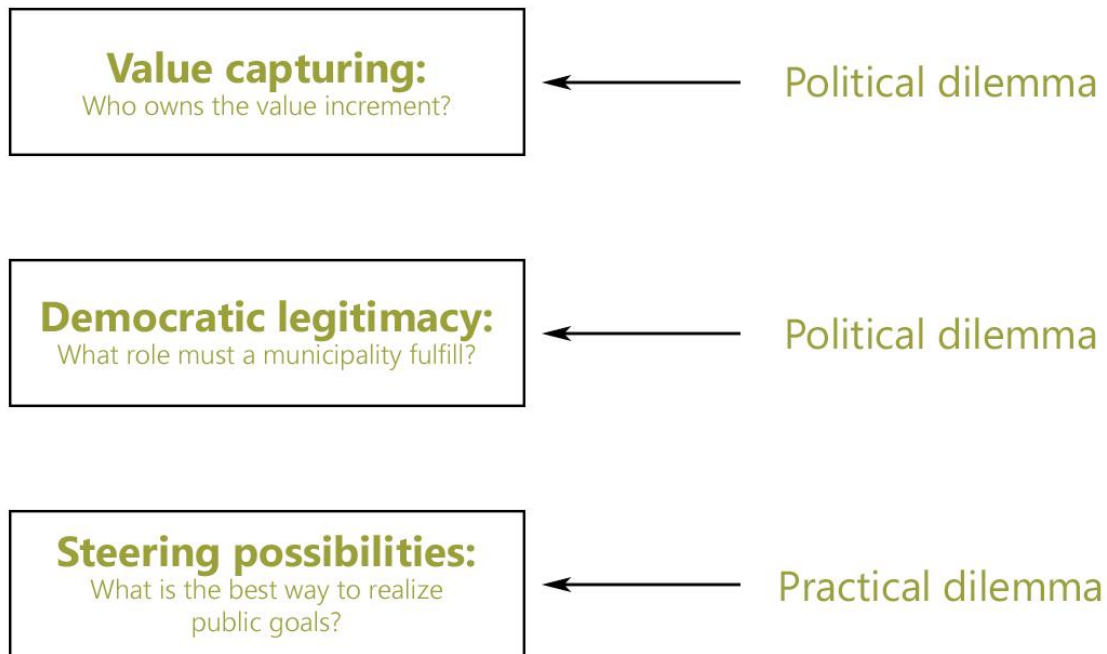


Figure 3. Outcome of dilemmas from literature review.

That land policy might be a politically sensitive topic is nothing new. Throughout the 20th century, several governmental administrations have had trouble with the issue, and it even caused the administration of prime minister Den Uyl to eventually topple (Ten Hoove, 2006).

Naturally, the dilemma of value capturing also includes a consideration of a more practical nature. For example, it can be considered very useful to finance other public amenities or interventions than those of within the project area with the revenues of land value increase. However, the political nature lies within the question if these amenities should be financed by value increase that market parties pay for, or if they should be financed through the general income of municipalities, for private parties also are subject to taxes. The practical aspect is more of an argument rather than the source of the dilemma. Also, the dilemma of democratic legitimacy is not purely political, but also has a practical consideration. As mentioned in chapter 3.1.1.3, the realization of public goals through extra funds provided by private parties through the sale of land can be a way to legitimize an active land policy stemming from practical considerations. The end would justify the means. If one can do that or not, is the political nature of this dilemma. What then distinguishes the dilemma of steering possibilities from these two dilemmas in its practical nature, is that the practical aspect of those two dilemmas are used as an argument to justify a choice, where in the steering dilemma the final answer to the question itself is more of a practical one: what would be the best way to reach the public goals? How these dilemmas fit in the decision-making process is pictured in *figure 4*.

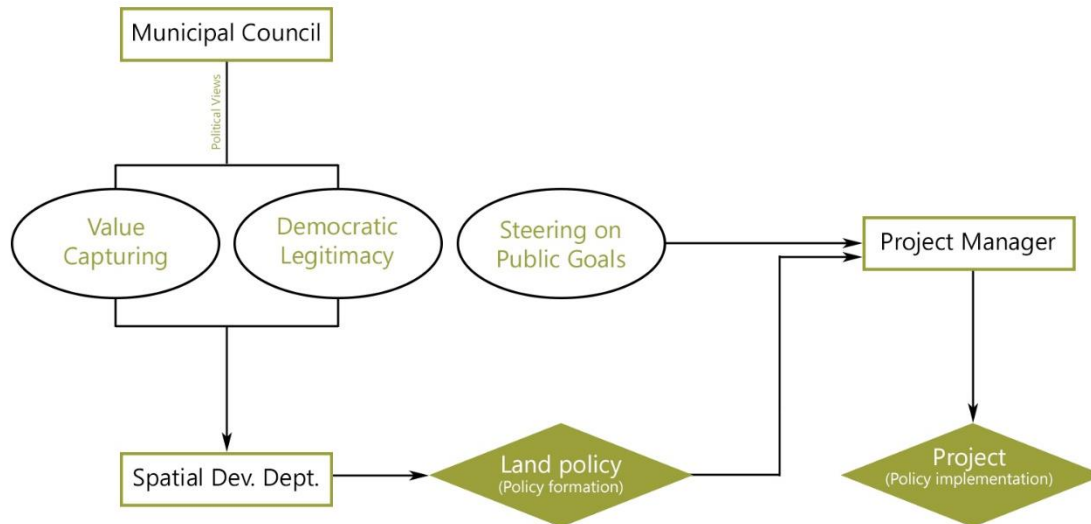


Figure 4. Conceptual model.

Secondly, the literature review was meant to answer the sub question: “What different variants of active and passive land policy exist?” This was attempted to be answered through chapters 3.1.2 and 3.2.2. The answer to this question can be answered in a more concrete manner, simply by describing several ways in which land policies are shaped. Nevertheless, it was mentioned in the beginning of chapter 3.2.2 that there are combinations of both policies that are not described concretely in literature. Those types should also be discovered in the empirical research, offering more room for less generalized forms that are strongly dependent on context rather than easy to classify. The types of land policy that have been able to be clearly distinguished are displayed in figure 5.

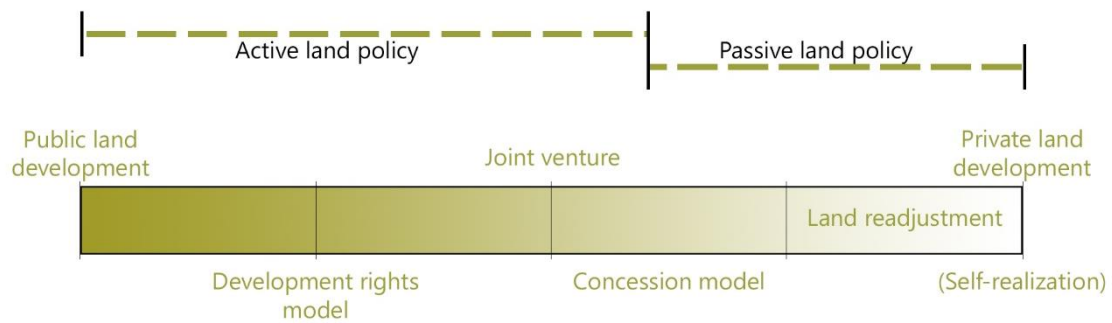


Figure 5. Spectrum of land policy variants.

4. Empirical research

Following the literature review, the empirical research is being described. The chapter will comprise a description of the studied cases that have been chosen in the methodology section of the report, the results of the interviews that were held with executives from these municipalities, and in the end will contain an analysis of the results leading from these.

4.1 Cases

In the methodology (chapter 2), it is described how a number of eight cases have been selected that are deemed relevant to study. In this section, the studied cases are described. They are depicted in *figure 6*.



Figure 6. Map of the municipalities that have been subject to case study.

4.1.1 Amersfoort

The city of Amersfoort is the second largest city of the province of Utrecht (*figure 6*), containing 156.286 inhabitants on January 1, 2019 (CBS, 2019). The municipality has received an assignment to develop 10.000 new dwellings, of which 7.000 in inner-city areas, and 3.000 on the city's edge (Provincie Utrecht, 2017). The municipality introduces in its land policy memorandum a third option in between an active and passive land policy: a directing land policy (Gemeente Amersfoort, 2014). In this third variant, the municipality can be owner of the land in question but doesn't have to be. It mainly steers upon cooperation and tries to tempt private parties to develop real estate.

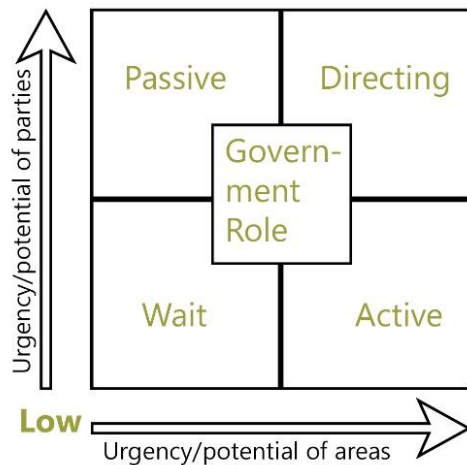


Figure 7. Decision matrix land policy municipality of Amersfoort (After Gemeente Amersfoort, 2014, p. 8).

For the decision which land policy to implement, the two main conditions of potential and urgency are introduced. It has a very clear decision matrix (figure 7) which visualizes how a project should be approached and with it which land policy should be selected. Therefore, it is classified under the first of the four criteria that were mentioned in section 2.2.3 (page 35). The municipality attributes an important role for the concept of balancing unprofitable developments with the profits of more favourable development projects. This is to them an important reason to apply an active land policy. However, it is also stated that only in special situations an active land policy will be applied. The balancing, as well as the achievement of public goals can contribute to the consideration to go with an active policy.

4.1.2 Zaanstad

The municipality of Zaanstad had an amount of 155.885 inhabitants on January 1, 2019 (CBS, 2019). The municipality is located directly north of the city of Amsterdam, the country's capital (figure 6). It is comprised of the towns Zaandam, Koog aan de Zaan, Zaandijk, Wormerveer, Krommenie, Assendelft, Westzaan. The former is the biggest one with about 80.000 inhabitants, also housing the municipal administration. The city might internationally be most known for the 'Zaanse Schans'. This heritage is among the most touristic ones of the country and is seen as a textbook example of the traditional Dutch windmills and historic rural life.

In the face of this study, the municipality has been selected following the criteria put up in chapter 2. Until 2040, the municipality is believed to have a population increase of approximately 20.000 people (CBS, 2018). However, the municipality itself has expressed the ambition to provide the necessary housing for an increase of nearly 40.000 residents in the same time span, growing towards 200.000 residents (NUL20, 2018). In the municipal budget, the municipality explicitly states that it sees no need to put up a land policy memorandum, seeing land policy is not a goal in itself, but meant to fulfill goals in other policy areas (Gemeente Zaanstad, 2019). Therefore, only a section is taken up in the yearly budget. Within this section, the municipality provides relatively few information about the way they select their land policy, thereby fitting the second criterium of the last stage of the case selection. They do state that there are three main goals concerning the land policy:

- *“Enhancing socially desirable use of space,*
- *Increasing the quality of the use of space within the municipality, public participation of citizens, and the market forces within the land market.*
- *Enhancing a righteous distribution of cost and benefits over users, operators, owners, and the municipality of Zaanstad.”*

Furthermore, the municipality expresses it wishes to mainly apply passive land policy. Nevertheless, it mentions that if there is no market initiative, the municipality must actively intervene through active land policy. New land development projects should always be at least covering the costs, and there needs to be financial buffer that can cover risks or contribute to

new strategic acquisitions. Strategy has an emphasis, seeing current ownership in strategic positions is being enhanced and new land in strategic positions may be acquired.

4.1.3 Zwolle

Zwolle is the capital of the Dutch province of Overijssel and according to the CBS (2019), on January 1, 2019, 127.497 resided there. The prognosis for 2040 is a population increase of about 13%: roughly 16.000 new residents (CBS, 2018). An important contextual difference compared to the two cases above, is that the municipality is located out of the sphere of influence of the country's most important metropolitan region, the 'Randstad' (see figure 6). The municipality describes itself in their Housing Vision as a strong regional center, and wishes to maintain its role as central city in the north-eastern part of the country (Gemeente Zwolle, 2017). Based on the beforementioned prognosis, the city wishes to realise 6000 dwellings in the period of 2017-2027, of which half should be inner-city developments, and the other half will be realised in an expansion area on the city's edge.

The land policy of Zwolle is taken up in the annual budget and contains the statement that the municipality uses a 'situational land policy'. In order to analyze the situation, it uses what they call a 'menu card': a matrix (figure 8) with on the two axes the factor of goal/priority – representing strategic and policy aspects to a project – , and the factor of ownership, meaning if the municipality has actual landownership in the location at hand (Gemeente Zwolle, 2018). This structure is derived from an essay by the 'Watertorenberaad' (2014): a cooperative of private, public, and semi-public parties who wrote an advice on how to go about land policy, after the GFC changed the (financial) situation for many municipalities.

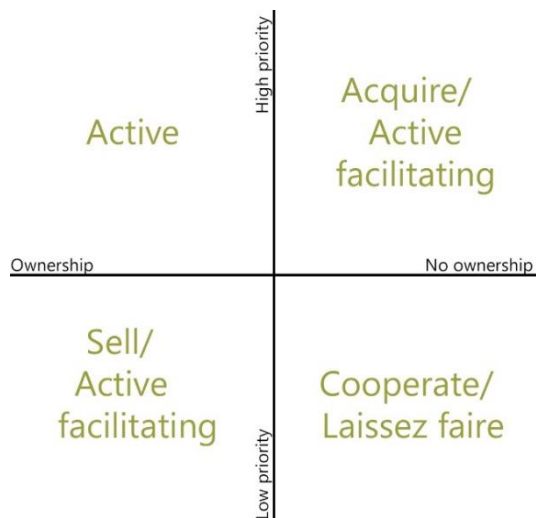


Figure 8. 'Menu card' of the municipality of Zwolle (After Gemeente Zwolle, 2018).

These two factors lead to four different strategies of what to do with a project. The 'menu card' rather describes what options are available but does not provide a roadmap of how to assess when a project has enough priority. What is described however, is that the municipality wishes to be active or acquire land, when it desires to decide in what direction a development project should go. This points at steering as an important factor in the decision-making concerning land policy. The information the municipality provides is in this way quite clear. The question that remains is: what makes this municipality say that directing requires landownership?

4.1.4 Leiden

The city of Leiden is located in the Western edge of the Randstad region (figure 6). According to the CBS (2019) 124.899 people were living there on January 1, 2019. The city houses the oldest university of the country.

According to the prognoses of the CBS (2018), Leiden is facing a population increase of approximately 18.000 up to and until 2040. According to the housing agreements the national government has made with the province of Zuid-Holland and several municipalities, the station area and the campus of the university are one of the 12 main locations in which the production

of 100.000 dwellings should start before 2025 (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, 2019c).

The municipality of Leiden is currently working with a land policy memorandum from 2015, but also has included their views on land policy in their budget (Gemeente Leiden, 2019). In this document, the municipality expresses their preference for a passive land policy. It doesn't exclude active land policy but describes that this will only be applied when public goals can justify the investments and the effects that it has. However, the municipality states that their main goal is to have a dominant and directing role in developments.

Notably, the literature in chapter 3 seems that municipalities often choose to go with an active land policy to take on this dominant role in realizing their public goals. This seems to contradict and raises the question of how the municipality deals with this in practice and seems to make the case of Leiden relevant to study.

The municipality also mentions how it cannot be expected anymore that public land development is profitable to municipalities, especially in Leiden, where all developments

happen in an inner-city environment. However, sometimes it is necessary to apply active land policy in order to realize public goals. In order to decide when this is necessary, the municipality uses a decision tree (figure 9) (Gemeente Leiden, 2015). For each step, the municipality is meant to check according to several documents or actions. The desirability is derived from council decisions, the structure vision, and other policy documents. The feasibility is calculated through analysis and it is assessed if land can be acquired. The risk profile is held against the municipal financial resilience. For the capacity, there is looked internally and externally for what knowledge, expertise and experience is available.

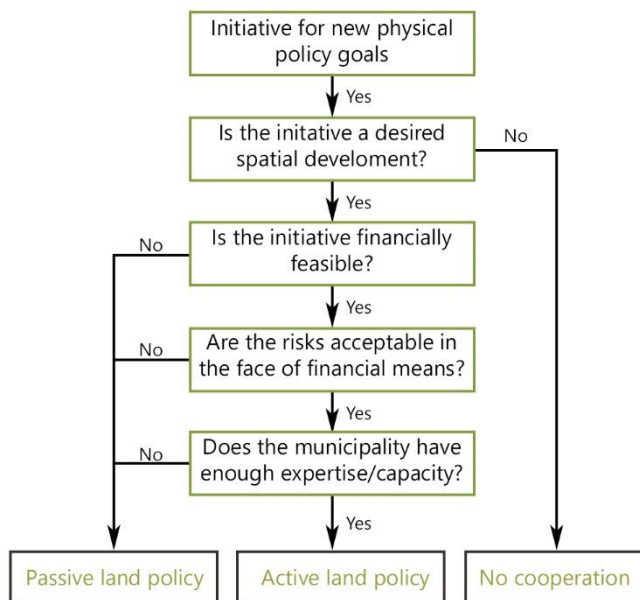


Figure 9. Decision tree of the municipalities of Leiden, Katwijk, and Stichtse Vecht. (After Gemeente Stichtse Vecht, 2013, p. 16)

4.1.5 Katwijk

Katwijk is among the smaller municipalities of this research, with 65.302 inhabitants on January 1, 2019 (CBS, 2019). The municipality exists of five villages that ultimately have become physically connected, resulting in one urbanized area. It is located near the sea (figure 6), and borders the municipalities of Leiden and Oegstgeest, both located east of the municipality. The boulevard and the adjacent beach of the former village of Katwijk aan Zee is a known bathing location within the area. The CBS (2018) predicts that the municipality will have a growth of approx. 10%, with 6.194 residents until 2040.

The municipality has published a land policy memorandum relatively recently (Gemeente Katwijk, 2017). Their previous document dates from 2012, which is also the reason that it was updated, so it says in the newest version, since the context has changed considerably. What stayed the same compared to the 2012 version is that the municipality still chooses to opt for a situational land policy. For selecting the right type of land policy per location, several

considerations have been put up beforehand. The municipality introduces six 'lines of development', along which a path can be chosen:

1. Active directing with active production
2. Active directing in combination with PPP
3. Active directing with passive production
4. Passive directing with active production
5. Passive directing with cooperated production
6. Passive directing with passive production

The first line resembles a public land development model. It can be justified when the public interest calls for a very dominant role of the local government. The second line can be followed when the municipality does not have enough financial capacity for the development, or the landownership is also shared with private parties. The municipality still sees a very dominant role for itself in this line. The third line consists of private development, but with a strict framework for the developers through public law instruments and an anterior agreement. The fourth line is not directly aimed at development but is aimed at strategic acquisition. The municipality can decide it wants to acquire land in order to prevent undesired development, or to initiate development, that would otherwise not start. The fifth one is applied when often the municipality has public space in ownership that is brought into the development, or when the municipality wants to acquire land, or real estate after it has been developed. A PPP can be set up, with a less dominant role for the municipality. The sixth and last line concerns mainly small-

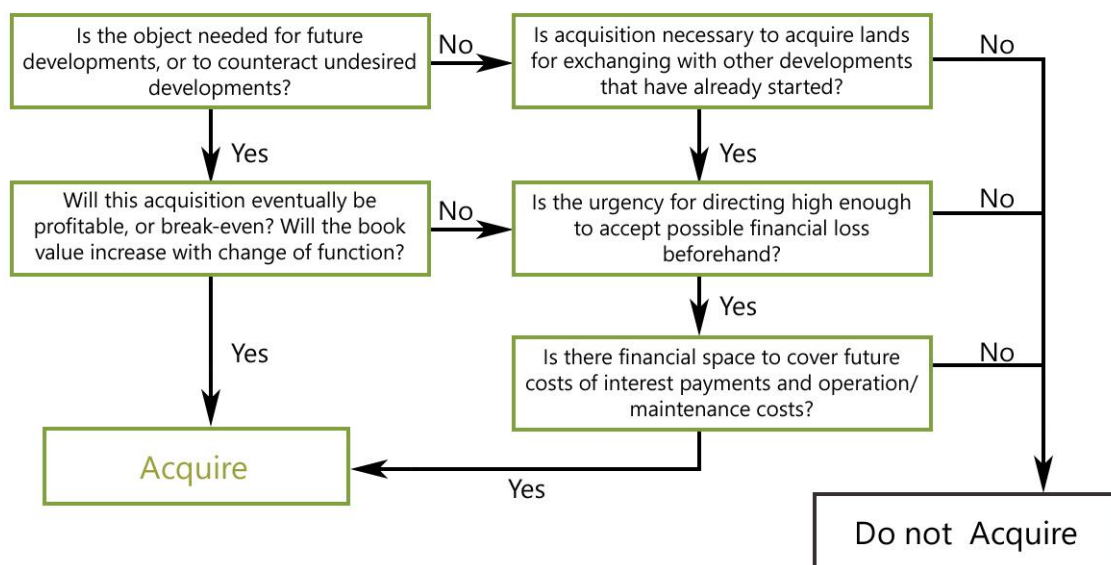


Figure 10. Framework for strategic acquisitions (After Gemeente Katwijk, 2017, p. 10).

scale developments of new dwellings or changes in program of existing real estate. These can be developed without interfering with the municipal vision, and will therefore not be blocked, but also not actively stimulated.

The six lines are integrated in the same decision tree the municipality of Leiden uses (figure 9). Line 1 and 4 are placed with active land policy. Line 2, 3, 5, and 6 are placed with passive land policy. The outcome of passive land policy is complemented by that of partnerships in order to share the risks. Public land development is only opted for when deemed the only option to realize municipal goals. The municipality has, apart from their decision-making for which land policy to apply, also a decision tree for strategic acquisitions (figure 10).

This quite extensive framework includes quite a lot of possible situations, which is the reason the municipality has been selected.

4.1.6 Stichtse Vecht

The municipality of Stichtse Vecht is a fairly young municipality. It came into existence after a merger of the three municipalities of Maarssen, Breukelen, and Loenen in 2011. In the meantime, the municipality has put up a land policy memorandum, describing their position (Gemeente Stichtse Vecht, 2013). According to the statistics of the CBS (2019), 64.336 lived within the borders of this municipality on January 1, 2019. Regional agreements within the province of Utrecht state that the municipality is expected to develop 1800 new dwellings until 2028 (Provincie Utrecht, 2017). All of these dwellings should be built in inner-city areas. The municipality covers a far stretched area along the two waterways of the Amsterdam-Rijnkanaal, a water channel connecting the city of Amsterdam with the river Rhine, and the Vecht, a smaller river after which the municipality was named. The municipality physically exists of 13 cores, which were all originally independent villages. This makes the context of the municipality considerably different from that of the other cases, even though the municipality is located in between the cities of Amsterdam and Utrecht, inside the Randstad area.

The municipality describes in its land policy memorandum how it wishes to pursue a situational land policy, with a custom approach for each project. It states: *“The municipality of Stichtse Vecht chooses, in the face of land policy, for a tailor-made approach and market functioning. In practice this means that the municipality of Stichtse Vecht will predominantly opt for a facilitating [passive] land policy.”* (Gemeente Stichtse Vecht, 2013, p.17). The reliance on market functioning is a remarkable aspect in this, where it seems a somewhat politically-coloured statement compared to land policy documents of other municipalities.

What makes the municipality fit for selection is that it has a clear 4-step decision-making framework (*figure 9*) in order to decide which land policy should be selected. This consists of the factors of desirability of the initiative, the financial feasibility of the land development, the acceptability of risks, and the presence of capacity and expertise. If all these factors have a positive outcome, active land policy can be applied. If not, the municipality will cooperate through passive land policy. Only when the initiated development does not fit within the desired spatial developments, the municipality will, evidently, not cooperate. Notably, it is the same framework that is used by the municipality of Leiden and Katwijk.

4.1.7 Barneveld

The municipality of Barneveld is known in the Netherlands for its large amount of poultry farms. The amount of chickens in within the municipal borders is estimated to be more than 3 million (Van der Ploeg & Tuenter, 2014), where the amount of human beings who live there on January 1, 2019, was 57.971 (CBS, 2019). The CBS (2018) estimates that the municipality will have 8761 extra inhabitants in 2040, which is an increase of roughly 15%. Barneveld is one of the two cases that are located outside of the Randstad.

Another remarkable aspect of the municipality of Barneveld is that they are the only one of the studied cases who explicitly express a preference for active land policies (Gemeente Barneveld, 2016). Their creed is “careful, but active”. This has a lot to do with their structure vision, in which it is stated that the municipality wishes to accommodate a maximum of 70.000 people by 2030 (Gemeente Barneveld, 2012). This policy document explains how the municipality thinks that this large growth will be caused by autonomous growth and spillover from the Randstad, in which housing shortage is increasing. In the land policy memorandum, the municipality emphasizes how experiences from the past years have shown the added value of active land

policy for realizing the public goals, but caution is still required (Gemeente Barneveld, 2016, p. 17). The application of passive land policy is not excluded, if it adds value through risk reduction or expertise. In a way it can be concluded that this also is in some way a situational land policy, but with an outspoken preference for the active approach. When applying active land policy, these considerations come into play:

- there is considerable municipal and societal interest in the project;
- private parties don't initiate the envisioned development;
- it is desired to realize the envisioned project (at least partly) in a short amount of time.

4.1.8 Rotterdam

The municipality of Rotterdam is by far the largest of the municipalities that are included in the research. It is the second largest city of the Netherlands, with an amount of 644.618 inhabitants on January 1, 2019 (CBS, 2019). What makes the case somewhat more unique is that its main reason for selection was the accessibility of the respondents.

The municipality has no land policy memorandum. In their annual budget they express the ambition to start with the production of 18.000 new dwellings in the coming four years, which is quite ambitious. In the rest of the text, the municipality remains very general, stating that active land policy provides the best opportunities for steering, but that the municipality also has projects in which they apply passive land policy as well.

Another interesting and quite unique aspect of the municipality of Rotterdam, is that a large nationally subsidized project is being undertaken in the entire southern area of the city, called the "National Program of Rotterdam South", in Dutch abbreviated as NPRZ. This program started off with an advisory report of Deetman & Mans (2011), about the problems in this part of the city, and how to tackle these. Among the measures that are currently being taken to improve the area socially, as well as physically, is a large physical restructuring of the current stock, which is one-sided and outdated, and therefore regarded as one of the causes for the problems. This led to a national subsidy of €130.000.000,-, which was doubled by the municipality itself. The city now is acquiring large amounts of land and dwellings in order to restructure it. Considerations that play a role in this process might very well be interesting and relevant to the research.

4.2 Results

This section contains all direct results that stem from the case studies. Structured into several sub-themes, the outcomes of the conducted interviews are displayed. Most of these sub-themes are derived from the questions that were asked, but some of them were added when it turned out that an issue was recurring in several interviews. In other words: some of the themes were premeditated, others emerged from the interviews. The information in this section is not yet interpreted and still without conclusions, it is merely structured and analyzed to some extent.

Outcomes on the first few themes per municipality are summarized in *table 4*. Considerations for active land policy are summarized in *table 5*. The section ends with the outcome of the interviews on how the respondents regarded the three dilemmas of value capturing, democratic legitimacy, and steering possibilities within their decision-making.

4.2.1 Municipal land policy

Traditional approach to land policy

To have a better understanding of the land policy that is currently employed, it is important to know where these municipalities come from. As suggested in chapter 1, the general course of the land policy for most of the municipalities is that they traditionally apply an active land policy. When the GFC hit, they turned towards passive land policy as the solution to the problem of the financial risks involved, and that is where they currently stand. However, this does not count for all studied cases.

The municipalities of Amersfoort, Leiden, and Zwolle can be argued fit this profile. All three municipalities have been actively acquiring land before the financial crisis but restrained themselves once it hit and are now much less active than before, emphasizing the necessity of situational land policy, with passive land policy in principal. Some projects that resulted from this earlier active approach are still being realized, such as a PPP-project in Amersfoort and a public land development-project in Zwolle, both greenfield locations. The municipality of Rotterdam can also be added to this category. It never had an explicit land policy document but can be considered to be more active on the land market before the GFC. It considerably downsized its land department as a consequence, which they are now building back up to serve the NPRZ with the needed expertise. Also, even before the crisis some political efforts influenced a more passively oriented advancement after 2002 (see section on *Dilemmas from literature* below).

The municipalities of Katwijk and Stichtse Vecht are both municipalities that came into existence in its current form after mergers. In the case of Katwijk, this happened before the GFC, in 2006. Two of the three merging municipalities had an active land policy, but Katwijk (the largest of the three), did not. After the merger, the municipality went on pursuing an active land policy, through partnership constructions with private parties, looking to pick up some of the profits that were made. However, this was quickly turned around into a more passive land policy orientation when the crisis eventually struck. In the municipality of Stichtse Vecht, that came into being just in the ending days of the GFC, none of the merging municipalities had an actual land policy, but one of the three was acting in an active way, also imposing their pre-emption right on a large area right before the merger took place. However, the new municipality went forward pursuing a more facilitating role.

There are two municipalities who have not fundamentally changed their land policy under the influence of the GFC. The municipality of Zaanstad had always had a more restrained land policy. Historically, the municipality is not very affluent, and their industrial past and contaminated soil have often undermined the profitability of public land development.

Therefore, the municipality had in 2005 decided that it did not have the funds for an active land policy. This careful attitude caused them to be cautious about their steps already, and their land policy therefore made it through the crisis in more or less the same shape.

The municipality of Barneveld has moved in a somewhat opposite direction from the archetype that was described in chapter 1. It traditionally was oriented towards a passive land policy, but in 2006 it was decided that an active role was to be pursued in order to serve the newly composed structure vision. During the GFC, the municipality became more careful with acquiring land, but staff members convinced the municipal council not to change the land policy and sell off all acquired lands, but to consolidate these and use them in more favourable times, resulting in that it still has a predominantly active land policy, unique among the other cases.

Current approach to land policy

In six out of the eight cases that have been studied, respondents indicated that their land policy memorandum, or main land policy document has to be updated. The reasons for this differentiate.

In the case of Katwijk, the municipality renews its land policy memorandum every four or five years, and the durability of the previous document has passed, according to these standards. In the case of Zwolle, the land policy document is reviewed every year, before it is included in the annual budget, but currently the policy writers are waiting for a new Spatial Vision document that will be leading for the way the municipality will treat their land policy.

In the municipalities of Amersfoort, Stichtse Vecht, and Leiden, the argued necessity for an update stems from the fact that “times have changed”. With this, they allude to the currently more prosperous times, in contrast to the time of writing of their previous policy documents, which was often during, or only shortly after the GFC. A common factor in this is that they often have gained a different perspective towards active land policy. Where shortly after the crisis the tendency was to primarily aim for a passive land policy, the conviction that active land policy might be necessary in order to achieve the high-level ambitions of these times, seems to gain territory again. The municipality of Rotterdam didn’t have a policy document specifically dedicated to land policy before, but currently one is being written. With this, the aim is to provide a framework to guide decision-making on what land policy should be applied in a certain situation, and not only a direction or preference for the general land policy should be given. Also, in the municipality of Amersfoort, this is an additional goal for the new document, though in a more elementary form, adding a set of questions one should ask itself before making a decision. In this way, rushed strategic acquisition of land without due substantiation should be prevented, where this has happened earlier and is undesired.

Only at the municipalities of Zaanstad and Barneveld, the respondents state that no real changes would be made to their land policies in the near future. Both municipalities also have more or less the same strategy as before and during the crisis. The respondents from the municipality of Zaanstad explained how they have been more restrained traditionally, always being rather careful with active land policy, and even before the GFC decided that funds were not being dedicated to the acquisition of lands. The municipality does have an extensive decision-making framework, complementary to their land policy document, which is approved by the municipal council and applied by an Advisory Group for Strategic Acquisitions, in order to give an advice and to prevent situations of insufficiently substantiated acquisitions. The municipality of Barneveld has kept an outspoken preference for active land policy, even during the GFC. This course was decided for around 2006, and due to efforts from the land department, it didn’t alter during the GFC, even though they became more careful with acquiring lands.

4.2.2 Ambitions of current times

As mentioned, at several municipalities the idea of active land policy is being welcomed more and more, caused by the ambitions of current times. The two main challenges respondents are referring to when this is discussed, are those of climate change and the increasing housing shortage.

All respondents have stated that demands such as a high energy efficiency of buildings, more permeable surfaces in public space, and other measures regarding environmental sustainability are hard to enforce through the framework of public law. Also, within the anterior agreement, which is a private law instrument, municipalities cannot demand a better energy performance than the legal minimum that has been specified in the Building Decree. Therefore, the only way to enforce such measures is through a binding contract that is included with the selling of land.

The challenge of housing shortage is closely related to scarcity. Scarcity causes increased house prices, but also value increase of lands, which causes private owners to be hold back developments. This phenomenon is referred to in section 3.1.1.3 as the holdout problem. Through active land development, municipalities can decide when a project is being started, countering this problem. For the municipality of Barneveld, which is a very fast-growing municipality, this is a serious consideration.

4.2.3 Room for expansion

An important aspect of the differing context of the studied cases is the room for expansion. All municipalities that are located inside the Randstad metropolitan region struggle with the fact that all land positions within the municipal borders are taken or being developed.

The municipalities of Zwolle and Barneveld are the only two within the set of selected cases that still have room to expand to greenfield areas. Both are located outside the Randstad (*see figure 6*) Within all other municipalities, the last available greenfield areas are currently being developed, meaning that all other future developments have to be transformation projects, or inner-city (re-)developments, which are more costly and have a higher risk profile. This considerably changes the decision-making context for those municipalities. It also means that scarcity of land is higher in these areas, since there is less or no land being added to the land available for building.

4.2.4 Subsidies through land price

As mentioned in the introduction, active land policy was first introduced in the Netherlands on a large scale to provide housing associations with building plots in an efficient way and for a fixed land price. Even though many other ends are being pursued through active land policy nowadays, it is still used for this purpose.

The municipalities of Zaanstad and Amersfoort don't provide indirect subsidy through land price. In these municipalities the project initiator can ask for a subsidy directly, once he doesn't manage to establish a comprehensive business case. The respondent from the municipality of Amersfoort indicated that land lease is a negotiable option to bring down initial investment, but in principal subsidies are only handed out directly by the appropriate department.

In Rotterdam and Leiden, social housing is subsidized through land lease. In Barneveld and Katwijk housing associations are given a lower land price at purchase.

Table 4. Overview of outcome on several topics per municipality

| | Traditional approach | Current approach | Room for expansion | Subsidies through land price |
|-----------------------|-------------------------------------------------------------|---------------------------------------------------|---------------------------|-------------------------------------|
| Amersfoort | Traditionally active, passive since GFC | Updating land policy, times changed | No | No, land lease negotiable |
| Zaanstad | Has always been passively oriented | Strategic decision-making framework | No | No |
| Zwolle | Traditionally active, passive since GFC | Updating land policy, waiting on structure vision | Yes | Yes |
| Leiden | Traditionally active, passive since GFC | Updating land policy, times changed | No | Yes, also land lease |
| Katwijk | Active since merger in 2005, passive since GFC | Land policy up for cyclical review | No | Yes |
| Stichtse Vecht | Passive since merger in 2012 | Updating land policy, times changed | No | Yes |
| Barneveld | Traditionally passive, active since shortly before GFC | Active, but with caution | Yes | Yes |
| Rotterdam | Traditionally active (mainly land lease), passive from 2002 | Drawing up land policy, times ask for it | No | Yes, also land lease |

4.2.5 Considerations for an active approach

Above it is described how the challenges of these days influence the municipalities' tentative movement in the direction of active land policy. This is a more general phenomenon, motivated by a wide perspective on the tasks of municipalities. Apart from this movement, there are more project specific, or location specific reasons to opt for active land policy. The considerations that are done here are mostly about why the municipality should acquire land.

Prevention of holdouts

One of the considerations that can bring a municipality to acquire land has already been mentioned and is to prevent holdouts. A specific example is that the municipality of Leiden started a procedure to expropriate a landowner, who had no intention of developing his plot in front of the central railway station. The empty plot had a bad influence on the quality of the area, because of its prominent location. The owner was waiting for the value of his land to increase and in the meantime, he completely neglected the real estate. A less extreme case of this is brought up by respondents of the municipality of Barneveld, who state that they dispose of lands, because private landowners have no incentive to do so since their land value increases as long as they keep hold of it, due to scarcity. When the municipality owns the land, it can take up a clause in the purchase- or land lease contract that the private party has an obligation to build, or to apply for a permit within a certain period of time, risking a fine or an obligation to hand the land back over to the municipality when it fails to do so.

Unattractive development for the market

Apart from holdouts, there are other reasons why market parties don't pick up developments. There might be several neighbourhoods inside a municipality in which there are problems. These are often not attractive locations to invest in for private parties, while the municipal board still wants these areas to be redeveloped, in order to establish improvement in the physical environment. This projects often involve demolition of existing stock and fragmented ownership of lands. Both are factors that increase investment costs. In Rotterdam, this is the reason for a large national program in which land is acquired in large parts of the city, in order to redevelop these areas. However, it has also happened on a smaller scale in the municipality of Zwolle. This often has to do with the real estate that is still standing on the land in question, be it

that this real estate is functionally or technically not operating as desired. Demolishing existing real estate is costly and no return perspective, therefore private parties are often not inclined to invest. In such cases, it is up to the municipality to do the preparation for the development. Once the land is cleared of the deprecated real estate, private parties often are more interested in developing.

Completing a plan area

Probably one of the most straightforward reasons for municipalities to acquire land is when a piece of land goes up for sale, that is already inside an area that is destined to be developed in the coming years. Leaving such lands to a third party creates uncertainty, or leaves room for speculators. Also, it is a chance to expand the project area, making a more integral approach possible. An example of this is the beforementioned project of the central railway station area in Leiden, where, once the municipality acquired a first plot in order to start off the redevelopment of the area, their cooperation partners from neighbouring plots decided to leave the location. The municipality then acquired their plots and expanded their program. Also, by respondents from the municipalities of Zwolle, Barneveld, Katwijk and Stichtse Vecht this is was explicitly mentioned as a reason to acquire land.

Quality of public space

Areas such as those around central railway stations are often desired to have a relatively high quality of public space. This is something several respondents have mentioned to be hard to realize without owning the lands. Higher quality of public space and specific requirements that are set by the municipality often require bigger investments, which causes private landowners to be less enthusiastic about this. The municipalities of Leiden and Zaanstad both mention this as a reason for their large share of ownership in the (re-)development area around their central railway stations. But also other areas, such as a town center in Stichtse Vecht, and a prominent business park location in Amersfoort are projects in which a higher quality of public space is arranged through landownership.

Relocating current functions

What also can be a reason for municipalities to acquire and develop land is to provide alternatives for functions and landowners who are undesired elsewhere. In the municipality of Katwijk, there is a large greenhouse area being developed, in order to relocate entrepreneurs who own fragmented pieces of land around the area. In Barneveld this happened with a gas station that was located in an area that was envisioned to be developed, and in Amersfoort there was a regional garbage collection center which had the same issue.

Landownership

Another reason to go with active land policy is that of ownership. A lot of municipalities have a history of active land policy, from before the GFC. Many of the lands that were acquired then are still in ownership of the municipality. Another reason for landownership is that, by Dutch Law, the ownership of land of school buildings falls back into the hands of the municipality once the location loses its function. Once these lands are in ownership already, the municipality is often not inclined to hand these over to market parties and let the land be privately developed.

Phasing

Phasing is something that municipalities can influence through active land policy in a more flexible way than with passive land policy. Municipalities can take up phasing in a site development plan, but altering the phasing, or to hold private parties to it once they deviate from it is deemed quite complex and time consuming. Active land policy enables the municipality to draw up their own planning and be more flexible in making changes. Additionally, as the respondents from the municipality of Barneveld state, it is somewhat less

problematic when the municipality slightly deviates from the planned phasing than when this is done by a private party.

Program

Even though all respondents indicate that demands concerning the program of a development can sufficiently be secured through the land use plan, for two of the cases steering on program is still mentioned as a consideration that can bring them towards opting for active land policy. The first one is the case of Stichtse Vecht, where the respondent indicated that the municipality sometimes has a hard time enforcing the realization of social housing. This is because often the projects only concern smaller blocks, of which then a certain percentage is destined to be social housing. However, the local housing association only wishes to acquire entire blocks for this purpose, so the investor himself should exploit the houses as social housing. Private owners find all sorts of constructions to get out from under the agreements that are made about this, and the dwellings almost always turn up on the unregulated sector eventually. Because of this, the municipality wants to take a leading role in a project in which they want to realize a larger-than-usual percentage of social housing, in order to still meet the demand. In Katwijk, the respondent explained that it could be a consideration to go with active land policy when the municipality wants to steer upon a higher amount of certain dwelling types in a location that they feel is very well fit for these types, but the developer wants a different division of dwelling types. For example, the development location is near to a health care center and a park, and therefore the municipality sees dwellings for the elderly as a good fit for the location, but the private party does not feel the same way.

A specification on steering on the program is that of land lease. Through land lease, the municipality always has to give permission once anything is added or changed to the real estate that is built. The municipality uses this to recalculate the land lease price, since the initial land price was calculated on the type and amount of certain functions that were to be realized. Several municipalities indicate this as useful. The municipality of Rotterdam for example, has a long history of applying land lease, and one of the respondents indicated that the land lease contract often serves as a specification of the land use plan, which are often more general in their terms.

Table 5. Overview of considerations for an active approach per municipality. *

| | Prevention of holdouts | Unattractive development | Completing plan area | Quality of public space | Relocating current functions | Landownership | Phasing | Program |
|-----------------------|------------------------|--------------------------|----------------------|-------------------------|------------------------------|---------------|---------|---------|
| Amersfoort | | | | X | X | X | | |
| Zaanstad | | | | X | | X | | |
| Zwolle | | X | X | | | X | | |
| Leiden | X | | X | X | | | | X |
| Katwijk | | X | | | X | X | | |
| Stichtse Vecht | | | X | | | X | | X |
| Barneveld | X | | X | | X | X | X | X |
| Rotterdam | X | X | | | | | X | X |

*empty spot only means the issue was not specifically addressed by the respondents, not that the issue plays no role

4.2.6 Considerations for a passive approach

The substantiation for implementing passive land policy is often less extensive, since it is a less risky decision in terms of financial investment, and can easily be supported once the municipal organization has enough professional capacity. Still, there are several reasons that can corroborate the decision to remain in such a role.

Landownership

The main reason that is given for facilitating area development through passive land policy is private landownership. All respondents mention this as the main cause for land to be privately developed. They strongly link this to the economic situation, which is currently beneficial on this aspect.

Steering on program

Steering on the to be realized program of the development is possible through the land use plan, providing possibilities to demand several percentages of different price ranges, such as social housing, mid-rent, or buy. On this aspect, the public law framework provides sufficient steering opportunities.

Steering on aesthetic quality

Also the Visual Quality Plan (in Dutch: beeldkwaliteitsplan) is an instrument that respondents indicate as a useful tool often use to set constraints for developments. It contains specifications for the aesthetic quality of the facades, or the fencing and the public space in general. This document is then adopted by the municipal council and is later referred to in the external appearance policy document (in Dutch: Welstandsnota), through which the specifications that are set within the document become legally binding. The usefulness of these instruments indicates the absence of the need to acquire land.

Functioning of the market

In the municipality of Zaanstad there is a strong emphasis on letting the market do the work. When the market is functioning well and the plans of private parties do not conflict with the municipal vision, the municipality sees no reason to intervene. A respondent from the municipality of Zwolle sees greenfield locations more naturally as projects to be realized through active land development, but inner-city developments as projects for passive land policy. Market parties see this as attractive locations and will eventually develop them. In the municipality of Leiden there are a lot of private initiatives, with a positive business case, so there is no reason to intervene, according to one of the respondents.

Hybrid application

At the municipality of Barneveld there was a voice for a more hybrid variant, in which a development is started by the municipality, investing in the first infrastructure and doing a lot of preparation concerning research and demands. This makes it easy to prepare the boundaries for private development of the second phase. Also, good relations with private developers with the municipality and their willingness to develop and listen to municipal policy stimulate private development.

4.2.7 Municipality dependent findings

Some municipalities have measures or set certain demands using active land policy that are unique, often because they are heavily dependent on the municipal context, or on the location in which the measure is taken or demand is set.

The subject of sustainability is not the only topic for which the municipality sets requirements that can be more far stretching with the selling of land than with an anterior agreement or site

development plan. For example, the municipality of Katwijk has a program for social return, including in their tenders a score for social return, meaning that a bidding party has a higher chance at winning when they include people from more vulnerable groups in society in their development. For example, if they provide working places for physically or mentally disabled people in their project. The municipality of Rotterdam includes in their land lease contracts that when the leasing party is found to perform malicious practices on the land, such as the cultivation of weed, landownership falls back into the hands of the municipality if the land user does not abandon this practices in a certain amount of time.

Apart from setting demands in the purchase agreements, municipalities can also have different reasons for acquiring land, which are unusual. Due to national policy, housing associations have to focus on only one region. Therefore, a housing association in Leiden had to leave the city, but still owned land that was up for development. Since it had tried to dispose of it, but did not succeed, the municipality acquired the land and now makes efforts to get development going. In the municipality of Katwijk, a company with a polluting garage was expropriated, for it was historically located in a residential area. The municipality of Zaanstad acquired a piece of land from a private owner who wanted to develop a multi-company building which was also possible according to the land use plan. The municipality had other plans for the region in the near future, and in anticipation of this they acquired the land, to prevent expropriation in several years, with by then fragmented ownership.

A last specific demand that the municipality of Barneveld has, is that it wishes to prioritize local entrepreneurs and population in their developments. Through applying active land policy, they have more freedom in choosing their partners in development. They have strong ties with local developers and feel that these parties have an understanding for their viewing points. Additionally, active land policy enables them to select several different architects and developers, causing more differentiation in the end result.

4.2.8 Value capturing, Democratic legitimacy & Steering possibilities

Out of the literature review came three dilemmas that should, according to theory, be of relevance for decision-making on land policy. These were the issues of *value capturing*, *democratic legitimacy*, and *steering possibilities* (see figure 3, page 53). In this section it is discussed how these issues are being treated by the studied municipalities.

Value capturing

One of the important aspects regarding value capturing is the context of a municipality in the face of expansion possibilities. As mentioned, all studied cases within the Randstad area have no actual room for expanding to greenfield locations, which are overall the most profitable locations in terms of value capturing. Developments happen in inner-city locations, which often costs money in the end, due to complexity of the location, due to divided ownership and a higher amount of stakeholders, higher risks concerning soil contamination or archeology, higher investment costs due to existing stock that might have to be demolished, among other reasons. For municipalities as Amersfoort, Leiden, and Zaanstad, that means value capturing is irrelevant in the face of profit. Additionally, a high share of the soil in the municipality of Zaanstad is contaminated due to its rich industrial past, meaning that every public land development has a higher initial investment for sanitation of the soil, making it considerably less profitable to apply public land development. Respondents of these municipalities also indicate that all ‘cherries’ have been picked by private parties or are already in development.

In the municipality of Katwijk, sometimes the discussion is held in the municipal council if the municipality should profit more from land development, but the financial risks always are a solid counter argument. For the municipality of Rotterdam their high level of public land

development in NPRZ involves cherry-picking to some extent. The project itself is destined to cost a considerable amount of money, being heavily subsidized by the national government. A lot of existing stock has to be demolished. However, the selected locations have been chosen due to their somewhat more attractive features, in order to minimize future losses. This is merely due to practical considerations, and not a political choice if a municipality should make money of land development.

In the municipality of Stichtse Vecht, the issue of value capturing was at one point the reason to publicly develop a location with four plots. However, the respondent emphasized that this was a unique situation, considering the limited scale of the project, and that it was the location of a protected sight, which both added weight to the decision.

Alike was stated, the municipalities of Zwolle and Barneveld are located outside of the Randstad and still have room to develop greenfield areas. These areas are considered significantly more profitable, due to the lower acquisition costs and absence of existing real estate. The respondents of the municipality of Barneveld acknowledged that value capturing is an aspect, but it is never considered in the municipal council as a reason to opt for an active land policy.

The general conviction seems to be that profits through value capturing are mostly considered something of the Vinex-era, and thus of the past. This doesn't mean that the balance between costs and benefits is not taken into account. Naturally, all municipalities only by exception deviate from the principal that a land development should eventually reach break-even at the least.

Democratic legitimacy

The issue of democratic legitimacy plays, according to most respondents, a small or negligible role in the decision-making on land policy. Only at the municipalities of Stichtse Vecht and Rotterdam, the municipal council made statements about this recently. At Stichtse Vecht, the municipal council explicitly stated in the first years after the merger out of which the municipality came into existence, that they thought it should not be the task of a governmental body to acquire and develop lands and be in that way active in the land market. In the municipality of Rotterdam, this issue has been a reason for discussion for a longer period of time. Since 2002, the discussion on land lease returns after every municipal election. In 2002, the party of Leefbaar Rotterdam came into existence, which had a contrasting vision about land lease than the until then dominant social democrat party PvdA. Traditionally, the municipality applied land lease almost without exception. The right-wing party of Leefbaar Rotterdam successfully brought up the issue that lands should be in ownership of the people who use it, seeing it is their right.

These two situations are the exceptions of the studied cases, and even there the discussion is not much on the forefront. In Stichtse Vecht the municipal board has somewhat changed their opinion in the face of the challenges the municipality is facing, as described earlier. In Rotterdam, the discussion takes place when a new council is installed, but the arguments are weighed differently over time.

In the other municipalities, there sometimes still is the issue of a double role, referred to as the double-hat-dilemma (see chapter 3.1.1.2). However, it is more a consequence of decision-making, leading to a situation in which the municipality has to be careful to follow its own rules the same way private parties have to do this.

Steering possibilities

The aspect of steering is something that all municipalities indicate to be an important part of the considerations to opt for active or passive land policy. Most of the time, this concerns more

process related reasons. The municipality can decide to acquire land or expropriate owners when a desired development is not being taken up by the market. This can be following from differing interests of the owning party, or holdouts. This aspect is described in chapter 3.1.1.3 as *stimulation of development*. An addition to this is that it is hard for municipalities to get private parties to do larger infrastructural investments, so at locations where this is necessary for development, municipalities have to take a leading role, applying active land policy and creating the necessary infrastructure, in order to get the entire area development running.

Often, phasing is mentioned as another reason for this. When the municipality owns the land, they can decide more effectively according to which timetable the project should be executed. This could also be taken up into the site development plan, but the more static nature of the public law instrument, involving active monitoring and procedures when private parties deviate, makes it more efficient to do this through active land development. This would be an argument for active land development.

On a project level, the respondents indicate that the demands they can set for the development through active land development, as mentioned above, are welcome, but are not a decisive factor in the choice for active land policy. Nevertheless, the steering on the program of the development and the quality of the public space are two benefits of active land policy that might be critical in the decision to acquire land.

4.3 Analysis

In this section, the results of the interviews will be discussed and analyzed. In this way, the results will be put into a larger perspective, which will be a setup to draw conclusions.

4.3.1 Policy and decision-making

For each case, the written land policy was studied. The way this policy document was being used was addressed in each interview. As described in section 4.2.1, respondents indicate that often the document, or at least what is written down in it, is not leading in the action they undertake. Only in two of the eight cases the policy itself, and accompanying documents, such as a decision-making framework, are leading. Roughly, two ways of decision-making can be distinguished here, which are depicted in *figure 11*.

In the upper model of the two, the land policy is merely made as a document that can be used to explain actions to the municipal council. The municipal council sets political and ideological boundaries which are used by the spatial development department to draw up the land policy document. The project managers, or other executing staff, then do not consult the municipal land policy, but just receive input from the policy writers. They then figure out how to carry out their project in the best way, contributing to as many municipal goals as possible. Before they actually carry this out, they consult the spatial development department. The people from that department in the end justify their actions towards the municipal council, using the land policy document. This model is representative for decision-making and for how the written land policy is used in most of the studied municipalities.

In the lower model of the two, the land policy (and accompanying documents) is actually a framework that the project manager, or the executing staff, can use in order to implement land policy in their project. A framework is put up that contains all boundaries within which a decision can be made. This framework is officially approved by the municipal council, and all decisions that are made according the framework are automatically substantiated and tested

against policy goals and risks. The municipalities whose methods are comparable to this model are Zaanstad and Barneveld.

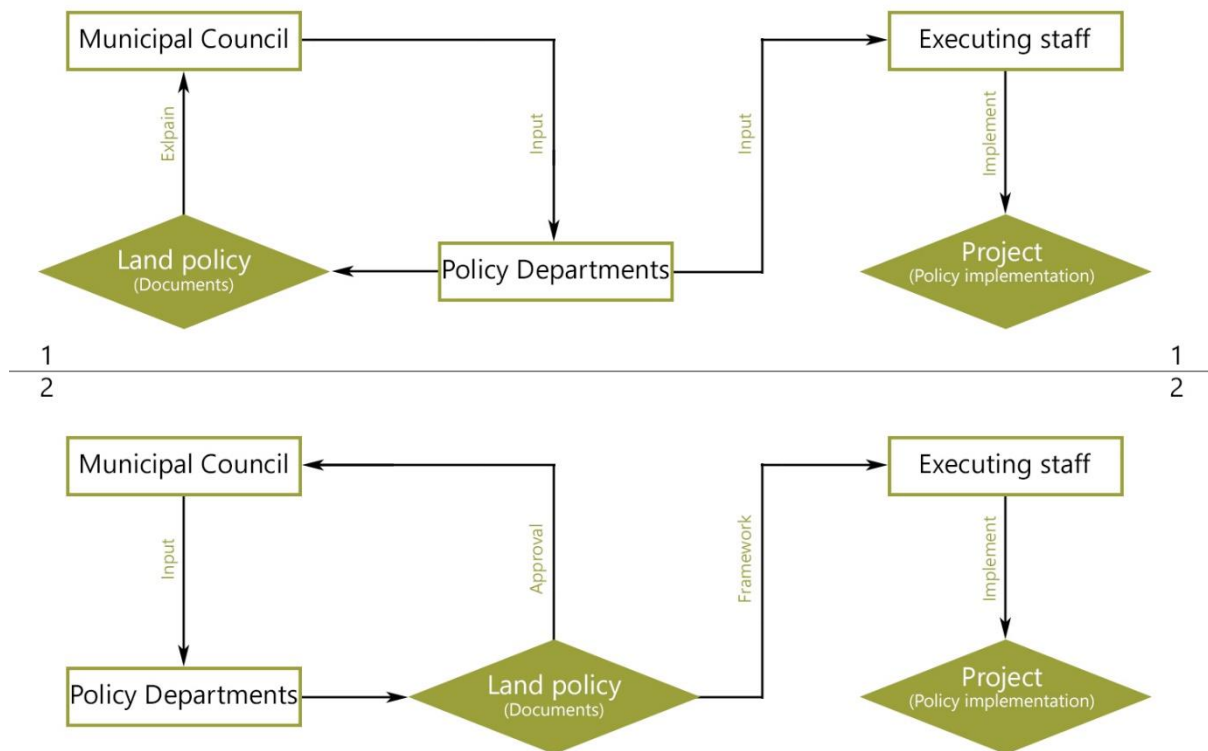


Figure 11. Decision-making models of case studies.

For the municipality of Zaanstad this can be explained from its past. The municipality is traditionally not very affluent, and has an industrial past. A lot of soil is therefore contaminated. Active land policy was even before the GFC not considered as a very profitable option, and the municipal administration also stated that it just did not have the funds to widely apply it. This forced the municipality to be very careful in their decision-making, and always very well substantiate choices to acquire land. This resulted in their extensive framework to help decide on acquiring land or not. The municipality of Barneveld traditionally did not really have a written policy. This changed when the municipality put up a structure vision in 2006, expressing the ambition to facilitate a large population growth in the coming years. This resulted in a choice for active land policy, which was not changed during the GFC, because of the arguments the civil servants made towards the municipal council. These were that they were already very invested, and if they were more careful, they could manage to keep on producing building plots even in the economically bad times. The municipality has an entrepreneurial tradition, which can be partly identified by their ambitious growth intentions. This policy has always been leading since it was put up, and therefore the executing staff and policy departments are unambiguously carrying out policy, rather than explaining why they deviated from their policy.

4.3.2 Landownership and acquisition

Land policy can be a reason to acquire land, develop it, and dispose of it, with the aim to serve a larger development. However, there are also reasons for acquiring land, or for having land in ownership, that have not much to do with area development. An example of this are sites of old public amenities, which have lost their function, and then fall back into the hands of the municipality. These are locations such as schools, swimming pools, and sports terrains. A

second example is that sometimes land can be acquired by a municipality, motivated from a perspective of security, or public health. Two examples from practice are how the municipality of Katwijk expropriated a polluting car garage which was located in the middle of a residential area, and how the municipality of Rotterdam includes a clause in land lease contracts that enforces termination of the contract when malicious practices are being executed on the site.

These ways of obtaining ownership are not following from policy making around urban area development, and are therefore not part of the scope of this research. Nevertheless, land that is retrieved through the public administrative task of the municipality can still be put to use in area development. It can be labeled as ‘ad hoc’ land policy, which is not motivated by considerations of a spatial nature.

4.3.3 Considerations

In *table 6*, all considerations to opt for an active or passive land policy, as mentioned in section 4.2, are listed. A division is made within the considerations for an active land policy on reasons that are process oriented, and reasons that are physically oriented, meaning they focus on the physical result of the development.

The process-oriented reasons are all meant to stimulate development. Prevention of holdouts is done to start off a development that would otherwise not happen, just as when a development seems unattractive to initiate for the market. In the latter case, the municipality prepares the land for construction, taking on a share of the risks. Acquiring land in order to complete a plan area is a way to avoid uncertainty to the project. Steering on phasing through landownership is a very direct way to steer the realization process.

The physically oriented reasons all consider the eventual product of the realization. A certain desired quality level of the public space on a prominent location, or a certain desired program could sometimes be reasons to actively acquire land. When a current function is not desired on the development location and has to be relocated, this also relates to the physical characteristics of the project.

Important to note is that the nature of the considerations for a passive land policy seems to be more from a perspective that explains why it is, in that situation, not necessary to apply active land policy. Whereas the considerations to opt for an active land policy are more motivations why it would actually be a better idea to actively intervene. It could be interpreted that the column of considerations for active land policy lists the areas in which the public law

framework is not sufficient. Also note that landownership is not on the list of considerations for an active land policy, while it can be a reason to execute active land policy. Land can be in possession of the municipality historically, or through ad hoc land policy, but that is not motivated by spatial ambitions and is therefore not taken up in the table.

Table 6. Overview of considerations to go for an active or passive land policy.

| Considerations for an active land policy | Considerations for a passive land policy |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><i>Process-oriented</i></p> <p>Prevention of holdouts Unattractive developments for the market Completing a plan area Influence phasing</p> <p><i>Physically oriented</i></p> <p>Quality of public space Relocating current functions Program</p> | <p>Functioning of the market Steering on program Steering on aesthetic quality Landownership</p> <p><i>Hybrid application*</i></p> <p><small>*=only applicable when also opting for an active approach</small></p> |

What is also remarkable, is that each municipality has a number of unique situations or exceptions that ask for a specific strategy, of which some examples are given in section 4.2.7. These situations are treated separately, because they seem not to be generalizable.

4.4 Expert meeting

As explained at the end of section 2.2.3, the expert meeting was held in order to establish external validity, for the provision of additional insights, and to compromise possible subjectivity from the researcher. The expert panel consisted of five experts from the area development department (ruimte, wonen en economie) of TwynstraGudde.

The researcher held a presentation of approximately 20 minutes for the panel, in which the results from section 4.2 and 4.3 were elaborated on. It started with the more general findings on time and This was done by dividing the results according to the research questions. Thus, first the findings concerning the consistency of municipal land policy documents with the projects in practice were presented. Consecutively, the specific considerations to opt for a passive or active approach that were identified from the interviews were presented, as they have been described in sections 4.2.5 and 4.2.6. After this, the models from *figure 11* were displayed and elucidated. The presentation ended with questions for the expert panel: are the results that were shown valid, and are there missing parts? These questions started off a plenary discussion.

External Validation

The panel members recognize the considerations that were observed in the research. However, it was noted by the expert panel that probably the possibility of making a profit plays a larger role in decision-making than the respondents have shared. In most studied municipalities, the more profitable greenfield locations might not be available anymore, there still are some relatively 'easy' developments that can be developed through active land policy for the financial perspective.

It is acknowledged by the panel members that in current times there seems to be little clarity in how to deal with land policy, and how to effectively implement it to achieve the most desired result. Where the research mainly deals with the situation around land policy over a timespan roughly from the GFC until current times.

Additional insights

The panel contains experience from a longer period of time and its members agree on a few additional points:

In the first place, they see that a lot of knowledge and expertise has gone lost during the financial crisis, as a result of budget cuts combined with heavy downsizing of land departments. The losses during the GFC had as a result that a lot of people within the land departments, formerly being praised for bringing money in the municipal till, became very unpopular, as well as these departments themselves. A crucial aspect is that these land departments had a lot of autonomy, which was labeled as a problem after the financial losses occurred. Municipal councils therefore decided to considerable downscaling and in some cases even abolishing of the land department. These departments were argued to not be needed anymore because large scale implementation of active land policy would belong to the past.

In the second place, the financial losses caused the municipalities on a political level to become heavily risk averse, almost to the level of ideological conviction. The panel concludes that this forced the spatial development departments and land departments that remained, to write in the municipal land policy documents that in principal passive land policy should always be considered first. However, in reality, the nature of projects did not change as much as

convictions on a political level, which caused project managers and spatial development staff to, most of the time, motivate towards the municipal council why they still apply active land policy. This could explain why there are so many considerations in the results that argue why active land policy should be applied, in contrast to the few considerations that say why a municipality should not have to use active land policy to achieve its goals in one project.

In the third place, the panel members noted that there are many exceptional situations in the results, that justify applying a certain land policy. The exceptional nature of these situations means that it is very hard, if not impossible, to write policy that would cover all of them, for they are often unique, and sometimes unexpected, asking for ad hoc solutions. According to the panel, these situations often require active land policy, because there are a lot of ambitions that municipal councils also like to see realized. The reality is, that these downscaled departments have a lot less manpower and knowledge to be able to realize these, and now have to always motivate why they have to apply active land policy to achieve their project goals.

In the fourth place, project managers might experience problems with the eventual policy, when it possibly prevents them from freely applying necessary tools. The policy could prescribe from a certain political viewpoint that the municipality does not use some of these tools, while these are necessary for achieving certain goals through the project that have also been set by the municipal council. Practice demands the project managers to act in one way, while policy demands them to act in another. Therefore, the executing staff members are most of the time afterwards explaining what they did, citing several policy documents, not using these as guidelines, but only as justification.

Conclusion

In general, the expert panel validated the results and confirmed that the way in which land policy was treated has changed in recent years. The point that they thought was missing was how probably the profitability of the land development on the location sometimes still plays a larger role, and that it might have been strategically left out during the interviews.

The most important additional insights the panel members provided are the loss of expertise during the GFC that eventually has brought municipalities towards a more risk averse attitude, and that a possible lack of consistency of policy and practice might be caused by the absence of communication or understanding between the executing staff of the municipality and the municipal council.

The insight that the nature of projects did not change accordingly when the political conviction changed towards a heavy preference for passive land policy, supports the earlier observations that active land policy is still often opted for. This mostly happens when exceptional situations occur.

4.5 Theory modification

Now that the findings have been analyzed, the earlier studied literature (chapter 3) can be evaluated and compared to the results of the empirical research. The goal of this is to see if the existing knowledge, stemming from literature, can be updated, or verified, using the new insights and generated knowledge. In chapter 3, the benefits of and criticism on both active and passive land policy were researched through a literature review. The issues that were raised there will be discussed again, but now combined with the insights from the empirical research. In the end of the section, some additions will be done to matter.

Active land policy

The criticism on active land policy for its financial risk is still present, although less dominant.

Due to the GFC, mostly on the political level the risk averse attitude has settled down within municipal councils. Criticism on the democratic legitimacy of active land policy is barely an issue in practice these days. The double-hat dilemma doesn't play a role within most municipalities. Occasionally it is mentioned by the municipal council, for example in the case of Stichtse Vecht, where the council stated several years ago that they thought it is not a task of the municipality to acquire and develop land. However, active land policy has still taken place in the municipality of Stichtse Vecht, be it in limited form. In all studied cases the workflows of the people who do land development projects and the people who judge permit applications are divided. The issue is never part of the considerations up front but is merely reacted on when it occurs that a municipality has to hold itself to its regulative framework. The attitude to prioritize projects in which municipalities have a financial stake, as described in several sources (Van der Krabben & Jacobs, 2013; Rfv, 2015; Woestenburg et al., 2018) has not been detected. This might be this way because the economic circumstances are currently beneficial for the financial result and therefore the question is not relevant at this time. Where De Zeeuw (2017) argues that the possibilities for dealing with the complexity of area development projects active land policy offers might be a reason to let the pragmatic benefits outweigh the principal objections might be the reason why this issue has not been identified as something municipalities worry about. The discussion might be more of an academic nature.

Looking at the benefits of active land policy, the situation has changed over the years regarding the possibilities to make profit through value capturing, especially inside the Randstad. Financing of public amenities through the profits of active land policy happens only indirectly and incidentally. Especially in the Randstad, not much greenfield locations are available for development, so the prospects for profits are much less than at the beginning of the century. However, it is used in areas in which municipalities feel that a high quality of public space is necessary, such as central railway station areas, or prominent business locations. Through active land policy, investments in this quality from private parties can be ensured. This argument overlaps the one of counteracting the lack of private investments through active land policy that can be argued to legitimize the approach, according to Buitelaar (2010) and Van der Krabben & Jacobs (2013).

Enhancement of a stable investment climate was advocated by De Zeeuw (2018) as that municipalities would lower political uncertainty and thus stabilize the investment climate when they are financially involved. However, the emphasis in practice lies more on the initiation of projects by municipalities that take away initial risks for private developers and in that way improve the investment climate. They can do this, for example, by constructing the first infrastructure, or by assembling land when there the ownership division is scattered. In that sense it becomes more closely linked towards the stimulation of development.

The stimulation of development is mentioned abundantly in this chapter already. The holdout problem is something that might be even more present in current times than before, due to the high land- and house prices. Waiting to develop housing is financially attractive for developers, causing municipalities to be forced to actively intervene by bringing land on the market themselves, accompanied by an obligation to build. The holdout problem is not addressed as much in theory as one might expect looking at the reality of the problem. However, it is addressed by Korthals Altes (2019).

As it turns out, steering possibilities play a different role for municipalities than expected. Municipalities indeed have more leverage to negotiate with private parties when they own land (as also stated in Valtonen et al. (2017)), and can set higher demands because they are not bound to the frameworks of public law. However, this is often seen more as an additional benefit, and is not a critical factor in the decision to apply active land policy. All interviewees indicate that the public law framework provides sufficient possibilities to steer upon the

demands the municipality has for the real estate that will be realized. The additional demands that can be set are those to which developers cannot be held by anterior agreements or public law instruments. These often concern sustainability measures, or very specific demands on the quality of the public space.

Municipalities do use active land policy to steer upon public objectives, but more on a process level. They use active land policy to initiate developments in locations that are not seen as attractive by private parties, but also to decide on phasing of the project.

Passive land policy

Some municipalities have trouble with retrieving the costs for their investment in infrastructure that is constructed because of the new development, but that benefits a wider area as well. Due to the principal of proportionality, only a part of the costs can be retrieved from the developer. This part can become considerably small when a large area is served by such infrastructure. Therefore, municipalities cannot always retrieve their costs through public law instruments, confirming what the Rli (2017) states on financing public amenities in inner-city developments. The criticism on the legal complexity of some public law instruments is also shared on some level. An example of this is how the municipality of Barneveld rather would steer on phasing of their projects through active land policy than with a site development plan, even though it is optional to include it in the latter. Altering it later would be procedurally complex and time consuming, and far from efficient. However, instruments such as structure visions, the land use plan, and spatial quality plan are regarded useful and convenient in use.

Concerning the benefits of passive land policy, the absence of financial risk is certainly regarded as one. The land policy memoranda since the GFC are full of the financial risks. Nevertheless, this phenomenon finds more support in the political environment than within projects. In projects it often seems more important how goals should be achieved than if there is risk to the way they are achieved. Risks are still assessed and covered when possible, but also accepted when it means that otherwise less objectives can be fulfilled. Low risk is often not a priority. When it comes to counteracting speculation, this is not really applicable to the Netherlands. It is more likely that a municipality would apply active land policy to prevent a third party from buying land that is susceptible to speculation. However, this was mainly an aspect of passive land policy models from outside the Netherlands, described in Hartmann & Spit (2015). Applying passive land policy to establish a clear public role and avoid the double-hat dilemma is not at all a reason for municipalities to opt for a passive land policy.

The lack of capacity to realize is not so much an issue on a financial level, seeing that money is currently 'cheap' due to very low interest rates. In the past, the municipality of Zaanstad decided that this was a reason for them to prefer passive land policy. In some parts of projects however, it is decided to not acquire land with real estate on it that was considered too expensive to acquire as well. This is not a consideration to arrange an entire project through land policy, but more of a reason to not acquire a larger amount of land within a plan area. A reason to apply passive land policy is the lack of capacity on an organizational level. If a municipal organization simply does not have people who can properly assess and manage the risks of active land policy, the more viable option is to facilitate development rather than direct it, which is in accordance with what the municipalities of Hardenberg (2015) and Wassenaar (2015) state in their land policy memorandum.

Additional remarks

In general, active land policy is regarded more flexible in its application. Therefore, it is often used when a project is not standard. That means that it is for example regarded as complex, through its special context, or when a specific time schedule is desired. Urban area development

projects are rarely standard projects, which makes it hard to taken only one direction regarding land policy. This is why the choice should not be what land policy to implement, but what situation ask for which policy.

A large factor in this decision-making is if private parties have already taken positions in the development area, or wish to realize on their own initiative. This is much dependent on where we are on the economic cycle. Currently the economy is faring well and there is a vast demand for housing. Therefore, there are a lot of private initiatives.

The choice between land policies is much less ideologically motivated than what was concluded at the end of the literature review. There is a political idea about how land policy should be applied in principal, in every municipality. However, the way in which development projects are carried out has not fundamentally changed since before the crisis. This causes the people running the project to have to make the same choices, regardless of the current political views. Therefore, the choice in the end is often made from a pragmatic point of view, about how to realize the project in such a way that there are as much public goals achieved as possible. The political discussion about land policy is not completely gone. There are fragments of the discussion still noticeable in municipal councils. However, they are overshadowed by the larger ambitions of these times and are quickly abandoned when other policy fields benefit from it. An overview of the comparison of findings from theory and practice is depicted in *table 7*.

Table 7. Overview of findings from theory compared to findings from the empirical research.

| | Theory findings | Empirical findings |
|-----------------------------------------------|-----------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| <i>Active land policy</i> | | |
| Criticism on financial aspect | Main criticism, heavily dominant in policy formation. | Present in political context, but less dominant in practice. |
| Criticism on democratic legitimacy | Often mentioned, very much present. | Political issue on the background. |
| Value capturing and financing of amenities | Using profits of land development indirectly for financing amenities. | Less profitable locations available, but still applicable. |
| Enhancement of stable investment climate | Governments stabilize investment climate by being involved in developments. | Governments initiate area developments and by doing so take away certain risks. |
| Stimulation of development | Useful in dealing with holdouts. Needed if region is unattractive. | Essential for dealing with the holdout problem. |
| Steering on public objectives | Very useful in steering on the layout and design of spatial development. | Mainly important for directing the process, used to ensure high spatial quality in prominent locations. |
| <i>Passive land policy</i> | | |
| Criticism on effectiveness of value capturing | Sometimes hard to retrieve all costs due to proportionality. | Confirmed by interviewees. |
| Criticism on (legal) complexity | Application of site development plan is badly experienced. | Acknowledged in terms of lacking flexibility. |
| Absence of financial risk and involvement | Not being financially involved means no financial risk. | Certainly important, but less than achieving the public goals. |
| Counteracting speculation | Not acquiring land reduces speculation. | Buy land to prevent speculators from getting a hold of it. |
| Lack of capacity to realize | When funds are insufficient, passive land policy can be a solution. | Money is currently easy to get, but sometimes initial costs are too high. |
| A clear public role | <i>See "criticism on democratic legitimacy"</i> | |

5. Conclusions

5.1 General remarks

The research gives shape to a record of land policy in current times. Naturally, the goals that municipalities aim to achieve are directly linked to the challenges they are facing. Land policy almost always plays a role in achieving the goals that are aimed for within the physical domain. What has become clear from studying literature, case study documents and conducting interviews, is that these times have certain characteristics. The times of economic crisis are in the past for some time now, times in which little was possible, and a lot of concessions and compromises had to be made. Several years later, the context is very different. The investment capacity of private parties has increased considerably, and also municipalities slowly dare to invest again. This has everything to do with the new challenges that society is facing. The entire world is currently struggling with the challenges of climate change, and how to adapt and react to this. The Netherlands are also facing a problem of housing shortage, endangering the affordability and accessibility of quality housing for an increasing amount of people.

These two challenges mainly color the ambitions municipalities set for themselves. This is also the reason that they are slowly but surely becoming convinced that they again should use active land policy as an effective tool in living up to these ambitions. Recent research confirms that the larger share of municipalities has again acquired land and plans to do so in the future (Stec Groep, 2019). The housing challenge exists not only of providing enough and affordable housing, but also of providing the necessary infrastructure to ensure accessibility (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, 2019b).

In general, it can be said that the role of land policy has changed. Where it traditionally was more of an ideological discussion, the role has become more subordinate to other policy fields and demands and is not an autonomous issue anymore. Policy can be formed on it, but it is always situational, subject to the larger ambitions and regarded as a more pragmatic instrument to reach public goals. This follows from the observations that the ideological vision on how to treat land policy has become overshadowed by achieving ambitions, abandoning the principal choices once other aspects come into play with a higher priority. As mentioned at the end of the literature review, it has been an ideological issue during the latter half of the previous century. Nevertheless, practice has shown that currently the ideological discussion is regarded inferior to the pragmatist view that there are more important challenges to deal with.

5.2 Answering the research questions

The main research question of the report was attempted to answer by splitting up the research in four sub-questions. The first two (*“What are the characteristics of both active and passive land policies in terms of legal tools, negative- and positive aspects?”* and *“What different variants of active and passive land policy exist?”*) were dealt with in the conclusion to chapter 3. Through answering these two questions, knowledge was gained by the researcher on the characteristics of both policy types. It provided information on what the choice between active and passive land policy is about, and what the consequences are of applying those. It functioned as a starting point for the empirical research.

Sub-questions of the empirical research

The second part of the research, the empirical research, was done in order to answer the remaining two sub questions.

The first one of these two questions was: *To what extent is there a consistency between the land policy memoranda of municipalities and land policy implementation in projects?* There are two lines of answering that can be followed. There is the first line, explaining how the written policy is used in relation to the land policy strategy that is eventually implemented in the project. In the previous chapter, two ways of going about using the written document have been identified from the case studies. In *figure 12*, they are called ‘reactive policy making’ and ‘proactive policy making’. When a municipality uses its policy to establish a framework that guides decision-making, there is a very high consistency between its municipal land policy and its implementation of the land policy (proactive policy making). However, in most of studied cases, policy was formulated more as a description of how the municipality usually goes to work. The land policy document was more used in a reactive way, being used more to explain or justify the course of action afterwards to the municipal council, then to guide decision-making.

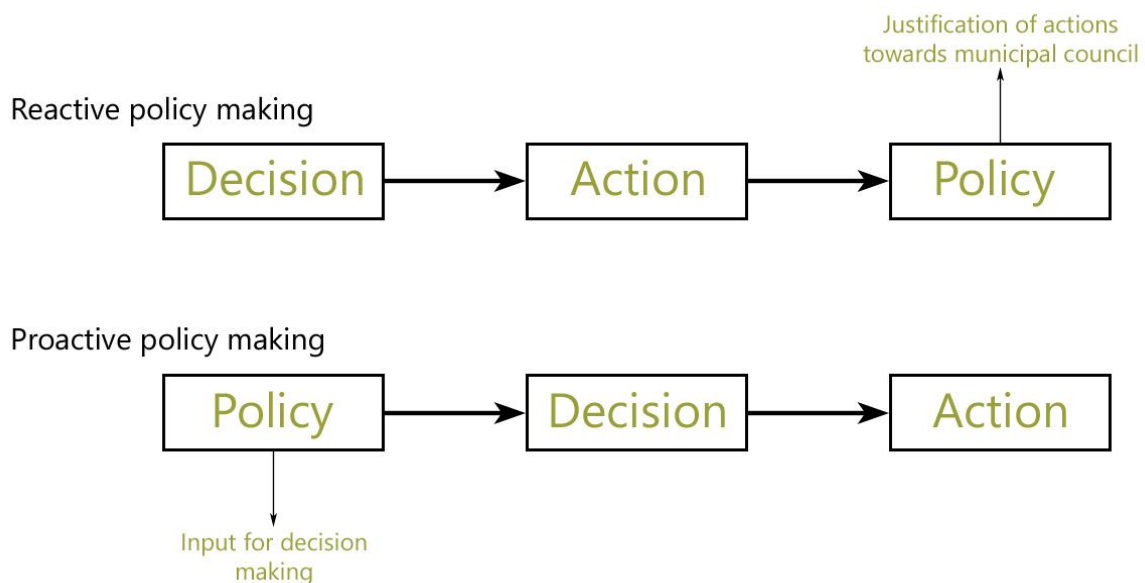


Figure 12. Two ways of using policy in decision-making

This reactive way of decision-making has consequently, that the policy gets outdated as soon as the context changes. It might take up to a few years before a new policy is established, while the context further changes and the inconsistency between policy and practice continues.

An additional consequence is that, due to the absence of a clear framework with assessment criteria, decisions might be made that turn out to be sub-optimal. Land can be acquired without due consideration, turning out to be not fit for the end it was acquired for. Also, with a proper framework, requirements from a wider perspective can be brought into the decision-making, which are beyond the scope of the project itself, preventing ‘missed opportunities’. This means that municipal goals from a wider context might also be achieved within the project when the project manager has knowledge of them.

“How and why do municipalities decide on applying a certain land policy in urban development projects?”

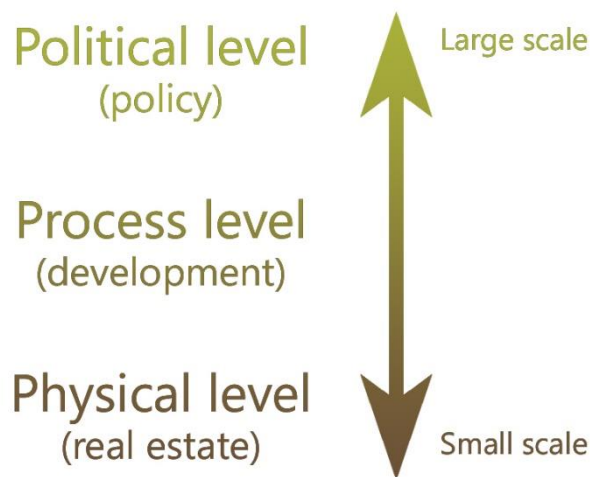
Sub-question 3 (Empirical research)

“To what extent is there a consistency between land policy memoranda of municipalities and the land policy implementation in projects?”

Sub-question 4 (Empirical research)

The second line of answering the question is that because of the unpredictability of some situations, and the occasional necessity of what in section 4.3.2 was labeled as ‘ad hoc’ land policy, there is a natural inconsistency between written policy and practice. A project can come up that dominates the entire municipal portfolio, or land can come into municipal hands for reasons unrelated to spatial ambitions. The written policy then can only follow practice, because practice could not have been foreseen. So, when the second line of reasoning is followed, there is a natural inconsistency between written policy and practice, because there are often exceptional situations that cannot be captured within written land policy. However, it still can be argued that a framework is necessary, be it as a starting point for decision-making on these exceptional situations, or because there still are projects that are more straightforward in their characteristics.

The second question that was attempted to be answered through empirical research was: “How and why do municipalities decide on applying a certain land policy in urban development projects?” It can be concluded that decisions concerning land policy are made in three layers (see figure 13).



In the first layer, the land policy document is written. It spreads all over the municipal organization and concerns all area development projects within the municipality. Choices in this layer set the boundaries within which choices regarding projects should be made.

The second layer concerns decisions on projects, concerning the process of the area development. Here decisions are made that concern individual projects or locations with specific requirements. An example of this is the decision to actively intervene when developers are holding out, or when a desired development seems to be unattractive or too complex for private developers.

Figure 13. Three layers of land policy decision-making

The third layer concerns decisions that apply to the physical level, meaning the requirements are desired for the public space and the eventual real estate. When there are specific physical demands for a location within a project, considerations are made about what land policy can be used to fulfill those. The choice for active land policy in the area of central railway stations in order to secure a high quality of public space is an example of decision-making in this layer.

The lower two layers are the ones that have a direct impact on the projects itself, and choices within these layers are often motivated by the characteristics of the location, such as ownership division or other specific location-based traits, and the specific goals that are envisioned to be achieved on that location. The upper layer is highly influenced by political convictions and decision-making. Therefore, the upper layer can sometimes become disconnected from the two lower ones.

Answering the main research question

To answer the main research question (*What are the considerations that lead municipalities to opt for active or passive land policies in urban area development?*), it can be concluded that it is

important to make a division between decisions on the three layers in *figure 13*. The decision-making on the political level eventually is not the determining factor for how projects are eventually run, even though it is what is stated to the outside world. More important are characteristics of the project, and what approach these characteristics call for.

After the GFC, in a lot of municipalities the political idea became that active land policy was something that had proven to be past its prime. Land departments were diluted, and expertise was lost with the people who worked in them. Reports on losses (Ten Have et al., 2012) and evaluations of municipal behaviour (Rfv, 2015) caused municipal councils and boards to become risk averse in the way they looked at land policy, opting for municipal land policy that stated: 'passive, unless...'. However, urban development projects did not change in the same way, and went on to have the same characteristics as before the crisis. This caused decision-making in the process- and physical layers to remain unchanged, only to change the way they justified their actions towards the municipal council. Active land policy was not deemed less necessary to apply, looking at the projects, resulting in municipal staff having to explain why they still kept applying active land policy everytime they did.

"What are the considerations that lead municipalities to opt for active or passive land policies in urban area development?"

Main question

Currently, the improved economic situation has caused municipalities to be more open to active land policy in the general level. Financially, it has become more attractive to apply active land policy, opening the door again for the politicians to support it in the face of the ambitions municipalities currently have set in order to face the challenges of nowadays. What is regarded as an important benefit of active land policy, is steering on a process level, which can be done more effectively than with passive land policy. Developers can be obligated to build, and the production of building plots can be continuously proceeded. Besides, the phasing of the development can be decided on by the municipality, that also can be more flexible on the program, because there are less procedures that have to be followed. Also, for municipalities that are more ambitious on their climate goals than the legal minimum prescribes, there are limitations on enforcing sustainability measures through public law. So, on the areas of flexibility and ambitiousness, the public law framework could gain territory. Passive land policy is mainly applied in smaller, less complex projects, in which private initiative was the origin of the project. Land ownership often is already with these private parties, and no specific ambitions are envisioned to be fulfilled in the project area. These considerations lead municipalities to opt for active or passive land policies in urban area development.

6. Discussion and Recommendations

In this chapter will several points of discussion be named and elaborated on. Thereafter, recommendations for practice and for further research will be done.

6.1 Discussion

Theory

A lot of sources stem from the time shortly after the GFC. Therefore, the discussions that were held back then are less relevant for the current state of things. When land development is more profitable due to the economy, there is, understandably, less reason for criticism on active land policy. However, this might substantiate the relevance of the research, since new literature is necessary to describe the newly emerged context. Still, it could mean that some of the findings from literature are less relevant in current times than at the time of writing.

Methods

Within the research there were three ways of retrieving information: the literature review, the conducting of interviews, and the expert meeting. The literature review helped to comprehend the topic and eventually produced the starting point for the empirical research in the shape of three dilemmas around which the choice for active or passive land policy appeared to be centered. Finally, it turned out that these dilemmas were not the essential issues in the decision-making. This might be caused by the lack of experience in the field of the researcher. More experience would presumably improve the judgment of the researcher on the importance of these issues. However, they did provide a starting point, and during the interviews the assumption that these were the most important issues was adjusted. In the final part of the research it had become clear how these dilemmas are judged in practice, as well as what other issues are important, so it could be argued to not have hindered a plausible outcome of the research.

Retrieving information through conducting interviews was a method that fit the subject very well. In order to better understand the results from each municipality, a certain understanding of context of the municipal organization, tradition, or history is required. This can be done best by asking an interviewee directly to clarify an answer during the interview, and it would be rather difficult to familiarize with this context in a different way than to speak with people who function within it. Research about the municipality up front increases the effectiveness of the interview.

Representativeness

A point of discussion on the case study method is how the research has only treated 8 municipalities out of 355 in all of the Netherlands. Even though these are selected through a certain method, having a certain representativeness, this is of course only a small fraction. There are several outcomes that have been regarded as exceptional, or unique. When the research would have been conducted among all Dutch municipalities, or at least a considerably larger sample, it might be that these outcomes are actually occurring more often. Therefore, it cannot be said that the sample provides a representation of the Netherlands as a whole. However, it still has identified issues that play a role in land policy decision-making which can be said to certainly play a role in a wider set of municipalities. This has been verified by the expert panel, as well as the literature review, from which much of the same issues were identified. One could only verify the exact representativeness of the results by doing more case

studies and comparing the results. What can be said, is that the case of Barneveld is quite unique, since already in the selection it turned out that the municipality had a very different way of approaching land policy, compared to all other municipalities, at least of the ones with a size of 49.000 inhabitants or more. Other cases were more alike but might also be merely a subgroup in the bigger picture.

Economic and demographic dependency

The research only treated municipalities who have a growth perspective, as this one of the selection criteria to which all municipalities met. The situation in municipalities with a shrinking population could be entirely different, facing different challenges. For example, the pressure on the housing market is a big factor in what is described as the ambitions of current times. The combination of demographic changes and the economic context provide a certain image of time that, would it change, would probably mean a different outcome for this research.

Time dependency

Another point of discussion is that the research mainly depicts the timeframe from the end of the GFC until this time. Of course, it was addressed in the introduction how land policy was treated traditionally, but this was only superficially. There is a much longer tradition of land policy for politicians as well as for the executing staff. This tradition might have influenced the current situation in more ways than is now visible. It might also provide a much wider perspective on the issue that could have caused the results to be interpreted differently, and would learn more about the characteristics of decision-making on land policy nowadays. For example, if several aspects played a large role before the crisis, and now still do, this might indicate that these aspects are more essential than others, that only have just been introduced to the discussion, or that have never been a part of the discussion anymore since the GFC has taken place.

6.2 Recommendations

The recommendations section is split up into two parts. In the first part, a recommendation will be done for practice, on how to organize decision-making on land policy within municipalities. It contains a scheme that has been designed with the input of literature, the results of empirical research, and input from the expert panel.

6.2.1 Recommendations for practice

Based on the observations done in the cases about the way land policy is eventually executed, combined with feedback and input of the expert panel, the scheme below (*figure 14*) is designed. It contains a recommendation on how to organize policy formation and decision-making on land policy. It basically is an enriched and improved version of the models in *figure 11*. It is mainly a recommendation on how a municipality should treat their land policy document.

The scheme starts off with the municipal council on the left. This is elected and has a certain composition, resulting in dominant political views and convictions. They also have certain ambitions for their municipality in the coming years. These views, convictions and ambitions serve as *input* for the policy departments who are responsible for drawing up the land policy document. At the same time, the executing staff, meaning project managers or teams, provide input to these policy departments as well. This *input* has a more practical nature, and mainly concerns the minimal set of instruments this staff needs in order to effectively run projects within the municipal borders.

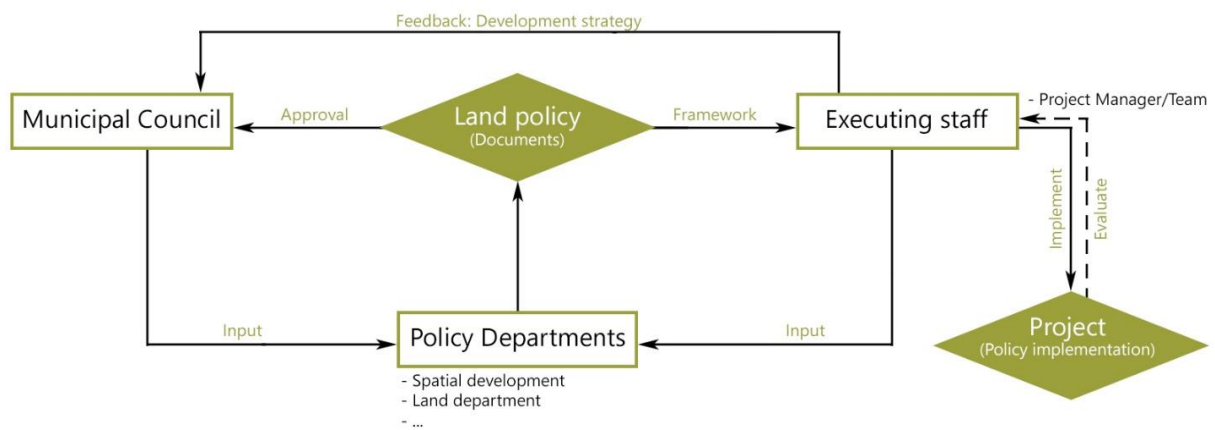


Figure 14. Scheme of recommended land policy making structure (see Appendix 3 for large version).

The responsible policy departments now have received the input for drawing up the land policy document. In the document, the input from politics and practice is used to draw up a decision-making framework, that focuses on assessing a project for its characteristics and for the opportunities of realizing municipal ambitions that might concern a wider context than the project itself (see end of this chapter for an elaboration on the recommended content of this framework).

The land policy document, including the framework, is then sent for *approval* to the municipal council in order to establish its legitimacy and to verify if it complies with the council's vision. Once approved of, the *framework* can be used by the executive staff to base their development strategy on and what land policy they want to apply. In more straightforward projects, it should be relatively easy to derive a strategy from the framework. Ideally, the framework would provide tools to deal with as many situations as possible, but in reality, there will be extreme cases and exceptions as well.

The executing staff *feeds back* its *development strategy* directly to the municipal council. When the framework provides ample possibilities to set up an adequate development strategy, the process of review and approval should go relatively smooth, for the council has already approved of the method through which it came into existence. When there are more extreme cases and thus exceptions, these are described and motivated in the development strategy as well. Once the municipal council approves of the strategy, the executing staff can *implement* it in the project. Through its experiences in the implementation, the executing staff *evaluates* the use of the land policy and framework, which it in time processes again in their input.

This direct feedback from the executing staff towards the municipal council should establish a more direct line of communication between politics and practice, and thus increase mutual understanding and improve constructive decision-making. Since the development strategy is based on the land policy that is set up with input from both politics and practice, it should on the one hand contain no statements that conflict with the ambitions of the municipal council. On the other hand, the land policy document itself should not contain statements that could disrupt effective strategy making by the executing staff. The framework provides an objective assessment tool that is based on relevant issues from politics and practice. The land policy also should contain a protocol or format on how to effectively feed the development strategy back to the municipal council.

Framework

As described in section 4.1, many municipalities already have a way of decision-making taken up in their land policy memorandum (e.g. figure 9, see page 58). However, decision-making models like these are mainly focused on the financial characteristics of the project. This might be understandable, considering the time period in which most of them have been drawn up, being in the later period of, or after the GFC. Moreover, the focus of this decision tree on the financial aspect of projects turns out not to be the most crucial in the choice for active or passive land policy. Furthermore, the empirical research shows that these decision models are barely used, and the policy document itself is mainly used to explain to the municipal council what was done afterwards. Besides this decision tree, municipalities often have a more leading standing point on what land policy type they prefer, which is in the land policy memorandum often more prominent, but in reality also turns out not to be essential in the development of a strategy by the executing staff.

Therefore, the framework as it is used within this recommendation should address a wider perspective of issues. Nevertheless, this does not mean that the financial characteristics of a project are not relevant in the decision-making, or that the municipality cannot have a preference for which type of land policy to apply. It simply means that there are more issues to consider, and the decision-making model should focus on the financial, as well on the physical and social conditions of the project at hand in order to be relevant and useful. How to weigh these issues in the process of decision-making is left out of this recommendation, since the relevance of each issue differs for each municipality in its own context.

The issues that are recommended to take up in the framework are divided in three categories (figure 15):

1. Municipal characteristics, such as policy goals and organizational context;
2. Project characteristics, such what is aimed for by executing the project;
3. Location characteristics, as in what is the current situation of the plan area.

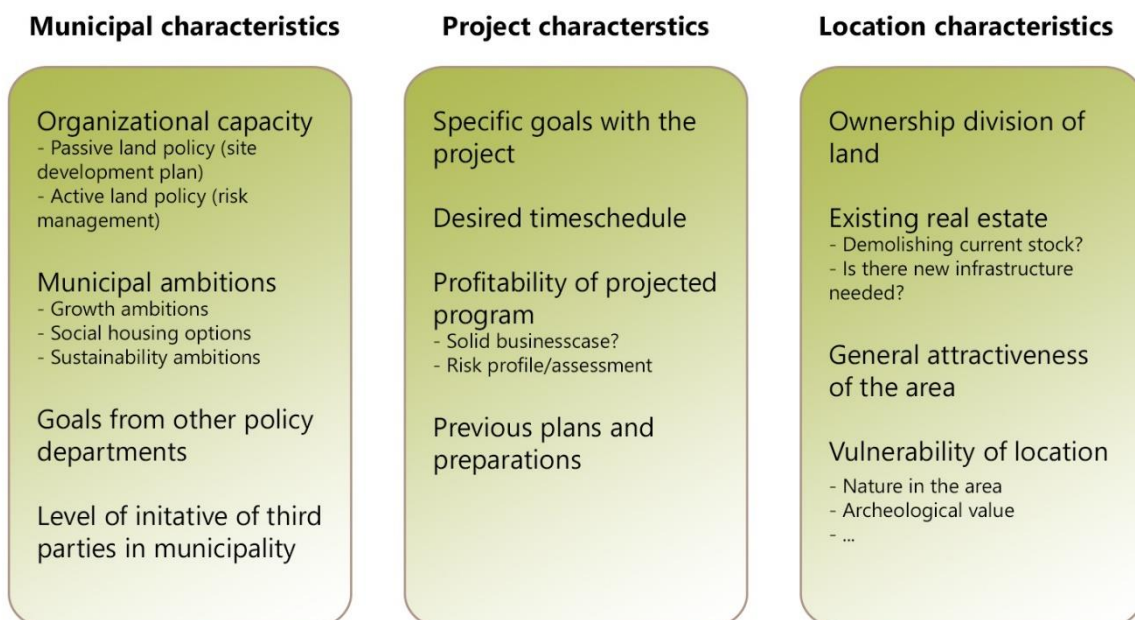


Figure 15. Recommended issues to be included in land policy decision-making framework.

As mentioned, the suggested issues are not final, and can be complemented or changed when taken over. See appendix 4 for a more detailed explanation on the issues in figure 15.

6.2.2 Recommendations for further research

Land policy and demographic context

This research only addresses the context of municipalities with a growth perspective. Further research could be aimed at the municipalities who have no growth perspective and are therefore facing different challenges. Decision-making takes place in a different context, and much factors such as an abundance of private initiatives and pressure on the housing markets do not play a role there. Therefore, it would be interesting to see what considerations take place in such municipalities and might add a different perspective to the outcomes of this research.

Land policy then and now

Another aspect on which further research could be based, is on how land policy decision-making has changed compared to before the GFC. The current research only focuses on what happened afterwards. A study into the differences between then and now would provide a useful perspective, shedding more light on what lessons have been learned, and what still has remained. What has remained might point at what essential parts of the Dutch land policy system are well funded, or at what lessons have been ignored.

Land policy and sustainable solutions

With the challenge of climate change, also come the ambitions of municipalities to come up with solutions to deal with this. During the research conduction, the researcher came across respondents several times who indicated that only through private law they had sufficient means to enforce their ambitions on this issue. What could be a good suggestion is to research if the possibilities of public law to ensure a timely shift towards a more sustainable built environment are sufficient, and if there is an urgency to change the public law instruments so that municipalities can more effectively facilitate the energy transition at all times.

Land policy and the Environment and Planning Act

A last recommendation is that the research has not incorporated the changes that might occur in this field with the introduction of the Environment and Planning Act (in Dutch: Omgevingswet). This law might also considerably change practices within the field, and might have an impact on the way land policy is treated or used as well. A research into the consequences of this law and how this might affect municipalities and land policy in terms of decision-making and a changed context for urban area development projects would not be superfluous.

7. Reflection

In this chapter, a personal reflection by the researcher is written down.

Relationship between graduation topic and master track

The research was done under the department of Urban Development Management of the master track Management in the Built Environment. Within urban development, the role of municipalities is ever present, as a regulating authority, as well as stakeholder representing the needs of society. This research concerns an aspect of their role in urban development, in an early stage of the urban development projects, and in how they strategically approach these projects.

Research methods

The research methodology can be divided in three parts: the literature review, the conducting of interviews, and the expert meeting.

The literature review was necessary, for the topic was completely unknown to me before starting off the research. By doing an extensive study into the topic, I could identify what the topic was about, what its points of discussion are, and formulate a starting point to conduct the empirical research. The way I approached it, by assessing both active and passive land policy, helped me to gain an understanding of the difference between the two, and left me with a good basis to dive deeper into the subject. The three dilemmas that were a product of the literature review also provided a good start to ask questions about in the interviews that followed.

The second part of the research was the conducting of the interviews and reporting it. For me, this was a good way of testing if the information I retrieved from literature was still solid, but it was also a good way to gather data on the research topic. The topic itself is fairly complex, and each municipality has a different context and tradition, making them all, in some way, unique. There is no way of knowing up front how several issues are discussed or treated inside a municipality. Therefore, due to the complex nature of the topic, and the uniqueness of the cases, I think conducting interviews were the best way to research this topic. After conducting the interviews, I had the feeling that somewhat more experience and knowledge of the field might have come in handy and would have produced more accurate results from the interviews. While listening back, I noticed how sometimes the interviewees attempted to answer my question but went in their answer on a slightly different path than the one I aimed for. I identified this as an indication that I had some assumptions about what a possible answer could be, that turned out to be untrue. However, as I conducted more interviews, I adjusted these assumptions, and I don't feel as if they had a big negative influence on the results. The interviews themselves I found very interesting and I learned a lot. I was somewhat surprised on how

The expert meeting was to me an important part of the research. It placed the results and the research as a whole in a far wider perspective. Where I thought I knew a lot now about land policy, it became clear that there is still a lot more to know. There clearly was a lot of experience present, and the issues that were brought up or discussed were very different from what I was expecting. Especially in that sense, I thought it was a great addition to the research. It highlighted several key points and helped push the interpretation of the results in the right direction.

Societal and scientific relevance

The societal relevance of this research consists of the fact that there has been a changing context

in land policy since the crisis. A lot of expertise has been lost, and the political view on land policy has been fundamentally changed. This means that currently, how to deal with land policy has to be reinvented, and there is not a clear direction yet. This research helps to structure information on what is currently going on in land policy and draws a picture of the relevant issues that relate to it. In this way, it provides pieces of the puzzle that must be re-laid.

The scientific relevance is that the research combines knowledge from literature with insights from practice, updating what was known in practice (section 4.5). Also, it adds to this knowledge by identifying issues from practice that have not yet been known in academic literature and elaborates on the understanding of the concept of land policy, which is a fairly specific and unknown subject. Examples of these issues are the way municipalities often treat their land policy documents, the serious appearance of the holdout problem, and the changing context due to newly arisen challenges.

Ethical considerations

The topic of land policy involves some very fundamental questions. For example, the wider subject of urban area development exists on the intersection of the public and private domains. This requires a clear division in what the tasks are of actors in both these domains. A specific question on this regards the governmental behaviour as a developer of land when implementing active land policy, and whether it is “rightful” for a public body to do so. The ethical aspect of this issue lies in the fact that a governmental body has different rights and possibilities than market parties, and therefore it is unfair that they compete with them.

One of these differences is that municipalities’ main source of income is tax money. The risk of investing in land development is covered by this tax money. This is also a second ethical concern, namely: should a government take financial risks while being dependent on tax money? Is this fair to the taxpayer? Taxpayers cannot decide themselves on what happens with their contributions, and it still is mandatory to pay taxes. This money, could be argued from a democratic point of view, has to be invested in amenities that service the community. However, it might also be argued that investing it in land development might eventually benefit the community in the end, but at a risk.

The last point I would like to mention is an ethical point that has already been decided on within the Dutch law. During the 1970s, it was a discussion in the Dutch parliament whether the owner of agricultural land should receive the agricultural value of his land, or the value of the urban function the land would obtain once it was acquired by a municipality. Eventually, the latter option was chosen for. However, it still happens that municipalities make profit of land development, while they almost never have the ambition to eventually exploit the real estate that will eventually be realized on it. Still, they receive a piece of the pie. The question is if this is fair to the former owner and the later owner of the land, which can even be the same person. The underlying ethical question here is: who owns the value increase of land? Is it the people who will use the land? Is it the community through which the eventual use of the land will actually be beneficial?

There is a large set of ethical considerations that play a role in this topic, which are sometimes addressed more consistently than others. Like stated, this originates in the characteristics of urban area development, in which the public and private domains intersect and sometimes overlap. However, in practice it looks like as if a more pragmatist view on how to get things done often prevails over what the ethically right way to do things would be.

Graduation process

After my P2 review, I saw that I had in the start of the process focused mainly on gaining an

understanding of my subject and the relevant phenomena. Therefore, I had spent too little attention to actually setting up a research design. This was also what I took away from the feedback after the presentation. I passed with the annotation that they trusted I would be able to set it up sufficiently and in time. So, I shifted my focus and started looking at methodology in the first place and only secondarily expanded the theoretical framework. The feedback I got from my teachers on this methodological work after the summer showed that this was a good step. Then I went forward by preparing and conducting the interviews.

Personally, I think judging if you're going in the right direction is one of the hardest parts. Often you discover something, or learn something, and it is not clear if what you have learned is common knowledge for people more familiar within the field of operation, or that it is actually new knowledge. Therefore, it might sometimes be hard to distinguish what is valuable information, when doing the interviews. Nevertheless, I also feel that it has become more and more clear to me what actually is common knowledge within the field of land policy and therefore have made large steps within my research. Additionally, a lot of extra information comes up in interviews, or conversations, that is also related to the topic, but not relevant to answer the research question. Especially towards the end of the research, it became somewhat hard for me to keep focus on what information I should include and what information I should leave out. Of course, the end of the research is also the point at which you have most knowledge, so this does not seem odd.

In conclusion, I feel that I gained a lot of knowledge. Not only on the subject itself, but also on how to identify what you want or need to know and how to pursue this. I would like to close with that I found out I need to regularly have substantive conversation about what I'm doing in order to stay motivated and put myself to working out the 'thicker' parts on my own.

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Appendices

Appendix 1: Shortlist of selected municipalities for case study

| Municipality | Inhabitants on January 1st 2019 | Inhabitants prognosis 2040 | Difference (percentage) | Consulted document | Main reason of interest |
|--------------|---------------------------------|----------------------------|-------------------------|----------------------------|---------------------------------------------------------------------------------------------------------------------------------|
| Haarlem | 161265 | 31091 | 19% | Nota Grondbeleid 2018 | Municipality seems to have recently realized a lot through passive land policy. Emphasizes that it wants a dominant role. |
| Amersfoort | 156286 | 27474 | 18% | Nota Grondbeleid 2014 | Municipality has a clear way of decision-making and mention an extra option of "direct" next to active and passive. |
| Zaanstad | 155885 | 20335 | 13% | Programmabegroting 2019 | Municipality claims to consciously not formulate a land policy document. How do they work then? |
| Zwolle | 127497 | 16284 | 13% | Begroting 2018 | Municipality has a very clear way of decision-making; priority seems the most important factor. Does practice reflect the same? |
| Leiden | 124899 | 18194 | 15% | Programmabegroting 2019 | Municipality state that they mainly want to direct development but prefers passive land policy. |
| Delft | 103163 | 22947 | 22% | Nota Grondbeleid 2017-2020 | Municipality has a large amount of inhabitants to house but wants to do this in a passive manner. |

| | | | | | |
|-----------------------|--------|-------|-----|----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| Roosendaal | 77032 | 5700 | 7% | Begroting 2019 | Municipality clearly has made some different choices recently. |
| Hoorn | 73004 | 2894 | 4% | Begroting 2019 | Municipality is not that large but seems to be relatively active. |
| Katwijk | 65302 | 6144 | 9% | Nota Grondbeleid 2017 | Municipality has a very clear way of decision-making with 'six lines of choice'. Does practice reflect the same? |
| Stichtse Vecht | 64336 | 3187 | 5% | Notitie Grondbeleid | Municipality would prefer active land policy but says that through the context of the current times have to implement passive land policy. |
| Zeist | 63934 | 4578 | 7% | Structuurvisie 2020 | Municipality states that ownership is the factor that makes them decide which land policy to go with. |
| Nieuwegein | 63036 | 3574 | 6% | Nota Grondbeleid 2015-2019 | Municipality claims to have survived the crises very well. In principal passive land policy, due to lack of positions on the land market. |
| Roermond | 58209 | 2639 | 5% | Begroting 2019 | Municipality clearly states to only apply passive land policies. |
| Barneveld | 57971 | 8761 | 15% | Nota Grondbeleid 2016 | Municipality is the only one who clearly state they want to apply merely an active land policy. |
| Rotterdam | 644618 | 78788 | 12% | Begroting 2019 | Researcher had easy access to interviewees. |

Appendix 2: Interview protocol for semi-structured interviews

The interview was carried out in a semi-structured way. This means that the protocol below is mainly meant as a guideline for the interviewer, to keep track of what he wants to get out of the interview. The '-' signs indicate a main question, or main line of questions. The 'o' signs indicate a sub-question. During the interview, the interviewer will make sure that all questions are addressed, but additional questions might also be asked, depending on the context of the municipality or the interview.

Interview at the municipality of ...

Interviewer: Matthijs Witting

Interviewee: ...

Introduction by the interviewer:

Hello, I have previously introduced myself a bit already, but will do a more official introduction for your understanding of who I am and what we're doing here. I am a master student on the faculty of Architecture and the Built Environment at the TU Delft. The master track I follow is called Management in the Built Environment. Formerly it was the two master tracks of Real Estate & Housing and Public Housing, which have joined together, you might be familiar with one of those. Currently I'm executing my graduation research, which have brought me to the subject of land policy. Within this subject, I study mainly the choice between active and passive land policies, and which considerations municipalities have to decide on this.

Would you mind if I record this interview? This is purely for my own administration and convenience and I will not publish the recording in any way.

Here follows an introduction of why the interviewer has selected the specific municipality, addressing interesting aspects of studied documents and explaining why the case seems relevant to the research.

Introduction interviewee:

I would like to start with some questions about you, in order to under to gain a better understanding of your role within the municipality and regarding land policy.

- What exactly is your role within the municipality?
 - o In which department do you work?
 - o Executive, policy making, supporting staff?
- Could you tell a bit more about your background in general?
 - o How long have you been doing this?
 - o Have you had other functions within the municipality that are similar?
 - o Did you work for other municipalities?

Questions concerning land policy:

The following questions concern the municipal land policy in general.

- Could you explain how land policy is generally treated within your municipality?
 - o What is traditionally the way things are done?
 - o What is the dominant political conviction?
 - o How is the division of chairs in the municipal council?
- (How) did the financial crisis influence this?

- How does the process of policy-making work here?
 - o Who puts up the policy documents?
 - o What is the land policy memorandum based on?
 - o Do democratic legitimacy, value capturing, or steering influence the policy making?
- Who decides on the strategy after the general policy has been established?
 - o How does this work?
- What is the amount of dwellings your municipality has to realize according to the national or regional agenda?
 - o On what locations do you wish to realize these? inner-city developments/brownfield/greenfield?

Questions regarding projects

The aim is to be here at the latest when the meeting is halfway. Later on, there can be returned to the questions on the general land policy.

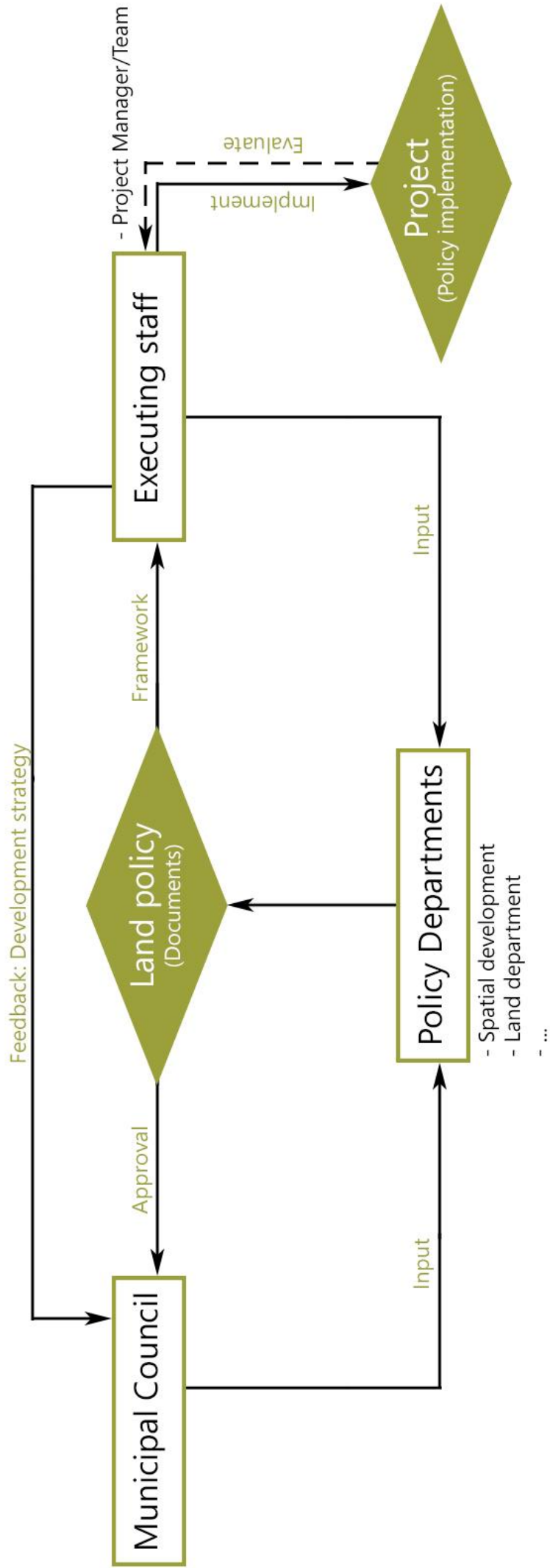
- After land policy formulation is finished on a municipal level, how is it then translated to the project at hand?
 - o To what extent do you take notice of the land policy memorandum (of other policy document) when carrying out a project?
- How did this go with the project of *Project 1*?
 - o *Specific question(s) about project 1.*
- How did this go with the project of *Project 2*?
 - o *Specific question(s) about project 2.*
- When land is acquired, on what scale does this happen?
 - o What percentage of the project area?
 - o What is the goal? Developing/influencing/other goals?
- How do you justify implementation of active land policy (in the case of a more passive oriented municipality)?
 - o What different tools do you use?
- How do you steer on public goals with land policy?
 - o What are the requirements for the buyer of land? (private law)
 - o Can these also be reached through tools of public law?
 - If no, then: Why not?

Ending

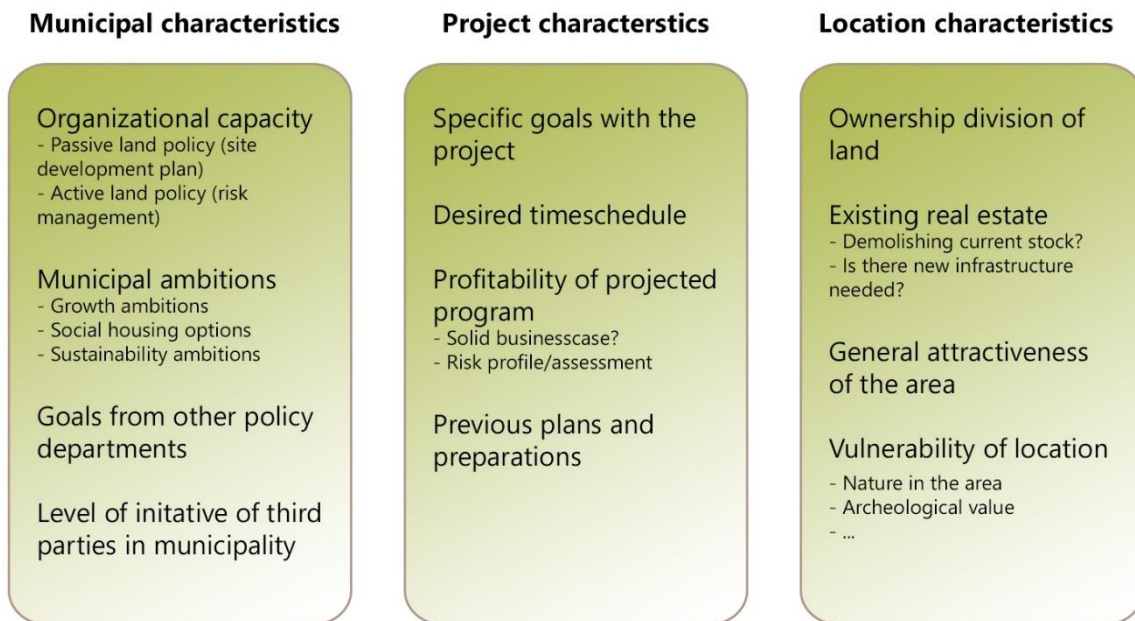
- Is there anything you think I should know, or that you think is relevant?
- Do you have any questions left for me?
- Do you have any other remarks regarding the interview itself?

I want to thank you for your time, and I want to offer to share the final report with you once the research is finished.

Appendix 3: Recommendation scheme



Appendix 4: Framework explanation



All issues in the framework steer towards more of a passive or more of an active approach. They will be treated one by one.

Municipal characteristics

The organizational capacity of a municipality is determining a great part of how it treats land policy. There needs to be enough expertise in house to arrange for example the drawing up of a site development plan, or the adequate assessment of (financial) risks of public land development.

Also, the municipal ambitions could be important for a decision. Presumably, higher ambitions would mean higher necessity for active land policy. When a municipality has a hard time to, for example, realize its ambitious amount of envisioned social housing, active land policy is more effective in order to still realize this.

Goals that other policy departments have, to which the project could (partly) contribute, do not have to be taken up into the land policy or framework, but should be looked at.

Lastly, in some municipalities the private sector is more active than in others and has more close ties to the municipality. This might influence the opportunities for passive land policy, seeing as it influences how the outcome of negotiations might be.

Project characteristics

What is actually aimed for with a project highly influences, among other things, how enthusiastic private parties are to invest, and therefore also what the possibilities for private land policy are.

If the desired time schedule projects a timely development, this usually increases the need for active land policy in order to be able to steer on this.

The profitability of the project in terms of what will be realized is closely related to the economic circumstances, private parties will not step in if the project has limited possibilities for profit. Active land policy might be required to still start off the development.

Previous plans for the location might mean that a lot of preparation has already been done, making the time span towards realization smaller for active or passive land policy, depending on the work that was done.

Location characteristics

Ownership division is an important factor. There are many examples of projects in which private parties have already acquired land in speculation on a future development. This often means that passive land policy or a joint venture are plausible options. Ownership can also be scattered and with many different (unprofessional) landowners. This would mean that the municipality through its tools for land assembly could be pushed into the direction of active land policy, where private parties are not inclined to deal with the complexity of this scattered ownership.

Existing real estate is important here as well, since it might be that something has been realized in the past that has not yet run its financial lifespan, and therefore the private owner will not be inclined to cooperate to redevelopment of his plot. It could also be the case that the project area is relatively undeveloped, and certain investments on infrastructure are necessary in order to provide development opportunities. The municipality is in this situation also often expected to take initiative.

The general attractiveness of the area is important in locations which might be suffering from an overflow of demand, or a shrinking population. This is a factor that influence the possibilities of private parties willing to take initiative in (land) development.

Lastly, the location might have a certain risk profile due to things such as possible WWII bombs, possible archeological value, or biological value (protected species). This increases risk and complexifies the development itself, possibly leading to decreasing interest from private parties.