

# Local Government Association Briefing

## Neighbourhood Planning Bill

### House of Lords, Second Reading

17 January 2017



# Briefing

## KEY MESSAGES

- Local government shares the Government's ambition to increase housing supply. Local government wants to play a leading role in building new homes and we support measures that will enable councils to capture the value from increased land prices on land they acquire for development. This will allow investment in the vital infrastructure that supports and boosts housebuilding and creates places that people want to live. The Bill could do more to help the Government achieve its ambitions on speeding up the delivery of new homes, particularly those that have already been granted planning permission.
- The Final Report of the LGA's Housing Commission, published in December 2016, sets out recommendations for how local and central government can work together to build homes that are affordable, that meet the needs of communities and our ageing population, and that are well supported by services and infrastructure.<sup>1</sup> This includes resourcing an efficient, positive and proactive planning service.
- We would like to see the Bill amended to permit planning fees to be set locally by councils. This would enable local authorities to deliver responsive council planning services that are crucial to growth and building the homes we need.

## Neighbourhood planning (Part 1, Clauses 1-5)

- It is important that any proposals do not have the unintended consequence of undermining the ability of a local planning authority to meet the wider strategic objectives set out in an emerging or adopted Local Plan. This could happen if the Bill unintentionally gives greater weight to the status of neighbourhood plans than to Local Plans or delaying the process of granting planning permission.
- It is vital to the success of neighbourhood planning that the Government undertakes a full review of the financial support provided to councils. This should ensure existing funding is adequate to allow local authorities to meet their statutory duties in relation to neighbourhood planning.

## Local development documents (Part 1, Clauses 6-11)

- We are concerned about provisions that would give the Secretary of State new powers over local plans, including to intervene in the local plan-making and plan revision process. An approach that seeks to understand what the blockages are and seeks to resolve them, for example through a mutually

<sup>1</sup> [LGA Housing Commission final report, December 2016](#)

agreed sector-led approach, will be more beneficial in the long-term than the imposition of a plan on an area.

### **Planning conditions (Part 1, Clause 12)**

- An effective, democratically-led planning system is critical to good place-making that drives growth and prosperity. Councils approve almost nine out of 10 planning applications and there is little evidence to suggest development is being delayed by planning conditions. The National Planning Policy Framework and the associated national planning practice guidance already sets out clearly expectations on use of planning conditions and the new primary legislation is unnecessary.
- There is a risk that these proposals may have a number of unintended consequences including the potential for increased number of planning application refusals and/or statutory timescales for processing planning applications being missed, if agreement cannot be reached on pre-commencement conditions between an applicant and the local planning authority.

### **Planning register (Part 1, Clause 13)**

- Having access to open data on permitted development, including the numbers of resulting residential units, will enable increased scrutiny of the impact of national permitted development rights and the scale of their uptake. If councils are required to collect additional data it is crucial these new burdens are fully funded.

### **Compulsory purchase (Part 2, Clauses 14-36)**

- We welcome the proposals to clarify in statute the principles and assumptions for assessing compensation for land acquired through compulsory purchase, in particular the extension of the 'no-scheme principle' to include relevant transport projects. This will prevent the public sector paying for land it acquires at values inflated by previous public investment in transport projects.

## **BACKGROUND INFORMATION**

### **Planning fees**

The Bill provides an opportunity for the introduction of locally set planning fees, including those for dealing with permitted development applications and discharge of planning conditions. This is a key recommendation of our Housing Commission. We are seeking to amend the Bill to enable councils to deliver responsive council planning services that are crucial to growth and building the homes we need, supported by infrastructure and services.

Developers, builders and councils are united in their call for adequately resourced planning departments that can deliver housing growth through active planning and locally set fees will enable this. A British Property Federation survey found two thirds of its private sector respondents would be willing to pay increased fees to help under-resourced planning departments keep providing an effective service.<sup>2</sup>

It is crucial that planning services are properly resourced. Year-on-year, taxpayers are subsidising approximately 30 per cent of the estimated cost of processing all

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<sup>2</sup> [BPF survey results, October 2015](#)

planning applications in England because nationally set planning fees do not cover the full costs.<sup>3</sup>

## **BILL ANALYSIS**

### **Neighbourhood planning (Part 1, Clauses 1-5)**

Councils are responding positively to neighbourhood planning and are engaging and providing support accordingly to those areas wishing to take forward a neighbourhood plan or order. We support the intention of the Bill to streamline the process for reviewing and updating neighbourhood plans.

The National Planning Policy Framework (NPPF) and the associated national planning practice guidance already clearly sets out expectations on the weight that may be given to relevant policies in emerging neighbourhood plans in decision taking.<sup>4</sup> We would welcome assurances that the proposals detailed in Clauses 1-5, do not have the unintended consequence of undermining the ability of a local planning authority to meet the wider strategic objectives set out in an emerging or adopted Local Plan. This could happen if the proposals unintentionally give greater weight to the status of neighbourhood plans than to Local Plans or delaying the process of granting planning permission.

It is vital to the success of neighbourhood planning that the Government undertakes a full review of the financial support provided to councils. This should ensure existing funding is adequate to allow local authorities to meet their statutory duties in relation to neighbourhood planning. The Government should also work with local planning authorities to establish whether additional assistance, beyond the minimum level of support required by regulation, would deliver neighbourhood plans more effectively. Any resulting additional requirements on councils must be fully funded.

Given the status that approved neighbourhood plans have in the determination of applications for planning permission it is crucial that they are based on a robust evidence base with deliverable policies, in the same way that applies to a Local Planning Authority in preparing its Local Plan and setting out the strategic needs and priorities of the wider local area.

### **Local development documents (Part 1, Clauses 6-11)**

Clause 7 enables the Secretary of State to direct two or more local planning authorities to make a joint local plan. Clause 8 and Schedule 2 further enable the Secretary of State to invite a County Council to prepare a local plan where a district council had failed to do so. We support the Government's efforts to streamline the local plan-making process. However, we are concerned about provisions that would give the Secretary of State new powers over local plans, including to intervene in the local plan-making and plan revision process.

Councils have made significant progress with plan-making and, at the end of November 2016, almost 90 per cent of local planning authorities had a published Local Plan. Getting these plans in place requires significant time and effort and it is vital that the local plan process is not undermined by national policy changes. An approach that seeks to understand what the blockages are and seeks to resolve them, for example through a mutually agreed sector-led approach, will be more beneficial in the long-term than the imposition of a plan on an area.

Clause 10 introduces a requirement for local plans to be reviewed at regular

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<sup>3</sup> [LGA media release, December 2016](#)

<sup>4</sup> [National Planning Practice Guidance](#)

intervals. The national planning practice guidance already sets out expectations for revisions and updates to local development plans. Any additional reviews required by the Government must be fully funded.

Clause 9 enables data standards for local development schemes and documents to be set by the Government. A number of local authorities have identified compiling the evidence base in the development of local plans as one of the most time consuming elements of plan making. This is a particular burden in relation to housing numbers and the need to ensure the evidence base is kept up to date throughout plan preparation. We have called on the Government, through our evidence to the Local Plans Expert Group, to consider reducing the burden of local plan evidence by reviewing the extent of current evidence being collected and assessing how this might be streamlined. This clause could provide an opportunity to address this issue.

However, it is difficult to determine the full implications of the clause as there is much detail that will be determined in regulations that have not been published alongside the Bill. Draft regulations should be published as soon as possible to allow for effective scrutiny. It is crucial that these proposals do not add new burdens to the local plan-making process. New requirements should not frustrate the ability of local planning authorities to shape and approve developments so that improve places and economies in the interests of their communities.

Councils are best placed to set out how and when they will engage the community and key stakeholders and involve them in the planning process. Whilst we welcomed Government amendments in the House of Commons which removed the power for regulations to require a local planning authority to review its statement of community involvement at prescribed times, we are still concerned that the powers that remain in Clause 10 would still allow the Secretary of State to require councils to review its statement.

Through our Housing Commission the LGA has also called for the Government to establish a clear, robust and transparent viability procedure to help manage the escalation of land values and ensure the delivery of affordable housing and infrastructure communities need to back development.

### **Planning conditions (Part 1, Clause 12)**

An effective, democratically-led planning system is critical to good place-making that boosts growth and prosperity. Councils approve almost nine out of 10 planning applications and the number of homes granted planning permission by local authorities in the rolling year to 30 September 2016 was 277,000. This was up by 9 per cent on the previous year and was the highest figure since 2007.<sup>5</sup>

There is little evidence to suggest development is being delayed by planning conditions. Planning conditions provide a vital role by enabling planning permissions to go ahead which would otherwise be refused or delayed while the details are worked out. They can also save developers time and money as they do not need to invest in detailed submissions until after the principle of the development is granted.

The NPPF, and the associated national planning practice guidance, already clearly sets out expectations on use of planning conditions and the new primary legislation is unnecessary.

There is a risk that these proposals may have a number of unintended

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<sup>5</sup> [DCLG: Planning Applications in England July to September 2016](#)

consequences including the potential for increased number of planning application refusals and/or statutory timescales for processing planning applications being missed, if agreement cannot be reached on pre-commencement conditions between an applicant and the local planning authority. Restriction of the imposition of certain planning conditions by the Secretary of State could also reduce the ability of local planning authorities to include conditions that are necessary to address issues which might be specific to a local area or an individual development site. We would like the Bill to make clear that local authorities are still able to make necessary pre-commencement conditions on developers.

We are calling for the Bill to do more to help the Government achieve its ambitions on speeding up the delivery of new homes, particularly those that have already been granted planning permission. Joint working between councils and developers is the most effective way of dealing with any concerns about planning conditions and we advocate the use of early, collaborative discussions ahead of planning applications being submitted for consideration. An advice note on best practice principles for using and discharging conditions was developed in 2015 by a cross-sector group and DCLG to help planning authorities, developers and statutory consultees.<sup>6</sup>

### **Planning Register (Part 1, Clause 13)**

Clause 13 amends section 69 of the Town and Country Planning Act 1990 to extend the scope of the planning register to include information about prior approval applications or notification for permitted development rights in England to be placed on the register.

Having access to open data on permitted development, including the numbers of resulting residential units, will enable increased scrutiny of the impact of national permitted development rights and the scale of their uptake. If councils are required to collect additional data it is crucial these new burdens are fully funded.

LGA research in 2014 highlighted a number of unintended consequences of the permitted development rights allowing offices to be converted to residential units without the need for planning permission.<sup>7</sup> This included a reduction in viable office space, an increase in housing that did not meet identified housing need and a reduction in the provision of affordable housing. 82 per cent of councils that responded also reported that the £80 fee for dealing with prior approval applications meant they were operating at a loss.

Local authorities have also raised concerns at the Government's intention to amend the office to residential permitted development right to allow the demolition and rebuilding of existing office buildings for residential use on a like-for-like basis.<sup>8</sup> In addition, to the unintended consequences listed above this could undermine ambitions in local plans, for example increased density of residential units in town centres, perhaps through taller buildings. The new right risks delivering less additional housing than if a scheme was considered through a normal planning application process.

### **Compulsory Purchase (Part 2, 14-36)**

Compulsory purchase powers are an important tool available to councils for assembling the land needed to help deliver growth. We welcome the proposals to

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<sup>6</sup> [Using and Discharging Conditions – Ten Best Practice Principles](#)

<sup>7</sup> [LGA media release, 'Charities and businesses evicted under Government planning rules', October 2014](#)

<sup>8</sup> [DCLG press release, 'Thousands more homes to be developed in planning shake up', October 2015](#)

clarify in statute the principles and assumptions for assessing compensation for land acquired through compulsory purchase, in particular the extension of the 'no-scheme principle' to include relevant transport projects. This will prevent the public sector paying for land it acquires at values inflated by previous public investment in transport projects. In our Housing Commission paper we have called for local authorities to be able to acquire land at closer to existing use value, to capture more uplift in land value for infrastructure and community benefits.

We would also like to see reforms go further to make the process for compulsory purchase clearer and faster. This should include:

- Stronger compulsory purchase type powers where planning permissions have expired and development has not commenced. Data suggests that the number of potential new homes on sites with planning permission could be in the hundreds of thousands.<sup>9</sup>
- A default position that all decisions on confirmation of a compulsory purchase order are delegated to the acquiring authority; and
- A more fundamental consolidation and streamlining of the legislative provisions for compulsory purchase.

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<sup>9</sup> [LGA media release, '475,000 homes with planning permission still waiting to be built', January 2016](#)