

A Summary of the Localism Bill Proposals		Agenda No: 7
Corporate Priority: Environment is clean and green, business is encouraged and local economy prospers, housing and transport meet local needs		
Report presented by: Eleanor Dash		
Report prepared by: Eleanor Dash		
Background Papers: Localism Bill December 2010 Communities and Local Government A Plain English Guide to the Localism Bill Jan 2011 Royal Town Planning Institute Briefing Note on Localism Bill Dec 2010		Public Report
Options: To note the contents of this report.		Key Decision: NO
Executive Summary: This report summarises the main proposals set out in the Localism Bill, which are intended to give new rights and powers to communities and include reforms to the planning system. The report includes officer comments on proposals relating to planning.		
Decision: To note the summary of the Localism Bill and officer comments in relation to the planning matters set out in the Bill.		
Purpose of Decision: To inform Members of the proposals set out in the Localism Bill.		
Corporate implications [should be explained in detail]		
Financial:	The Localism Bill includes proposals which would give rise to Council costs and also proposed sources of funding, as set out in the report.	
Legal:	As set out in the report	
Equalities/Diversity	n/a	
Customer Impact:	Increased role for Parish Councils, neighbourhoods and	

	community groups with potential impact on them and upon other residents
Environment and Climate Change:	n/a
Consultation/Community Engagement:	No
Risks:	As set out in the report
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Background

The Localism Bill was published on 13th December 2010 and is likely to receive Royal assent later this year. The intention of the Government is to exercise power at the lowest practical level; close to persons affected by decisions. This report summarises the proposals set out in the Localism Bill. There are officer comments on proposals related to planning, which are set out in italics. Regulations will be published to accompany the Bill in due course, which will provide further clarification on the proposals set out in the Bill.

Localism Bill Proposals

PROPOSED NEW FREEDOMS AND FLEXIBILITY FOR LOCAL AUTHORITIES

1 General Power of Competence

The Localism Bill proposes to give local authorities the legal capacity to do anything that an individual can do, that is not specifically banned by other laws.

2 Abolition of the Standards Board

Currently all local authorities must by law have a standards committee to oversee the behaviour of councillors and receive complaints. This will be abolished. Instead it will become a criminal offence for councillors to deliberately withhold, or misrepresent a personal interest.

The intention is not to oblige councils to spend time and money investigating minor complaints and to ensure councillors involved in corruption and misconduct face serious sanctions.

3 Clarifying the Rules on Predetermination

These rules were developed to ensure that councillors came to council discussions, on for example planning applications, with an open mind. However, the Government considers that the rules have been interpreted in a way that has reduced the local debate and considers that in some cases councillors have been warned off campaigning, or publicly expressing views on local issues, in case of being accused of bias, or facing legal challenge.

The Localism Bill will remove these predetermination rules to allow councillors to express views on local issues, without being liable to legal challenge. The Localism Bill states in Clause 13:-

'A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because-

- a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter, and
- b) the matter was relevant to the decision.

This clause should be taken in conjunction with a statement issued by the Department for Communities and Local Government; 'These proposed legislative changes will mean councillors can be very clear and discuss freely their view and voting intention and publicise their views as they see fit. However, councillors must be prepared to listen to arguments and evidence before making their decision. These changes will reduce the threat of challenge.'

Regardless of their size, Councils will be given the opportunity to return to committee governance.

Officer Comments

There needs to be greater clarity on what would constitute a closed mind, in relation to making decisions.

4 Directly Elected Mayors

At present there are 12 elected mayors in England. The Localism Bill proposes to give more cities the opportunity to decide if they want a mayor. The Government intends to make the council leaders in 12 cities 'shadow mayors' in order to give local people an insight into what it is like to be governed by a mayor. Each city will then hold a referendum on local Election Day in May 2012 to decide whether to have an elected mayor for the long term. If approved, elections will be held a year later.

5 London

It is intended to give greater powers over housing and regeneration to the Mayor in London, which are currently carried out by the Homes and Community Agency and the London Development Agency.

6 Development Management - A Duty on Developers to Consult

The Bill transfers the duty to consult on applications for planning consent to the applicant.

7 Abolition of Home Information Packs

The Bill abolishes the requirement to have a home information pack in the process of buying and selling a home.

8 Business Rates

The Bill allows Council's more discretion over business rate relief.

PROPOSED NEW RIGHTS AND POWERS FOR COMMUNITIES

9 Community Right to Challenge

It is intended that the Localism Bill will give community groups the right to express an interest in taking over the running of a local service. The local authority must consider and respond to this challenge. This is intended to make it easier for local groups to put forward proposals and drive improvement in local services.

10 Community Right to Bid

It is proposed that the local authority will be required to maintain a list of assets of community value. Communities will have the opportunity to nominate assets for possible inclusion. When listed assets come up for sale or change of ownership, community groups will have time to develop a bid and raise money to buy the asset, when it comes on the open market. It is intended that groups will also be entitled to bid for local authority services.

11 Local Referendums

It is proposed to give local people the right to suggest votes on any local issue that they think is important. Local authorities and other public bodies will be required to take the outcome into account as they make their decisions. The Bill provides for referendums to be held on any local issue if 5% of the electorate demand one.

12 Right to Veto Excessive Council Tax Rises

Currently central government has the power to 'cap' council tax rises. The Localism Bill proposes that the Secretary of State and the House of Commons will agree on a 'ceiling' for council tax rises. If a local authority proposes to raise taxes faster than this rate, local people will have the right to approve or veto the rise in a referendum.

PROPOSED REFORMS TO MAKE THE PLANNING SYSTEM CLEARER, MORE DEMOCRATIC AND MORE EFFECTIVE

The Bill proposes to give the public more influence over planning decisions, to avoid resentment over what they see as decisions and plans forced on them.

13 Abolition of Regional Strategies

These were first required by law in 2004 and set out where new development was needed to take place and included housing targets. The Localism Bill will abolish Regional Strategies.

Officer Comments

In the absence of Regional Strategies there will be a need for formal joint arrangements between local authorities to undertake strategic planning, such as infrastructure planning for energy, water and transport and for major development proposals. Local Enterprise Partnerships (LEP's) do not have a statutory basis and can only act in an advisory capacity. There are also large areas of the country without LEP's.

14 Neighbourhood Planning

The Localism Bill proposes to introduce a new right for communities to draw up a 'neighbourhood development plan', to be produced by parish councils or neighbourhood forums, to state where houses, businesses and shops should be located. Where there are no town or parish councils the local authority will be responsible for designating the formation of a neighbourhood forum. (Minimum 3 members, open to all residents and must have a constitution.) The Localism Bill proposes that there must only be one neighbourhood forum for any neighbourhood area, as designated by the local planning authority. After five years, the designation of the forum ceases.

The neighbourhood development plan would be required to be in line with national planning policy, with the strategic vision for the wider area set by the development plan and with other legal requirements. Although they will be allowed to accommodate more housing than proposed by the local plan, they will not be able to provide for less. Subject to the neighbourhood plan passing an independent examination, local people would be able to vote on it in a referendum and if it were approved by a majority, the local authority would bring it into force. It is proposed that these plans could be very simple, or could go into considerable detail. Changes to the Planning and Compulsory Purchase Act 2004 would mean that Neighbourhood Development Plans will form part of the development plan for an area.

Officer Comments

The status of neighbourhood plans is unclear, they will be part of the development plan, but will not be 'development plan documents'.

Local planning authorities would be required to provide technical advice and support as neighbourhoods draw up their plans and will have a duty to arrange and hold the independent examination and the referendum. The Bill permits the Secretary of State to make regulations to allow local authorities to recover costs in accommodating neighbourhood functions. This will come from developments that gain permission through being part of a Neighbourhood Development Order. The Government propose to launch a Supporting Communities and Neighbourhoods in Planning fund, providing £3 million pounds a year. This would fund recipients who would provide advice, guidance and assistance on the planning system to local groups. Funding would only be made available to organisations with a 'demonstrable recent history of

engaging with community groups' and that have experience of working with local planning authorities and developers.

Local communities would also be able to grant full or outline permission in areas where they most want to see new homes and businesses, to make it easier and quicker for development to go ahead.

Officer Comments- Neighbourhood Forums

How do you define the boundary of the neighbourhood? What happens when a town, such as Braintree, does not have a town or parish council? Will there be a maximum size of a neighbourhood forum?

There might be several groups with conflicting ideas wanting to set up neighbourhood forums. The Forums would need to be properly constituted and to have rules of probity and a duty to consult their neighbourhood at a formative stage of plans. The neighbourhood development plans are voluntary. Do neighbourhood residents have the time or training to produce these plans?

Local communities might seek to vigorously oppose growth proposals and to prevent growth. It may be difficult to assess whether the neighbourhood plan is in general conformity with the Local Plan, if the neighbourhood plan seeks to prevent any development. There is a need to reconcile local aspirations with wider community needs and national needs. Will neighbourhood planning provide for the projected increase in households in the future, or the need for affordable homes?

Officer Comments- Costs to Local Authorities

There are likely to be resource implications for local authorities.

Officer Comments- Referendums

The proposed use of a referendum to approve or reject the neighbourhood plan could be problematic, there might be problems relating to low turnouts.

15 Heritage Concerns

The Localism Bill proposes that the Planning Listed Building and Conservation Areas Act 1990 would be amended and as a result, local authorities would be unable to object to a development promoted via a neighbourhood development order on the grounds that it would damage the setting of a listed building or conservation area.

16 Community Right to Build

It is proposed to give groups of local people the ability to bring forward small developments, including houses, businesses and shops with the intention that the benefits of the development, eg profits from letting houses, would stay within the community. The Bill proposes to reward communities that deliver development with a new homes bonus and Community Infrastructure Levy money.

Officer Comments

It is unclear whether planning conditions would be applied to these developments.

The right to build would be exempt from CIL, but it is unclear whether there would be S106 agreements, or who would enforce these. Local Planning Authorities will be required to ensure these developments can go ahead, but the authority will not receive planning application fees for these developments.

17 Requirement to Consult Communities before Submitting very large Planning Applications

The Localism Bill proposes to introduce a new requirement for developers to consult local communities before submitting planning applications for very large developments. This is intended to give local people a chance to comment when there is still genuine scope to make changes to proposals.

Officer Comments

The explanatory note accompanying the Bill suggests this requirement might only apply to about 600 applications per year. It would be better to define a size threshold over which this would apply.

18 Strengthening Enforcement Rules

The Localism Bill proposes to strengthen planning authorities' powers to tackle abuses of the planning system, such as making deliberately misleading planning applications. Councils will have a six month window to enforce against concealed unlawful development, from the date when the breach was discovered. Enforcement powers will be strengthened to allow local planning authorities powers to refuse to deal with retrospective applications and appeals against enforcement notices concurrently. Orders will be available from Magistrates to investigate cases where control breaches have been concealed. Councils would be given additional powers to take direct action against unauthorised advertisements and the defacement of buildings.

19 Reforming the Community Infrastructure Levy

The Localism Bill proposes changes to the levy to make it more flexible; allowing money to be spent on maintaining infrastructure, as well as providing new infrastructure. It would also give local authorities more freedom in setting the rate that developers should pay in different areas. The Bill would give the Government the power to require that a meaningful proportion of the money raised would go directly to the neighbourhoods where development takes place.

Officer Comments

Allowing the use of CIL to fund maintenance would reduce funding available for new infrastructure. There is a need for more detail on how CIL will be provided to neighbourhoods and who will manage this.

20 Reforming the Preparation of Local Plans

It is proposed that local planning authorities should be given more freedom: The Localism Bill will limit the discretion of planning inspectors to insert their own wording into local plans. It will also ensure that local authorities focus on reporting plan progress to local communities, rather than to central government.

21 Statutory Duty to Co-operate

This will require local authorities and other public bodies to work together on planning issues.

Officer Comments

This is welcomed. However, it is not clear what the penalty would be for local planning authorities failing to co-operate.

22 Nationally Significant Infrastructure Projects

These include projects such as railway lines and power stations, which are currently determined by the Infrastructure Planning Commission (IPC). It is proposed that the Localism Bill would abolish the IPC and that decisions on national infrastructure would then be returned to the Secretary of State. (The function of the IPC would be retained as a specialist body with the skills to consider proposals for major infrastructure.) It would also ensure that National Policy Statements, used to guide decisions by Ministers, would need to be approved by Parliament.

PROPOSED REFORM TO ENSURE THAT DECISIONS ABOUT HOUSING ARE TAKEN LOCALLY

23 Social Housing Tenure Reform

Currently, social landlords are normally only able to grant lifetime tenancies. It is proposed that all current social tenants will keep their current tenancy arrangements. However, the Localism Bill proposes that people entering social housing will have more flexible arrangements in future: Social landlords would be able to grant tenancies for a fixed length of time. The minimum length of tenancy would be two years, with no upper limit on the length of tenancy, allowing social landlords to continue to offer lifetime tenancies if they wished to do so, but to allow more effective stock management and ensure that occupancy better reflects tenants needs.

24 Social Housing Allocations Reform

It is proposed to give local authorities greater freedom to set their own policies about who should qualify to go on the waiting list for social housing in their area. This could include preventing people who have no need of social housing from joining the waiting list. Local authorities would continue to be obliged to ensure that social homes go to the most vulnerable in society and those who need it most.

25 Reform of Homelessness Legislation

The duty for Councils to house people who are eligible, in priority need and unintentionally homeless will remain. However, under current rules, people who become homeless can refuse offers of accommodation in the private rented sector and insist that they should be housed in expensive temporary accommodation until a long-term social home becomes available. The Localism Bill proposes that local authorities can meet their homelessness duty by providing good quality private rented homes.

26 Reform of Council Housing Finance

The Localism Bill proposes that instead of local authorities collecting rent from social tenants and sending this to central government and waiting to see what share they are allocated back, that councils will be able to keep the rent and use it locally to maintain their social homes.

27 National Homeswap Scheme

It is proposed that this would enable people who wish to swap their social home to access details of other tenants who may be a suitable match.

28 Reform of Social Housing Regulation

It is proposed that the Bill will provide social tenants with stronger tools to hold their landlords to account. Landlords will be expected to support tenant panels, or equivalent bodies, to give tenants the opportunity to examine services. The Bill also proposes to abolish the Tenant Services Authority and transfer its remaining functions to the Homes and Community Agency.

It is also proposed that a new watchdog (The Independent Housing Ombudsman) will specialise in complaints about social housing, instead of these being dealt with by the Local Government Ombudsman, or the Independent Housing Ombudsman.