

The Localism Bill - Not as bad as it could have been?

When the Conservative Party published its Green Paper “Open Source Planning” many feared for the future of the planning system. Now that the Localism Bill has been published (13 December 2010) a few of the fears have been allayed.

Many of the most controversial elements that people believed would be included within the Localism Bill have not been included. The right for third parties to appeal the grant of planning permission has not been included. Also, the predicted restrictions on the ability to appeal a planning refusal have been omitted. The Government has not included provision for payments to local objectors to remove opposition to development proposals. It appears that the Government has listened to good sense and not included these controversial elements that could have materially harmed the stuttering development industry.

So, what has been included?

Abolition of Regional Spatial Strategies

Given the previous failed attempts by the Secretary of State to abolish Regional Spatial Strategies, the Bill provides for their abolition.

Neighbourhood Planning

This is perhaps the Government’s cornerstone of the localism agenda in terms of the planning changes. Qualifying bodies will have the ability to promote Neighbourhood Development Orders if, on a referendum of those resident in the neighbourhood area, more than 50% vote for the NDO. Either a parish council or a neighbourhood forum designated by the local authority can be a qualifying body. There is clearly a lot more detail to be provided by way of regulation and the devil may well be in the detail. Local authorities will designate what a neighbourhood area is. NDOs will permit certain forms of development without the need for an express planning permission. It is important to note that NDOs will only be permitted if they are in conformity with the wider development plan.

Qualifying bodies will also be able to require the local authority (if a referendum provides more than 50% support for it) to make a neighbourhood development plan. Again, regulations will prescribe the precise detail of neighbourhood development plans. In particular, the

inter-relationship with the rest of the development plan for an area will need to be established. At the moment it is certainly appearing that it will not be possible for neighbourhood plans to override, for example, a Core Strategy adopted by the local planning authority. The Bill does not remove the LDF system.

The Bill also provides for a special form of NDO called a Community Right to Build Order which will allow a community organisation (with the express purpose of furthering the wellbeing of individuals in an area), to promote a particular development in a neighbourhood area. Over half of the organisation must live in the neighbourhood area. The community organisation in effect becomes the qualifying body. Again, limitations are placed on the nature of development that can benefit from a Community Right to Build Order.

Legal Duty to Consult

Quite a few developers have, in recent years, actively engaged with local communities when promoting a planning application for a development in an area. The Bill provides a legal duty on all developers promoting a large development to consult with local residents and take their views into account before submitting the planning application.

Community Infrastructure Levy

As confirmed before the publication of the Bill the Government is continuing with the implementation of the Community Infrastructure Levy. The Bill requires that a proportion of CIL must go back to the neighbourhood in which a development is constructed.

Infrastructure Planning Commission Abolished

The Infrastructure Planning Commission will be abolished. Development consents for large infrastructure projects will now be granted by the Secretary of State, following an examination. A new unit within the Planning Inspectorate will deal with this.

Pre-Determination

The Bill provides that local councillors will be able to express their views on a planning application prior to a planning committee vote provided their mind isn’t closed when making the decision. This allows councillors to liaise more closely in support of objectors.

Additionally, it may be beneficial by enabling developers to liaise more closely with councillors in the build up to a planning application.

Enforcement

The Bill provides a new power of enforcement, outside the standard time limits, where a planning breach has been concealed.

Non-Planning Changes

The Bill is very large and contains a multitude of other changes. There is the ability for local referendums to be held on a wide range of local issues. Councils can prepare lists of land with community value that can then not be disposed of without giving community interest groups the opportunity to bid for their purchase, eg redundant pubs and shops. Centralised council tax caps will be removed but residents will have the ability to veto excessive increases of council tax. The regulatory function of registered providers of social housing will be transferred from the Tenants Services Authority to the Homes and Communities Agency.

Conclusion

The Bill does provide for far greater local involvement in the planning process and the ability for communities to take greater control over development in their area. However, the Bill does not provide a wholesale seismic shift with locals having, in effect, a right to veto development and for the whole development process to come to a grinding halt. It will be important to see how the Bill evolves during its passage through Parliament and to see the detailed regulations when they are published.



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