

27th May 2011

Neighbourhood Planning

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1. The RTPI has advocated the principle that decisions should be made democratically at the most appropriate level, and the need for planning policies and decisions to be based on meaningful involvement with the communities that they affect. Planning has led practice in this respect.
2. The Localism Bill takes the concept of neighbourhood planning and decision taking further. We welcome the fact that it still retains the primacy of democratically elected district and unitary councils in the planning of their areas. **We are concerned that the complexity of the Bill as drafted, the scarcity of resources available both to local authorities and to neighbourhoods; and the potential lack of democratic accountability for the preparation of neighbourhood plans will combine to make it more difficult and bureaucratic to achieve the full potential of the neighbourhood and local planning system. We need to help to ensure that no area is disadvantaged through lack of resources, knowledge or capacity from engaging in neighbourhood planning.**
3. The RTPI also notes **that there are options available for meaningful neighbourhood planning that could be undertaken without the need for an additional cumbersome layer of legislation.** Neighbourhoods can already engage with preparing Area Action Plans, masterplans and design guides as Supplementary Planning Documents, and Local Development Orders under the existing system. If the issue of concern to the government is in giving neighbourhoods the power to plan positively for their areas and, if necessary, go beyond the plans of their Local Planning Authority, then some of this could be achieved with relatively small adjustments to current legislation coupled with the referendum powers proposed in Part 4 of the Bill.
4. This RTPI Briefing Paper is produced alongside a paper demonstrating how such adjustments to the current system may be made (Existing Tools for Neighbourhood Planning, see www.rtpi.org.uk). The proposals below demonstrate the alternative route of seeking to improve the provisions of the Localism Bill as it stands. They deal with four significant concerns about the neighbourhood planning provisions in the Bill. The RTPI wishes to see:
 - a requirement that Neighbourhood Development Orders can only be promoted through a Neighbourhood Development Plan;
 - a duty to engage placed on Neighbourhood Forums;
 - an amendment to the Bill to ensure that Neighbourhood Forums take a comprehensive approach to the planning of their area; and
 - a clear link between neighbourhood planning and investment from the Community Infrastructure Levy, New Homes Bonus and other sources.

The RTPI and the Localism Bill

5. This Briefing on the Localism Bill from the Royal Town Planning Institute (RTPI) is written following the House of Commons Report Stage and Third Reading on 17th and 18th May 2 and before the Localism Bill enters the House of Lords on 7th June 2011.
6. The RTPI has over 23,000 members who work in the public, private, voluntary and education sectors. It is a charity whose purpose is to develop the art and science of town planning for the benefit of the public. The RTPI develops and shapes policy affecting the built environment, works to raise professional standards and supports members through continuous education, practice advice, training and development. We run Planning Aid in England – supporting communities and individuals through a locally-based network of 1,200 RTPI members who give their time and expertise free of charge – a service at the heart of localism.
7. The RTPI supports the objectives that underlie the Localism Bill and is keen to continue working with the Government and others to make the Bill effective. The RTPI very much welcomes the Bill placing planning at the heart of the localism agenda. Planning is central to enabling communities to develop their vision for the future of their area, to provide the means for areas and the nation to decide on priorities for investment and to tackle the challenges of climate change, sustainable economic growth and social inequity.
8. Within this overall position, the RTPI has seven main areas of concern:
 - i. arrangements for strategic planning between the local and national levels needed to be strengthened – and we now welcome the new Clause 90 based on an RTPI amendment;
 - ii. the National Planning Policy Framework announced in the Coalition Agreement needs to be embodied in statute;
 - iii. **the proposed neighbourhood planning system is overly complex and may mean that neighbourhood planning will not be as visionary, widespread or effective as intended;**
 - iv. The Clauses relating to enforcement need clarifying and strengthening the Bill;
 - v. the provisions of the Bill relating to local planning, and pre-application consultation, whilst generally welcomed, should be made more straightforward and may have unintended consequences to the detriment of effective planning;
 - vi. New Clause 124 (was NC1) 5 on financial matters as planning considerations must be withdrawn because, as drafted, it represents a fundamental and potentially very damaging shift in the basis on which planning decisions should be made;
 - vii. some of the other provisions that are not in the ‘planning’ related sections of the Bill but which have the potential to have a direct impact on the delivery of planning.
9. The RTPI is writing Briefing Papers on all of these concerns. Other post-Third Reading Briefing Notes are being placed on the RTPI website (www.rtpi.org.uk).

The Bill post Third Reading

10. The RTPI recognises that the amendments passed by the Commons in Third Reading do clarify some matters and make the system more robust.
11. In particular, we are pleased that:
 - the minimum number that can form a Neighbourhood Forum has risen from three to twenty one;
 - the Bill now places more emphasis on those who work in the neighbourhood and on elected members and requires a neighbourhood forum to show that it has sought to engage these groups as well as residents;
 - there is a requirement that a local authority should consider whether a Neighbourhood Forum reflects the character of the area and its members are drawn from different parts of it;
 - Neighbourhood Forum areas may now cross local authority boundaries; and
 - the clause preventing those working for public bodies, notably the Planning Inspectorate and local government from acting as independent examiners of neighbourhood plans has been withdrawn.

The RTPI's Proposals

Neighbourhood Plans and Neighbourhood Development and Community Right to Build Orders

12. **The RTPI considers that Neighbourhood Development Orders and the Community Right to Build should only be brought forward through a Neighbourhood Plan.** This proposal seeks to reduce the complexity of the neighbourhood planning system, ensure that Neighbourhood Development Orders (NDOs) are considered within a wider neighbourhood context and do away with overlapping plans which will be difficult to navigate both for communities and for the development industry and infrastructure providers.
13. RTPI considers that this principle is necessary with regard to neighbourhood planning in order to ensure that developments consented through NDOs and Community Right to Build Orders (CRtBOs) are based on a comprehensive understanding of issues. The RTPI understand that this may be the intention behind the provisions in the Bill but does not believe that this is clear from the relevant Clauses as drafted. The proposed amendment below further recognises that a NDO or CRtBO could be based on the policies of a DPD.

Schedule 9 part 1: "Neighbourhood development orders"

Schedule 9, page 304, line 24, after "planning permission", insert "to implement the policies or proposals of an applicable neighbourhood development plan or development plan document (within the meaning of Part 2 of the Planning and Compulsory Purchase Act 2004)"

14. This has the effect of defining a neighbourhood development order in s.61E(2) of the 1990 Act as an order that implements NDP or DPD policies.

Schedule 10: “Process for making of neighbourhood development orders”

Schedule 10, page 317, line 38, after “within the area of the authority”, insert “to implement the policies or proposals of a neighbourhood development plan or development plan document (within the meaning of Part 2 of the Planning and Compulsory Purchase Act 2004) applicable to the area”

15. This has the effect of defining in Schedule 4B of the 1990 Act (para 1(1)) the purpose of a neighbourhood development order as implementing NDP or DPD policies.

Schedule 10, page 318, line 7, after “prescribed description”, insert “including the relevant neighbourhood development plan or development plan document (within the meaning of Part 2 of the Planning and Compulsory Purchase Act 2004)”

16. This has the effect of requiring through para 1(3)(b) of Schedule 4B of the 1990 Act proposals for NDOs to be accompanied by the NDP or DPD policies they are intended to implement.

Schedule 11: “Neighbourhood planning: community right to build orders”

As Community Right to Build Orders are a specific type of Neighbourhood Development Order, they are subject to the same definitions and requirements, so the amendments proposed above to Schedules 9 and 10 are sufficient.

A duty to engage on Neighbourhood Plans

17. **The RTPI considers that those undertaking a neighbourhood plan should have a duty to engage with those within the neighbourhood area at an early stage in the development of the plan.** This proposal is designed to increase transparency and accountability in neighbourhood planning and requires a Parish or Town Council or a neighbourhood Forum to engage with the public at a stage in the preparation of the neighbourhood plan that allows them to influence its approach and policies. We recognise that the Bill [Schedule 10 (4)] allows for Regulations to be made to achieve this but we do not consider this to be adequate.

Schedule 10, page 318, after line 3, insert new sub-para (c) “a statement of consultation undertaken on the proposals in the preparation of the order, including particulars of how Schedule 4B para 3a has been complied with, any responses to consultations received, and the account taken of those responses.”

*Schedule 10, page 318, before line 35, insert new section containing new para 3a:
“Requirement to carry out consultation before proposals are made or considered*

*3a (1) Where a relevant body (within the meaning of section 61G of the Town and Country Planning Act 1990) proposes to submit a proposal to a local planning authority for the making of a neighbourhood development order, the person must (whether before or after being formally designated as a qualifying body within the meaning of section 61E of the same Act) carry out consultation on the proposed order such a manner as –
(a) may be set out in specific regulations or guidance issued by the Secretary of State, or
(b) the relevant body reasonably considers is consistent with good practice and the policies contained within the relevant local planning authority’s statement of community involvement.*

(2) Regulations may make provision as to requirements for consultation with and participation by the public to be complied with before proposals for a neighbourhood development order may be submitted to a local planning authority or fall to be considered by a local planning authority.”

Schedule 10, page 318, line 35, leave out “Requirements” and replace with “Further requirements”; in Schedule 10, page 319, line 1 leave out sub-para (d).

Purposes of a Neighbourhood Forum

18. The RTPI is concerned that an amendment to Schedule 9 at Report Stage will have a serious effect on the comprehensive approach that is at the heart of effective and proper planning..
19. Schedule 9, 61F (5) has been amended to read:

(5) A local planning authority may designate an organisation or body as a neighbourhood forum if the authority are satisfied that it meets the following conditions—

 - (a) it is established expressly for either or both of the following purposes—*
 - (i) furthering the social, economic and environmental well-being of individuals living, or wanting to live, in an area that consists of or includes the neighbourhood area concerned,*
 - (ii) promoting the carrying on of trades, professions or other businesses in such an area,*
20. The RTPI is very concerned that the ‘either or both’ in (a) means that a Neighbourhood Forum may be set up for – and, thus, a neighbourhood plan done purely for - ‘promoting the carrying on of trades, professions or other businesses in such an area’ rather than being required to take into account the wider ‘social, economic and environmental well-being’. The purpose of planning, as consistently emphasised in Government Guidance and statements, is to address the economic, social and environmental aspects of sustainable development. This Clause, as amended, runs entirely counter to that by encouraging a type of planning which focuses solely on promoting business in an area.
21. The RTPI calls for this amended Clause to be further amended in the Bill’s passage through the House of Lords so that it brings back the original
22. The RTPI proposes:

Schedule 9, page 306, line 17, leave out paragraph (5) and sub-paragraphs (a)(i) and (a)(ii) (i.e. lines 17-27), and replace with:

(5) A local planning authority may designate an organisation or body as a neighbourhood forum if the authority are satisfied that it meets the following conditions—

 - (a)it is established expressly for the purpose of furthering the social, economic and environmental well-being of individuals living, or wanting to live, in an area that consists of or includes the neighbourhood area concerned, including, if relevant, promoting the carrying on of trades, professions or other businesses in such an area,*

The relationship between Neighbourhood Plans and programmes for investment in neighbourhoods

23. **The RTPI considers that neighbourhood plans, and the referendums on them, should be used to express the community's priorities for investment in their area.** These would still have to accord with the strategic priorities set out in the local plan but could, for example, express the community's own priorities for the neighbourhood element of the Community Infrastructure Levy (CIL) and the New Homes Bonus (NHB).
24. This proposal will help to ensure that neighbourhood planning is clearly linked with sources of investment in neighbourhoods such as CIL, the proposals for a New Homes Bonus and Community Budgeting and thinking on community assets and would make neighbourhood plans more positive and meaningful.

Schedule 9, page 316, after line 17, insert new sub-para (2a) "A neighbourhood development plan must include policies relating to the prioritisation and provision of infrastructure to support development proposed (whether in the neighbourhood development plan itself or a development plan document relating to the area) in the context of the relevant authority's charging schedule and the local development framework if the qualifying body intends to be the recipient of community infrastructure levy receipts under s.216A of the Planning Act 2008."

25. In addition, the CIL regulations proposed under s.216A would need to define neighbourhood forums with an extant Neighbourhood Plan containing appropriate policies under the amendment above as being a part of the achievement of s.216A(2).

Royal Town Planning Institute

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