

The Royal Town Planning Institute

1. The Royal Town Planning Institute (RTPI) champions the power of planning in creating prosperous places and vibrant communities. Our 23,000 members are from the private, public and voluntary sectors. Using our expertise and research we bring evidence and thought leadership to shape public policy and thinking, putting the profession at the heart of society's big debates. We set the standards of planning education and professional behaviour that give our 23,000 members, wherever they work in the world, a unique ability to meet complex economic, social and environmental challenges. We are the only body in the United Kingdom that confers chartered status to urban planners – the highest professional qualification sought by employers.

In General

2. The RTPI welcomes many of the provisions in the Bill but would also point out that dealing with the housing crisis and the challenge of climate change requires more than small legislative changes. Fiscal measures of the kind announced at the Conservative Party Conference this month are important. In addition, the planning system in England has been subject to very frequent major and minor amendments since 2004 under different governments, and constant change – even if desirable – creates its own costs and uncertainty. In particular it makes it difficult for non-experts to engage with planning.

Neighbourhood Planning

3. The RTPI supports neighbourhood planning and measures to make it easier to carry out. Measures to increase the public's involvement in planning, especially where it results in wider support for increased housing supply, are welcomed. There are various welcome clauses in the Bill to improve on the neighbourhood planning process e.g. increasing the weight to be attached to a neighbourhood plan once it has passed a successful referendum (Clause 1) and making it easier to amend a neighbourhood plan (Clause 3).
4. The Bill provides further measures (Clauses 5 and 6) to reinforce the obligation on local planning authorities to support communities. This is welcome, but local planning authorities are under phenomenal resource pressure, and yet their role generally is vital to UK plc if housing supply is to be increased substantially. The work of supporting neighbourhood planning, valuable as it is, is often undertaken by the same staff as are responsible for preparing local plans. Some district councils have very limited staff numbers available for plan making. Our study of planning resources in North West England showed that between 2010 and 2015 there had been on average a decrease of 37% in planning policy staff¹. Whilst preparing recommendations on planning applications at least carries an element of cost recovery, there is no direct income coming to

¹ http://www.rtpi.org.uk/media/1495775/investing_in_delivery_rtpi_research_briefing_11_october_2015.pdf

councils for plan making. This is of particular importance now, since the government has put a March 2017 deadline to local planning authorities to have up to date local plans.

5. Councils receive £5000 for each neighbourhood plan area designated (up to a maximum of 5 areas only) and £20,000 for each neighbourhood plan referendum, irrespective of the number of electors. These funds are welcome but in some cases may not reflect the total costs of support plus holding the referendum. Furthermore the support of neighbourhood planning must take place at the times determined by the neighbourhood planning process, and indeed the Bill tightens these obligations. If this coincides with critical dates in the local plan process there could be very difficult choices faced by managers. Moreover neighbourhood planning is a somewhat unpredictable draw on resources, in more remote parts of the country it may be difficult to temporarily scale up and then down the size of the plan making team. Councils may however buy in support from consultants to help here, but this may be at higher rates than employing permanent staff.
6. The RTPI supports Planning Aid England. This has supported 290 groups across the country delivering over 3500 staff days and nearly 900 volunteer days. Our approach was to empower communities, giving them the skills and knowledge to engage with the planning system. Planning Aid continues to advise and support groups in areas of deprivation and has also written a number of guidance documents covering every area of neighbourhood planning and using a range of innovative techniques².

Notes on New Clause tabled 20 October 2016 for Neighbourhood Planning:

14. NC1 proposes to move a Schedule which states that the outcome of a referendum shall only be valid if the turnout is equal to or greater than 40% . It is worth noting that to date, there are 216 neighbourhood plans in place, of which the average turnout is 33%. The implication of this higher threshold, based on current trends, would be a higher failure rate of neighbourhood development plans.

Planning Conditions

7. The Bill provides at Clause 7 for “pre-commencement conditions” to require the written agreement of applicants for planning permission. We would agree that it is not appropriate for planning permissions to be burdened with unnecessary conditions. “Pre-commencement” conditions are those requiring the local authority to agree details of the scheme (e.g. brickwork) before construction commences. These have certain advantages to applicants, who may not be in a position to finalise details of a scheme but wish to secure a planning permission as soon as possible. They have advantages to local authorities because councils may have in practice limited legal ability to enforce conditions once a scheme is underway. Conditions are useful to the development industry in general because they enable schemes to be permitted which otherwise might have to be refused.

² <http://www.ourneighbourhoodplanning.org.uk/resources/documents/29>

8. Concerns have been raised regarding delays to starts of schemes while such details are signed off (“discharged”). This could be the result of that fact that councils planning departments are monitored very strictly on fairly limited measures of performance such as time from application to formal decision. The problems with one-measure performance regimes is that they can mask the wider consumer experience. We contend that this should not be a continuing problem because the Infrastructure Act 2015 S29 already makes such discharges automatic (“deemed discharges”) in relation to all but a defined list³ of condition types if the sign off is delayed too long. The Bill provides that if the applicant does not agree to a condition the council may then refuse the application (rather than stick with the condition). This seems unfortunate, as surely the refusal of planning permissions is something which in general should be avoided where at all possible.
9. Furthermore, good practice in planning departments involves discussion with applicants around conditions. The imposition of obligatory written consent from applicants means that in order to cure a problem in the worst cases and planning departments a system of extra red tape is being imposed on hard pressed local planning authorities (and indeed on applicants themselves) everywhere. We are not convinced this is not the best way to achieve improvements in planning practice.
10. Clause 7 also provides the Secretary of State with the power to make regulations about kinds of conditions may or may not be imposed. His power is limited to regulations which are necessary for making planning conditions comply with policy in the National Planning Policy Framework. This reflects longstanding cross party existing guidance on the use of conditions and its incorporation into law does not constitute a change in practice.

Additional notes on Conditions

11. Clause 7, Section 7 defines what is meant by “pre commencement condition”. For the avoidance of doubt we recommend this be amended to align with the Town and Country Planning Act 1990 existing meaning of “development” under s.55.
12. In the accompanying consultation (Improving the use of planning conditions) there is a list of the kinds of conditions that the SoS may consider restricting. We are generally of the view that powers should not be taken away from planning authorities who are best placed to understand the nuances of a particular application and best placed to decide, objectively, why a condition should or shouldn’t be imposed. However, we do agree that conditions which duplicate requirements under other legislation should be added to a list of “unnecessary” or “unreasonable” conditions. There is also a responsibility on the part of specialists and statutory consultees, who may recommend such conditions to planners, not to recommend

³ Development subject to EIA; Flooding; Contaminated land; Archaeology; Highways; Reserved matters; Planning obligations

conditions which could reasonably be required by other regulations or British Standards. E.g. building regulations, environmental health standards or requirements under the Habitat Regulations.

Planning Register

13. A growing volume of planning activity is being covered by “prior notification” regimes. This means that development activity is permitted without the need for a formal planning application. A most notable example of this is the arrangements brought in by the Coalition government to permit workplaces to be used for housing. We would agree with the relatively minor point that housing which is generated by these means must be monitored (Clause 8). However quite apart from the policy implications, in terms of the resourcing problems referred to above, these regimes cause local planning authorities resources difficulties due to the low fee (£75) chargeable for such notifications which may not cover the work which needs to be done to handle them, including the monitoring requirements.

Resources for Planning

12. In view of the specific issues raised above, and for wider reasons, the RTPI would support the Bill going further to address the question of resources for local authority planning directly. The RTPI supports the option of local authorities being able to charge higher fees for planning applications providing certain criteria are met. These would have to include a cast-iron commitment to reinvest greater income in the planning process for the benefit of applicants; which in turn could include information technology; joint working across city regions or counties; and training of staff towards professional accreditation and continuing professional development. There would indeed to demonstrate year on year increasing (or continued high) performance.

Compulsory Purchase

13. The existence of a planning system and the ability of public bodies to be able to acquire land go hand in hand. In certain circumstances this may have to take place compulsorily; or at least the threat of compulsion should be credible. We commend the Government for making further steps to reform the system for compulsory purchase. The wider focus on the “no-scheme” value is important, as no landowner should be able to claim compensation for compulsory purchase such as to constitute private gain from public investment.

Comments on new clauses tabled as of 20 October and 25 October - strategic priorities

15. NC3 would insert S19 of the Planning and Compulsory Purchase Act 2014 (preparation of local development documents) to require an LPA to identify the strategic priorities for the development and use of land in the authorities’ area. RTPI supports this amendment.

Joint Local Plans

16. NC4 moves that Planning and Compulsory Purchase Act 2004 to make regulations to allow SoS the power to direct joint preparation of development plans. This is an ambitious step which we hope will facilitate good strategic outcomes. We await further information as to what the SoS would consider a “more effective planning of development and use of land”.

Power of SoS to direct County Councils to intervene in district plans’ development plan documents.

17. NC 5 proposes a new clause to make provision for the exercise of default powers by county council in relation to development plan documents. This would allow county councils to intervene if a district in the county’s area fails to revise or adopt such a document. In principle the RTPI supports this amendment, subject to them being resourced enough to do so. The county council sits locally enough to understand better the needs of the locality rather than the SoS. An amendment tabled as of 25 October (NC3 (a)) suggests that timetables should be set for the production of plan documents. Local Planning Authorities will already have set timetables in relation to local plan production and managed resources and budgets accordingly. Therefore timetables should align with these.

Data standards for Development Plan documents

18. NC6 would allow the SoS to prescribe data standards for development plan documents. The RTPI supports this provision. It was well documented in the Local Plan Expert Groups’ findings that confusion over standards of evidence was having an impact on local plan delivery. Standards, if properly researched and tested, would help ensure a level playing field and ensure smoother local plan processes. However, we have some concerns that this would not constitute county level planning but would still only provide for a single local plan in a district. If strategic planning over a housing market area is needed, this may not be enough.

Intermediate review of development plan documents by SoS

19. NC7 would allow the SoS to make provisions to require review of local plan documents at prescribed times. The RTPI welcomes this clause as it will allow guidance early on in the plan making process as well as an early warning system to address issues in advance of the plan making stage.

Review of Permitted Development rights and Review of local authority determination to planning approvals

20. NC14 would require a review of permitted developments since 2013. The RTPI recognises that legislative provision may not be the most appropriate means by which to do this. However, we welcome the intent. We are particularly concerned with the loss of employment land and housing standards in London as a result of Office-to-residential PD rights.
21. Similarly NC16 proposes the SoS conduct a review into the process by which local authorities determine amendments to planning approvals. Such reviews are useful, particularly into location of development. But we question whether legislation is the best means by which this should be achieved.

Contact the RTPI

14. If you require more detailed information please contact the RTPI.

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