

meeting **JOINT COMMITTEE ON STRATEGIC PLANNING & TRANSPORT**

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Report

STRATEGIC & NATIONAL PLANNING UPDATE

Purpose of Report

1. This report updates members on the Localism Act and three matters arising from it; the Government's revocation of Regional Spatial Strategies, plus consultations from Government on Neighbourhood Planning and the Community Infrastructure Levy.

1 The Localism Act

2. The Localism Bill received Royal Assent on the 15th November 2011. Amongst other things the Act represents a significant change in direction as to how the planning system will operate. The new law devolves greater powers to councils and neighbourhoods and gives local communities more control over housing and planning decisions.
3. The Localism Act makes the following key provisions relating to Planning:
4. It abolishes Regional Spatial Strategies (see below).
5. It amends the Community Infrastructure Levy allowing councils to charge developers to pay for infrastructure (see below).
 - The Act allows for some Community Infrastructure Levy funds to be passed to County Councils and neighbourhoods where the development has taken place.
6. It replaces the independent Infrastructure Planning Commission (IPC) with a democratically accountable system where ministers will take decisions on major infrastructure projects within the same timeframe as the current regime. A Major Infrastructure Planning Unit is to be set up within the Planning Inspectorate.
7. It creates a legal duty for local authorities and statutory bodies to co-operate in plan-making and other strategic planning activities. This is one of the ways in which some degree of strategic planning may be maintained.
 - The provisions in the Act relating to the duty to co-operate have been strengthened in comparison to their original incarnation. The scope of the activities subject to the duty to co-operate has been broadened to include plan making or infrastructure planning.

8. The Act streamlines Planning Policy Guidance, which will fall under a new National Planning Policy Framework (NPPF), expected to be in place by spring 2012. However the Localism Act does not actually mention the NPPF.
9. Inspector's recommendations to amend development plans are no longer binding on the local authority.
10. The Act introduces a new tier of spatial planning – neighbourhood planning.
 - It provides for the creation of neighbourhood plans,
 - It introduces the right for communities to create a Neighbourhood Planning Authority (NPA).
 - NPAs can prepare their own development plans and will have the power to set 'Neighbourhood Development orders' (NDOs) where planning permission will be granted for development specified by the order.
11. The Act introduces a 'Community Right to Build Order' (CRBO) where local communities have the power to take forward a development in their area without the need to apply for planning permission, subject to certain safeguards.
12. The Act introduces a new requirement for prospective developers to consult with local communities before submitting planning applications for large developments.
13. Constraints on the conduct of councillors determining planning applications are to be relaxed, allowing views on proposals to be expressed.
14. The Act introduces new enforcement provisions for LPAs to be allowed for a planning enforcement to run from the time a 'concealed breach of planning control' is notified to them. The Act also includes a new power to refuse to make a decision on a retrospective planning application while enforcement action is taking place.
15. Since the Localism Bill was published in December 2010, the government has made certain planning-related amendments.
16. Local finance considerations
The government introduced a controversial amendment in May 2011 which proposed that any 'local finance considerations' could be material to a planning application. Critics including the Royal Town Planning Institute responded that one consequence of this could be that economic considerations would outweigh social and environmental concerns, labelled 'cash for permissions'. The government tabled a fresh amendment to overcome these concerns; that no one aspect should be considered with any extra weight over another.
17. Business-led neighbourhood forums
Another amendment to the Localism Bill put forward in May by the government was that neighbourhood forums could be established 'expressly' for the purpose of promoting business. However, the amendment was criticised by the RTPI and the organisation Civic Voice. The organisations argued that this would mean a neighbourhood plan would not have to take into account wider social economic and environmental issues and concerns.

The government agreed to a further amendment to ensure that all neighbourhood forums were set up for the express purpose of 'promoting or improving the social, economic and environmental well-being of an area' irrespective of the purpose of promoting business.

18. Definition of presumption in favour of sustainable development

The Environmental Audit Committee called on the government to include a statutory duty in the act that would require local planning authorities to apply the principles of sustainability in the planning system and other functions of local government. However, this idea has been rejected.

19. Members are asked to note this section of the report.

2 Revocation of Regional Spatial Strategies

20. Regional Plans will be revoked through the Localism Act when enacted. The revocation, or abolition, is subject to the outcome of environmental assessments and will not be undertaken until the Secretary of State and Parliament have had the opportunity to consider the findings of the assessments.

21. The Government decided to carry out an assessment of the likely significant environmental effects of the revocation of the eight existing Regional Plans. The assessments, while not strictly required by it, have been carried out in line with the procedure set out in the European Strategic Environmental Assessment Directive.

22. Eight Environmental Reports have been published on the Department for Communities' (CLG) website on 20 October 2011, on which they are seeking comments from organisations and individuals for a period ending on 20 January 2012. Subject to the assessment process CLG expect the orders revoking the existing Regional Plans to take effect next spring.

23. The Environmental Report for the East Midlands is a consultation document on the likely significant environmental effects of revocation of the East Midlands Regional Plan.

24. The assessment has taken as a starting point the environmental assessments carried out when the Plan was being prepared. A broad assessment has then been made of how the Plan's predicted environmental effects might be changed if the Plan was revoked.

25. The report indicates that the environmental effects of revoking the Plan cannot be clearly predicted because they depend on decisions by local authorities, individually and collectively. Emphasis is given to the removal of regional strategies and their top-down targets [principally for house-building] that will provide opportunities for securing environmental benefits, the example of the review of Green Belts being given.

26. In addition the report notes that the revocation of regional strategies should be seen in the context of other relevant Government policies and associated legislation aimed at protecting the natural and built environment and this is described in the section on the policy context above. Further that a provisional

view is that the revocation of the regional strategies will have no effects requiring assessment under the Habitats Directive.

27. It is not envisaged by the report that addressing existing environmental problems which were relevant to the Plan could have been done solely through the Plan, thus it is not expected that the revocation of the Plan will result in their inevitable occurrence or that no action may be put in place locally to mitigate them. These would include:
 - A decline in biodiversity, habitat loss and fragmentation,
 - Pressure on the availability of water resources; ongoing action was flagged up for future reviews of the Plan to ensure that the amount of housing proposed was sustainable with regards to water consumption and sewage treatment,
 - The achievement of air quality and greenhouse emissions targets, especially with respect to transport,
 - Threats to the historic environment from development, in particular, concerns over the capacity of historic settlements to accommodate further development.
28. The report indicates that revocation would not mean that relevant national and international environmental objectives are ignored. Following its revocation, responsibility for ensuring the Planning system properly contributes to environmental protection objectives would largely fall to local authorities, working alongside the Environment Agency, Natural England and English Heritage. New or revised development plan documents will be subject to sustainability appraisal.
29. Revocation of the Plan would leave in place saved local plan policies and adopted development plan documents. Also the expectation is that local authorities will continue to work together on cross boundary strategic issues, supported by the 'duty to co-operate' in the Localism Act. Local authorities will continue to be required to prepare their local plans with the objective of contributing to the achievement of sustainable development, supported by a strategic environmental assessment.
30. The Government has recently published for consultation the new National Planning Policy Framework. Combined with existing legislation including the need for strategic environmental assessment of development plans, and Habitats Regulations assessment, this will ensure that local plans promote sustainable development.
31. The assessment's conclusion is that revocation of the Plan is unlikely to have any significant environmental effects in all the aspects considered. In reaching this conclusion the assessment has taken into account likely significant effects from (inter alia) interrelationships of environmental effects, secondary, cumulative and long-term permanent factors.
32. Issues for the two Authorities:
33. The revocation of the Regional Plan (or Regional Strategy - RSS) is of interest to the Authorities in their role as upper tier authorities with a strategic perspective. There are four areas where it is noted that the report may fall short of a full and proper assessment.

34. It appears unreasonable for the report to conclude that the loss of Regional Plan policies, especially environmental ones that were generally accepted to have positive outcomes, would not lead to some significant environmental effects without substantial alternatives being identified. For example, the Government intends to replace the Regional Plan, alongside Planning Policy Statements that underpinned and enhanced it, with the National Planning Policy Framework. Together with existing regulation in other areas this is suggested to be an adequate replacement for regional policies for environmental protection. Such a narrow and limited approach is considered insufficient to replace the thrust of positive regional environmental policies, with targets and monitoring, that existed, as acknowledged by the report, in the Regional plan.
35. Secondly the report appears one-sided in presenting future impacts. For example, while emphasising the removal of top-down housing targets (although housing is not mentioned, and Regional Plan targets included environmental ambitions), it does not mention the Government's stated intention to increase house-building, thus maintaining the pressure on development. Similarly, future changes to environmental regulation and control are suggested to be positive when this may not be the case, depending upon Government decision, especially in relation to supporting the economy.
36. The report mis-applies the protection of the Green Belt as delivering environmental objectives. While, as PPG2 makes clear, the Green Belt, once designated, can have environmental benefits, the process to review Green Belt boundaries must take into account other factors including the suitability of Green Belt sites against other less sustainable sites. Consequently to cite the protection of Green Belt *per se*, as leading to environmental benefits, is misleading; these may (but not necessarily) exist in local circumstances, where environmental assets are lost, but development in other locations could have greater negative impacts, which the Regional Plan had addressed.
37. The Regional Plan was in place to ensure work, for example, to ensure the provision and protection of Green infrastructure assets, especially in the Three Cities area. The loss of such policies in a development plan will threaten the maintenance of protection and enhancement of assets not seen as locally important, but of greater value in connection with others; the essence of a strategic perspective. In addition, resources would not be directed to those matters. Green infrastructure is one example, water quality, transport impact, and the distribution of development in a sustainable way are others.
38. Thus the Report does raise concerns that some significant negative environmental impacts have been understated and the value to the environment of planning at a strategic level has not been sufficiently identified. The Authorities will be making their own individual responses on the consultation and a joint response is considered unnecessary.
39. More generally with regard to the revocation of the Regional Plan the City and County Councils are making significant contributions as upper tier authorities to increase the contribution that they make to the improvement of the environment, in cooperation

with district councils and other partners, through their various roles in plan-making, transport planning and infrastructure provision.

3 Neighbourhood Planning Regulations Consultation

40. The Department for Communities and Local Government has published a short consultation paper alongside a draft set of Neighbourhood Planning Regulations, seeking views on the Government's proposals for governing the process for establishing neighbourhood areas and forums, the requirements of the Community Right to Build organisations, and the preparation of Neighbourhood Plans and Neighbourhood Development Orders, and Community Right to build Orders.
41. Neighbourhood Planning is central to the Government's decentralisation, localism, and Big Society agenda. The stated purpose of this consultation is to gauge whether the proposed approach strikes the right balance between standardising the approach to neighbourhood planning across the country and providing for sufficient local flexibility to reflect local circumstances.
42. The proposed regulations set out minimum requirements for submission of information on Neighbourhood Planning proposals to Local Authorities, as well as the minimum requirements for Local Authority to publicise these proposals. The approach is described within the paper as one of a 'light touch', but granting Local Authorities scope to go beyond the minimum requirements set out.
43. The proposed legislation also sets out time limits for the provision of information, submission of applications and decision making. The process of making key decisions by Local Authorities is not prescribed, though powers to do so are set out. Additionally, Neighbourhood Planning Areas may cross two or more Local Planning Authority areas. In such cases Local Authorities are able to decide how best to manage cross boundary arrangements.
44. Arrangements for referendums on Neighbourhood Planning proposals are not included within the draft regulations. The 12 week consultation period on the paper and draft regulations expires on 5th January 2012.

4 Community Infrastructure Levy (CIL)

45. The Department of Communities and Local Government (DCLG) recently published a draft consultation paper on the Community Infrastructure Levy.
46. The Community Infrastructure Levy allows local authorities to choose to charge a levy on new development in their area in order to raise funds to meet the associated demands placed on an area and to enable growth.
47. The money raised must be used to provide infrastructure to support the development of the area, addressing the matters that the council, local community and neighbourhoods identify are needed for it to proceed – for example by providing new roads and transport.

48. Single tier and lower tier local authorities in England and Wales can charge and spend the levy. These charging authorities may spend receipts themselves, pass funds to other bodies, such as upper tier authorities, and fund infrastructure outside their area provided that the spending supports the development of their area, for example providing strategic transport infrastructure.
49. Earlier consultations on CIL have received responses from the two authorities, including concerns over the ability to raise charges and ensure revenue is transferred to the appropriate authority, in particular where that is the County Council. The proposals do not recognise the significant infrastructure demands upon upper-tier authorities in two-tier areas. This also impacts upon delivery across the Nottingham Core HMA, including strategic infrastructure.
50. The current consultation includes the Government's proposals to:
 - Implement neighbourhood funds
 - Allow receipts to be used to provide affordable housing
 - Require charging authorities to report more openly and regularly on receipts and expenditure to improve understanding of the contributions and how funds are used
 - Add new Development Orders to the list of developments that may be liable to a charge.
51. The Government proposes to use powers contained within the Localism Bill to provide a percentage of CIL to locally elected councils (Parish Councils), these will be known as 'Neighbourhood Funds'. In the absence of a parish council the charging authority i.e. City, District and Borough Councils, will have to engage with the local community on how to best spend the money. This implies that less CIL income will be used to provide strategic infrastructure for an area; it could be used to persuade local communities to accept new development or deliver locally identified benefits on an ad-hoc basis, rather than important strategic assets that require wider, shared commitment. Money will also be directed more towards administration.
52. The inclusion of development orders (Neighbourhood Development Orders and Community Right to Build Orders) in CIL provisions is to be welcomed, as it allows the levy to be charged on development that otherwise might not contribute to infrastructure while still having an impact upon it. Similarly more transparent reporting is welcomed.
53. The authorities will be making their own individual responses on the CIL consultation and a joint response is considered unnecessary. In Greater Nottingham, the City and District Councils are considering aligning the preparation of their CILs, to ensure a consistent and complimentary approach.

CONCLUSION

54. Of the above matters two, the Community Infrastructure Levy and the Neighbourhood Planning Regulations are consultations on draft proposals. The SEA on the revocation of the Regional plan is also being consulted upon with

comments to be considered by CLG. The two Authorities will be responding accordingly. The item on the Localism Act is for Members information only.

RECOMMENDATIONS

It is RECOMMENDED that Members of the Committee discuss and note the report.

Background Papers

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