

# PLANNING, REGENERATION AND DEVELOPMENT NETWORK UPDATE

October 2011

**It's been a very busy few months, with the Localism Bill rapidly making progress through Parliament, and the draft National Planning Policy Framework making the national headlines every day – you'd be forgiven for thinking that we'd only been dealing with this!**

**However, there have been numerous other issues in both planning and regeneration to be considered too – some new that have popped up, and some old favourites that continue to rumble on.**

**Here's the usual roundup, with links to the relevant documents and our responses where appropriate.**

## Planning

### The Localism Bill

The Localism Bill has finished its progress through the House of Lords and is expected to gain Royal Assent in November 2011. We have discussed the provisions with MPs and Lords all the way through the process, both in face-to-face meetings and through a multitude of briefing papers. We will, of course, produce a full briefing note once the Bill has gained Royal Assent, but for the moment, a quick summary of the areas that have changed the most can be found below.

#### Assets of community value

The Bill introduced provisions for communities to nominate assets in their area for possible inclusion on a list maintained by the local authority. If the owner of the land or building wishes to dispose of the asset, there will be a 'window of opportunity' during which community groups can prepare a bid. There is, however, no obligation for the owner to sell the asset to the community.

Following the consultation earlier in the year, the Government put forward their own amendments to the Bill to make it a more workable system (many of which were suggested in our response). The key changes are:

- that the current use of the land must further the social wellbeing or social interests of the local community, and that it must be realistic to think that this can continue;
- those able to register assets of community value will be limited to voluntary or community bodies with a local connection;
- exempt transfers will include:
  - transfers where the listed assets form part of a larger estate;
  - if the disposal is of an estate in land on which a business is carried on, and is a disposal of that business as a going concern.

The owner will be obliged to delay disposal of the land by six weeks, however if a community group prepares a bid during this time, then the disposal must be delayed by six months. Once this has passed, there is a post-disposal protection period of 18 months, in which if there were to be another disposal, there would be no need for such a moratorium period.

These are improvements on the initial proposals; however there are still some issues remaining. We are part of the CLG working group, and continue to be involved in its progress.

### **Neighbourhood planning**

The Localism Bill introduced provisions for neighbourhood planning. These would enable the creation of neighbourhood forums which, subject to authorisation by the local authority, could prepare a plan for their neighbourhood. Such plans would have to be in conformity with the local plan but, once adopted (which would involve a local referendum) would become the principal plan for the neighbourhood. As originally drafted, the Bill envisaged that all neighbourhoods were largely residential in character.

Working closely with Government and the British Chambers of Commerce, we helped to shape new provisions in the Bill that would allow greater business involvement in neighbourhood planning in all areas, but would give business a special role in neighbourhoods that were largely commercial in character. Amendments introduced to the Bill in the House of Commons allowed businesses to play a leading role in the setting up of neighbourhood forums and the development of neighbourhood plans. In designating a neighbourhood a local authority will have to decide whether it should be specifically designated as a 'business neighbourhood'.

The provisions will give business ratepayers a vote in the referendums that will be held to approve neighbourhood plans in business neighbourhoods. Within business neighbourhoods separate referendums will be held for residents and businesses. If both referendums approve the plan, it will be automatically adopted. If both oppose it, the plan would not be adopted. If there is a split vote, the local authority would seek to resolve differences.

A great deal of thought has been given to the involvement of landowners in this whole process. There is recognition on all sides of the importance of their role but it has not been possible to devise a workable formula to give landowners a vote. However:

- we understand that the Bill will contain provisions to allow others to be added to the business vote in the future and so further discussion can take place about this.
- the independent examiner will need to confirm the deliverability of the plan. If major landowners in an area were to be opposed to the plan, then it would clearly not be deliverable.
- regulations and guidance provide an opportunity to spell out the need to recognise the views of landowners.

Following our successes earlier in the year, we have continued to work with the BCC and CLG in the next steps. We have been having regular meetings with CLG and have held roundtables with practitioners, CLG and front runners to work out the best way to move forwards.

There are now over 100 neighbourhood [frontrunners](#), we're delighted to see that some are business led, and we've heard on the grape vine that there are others that are including businesses in their plans too. There is still another wave yet to be established, and should you want to [get more involved](#), the deadline is the 4 November 2011.

### **Neighbourhood planning consultation**

The consultation document on neighbourhood planning has finally been [published](#), and is accompanied by [easy introduction](#) to the steps of neighbourhood planning.

The consultation seeks views on the Government's proposed new regulations governing the process for establishing neighbourhood areas and forums, the requirements of Community Right to Build organisations, and the preparation of neighbourhood plans and neighbourhood development orders, and Community Right to Build Orders. It also considers whether the proposed approach to taking up the regulation making powers in the Localism Bill with regards to neighbourhood planning strikes the right balance between standardising the approach to neighbourhood planning across the country and providing for sufficient local flexibility to reflect local circumstances.

The consultation deadline is the 5<sup>th</sup> January 2012; we'll be putting together our ideas over the next few weeks.

### **Community Infrastructure Levy**

We've been in close contact with Greg Clark and civil servants voicing our concerns about the CIL proposals. Having discussed our concerns in relation to the fundamental principle of CIL being diluted through the opportunity for funds to be spent on non-infrastructure elements, the Minister and Officials came round to our way of thinking, and have moderated their views. A [CLG consultation](#) on CIL has been published, with responses due by the end of the year. We will, of course, be responding fully.

The Bill introduces provisions to allow ministers to lay regulations to place a duty on charging authorities (local authorities) to pass a 'meaningful proportion' of the funds raised to another person. This slice of the total levy will be passed to a local council (parish) or held by the local authority if there is no lower body for it to be passed to.

The consultation invites views on the 'meaningful proportion' as referred to in the draft NPPF has not been set out in legislation. It may even be left for each individual local authority to decide - it will, most probably, be 5 – 10%. Neighbourhoods will be allowed to spend this money on anything they please, as long as it is related to development.

The consultation also asks for views on providing Local Authorities with an option to use CIL to deliver affordable housing, and on the interplay between planning obligations and CIL in this area.

## The draft National Planning Policy Framework

It's been very hard to miss the wide ranging debate on the [draft National Planning Policy Framework](#) (NPPF). Although a very polarized discussion, we've tried to help clarify the elements of the NPPF that we feel have been misunderstood. We submitted written evidence to the Environmental Audit Committee and the CLG Select Committee, and have given oral evidence to both. We also submitted a [full response](#) to the consultation on the draft NPPF.

Our response sets out clearly the areas that we feel the draft NPPF doesn't get quite right: heritage; neighbourhood plans; brownfield use and the much discussed presumption in favour of sustainable development.

## Town and village greens

At the beginning of the summer, Defra published a [consultation](#) on streamlining village green application requirements. We [responded](#) very positively and have consistently called for a more streamlined and effective planning system. The consultation aims to strike a better balance between protecting high quality green space and enabling legitimate development, whilst ensuring a more effective, clearer and less time consuming registration system.

Both the draft NPPF and Defra's [Natural Environment white paper](#) trail the introduction of a local green space designation. It is unclear what this will be in its final iteration, but we are continuing our discussions with both Defra and CLG to ensure that it is both workable, and protects valuable green space, without enabling vexatious applications.

## Local planning regulations

To keep us on our toes, a [consultation](#) on local planning regulations was also published over the summer. This small but wily document revises the regulations which govern the process by which local authorities prepare their development plans. We [responded](#) positively, and asked for a few inconsistencies to be ironed out.

## Outstanding issues: Planning fees

We're still waiting for any news following the planning fees [consultation](#) earlier in the year. We're working with the Planning Advisory Service and CLG to work through the best way to implement the changes, but the statutory instrument itself has got stuck in its rounds of Government departments.

If you have any comments, observations or suggestions for future updates, please contact Ghislaine Trehearne on [gtrehearne@bpf.org.uk](mailto:gtrehearne@bpf.org.uk) or on 020 7802 0124.

## Regeneration and development

### Local Government Resource Review

The [Local Government Resource Review](#) (LGRR) was published in the summer with eight accompanying technical papers in order to ensure that we all had a suitably busy August and September. We read them, digested them, and have [responded](#) in particular detail on the Tax Increment Financing (TIF) proposals.

In brief, we strongly support the principle of allowing local authorities to retain a proportion of the additional rate income generated in their area, particularly that arising from new development. We believe that this would encourage more local authorities to take a more pro-active approach to promoting development and generating economic growth. It could also provide the additional funding needed to enable some projects to proceed (such as town centre improvement schemes) which are currently unviable, often because of the upfront costs of funding the infrastructure improvements and land remediation that may be necessary.

In our view, if business rate retention is to have a real impact local authorities must:

- be able to retain a substantial amount of the rate revenue arising from new development;
- enjoy the benefit of the additional revenue over a sufficient length of time as to give them the confidence and certainty to reinvest the additional revenue in other projects (and hence create a virtuous circle); and
- find the system relatively simple to understand and operate.

We are, however, aware of increasing fears that the system which emerges will

- be overly complex and cumbersome; and
- be so concerned with retaining overall central government control that the advantage gained by those authorities who facilitate growth will be too small and too uncertain to have the catalytic effect intended.

Our clear message, therefore, is that if the Government wants local rate retention to succeed, it has got to avoid the complexity that bedevilled and ultimately undermined schemes like the Local Authority Business Growth Incentive. Whatever the rhetoric, Governments usually end up trying to control every facet of such schemes with over elaborate rules. Local rate retention will show whether this Government has learnt the lessons of previous schemes and so can avoid the same traps.

### TIF

We're disappointed that provisions for TIF haven't been moving faster, and that it won't be in place until at least 2013. We sent an [open letter](#) with London First, the BCC and the BCSC to the Business Secretary, Chancellor of the Exchequer, Deputy Prime Minister, and the Secretary of State Communities and Local Government earlier in the year, encouraging TIF to be brought forward more quickly.

The LGRR describes two approaches to TIF – each of which presents real problems, discussed in our response.

## Enterprise Zones

We've been working with both CLG and the Treasury on the proposals for Enterprise Zones over the last few months. We're not sure that in their current state, they are appealing enough to the development industry to stimulate the sort of speculative development that will be required if EZs are to succeed in attracting SME businesses as the Government hopes.

A further 11 EZs have been announced, bringing the grand total up to 22. This was accompanied by an announcement that enhanced capital allowances will be available for plant and machinery investment to a limited number of Enterprise Zones in Assisted Areas, including the Tees Valley and North East. With effect from 2012, companies setting up in these areas will be eligible to claim enhanced first year allowances for plant and machinery, giving them an upfront cash flow benefit.

We have held both small working groups and larger seminars on EZs to try and tap into our members' many ideas and vast amount of knowledge, and to see whether there are further lessons to be learnt from the EZs of the 1980s.

## All Party Urban Development Group

The eighth All Party Urban Development Group (APUDG) inquiry is well on its way. The inquiry wishes to address how local authorities can use public sector assets more effectively to help promote development and regeneration projects. The key output will be a set of policy recommendations intended to optimise the way in which the public sector uses its assets to drive economic growth.

Some of the suggestions expected to feature in the report are:

- Putting public sector assets into asset backed vehicles (joint ventures with the private sector such as LABVs and Local Incentive Backed Vehicles) to promote the rationalisation of operational portfolios and regeneration opportunities.
- Ensuring that asset disposals have the generation of economic growth as their primary purpose.
- Reinvesting funds from asset disposals in growth generating initiatives.
- Maximising the effective use of assets in designated areas such as enterprise zones.
- Using public assets as a regeneration hub through e.g. co-location of services.
- Pooling local authority and other public sector assets to create 'Total Capital' that can then maximise portfolio rationalisation and regeneration opportunities.

The report will examine how far these approaches are being used at present, how effective they have proven, what the barriers are to their wider use, and how these barriers can be overcome. Watch this space for the final report!

If you have any comments, observations or suggestions for future updates, please contact Ghislaine Trehearne on [gtrehearne@bpf.org.uk](mailto:gtrehearne@bpf.org.uk) or on 020 7802 0124.