

## **NALC Parliamentary Briefing**

### **Neighbourhood Planning Bill**

#### **House of Lords Second Reading, 17 January 2017**

##### **Summary**

- The National Association of Local Councils (NALC) represents the 10,000 local parish and town councils in England and their 80,000 councillors.
- Neighbourhood planning is being used by local councils not only to shape and influence development in their area but also to increase housing and affordable housing, help communities become more resilient and support economic development, as well as strengthening local democracy as the process is leading to more people standing for election to their local council.
- NALC broadly welcomes the Neighbourhood Planning Bill, which will build on measures in the Housing and Planning Act 2016 to give more weight to plans earlier in the process, make it easier to modify plans and neighbourhood areas and require planning authorities to publish the support they will provide.
- However during the passage of the Housing and Planning Act 2016 and the Commons stages of the Neighbourhood Planning Bill, the Government committed to doing more to ensure neighbourhood plans have more weight in the planning system and to protect communities from speculative development, however we remain deeply concerned the Bill still does not adequately address this issue.
- The Bill should be amended to give made and emerging neighbourhood plans more weight in the planning system, incentivise neighbourhood planning and improve the financial benefits from development, further strengthen local democracy and neighbourhood planning in unparished areas through the creation of local councils, and give communities more rights within the planning process.

##### **Local councils driving neighbourhood planning**

- The National Association of Local Councils (NALC) represents the 10,000 local parish and town councils in England and their 80,000 councillors. Our vision is to improve the quality of life for local communities through having vibrant, dynamic and effective local councils.
- Local councils are the cornerstone of local democracy and community governance, contributing in excess of £2 billion of community investment to supporting and improving local communities and delivering neighbourhood level services.
- Local councils are the backbone of our democracy and closest to local people, providing our neighbourhoods, villages, towns and small cities with a democratic voice and structure for taking action. Our 80,000 councillors invest around eight million

volunteer hours a year in our communities, working hard to improve quality of life for local people.

- Over 250 new local councils have been established over the last decade through a bottom-up and resident-led process putting communities more in control of their area such as local services and facilities, and better able to influence other public services and spending in their area. Last year 6 new local councils were established in urban areas such as Ashford and Kidderminster, including England's largest local council in Sutton Coldfield in Birmingham.
- Local councils play an increasingly important role in communities especially in neighbourhood planning as it local councils that are at the heart of and driving forward the neighbourhood planning revolution and making it such a success story, with around 90% of the 2000 communities developing a neighbourhood plan being led by England's most local level of democracy.
- Significantly local councils are helping communities to shake off their NIMBY critics by increasingly supporting housing development and growth, with the government's own evidence showing they are increasing housing numbers by around 10%.
- Neighbourhood planning is being used by local councils not only to shape and influence development in their area but also to increase housing and affordable housing, help communities become more resilient and support economic development, in addition to strengthening local democracy as the process is leading to more people standing for election to their local council.
- The process is also exciting local people and generating a huge community interest, encouraging citizens to engage with often difficult local issues and often becoming more involved in the community including the work of local councils. Thousands of volunteers across the country are being mobilised by local councils to develop neighbourhood plans, with around 400,000 electors engaged in the process and casting their vote through local referendums to date.

### **Giving neighbourhood plans more weight**

- Given this level of engagement it is therefore vital that neighbourhood plans are effective, respected, influential and given significant weight in the planning system and protect communities from speculative development. If they do not then people and communities will feel let down, their efforts, contributions and votes ignored and they will be less likely to participate in the future.
- However there is an alarmingly growing number of examples from around the country where neighbourhood plans are being disregarded and undermined which is fundamentally damaging to neighbourhood planning and localism.
- For example Haddenham Parish Council in Buckinghamshire went from having their plan 'made' to six months later having the housing chapter quashed in the courts following action by a hostile developer. In Sussex the Storrington & Sullington and

Washington Parish Council's neighbourhood plan failed examination in January 2016 as the Examiner had concerns about the site assessment process and the sites that had been taken forward for development in the plan; the district council has now decided it will be re-assessing all of the sites put forward under what appears to be a very strict sustainability led set of criteria rather than taking into account the views of the local community. The secretary of state has approved a 63 house development contrary to the neighbourhood plan in Newick, Sussex. The neighbourhood plan in Henfield, again in Sussex, was quashed in the High Court following an objection by a developer. Brereton in Cheshire comprises 470 houses and its neighbourhood plan provided for development in small groups of one or two properties built over time, however several planning applications contradictory to intentions of local residents have been approved by the inspectorate, including one development of no fewer than 190 houses approved on appeal. Plans for 8 houses on an area of wetland in Lenham, Kent were approved by the district council despite the neighbourhood plan explicitly not wanting to develop land at the source of the Upper Stour.

- During the passage of the Housing and Planning Act 2016 the Government committed to doing more to ensure neighbourhood plans have greater weight in the planning system, nevertheless we remain concerned the Bill still does not sufficiently take this forward. Similarly during the Commons stages of the Neighbourhood Planning Bill the Government agreed to take further steps in this regard and while we welcome the written ministerial statement by the housing and planning minister and accompanying guidance to planning authorities and the Planning Inspectorate, further action is still needed, including on measures regarding notifying and engaging local councils over planning applications in their area.
- We are keen for the Government to consider how this might be achieved through a new 'neighbourhood right to be heard' which would ensure decisions by local planning authorities take full account of neighbourhood plans, also providing the opportunity for planning applications to be 'called in' where a local planning authority is minded to grant permission contrary to a made or advanced neighbourhood plan.
- This new approach is intended to reassure communities that the neighbourhood plans they devote their time and resources towards preparing are given due weight in the consideration of planning applications by: placing a duty on local planning authorities to explicitly pay attention to the policies of neighbourhood plans when considering speculative planning applications; empowering neighbourhood planning bodies to influence the attention paid by local planning authorities to neighbourhood plans in a meaningful way; and providing the opportunity, through a call-in direction or similar, for independent evaluation of the merits of a proposal that the local planning authority is minded to approve, limited to certain circumstances, such as the extent to which the neighbourhood plan is positive towards housing development.
- That local councils are not statutory consultees on planning and licensing applications in their areas is now an anachronism which needs addressing. Therefore the Neighbourhood Planning Bill should also include measures to strengthen the role of local councils in the planning and licensing system through

the introduction of a statutory 'right to be consulted', putting communities on an equal footing with developers.

### **Improving financial benefit and removing barriers**

- It is also crucial communities that are pro-growth and development benefit financially from policy measures such as the Community Infrastructure Levy (CiL) and New Homes Bonus (NHB) and have the necessary powers to invest in locally identified infrastructure needs and other priorities.
- For example the Newport Pagnell neighbourhood Plan allocated three times the number of new homes required by the Core Strategy, but the Town Council is facing resistance from developers about the tensions that exist in law between a principal council being obligated to consider the impact of neighbourhood plans when determining planning applications and the constraints and legal tests around CiL. Developers appear to be interpreting these legal tests as meaning that every S106 or CiL contribution must have a directly attributable impact deriving from the development. In contrast, neighbourhood plans tend, by their very nature, to address issues of importance to community as a whole, rather than those issues created by a specific development. Contributions are therefore determined in neighbourhood plans by the broader nature of impact on the community, rather than by the specific development itself, notwithstanding the implications of pooling of S106. This is particularly the case where there are multiple sites for development in an area. Developers are also demanding specific costed projects as forerunners to S106 and/or CiL agreements being signed, where such projects may only get off the ground at a time when more development has taken place.
- The neighbourhood plan itself must go through stringent examination to ensure it meets existing planning legislation, hence no further burden should be placed on local councils to ensure they can 'prove' the requirements for infrastructure in terms of the impact a specific small development may bring, when this is part of a much larger picture of infrastructure requirements. Pooling constraints are not the issue, rather it is the need to prove the specific impact that a small scale development will have, for example in relation to the need for more town centre parking. The current legislation should mean that developers need to 'prove' that their development does not have impact on broader projects, rather than the other way around, but some developers do not see it this way, therefore the Government should therefore consider this issue and either deal with this in the Bill or publish further guidance.
- We are also concerned about the advice some planning authorities are giving to local councils about their powers to spend CiL funding, stating that unless a local council has a General Power of Competence (GPC) as outlined in the Localism Act (ss1 – 8), then they will not have the statutory powers or duties to spend CiL funding beyond their existing remit. Such a limitation goes against the intention of the CiL regime and indeed the Housing and Planning Act 2016 and localism more generally. The government should use the Bill to clarify this matter to ensure local councils are able to spend CiL funding to support local infrastructure and other projects.

- In order to further accelerate the take-up of neighbourhood planning by communities, the Government should bring forward a further package of measures to improve existing efforts to ensure communities benefit financially from development; this which would also have the added benefit of relieving some of the pressure on the parish precept as the principal means of local councils investing in local projects, assets and infrastructure.
- To take this forward the Bill should be strengthened to: require all planning authorities to have CiL regimes in place by end of 2017; increase the share of CiL for local councils with an adopted neighbourhood plan from 25% to 35%; provide a share of New Homes Bonus funding for local councils with an adopted neighbourhood plan; a continuation of funding and support for neighbourhood planning for the life of the Parliament including a commitment to provide funding for every local council wanting to develop a neighbourhood plan; for the Government to work with NALC and county associations to organise local mobilisation events to promote and support neighbourhood planning as well as developing new resources and guidance tailored to the needs of local councils.
- Measures to accelerate the creation of local councils in unparished areas to help get more plans in place including the introduction of a community 'right of appeal' within the community governance review process.
- An enhancement of financial support for neighbourhood planning for the life of the Parliament, in particular to ensure all communities particularly in deprived areas are encouraged and supported to develop plans, alongside a commitment to provide funding and support for every local council wanting to develop a neighbourhood plan;
- Financial support should be made available for communities to help them set up a local council to provide them with a democratic structure and sustainable resource to ensure the neighbourhood plan is implemented as well as drawn up.
- Improving the Section 106 Agreements process to improve consultation and enforcement by providing local councils with a statutory tight to be consulted on provisions (new or renegotiated) of Section 106 Agreements prior to their being agree, and for local councils to be able hold local planning authorities to account to ensure there is effective local enforcement around developers being held to account in adhering to Section 106 Agreements and planning conditions.
- NALC wants to see the Bill amended to provide:
  - a share of New Homes Bonus for local councils with an adopted neighbourhood plan to ensure the community benefits financially from housing growth to invest in locally determined priorities and alleviate pressure on the parish precept;
  - emerging plans with proper weight in the planning system;
  - a continuation of support for neighbourhood planning for the life of the Parliament, including a commitment to provide funding and support for every local council wanting to develop a neighbourhood plan;

- a requirement for all planning authorities to have Community Infrastructure Levy (CiL) regimes in place by end of 2017;
- the share of CiL for local councils with an adopted neighbourhood plan to increase from 25% to 35% to provide an additional incentive for communities and increase the number of plans in place and allow local councils to invest in local infrastructure and services;
- new powers for local councils and communities in the planning system including the introduction of a statutory 'right to be consulted' and 'right to be heard';
- measures to accelerate the creation of local councils in unparished areas to help get more plans in place including the introduction of a community 'right of appeal' within the community governance review process.

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