



## Planning Committee

9<sup>th</sup> March 2011

### Report from the Director of Regeneration & Major Projects

For Information

Wards affected:

All

## Proposed changes to legislation and planning policy

### 1.0 Summary

- 1.1 This report summarises key proposed legislative and planning policy changes including the Localism Bill, Parking Standards policy changes, social housing reform and the New Homes Bonus. This report is for information purposes only.

### 2.0 Recommendations

- 2.1 That the Planning Committee notes the key legislative and planning policy changes as set out in this report.

### 3.0 Detail

#### Localism Bill and Neighbourhood Plans

- 3.1 The Localism Bill was introduced to Parliament in December 2010. The Bill proposes wide ranging changes to the powers and responsibilities of local government in a push to decentralise power from central government. This report focuses on the key changes that directly affect planning and in particular the proposals for Neighbourhood Plans. It is anticipated that the bill will be enacted in spring 2012. The major planning provisions are likely to remain as set out in the Bill but inevitably there will be changes to the detailed contents as it passes through parliament.
- 3.2 The Bill introduces the following key changes to the planning system:
- Abolition of regional strategies – the London Plan is the Spatial Development Strategy for London and as such is unaffected by the removal of regional strategies;
  - New National Planning Framework – consolidate and streamline existing national planning policy;

- Neighbourhood planning – the bill introduces a new right for local communities to draw up a “neighbourhood development plan”, further details below;
- Compulsory pre-application consultation on very large applications;
- Strengthen enforcement rules – retrospective planning applications where enforcement action is being taken will not be determined;
- Changes to the Community Infrastructure Levy – including limitations to the binding nature of Planning Inspector’s recommendations and requirement to pass a proportion of collected CIL funds onto local communities.

3.3 The Localism Bill introduces a new tier of planning policy document - Neighbourhood Development Plans (NDP). These will form part of the development plan i.e. they will have equal status as other development plan documents such as the Core Strategy. The local planning authority has a duty to respond to proposals for a NDP. Proposals for a NDP must come from an organisation or body which has first been designated as a Neighbourhood Forum. There are a number of criteria in forming a neighbourhood forum:

- membership must be open to individuals living, or wanting to live, in the neighbourhood area;
- at least three members must live in the neighbourhood area;
- it must have a written constitution;
- there can only be one neighbourhood forum for any neighbourhood area.

3.4 The NDP will be prepared with the assistance of Local Authority and consist of drawing up plans for development, improvements, retention of facilities and land uses etc. They could also propose development that should receive deemed consent through a Neighborhood Development Order. A NDP must conform to the strategic elements of the Local Plan, so importantly it cannot propose less development than allocated by the Local Planning Authority.

3.5 There will be an independent examination to check the proposed NDP conforms to strategic elements of the Local Plan (DPDs) and national policies. Once a NDP has been examined there will be a local referendum in the neighbourhood area. A majority of those voting is required to demonstrate support for NDP which can then be adopted as part of the statutory development plan.

3.6 There is much yet to be confirmed and understood in terms of the full implications of the proposed Neighbourhood Development Plans. For example, it is not clear whether the criteria for forming neighbourhood forums also allow for a collection of local businesses to propose a NDP. Whilst the proposals to give greater power to local communities to shape and determine their local area is welcome, substantial support, assistance and skills will be required to help local communities in achieving this objective. This requires resources which many of the borough’s residents will not have access to. It is possible that potential developers will step in to back the creation of NDPs in partnership with a number of local residents.

## **Changes to Parking Standards and Charges**

- 3.7 In order to better support Localism, the Government has decided that it is down to individual local authorities to determine the appropriate level of parking provision for their area. Consequently, the Secretary of State for Communities and Local Government has removed the requirement for local authorities to set maximum parking limits for residential development and, instead, has allowed them to decide what level of parking is right based on the needs of their local community. In addition, he is also amending planning policy to allow local authorities to set parking charges that reflect local needs rather than higher charges intended to encourage walking, cycling and the use of public transport.
- 3.8 Although the proposed change to parking standards signals a major shift in Government approach to car restraint by allowing authorities to revert to minimum standards for residential development, as maximum standards continue to apply for all other uses there are unlikely to be significant immediate effects locally. In addition, London Boroughs will continue to be required to set maximum standards for residential development by the London Plan, although the Mayor could review this policy at any time if he so wished. One implication may be that significantly increased standards outside London may encourage developers to look beyond London for residential development opportunities where higher levels of parking can be achieved. The removal of the requirement to use parking charges to encourage alternatives to the car may lead to a reduced level of charges generally as town centres compete to attract custom. This would have implications for local authority income derived from parking charges.

## **Social Housing Reform**

- 3.9 The government propose a radical shake up in the procurement and funding of social housing -probably the most significant change than any in the last 20-30 years. 'Local Decisions: a Fairer Future for Social Housing' was issued for consultation by CLG in November 2010, the consultation closing in January 2011. The proposals are indeed radical:
- Affordable Rented Housing will be redefined as Rents up to 80% of Open Market Value-typically council and housing association rents are 30-50% of private sector rents.
  - In Brent this would require rents to rise by an average of 80% but in high rent areas affordable rents could double.
  - Housing Associations will no longer get significant capital grant to fund affordable housing (typically £100,000-£140,000 per property) but will be expected to fund affordable development through financing associated with higher rents (Grant rates for affordable housing are likely to be no more than £20-£30k a property at best).
  - There will however be Housing Benefit Caps on rents and they will be pegged to a local average
  - Existing tenants will keep their rights intact: all others should expect increases in rents and less security of tenure
  - homeless families mostly are housed within the social rented stock-councils under the proposals will discharge their homeless obligations by offering a private rented let-this does not need to be vetted by the tenant-tenants will have no choice but to take it or come off the list
  - councils will have greater flexibility over who gets priority on waiting lists-this could be existing tenants and not homeless families for example

- Councils and housing associations will no longer be obliged to offer a tenancy for life-the likely to be minimum will be two years-succession to spouses/children can be limited by local authorities
- Tenancies can be ended where need has changed/economic circumstances of tenant has improved over time

- 3.10 The potential effects of these enormous changes will be significant and will be felt in planning applications coming forward in the next months. The new system is completely untried and it is not clear whether housing associations and councils will be able to operate new build under the restrictions on grant and caps on rent.
- 3.11 What is very likely from the proposed changes is that they will significantly reduce the proportion of affordable housing in most development. This will involve much lower proportions of affordable housing as the lack of grant will force housing associations to produce more market housing to cross-subsidise any affordable housing. Some of that 'affordable' housing will be only 20% cheaper than the market rents of the local area and this is likely to affect the type of tenants that may occupy this element.
- 3.12 The proposals are likely to have other repercussions; it may force tenants out of high rent areas where rents over benefit caps (e.g. south of borough, Westminster ). The lack of grant will certainly slow down the development of affordable housing. Some associations may stop developing because developing will be more risky as relies on revenue (rents) rather than grant. The proposals will make delivery of regeneration schemes more difficult-existing tenants may retain existing tenancy terms but are likely to face higher rents as they move to pay for regeneration process. It is not clear whether the private rented sector will readily house homeless families that council may want to use, nor whether council's consider that such re-housing is an acceptable practice.

### **Change in Definition of Affordable Housing in PPS3**

- 3.13 Communities and Local Government (CLG) are also consulting on changes to the Planning Policy Statement on Housing (PPS3). They wish to introduce a new definition of affordable housing which includes an extra category of affordable housing, known as Affordable Rented Housing. The new proposed definition in PPS3 is set out below.
- Affordable rented housing is:***  
*Rented housing provided by registered providers of social housing, that has the same characteristics as social rented housing except that it is outside the national rent regime<sup>3</sup>, but is subject to other rent controls that require it to be offered to eligible households at a rent of up to 80 per cent of local market rent*
- 3.14 This allows Housing Associations to charge rents up to 80% of Open Market Value and for them still to be classed as affordable. Currently affordable rents are between 30-50% of Open Market Rents. The consultation finishes in April 2011. Since the Homes and Community Agency (HCA) have issued guidance in February of this year that any financial support from them will only be on the basis of the new affordable housing definition, there appears little to be gained by responding to CLG.
- 3.15 The implications of this change for planning will be felt in two ways:
1. On existing built developments with housing secured through a S106, the definition is based on the old rent basis and housing associations will seek to have the S106 varied so that re-letting of affordable units could be on the new 'affordable rented' definition.
  2. Housing Associations and developers will expect all new consents to be on the basis of the new definition of affordable. Most developers and housing associations will seek to

change existing unimplemented consents so that they are on the basis of the new definition. If they are not then the viability of any development will be such that much less affordable housing overall will be possible.

## **New Homes Bonus**

- 3.16 The council responded to a consultation paper from the government's Communities and Local Government (CLG) department that closed in December 2010 on the proposed New Homes Bonus (NHB). The NHB is intended to encourage a fiscal incentive to local authorities to produce new homes. The 480 respondents to the consultation largely supported a NHB. The Department for Communities and Local Government has now (February 2011) produced the final scheme design. The scheme will pay a bonus equivalent to the national average council tax band for at least six years. So for every new home built the council will receive around £1200 -£1400, with an additional £350 for every year for 6 years for an affordable home (following the new governments definition of affordable homes) and a bonus for bringing vacant homes back into use. The first payment will be for the 2011/12 financial year based on the Council Tax returns for the previous year. Payments will be made on the net new homes added to the Council Tax register in the preceding financial year. The CLG website calculates the payment to Brent to be £1.06m in the first year of the scheme.
- 3.17 If the council continued to build and complete 718 units a year and bring back into use 138 vacant homes (the 09/10 figure) over the following six years the NHB would run at £6.39m a year. It is proposed to use the monies to fund the council's regeneration programme and hence bring forward more homes to enhance the NHB in future years. This money is not ring fenced and be spent by the council at its discretion. The government considers that this will be a powerful incentive to encourage communities and indeed councils to see new housing development as a benefit rather than a drain.
- 3.18 CLG however is being less than generous with public funding. The total fund for the NHB nationally in year 6 could exceed £1bn. Only £250m of this is allocated funding. The remainder will be top sliced from Formula Grant to local authorities in its annual settlement. So put another way, those local authorities with healthy housing growth are likely overall to receive an overall increase in government funding. Those with little or no new net housing growth will receive an overall cut in resources.

## **4.0 Financial Implications**

### **4.1 Neighbourhood Plans**

The Localism Bill does not detail how the costs of producing Neighbourhood Development Plans will be met. Further regulations will set this out. However, it is anticipated that neighbourhood forums will be responsible for the production of the document itself and local authorities will need to meet the costs of holding an examination and referendum. CLG have estimated that the cost of producing each neighbourhood plan could be between £17,000 and £63,000 with the cost of a referendum in addition to this.

### **4.2 Parking Charges**

The removal of the requirement to use parking charges to encourage alternatives to the car may result in a reduction in income to the Council if there is a general trend towards the reduction of charges elsewhere in the local area.

### 4.3 Social Housing Reform

Reductions in Grant to Housing Associations will reduce the amount of affordable housing and bring further pressure on the council's housing costs, such as for homeless families. It remains to be seen whether any of these costs can be offset by the council receiving higher rents on re-let council homes and in any ability to discharge homelessness duties into the private sector.

### 4.4 New Homes Bonus

The New Homes Bonus will provide substantial potential income for the council, predicted to rise to over £6m a year in year six of the scheme. The cost to the exchequer will be over £1bn and the scheme will be funded by top slicing Formula Grant. This authority, if it maintains recent levels of housing growth is likely to be a net beneficiary.

## 5.0 **Legal Implications**

5.1 The Localism Bill is currently being progressed through Parliament and there will inevitably be changes to the detail before it is enacted. As it stands it will place a duty on local planning authorities to support the preparation of Neighbourhood Plans

## 6.0 **Diversity Implications**

6.1 It is anticipated that Neighbourhood Plans, as is the case with Development Plan Documents, will be subject to full consultation with the opportunity for all to express their views and for objectors to have their concerns considered at an examination. All residents within a neighbourhood forum area will be able to vote in a referendum on the Plan.

## 7.0 **Staffing/Accommodation Implications**

### 7.1 Neighbourhood Plans

Staffing resources to assist in the creation of NDP may include providing background information/maps/data etc, running engagement/plan making workshops, advising on existing relevant policies that should be taken into account and turning community ideas into plan text, maps and diagrams. It is difficult to anticipate how many proposals for neighbourhood plans may come forward.

## 8.0 **Environmental Implications**

8.1 As Neighbourhood Development Plans have statutory development plan status they will require Sustainability Appraisal/Strategic Environmental Assessment (SA/SEA).

## 9.0 **Background Papers**

A plain English guide to the Localism Bill, CLG January 2011  
Consultation Paper on New Homes Bonus, CLG November 2010  
New Homes Bonus: Final design Scheme, CLG February 2011  
Planning Policy Guidance 13: Transport, January 2011  
Planning Policy Statement 3: Planning for Housing - Technical change to Annex B,  
Affordable Housing definition: Consultation, February 2011

**Contact Officers**

Any person wishing to inspect the above papers should contact Dave Carroll, Planning Service 020 8937 5202

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