

CPRE South East eBulletin: 14 December 2010

The Localism Bill

Welcome to this special edition of the CPRE South East eBulletin. Our audience is CPRE and its friends. Please feel free to circulate it. If you are not on our circulation list and want to receive the eBulletin regularly, just let me know at cprenews@gmail.com.

The Localism Bill was published yesterday evening. For those that have followed the day by day exposition of the Bill's contents by ministers in recent months, there are no surprise announcements. "It's the end of the era of big government: laying the foundations for the Big Society", Communities Secretary Eric Pickles expounded in yesterday's Telegraph. That's a big claim for a big Bill. The efficiency of the Localism Bill will depend on a number of critical details which will be set out in secondary legislation. Its effectiveness will depend on whether planning authorities can work out how to mesh more than 10,000 neighbourhood plans with more than 300 local development frameworks. But above all the success of the Localism Bill will depend on central and local government ceding actual power and responsibility to local communities. That will be "the end of the era of big government!".

Andy Boddington, Editor

1. The New Planning Regime in 13 Steps

The 184 page Bill (with 247 pages of schedules), like so many, has core functions and a rag tail of matters included because they need to be cleaned up in the first suitable legislation. The five main functions of the Bill are to reform planning; create community rights; provide incentives for development; reform social housing; and strengthen aspects of local democracy.

In **planning** neighbourhoods are in and regions are out:

1. **Regional Spatial Strategies** will be abolished, along with their housing targets.
2. **The Infrastructure Planning Commission** will be abolished and its work conducted by the Planning Inspectorate with decisions made by ministers.
3. **Neighbourhood Plans**. Parish councils and neighbourhood forums will develop neighbourhood plans, which, if approved in local referendums, must be adopted by councils.

Three new **community rights** are created:

4. **Community Right to Buy**. Communities will have a right (the government really means "opportunity") to buy local buildings if the council decides to sell and they are on a community asset list vetted by the council.
5. **Community Right to Challenge**. Communities will have the right (the government really means "opportunity") to challenge and take over a service a council runs, but they may have to compete in a competitive tender to do so.
6. A **Community Right to Build**. Community-led developments will no longer need planning permission if they can gain the support of more than half of voters in a local referendum.

Incentives are provided to encourage councils and communities to allow development:

7. The **New Homes Bonus** will reward councils for getting housing developments built.
8. A reformed **Community Infrastructure Levy** will require local authorities to allocate a proportion of revenues back to the neighbourhood from which the levy was raised.

Social housing will be subject to a complex series of reforms including:

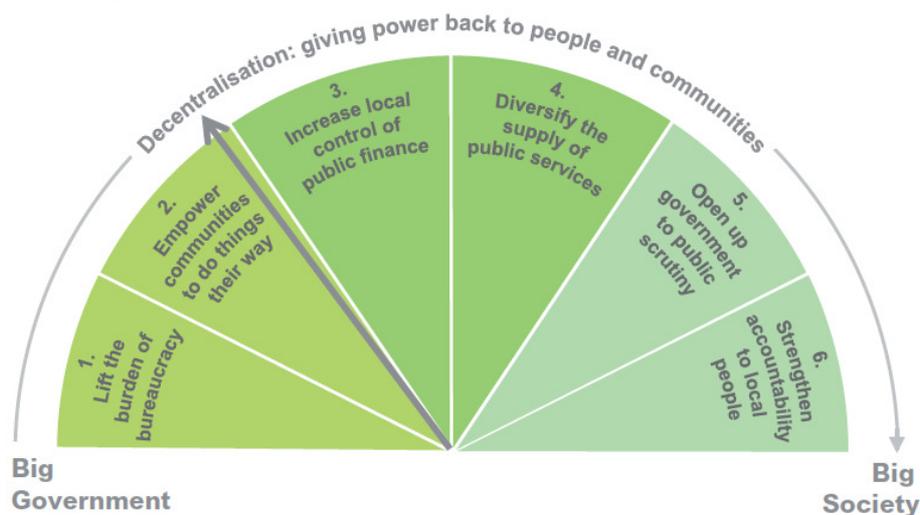
9. **New tenants** will pay up to 80% of market rate and could have tenancies limited to 2 years.
10. **Financing** for social housing will be reformed.

The **democratic measures** include:

11. **Local Referendums**. Residents will be able to instigate local referendums on any local issue and public authorities will be required to take the outcomes into account.
12. **Predetermination rules** will be abolished, along with the Standards Board.
13. **Mayors** will be elected for 12 cities if residents support the idea.

2. The Big Society Explained

Deputy Prime Minister Nick Clegg and Minister for Decentralisation Greg Clark yesterday published *Decentralisation and the Localism Bill: an essential guide* (<http://is.gd/iF5Dx>). It sets out six steps to the Big Society:



1. **Lift the burden of bureaucracy:** by removing the cost and control of unnecessary red tape and regulation, whose effect is to restrict local action.
2. **Empower communities to do things their way:** by creating rights for people to get involved with, and direct the development of, their communities.
3. **Increase local control of public finance:** so that more of the decisions over how public money is spent and raised can be taken within communities.
4. **Diversify the supply of public services:** by ending public sector monopolies, ensuring a level-playing field for all suppliers, giving people more choice and a better standard of service.
5. **Open up government to public scrutiny:** by releasing government information into the public domain, so that people can know how their money is spent and to what effect.
6. **Strengthen accountability to local people:** by giving every citizen the power to change the services provided to them through participation, choice or the ballot box.

The government promises a progress report by summer 2011, setting out what each Whitehall department has done to implement each of the above “six essential actions”.

3. General Powers

Competence. The Bill will give local authorities and “certain parish councils” a General Power of Competence, allowing them to do anything which is not specifically prohibited by law. They will be able to set up banks, develop property, run new services and own assets, though Eric Pickles said: “councils won’t be able to saddle up and invade each other or impose taxes like modern-day sheriffs of Nottingham.”

4. Regional and National Planning

Regional Spatial Strategies will be abolished (though court action continues on what happens until the Bill is signed into law).

The Infrastructure Planning Commission will be abolished and its work will be conducted by the Planning Inspectorate and decisions made by ministers.

National Policy Statements will now be considered by parliament. They will come into force 21 sitting days after being laid before the House of Commons, unless the house specifically approves or rejects the NPS, or the Secretary of State extends the period.

5. Neighbourhood Planning

Neighbourhood plans. Parish councils and new neighbourhood forums of local people—rather than town hall officials—will lead the way in shaping their community. Plans will be taken forward by parishes or neighbourhood forums in places without parishes. If local people vote in favour of the plans in local referendums, planning authorities will have to adopt them. There will be a “light touch examination” of the plan by an independent assessor to ensure that it complies with both legal requirements and national policy. The plan will also have to be aligned with neighbouring plans and any strategic elements in the council’s plan. Local communities will be empowered to approve schemes that comply with neighbourhood plans without formal planning applications.

Neighbourhood boundaries. “Communities will be able to propose the boundaries of their neighbourhood [which] will generally be based on existing parishes and towns but the local council will have a role in mediating and consulting where there are conflicts or no established boundaries.” Local authorities will approve the boundaries.

Neighbourhood funding. There are 10,658 wards and parishes in England. The 326 planning authorities will need to take account of an average 33 neighbourhood plans and some large unitary authorities facing adoption of up to 200 plans. The Secretary of State will have powers to fund the “publicising or promoting the making of neighbourhood development orders or neighbourhood development plans and the benefits expected to arise from their making.” If they get as much as £20,000 each (see vanguards), then £200 million will be needed.

Neighbourhood Development Order. Central to the new regime will be a Neighbourhood Development Order. This will define specific developments or types of development which will have automatic planning permission without the need for application to the local authority. For more complex proposals the neighbourhood will be able to grant outline permission: the right to develop would be established and only the details would need to be approved. Neighbourhoods would also be allowed to establish general policies to steer decisions on traditional planning applications.

Neighbourhood vanguards. The government is seeking about a dozen local areas to act as vanguards—“rural and urban, prosperous and in need of regeneration”—to trial neighbourhood plans in their area. Areas will receive up to £20,000 to fund the development of the plan. It intends the experience of the vanguards to be taken into account before the legislation comes into force (Closing date for applications 14 February: <http://is.gd/ilsQ5>).

6. Local Planning

Local plans under the local development framework will be more strongly controlled by local councils. Planning inspectors will continue to assess local plans at a public examination, and planning authorities will only be able to adopt plans judged ‘sound’ by the inspector. However, inspectors will only be able to suggest changes at the request of the local authority, which will now be able to make changes during the public examination. The planning authority will no longer have to make annual progress reports on their local plans.

Cooperation. The Bill imposes a “duty to co-operate in relation to planning of sustainable development” on planning authorities. The Duty to Cooperate aims to ensure that local authorities and public bodies cooperate with each other on planning and local matters.

Pre-application consultation. The Bill will introduce a requirement for developers to consult local communities before submitting planning applications for “very large” developments specified in the Neighbourhood or other development order. “Developers will be required to have regard to any opinions raised during this consultation when deciding whether to make any changes before submitting their planning applications.”

Planning enforcement will be strengthened to tackle abuses such as making misleading planning applications, and running retrospective planning applications and enforcement appeals simultaneously. This is in part aimed at unauthorised traveller sites and houses built “secretly” (Conservative Home: <http://is.gd/ilvvR>). Enforcement will use new Planning Enforcement Orders issued by a magistrates court. The maximum cost of retrospective applications will be increased. Enforcement against illegal advertising and defacement is strengthened.

7. Community Rights

Right to Buy. Communities will have a right to buy local buildings. If the council decides to sell, groups will be given extra time to develop their bid to compete with commercial companies. Local authorities will be required to publish a “list of assets of community value” put forward for consideration by communities. Local authorities will assess the suggestions before recording on the list. “Whether or not a building or other land is land of community value is to be determined in accordance with regulations made by the appropriate authority.” When listed land comes up for disposal (either the freehold or a long leasehold), landowners will be preventing from disposing of the land for a “moratorium period”, during which communities will be given the chance to develop a bid and raise the capital to buy the asset.

Right to Challenge. Communities will be given “powers to question and take over a local service”. This could include children’s centres, social care services or transport. If a group makes a challenge the council will have to give full consideration and a response in writing. Voluntary, community and charitable groups, as well social enterprises, mutuals, co-operatives, parish councils and local authority employees to express an interest in running a local authority service. This may trigger a procurement exercise for the service in which the challenging organisation can participate alongside other bidders.

Right to Build. Community-led developments will no longer need planning permission if they can gain the support of more than half of voters in a local referendum. When first floated in the summer, the right to build was originally to be introduced only in rural areas and would have required 75% of residents to back developments (90% in some reports). Now the Right to Build has been extended to urban areas and the 75% rule has been relaxed to a simple majority.

8. Council and Community Incentives

New Homes Bonus. The £1 billion fund is designed to reward councils and communities that deliver new homes. Under the scheme the government will match the council tax raised from new homes for the first six years. Campaigners say that since the rewards are based on how much the new house will be worth, there would be greater rewards for large executive homes than for developments in poorer areas. The National Housing Federation says it calculates that councils in the north will lose £104m a year, while those in the south will gain £342m when the scheme is fully operational.

Community Infrastructure Levy. The Bill will allow local authorities to set their own CIL level and allow them to allocate a “proportion” of revenues back to the neighbourhood from which it was raised. “This will allow those most directly affected by development to benefit from it.” The CIL can also be used to fund the running costs of infrastructure.

9. Local Taxes

Council Tax. The Bill will end the government imposition of caps. Local residents will have the power to veto excessive increases by requiring local authorities to hold a referendum on any proposed rise above a threshold set by the government.

Business rates. Local authorities will have the power to grant a discount in business rates.

10. Social Housing

The broad outlines of the changes have been widely publicised (see the CPRE SE eBulletin for November: <http://tinyurl.com/2010novcpre>). In brief the Bill will:

- ◆ Enable social landlords to grant fixed tenancies for a minimum period of two years.
- ◆ Give landlords freedom to determine who should qualify for their social housing waiting list.
- ◆ Replace the Housing Revenue Account Subsidy System.
- ◆ Create a National Homeswap Scheme to make it easier for social tenants to relocate.
- ◆ Abolish the Tenant Services Authority
- ◆ Reform aspects of the duty to provide social housing for homeless people.

Yesterday, Grant Shapps published more financial information and said that final details will be resolved over the course the next year (<http://is.gd/iFCLy>).

11. Local Democracy

Referendums. The Bill will give local residents the power to instigate local referendums on any local issue if 5% of voters sign up via a petition, or a majority of council members. The referendums will be non-binding but “the authority must consider what steps (if any) the authority proposes to take to give effect to the result.” Local authorities will be able to vet the wording of the referendum: “if the authority considers that the question so stated is misleading, it may substitute its own wording”. The Secretary of State can make regulations and provide finance for referendums at parish council level.

The Standards Board regime will be abolished “allowing councils to devise their own regimes to govern propriety and behaviour”. It will however be a criminal offence to deliberately withhold or misrepresent a personal interest.

Predetermination rules will be abolished, ending restrictions that prevent councillors acting and campaigning on local issues because of a risk of challenge that they are biased.

Committee system. Councils will be able to abandon the cabinet system and return to the committee system of governance.

Mayors. The 12 major cities outside London will be able to hold referendums on elected mayors (Birmingham, Bradford, Bristol, Coventry, Leeds, Leicester, Liverpool, Manchester, Newcastle, Nottingham, Sheffield and Wakefield).

A **New Settlement for London** will devolve significant power to the Greater London Authority and London Boroughs and streamline London’s public sector agencies (CLG: <http://is.gd/iFZBQ>).

12. Early Reaction

Eric Pickles, the communities secretary, cheered the proposals. “For far too long local people have had too little say over a planning system that has imposed bureaucratic decisions by distant officials in Whitehall and the town hall. This powerful series of measures puts new rights in law for people to protect, improve and even run important frontline services. For too long people have been powerless to intervene as vital community resources disappear. The Community Rights measures will put control back where it belongs—with the people at the heart of our villages, towns and cities.”

Community groups are campaigning to get localism delivered. The National Association for Voluntary and Community Action, the Development Trusts Association and allied groups yesterday launched a campaign to prevent a watering down of the proposals contained in the Localism Bill for handing down greater power to communities. Kevin Curley chief executive of Navca said: “We have set up the Real Power for Communities campaign to ensure the Localism Bill results in greater powers for community groups” (<http://www.rp4c.org.uk/>).

Civic Voice gave the plans strong support. Commenting in a government press release before publication of the Bill, Tony Burton said: “Neighbourhood plans will allow civic societies and other community groups to take the lead in setting out what people value, what development is needed and what can change for the better in their area. With the right support, and safeguards to ensure the community voice cannot be ignored, a new era of neighbourhood plans spreading rapidly across the country could transform the ability of people to shape their local area.”

CPRE was cautious. Commenting before publication of the Bill, Neil Sinden, policy director at CPRE said “Developers can distort community deliberations and decision making through financial inducements. A number of housebuilders are looking closely at how they can take advantage of local campaigns. There is a real danger the democratic underpinning of the planning system will be distorted” (Guardian: <http://is.gd/iEQEn>). He also said: “the planning system needs to be rebalanced in favour of local communities and we welcome the Government’s emphasis on more local control. Communities should be encouraged to participate in drawing up neighbourhood plans, but they should also be given a right to appeal against development which conflicts with local planning policies” (CPRE: <http://is.gd/iEQxj>).

Planners remained uncomfortable. Kate Henderson for the TCPA said: “A revised planning system, truly fit for purpose, must offer a strong mechanism for planning for large areas where strategic issues are too big in scale or timeframe to be resolved within a single local authority planning area” (<http://is.gd/iIlle>). The Bill was published too late for the RTPI to comment yesterday; their analysis will appear here (<http://is.gd/iIlyM>).

The press is largely sceptical. “The localism bill is a farrago. It enfranchises nimbys, who are given a veto on housing development. This is merely pandering to the suburbs, and has caused many of the developers to question their traditional party loyalty” (David Walker in the Guardian: <http://is.gd/iIjOl>). “For localism to succeed the Government must overcome huge cynicism—as few will believe the Government really wants to relinquish power” (Ted Candle in the Mirror: <http://is.gd/iIkjD>). “Central governments are, as a rule, reluctant to devolve power. Today’s Localism Bill represents a rare and welcome exception to that rule. True, it stops short of the agenda that we localists have been positing these past six years” (Daniel Hannan in the Telegraph: <http://is.gd/iIkOs>). “What is really being devolved to local councils is the opprobrium of making detailed cuts in public services. It is hard to disagree with the leader of Liverpool council who said that the Bill would create a lot of new levers for local people but that nothing would happen when they pull them” (Independent: <http://is.gd/iIldJ>).

More reaction on the Localism Bill in our December eBulletin due towards the end of the month.

13. Links

- ◆ The Localism Bill. Volume 1: Clauses (<http://is.gd/iGOha>). Volume 2: Schedules (<http://is.gd/iGOqm>).
- ◆ 6th: CLG press release: Neighbourhoods will be the ‘building blocks of the Big Society’ (<http://is.gd/iEF89>).
- ◆ 11th: CLG press release: Revolutionary new rights for communities will protect and transform local services (<http://is.gd/iEXRD>).
- ◆ 13th: Eric Pickles in the Telegraph: Power is properly restored to the town hall (<http://is.gd/iF5qN>).
- ◆ 13th: Decentralisation and the Localism Bill: an essential guide (CLG: <http://is.gd/iF5Dx>).
- ◆ 13th: CLG press release: Localism Bill starts a new era of people power (<http://is.gd/iFyoq>).
- ◆ 13th: CLG press release: New legislation will extend the Right to Build across the country (<http://is.gd/iFzG8>).
- ◆ 13th: CLG press release: Next steps in delivering a better deal for council house tenants (<http://is.gd/iFCLy>).