

## **AGENDA ITEM**

### **REPORT TO PLANNING COMMITTEE**

**2 February 2011**

**CORPORATE  
DIRECTOR OF  
DEVELOPMENT AND  
NEIGHBOURHOOD  
SERVICES**

## **THE LOCALISM BILL AND SPATIAL PLANNING**

### **SUMMARY**

1. This report advises members of the principal elements of the Localism Bill that relate to Spatial Planning and outlines some potential implications of the Bill.
2. The Localism Bill was published on the 13 December 2010 and given a second reading on 17<sup>th</sup> January 2011. The Bill is intended to give greater powers to communities and includes measures to reform local governance. The scope of the Bill extends across many areas and covers issues such as community empowerment, governance and housing. The Localism Bill also has particular relevance for Spatial Planning and includes provision for such measures as Neighbourhood Plans and Neighbourhood Development Orders.

### **DETAIL**

3. The details below provide an outline of the most relevant parts of the Localism Bill. However, in many cases it is not yet possible to fully understand how these measures will work in practice, and their full implications for Spatial Planning, as much of the procedural detail will be covered by secondary legislation.

#### **Abolition of the Regional Spatial Strategy**

4. In May 2010, the change of government brought both strategic and detailed changes to the planning system. The most fundamental of these was the revocation of the North East of England Regional Spatial Strategy (RSS) in July 2010, meaning that it could no longer be used in determining planning applications. Between July 2008 and July 2010, the RSS provided the spatial strategy for the North East region and had informed both the LDF and the Local Transport Plan. It also set out how Stockton would contribute to the regeneration of the North East, establishing the number of new houses required and the amount of employment land to be developed, along with the broad locations where these should be sited.
5. Then, in November 2010, the judgement in a case brought by Cala Homes in the High Court, which considered that the powers set out in section 79 [6] of the Local Democracy, Economic Development and Construction Act 2009

could not be used to revoke all Regional Strategies in their entirety. The effect of this decision was to re-establish Regional Strategies as part of the Development Plan. However, the Localism Bill has confirmed the Government's intention to abolish the Regional Spatial Strategy, and the targets within it, by enabling the repeal of Part 5 of the Local Democracy, Economic Development and Construction Act 2009 and the revocation of existing Regional Strategies.

6. The Council is considering the impact the revocation of the RSS will have on the Borough's Development Plan and is scoping the need to revise the Core Strategy, as previously reported.

### **Neighbourhood Development Plans**

7. The Bill provides for greater opportunities for residents to shape the development of their neighbourhoods through Neighbourhood Development Plans (NDP), which will set out policies in relation to the development and use of land in a specified area. The Bill does not make it a statutory duty to prepare a Neighbourhood Plan, and many areas may not choose to do so, but there will be a right to.
8. NDPs will be prepared by designated bodies such as Town or Parish Councils or neighbourhood forums, who will be supported by the Local Authority. The resource implications of providing the required support, which includes technical support and referendums, are not yet clear.
9. Neighbourhood forums are to be designated by the Local Authority in areas where there is no Parish Council and for a five-year period. There is no mechanism to allow the activities of the forum to be scrutinised or to withdraw designation of a forum prior to the expiration of the five-year period.
10. Groups who apply to become a neighbourhood forum must include at least three residents as members, be open to all residents and have a written constitution. Similarly, neighbourhood areas are also to be designated by the Local Authority. Designated bodies, such as the Parish Council or neighbourhood forum, must apply to the Local Authority to have an area designated as a neighbourhood. The Local Authority will then consider whether a specified area is appropriate to be designated as a neighbourhood and there must be no overlap between areas.
11. NDPs will be required to be in conformity with the strategic content of the Local Plan/Local Development Framework, National policy and guidance, European Directives, National and International designations and the plans of adjoining neighbourhoods and they will be subject to a 'light touch' independent examination. As a result of the required conformity with the strategic content of the Local Plan/LDF, NDPs must accommodate housing targets and other strategic proposals. Neighbourhoods may choose to accommodate more than is required but will not be able to have, for example, less housing than is specified in the Local Plan/LDF.
12. NDPs are to be subject to an independent examination, which will be arranged by the Local Authority. Following a successful examination, plans will then be subject to a local referendum and more than 50 per cent of those voting must be in favour of the plan for it then to be adopted.

## **Neighbourhood Development Orders and Community Right to Build Orders**

13. The Localism Bill introduces Neighbourhood Development Orders (NDO), which can be used to grant permission for specified development and can be made by any body that is entitled to initiate a Neighbourhood Plan. NDOs will allow different planning rules to apply or for development to be allowed without requiring normal planning consent, although some forms of development, such as waste development, will be exempt.
14. NDOs can allow development unconditionally or place limitations, such as timescales or the requirement to obtain further detailed approval from the Local Planning Authority, on developments. They will also be subject to an independent examination and can only be made following a favourable referendum vote.
15. Community Right to Build Orders (CRBOs) will grant planning permission for a specific development on a specified site. They are a form of NDO that will be proposed by community organisations, rather than Parish Councils or Neighbourhood Forums, and could be used to grant outline permission for housing development, for example.
16. The Bill makes provision for charges to be made that will be payable to the Local Planning Authority in relation to development for which planning permission is granted by a Neighbourhood Development Order. This is intended to provide some reimbursement for the costs incurred from the Authority's neighbourhood planning function. However, much of the detail of this has been left for secondary legislation.

## **Community Infrastructure Levy**

17. The Localism Bill contains clauses relating to the Community Infrastructure Levy (CIL) and these relate to the powers of the inspector and the transfer of CIL receipts. However, the main vehicle for CIL is the Community Infrastructure Levy Regulations 2010, which has been presented previously.

## **Duty to Co-operate.**

18. The Localism Bill imposes a duty upon Local Authorities, and certain other bodies, to cooperate in such activities as the preparation of Development Plan Documents and other local development documents and in activities that support the planning of development, so far as it relates to sustainable development and the use of land.
19. The duty includes a requirement to "engage constructively, actively and on an ongoing basis". This engagement includes giving substantive responses if consulted and to requests for information.
20. The Bill does not define a failure to co-operate and does not specify any sanctions for a failure. It is not clear how, or if, this will alter the current working of Spatial Planning which has a history of joint working and consultation.

### **Inspectors Powers**

21. Under the current system, when a Planning Inspector recommends changes to a Development Plan Document, those changes are binding. Under the Localism Bill, Planning Inspectors will now assess whether documents are sound and suitable for adoption or not. Local Planning Authorities can request modifications to be recommended but these will no longer be binding.
22. If a document is judged to be sound, Local Authorities may proceed to adoption with the document as drafted or with further modifications that do not 'materially affect' the policies set out in the DPD. If asked to do so by the Local Authority, the examiner will recommend modifications. The authority may then adopt the document either as modified by the examiner or with additional modifications so long as they do not materially affect the policies. It is anticipated that this system could lead to future challenges to the adoption of DPDs, on the basis that alterations made by the Local Authority do materially affect the policies.
23. The Local Authority will now be able to withdraw their plan at any point before adoption.

### **Changes to Local Development Scheme and Annual Monitoring Report**

24. The Local Development Scheme (LDS) sets out the programme and timetable for producing documents within the LDF. Currently, this must be submitted to the Secretary of State, who can require amendments. In the future, the Secretary of State will only be able to direct amendments to ensure effective coverage of the authority by DPDs. However, the LDS must be subject to a resolution by the Council to bring it into effect.
25. The LDS and up to date information showing the Authority's compliance with the timetable must be made available to the public.
26. Under the current system, the authority must prepare an Annual Monitoring Report (AMR), which is submitted to the Secretary of State. This system will be altered to provide for Authorities Monitoring Reports which can be produced on a more frequent than annual basis and which are no longer to be submitted to the Secretary of State but which must be made available to the public.

### **RECOMMENDATION**

Members are recommended to: -

- a) Note the contents of the report.

### **Corporate Director of Development and Neighbourhood Services**

**Name of Contact Officer:** Rebecca Wren  
**Post Title:** Spatial Planning Officer  
**Telephone No:** 01642 526056  
**Email Address:** rebecca.wren@stockton.gov.uk

**Background Papers**

- Localism Bill

**Financial Implications** - The financial implications of the provisions of the Localism Bill have yet to be fully determined.

**Environmental Implications** – None

**Community Safety Implications** – This report has no direct implications for community safety.

**Human rights Implications** – The provision of the European Convention of Human Rights 1950 has been taken into account in the preparation of this report.

**Ward and Ward Councillors** – All Ward Councillors