

DRAFT NOTE OF A MEETING OF THE NATIONAL PLANNING FORUM

WEDNESDAY DECEMBER 15th 2010

LOCAL GOVERNMENT HOUSE, SMITH SQUARE, LONDON

52 members and guests attended and there were 16 apologies for absence – names recoded in the Minute Book.

All the presentations made at this meeting can be viewed at www.natplanforum.org.uk/pres2010.html

1. Welcome and opening remarks

Councillor Mike Haines, Local Government Association, Chair of the National Planning Forum and NPF Vice-chair (Local Government) welcomed members and guests.

2. The Localism Bill

Three speakers made presentations followed by a Forum discussion.

- **Steve Quartermain, Chief Planner CLG (SQ)**

An overview of the Bill

The Bill had been published on December 13th, there was little in it that would be a surprise to those who had been following the debate leading up to publication; but there was still a considerable amount of detail still to come. Steve presented a PowerPoint presentation on the content of the Bill – *Planning in a Local Context*, which was being viewed for the first time and can be seen at:

<http://www.natplanforum.org.uk/SQPlanninginaLocalContextNationalPlanningForum15.12.10.pdf>

- Colin Eastman of the Environment Agency (EA) asked what was envisaged for the role of the EA in advising neighbourhood forums. In response SQ pointed out that the duty to co-operate applied to both local authorities and public bodies; but, more importantly it was likely that most authorities would have the information that was required.
- Janice Morphet asked whether neighbourhood plans were subject to the ‘duty to involve’, which was enshrined in Section 138 of the Local Government and Public Involvement in Health Act 2007. (Note: The duty to involve means local authorities must consult individuals, groups, businesses or organisations likely to be affected by their actions.) SQ said he could not imagine it was not a requirement; but it was a question for the departmental lawyers.

The Chair thanked Steve for his contribution and he responded by looking forward to a great deal more discussion when the Bill had been fully digested.

- **Hugh Ellis, Chief Planner, Town and Country Planning Association (HE)**

The issues raised by the Bill

Hugh Ellis gave a paper providing a personal critique of the Bill, in which he made the following key points:

- Neighbourhood planning processes as outlined in the Bill are very complicated. The LDF process, however, remains in place relatively unchanged.

- The TCPA tests at national, regional and local level are around effectiveness (particularly in relation to housing and climate change), fairness and sustainability.
- The TCPA intended to engage positively with the process and will respond to the invitation to put down amendments.
- He was asking two key questions: (1) whether the 'duty to co-operate' meant anything and (2) were the processes and outcomes of neighbourhood planning fair?
- He suggested that two tests should be applied to the 'duty to co-operate': (1) is the language in the Bill going to be a source of confusion? HE thought it would, because co-operation was only by agreement and at its minimum could be defined as simply consultation and the exchange of information and (2) how effective would the 'duty to co-operate' be? There was a need to amend the Bill to define the topics and documents to which the 'duty to co-operate' should apply.
- HE was concerned about the presumption in favour of sustainable development, which would be contained within the National Planning Policy Framework – i.e. 'policy' not 'statute'- and which needed to be rigorously defined so that it was not open to local, 'liberal' interpretation.
- Neighbourhood planning was defined in a schedule of the 1990 primary planning act and not the 2004 act – one of the implications was uncertainty about whether the duties enshrined in the 2004 Planning Act would apply to neighbourhood planning; what was clear was that the climate change duties in the 2008 Planning Act would not apply to neighbourhood planning. In HE's view this was not acceptable.
- Neighbourhood planning could and should be made to work; but this would require legitimising it in relation to other statutory duties and requirements and simplifying the process as set out in the Bill.
- There were issues around the nature of neighbourhood forums in relation to their representativeness, competing forums and boundaries. It may be that important issues are excluded from neighbourhood planning such as any proposal requiring an environmental impact assessment. The conformity test was also important – the inherent tension in planning between strategic and local has now shifted to the interface between local and neighbourhood placing local councillors in 'the firing line'. The costs of producing a neighbourhood plan could be high – there would be no financial assistance from the local authority. There was a danger that this would produce a differential in the ability of different communities to produce neighbourhood plans. There was a ministerial expectation that the private sector would pay for neighbourhood planning – this raised issues of legitimacy. It was likely that the process of neighbourhood planning might take longer than people envisaged.
- The TCPA welcomed the move to neighbourhood planning and would make proposals to make it more meaningful and fair. Cost remained a major issue – if this was not addressed it might lead to 'spatial inequality institutionalised in neighbourhood planning'.

In the subsequent Q and A session Roger Humber of the House Builders Association asked whether a permission to develop achieved through the proposed presumption in favour of development or the neighbourhood development order would have sufficient legal strength to be trusted by developers. HE thought this was a legitimate concern because certainty was not achieved until the end of the process. He was concerned that neighbourhood planning was now to be delivered through a completely different process than that which applied to LDF's – this made no sense.

Pat Thomas made a comparison with the development orders used in enterprise zones, which granted planning permission, subject to approval of details. Now, under the Bill the development order required confirmation through the referendum and adoption by the local authority.

- **Matt Thompson, Head of Policy, Royal Town Planning Institute (MT)**

The 12 tests the Bill must pass

Matt Thompson's presentation can be viewed at:

<http://www.natplanforum.org.uk/RTPIpresentation101214NPF12Tests.pdf>

The twelve tests (and a view of whether the Bill meets them) put forward by Kelvin Macdonald, who had sent his apologies, are:

1. It allows for a clearly stated and democratically agreed vision of national spatial priorities, including meeting needs for housing and infrastructure, and addressing the challenges of climate change. Yes?
2. It takes a broad view of sustainable development that requires all those exercising a presumption in favour of it to place economic, social and environmental sustainability on an equal footing. Yes?

3. It does not assume that the Government's agendas for economic growth, for meeting targets for reducing emissions and increasing renewable energy, for social inclusion and housing delivery will be achieved simply because there is the freedom of choice to do so. Unclear.
4. Any duties placed on local government and others –including a duty to cooperate –are clearly defined, are resourced and are enforceable where necessary. No.
5. Any rights given to communities, such as the right to plan or to build, are not token rights unsupported by resources, expertise or democratic challenge. No.
6. The understandable desire among communities for immediate investment in local facilities does not prejudice longer term investments to meet larger scale needs such as hospitals, waste facilities and transport infrastructure. Unclear.
7. The systems of incentives, funds, levies and agreements work together to fund a rigorously analysed and democratically agreed list of infrastructure priorities and that such incentives are open and transparent and are not perceived as, or act as, development bribes. Unclear.
8. Neighbourhood planning not only serves to provide what local communities desire, but also allows for what wider communities need. Unclear.
9. In exercising powers over the future of their areas, communities accept and fulfil the responsibilities attached to doing so. Unclear.
10. It makes it clear that it is equally important for a neighbourhood group to consult as to be consulted. No.
11. It gives an equal opportunity for all communities to be involved in shaping their own futures, including those communities and groups whose engagement has often been neglected and have been served by Planning Aid in the past and we hope will continue to do so in the future. No.
12. It does not hamper the ability of RTPI members to continue to provide a professional, independent, unbiased, evidence-based service to all those involved in, and affected by, planning. Unclear.

- **Cllr Mike Haines, Vice chair, LGA Environment Board and Chair, National Planning Forum**

The local government response

Mike Haines made a short presentation in which he over-viewed the Bill, making the point that it covered a great deal more ground of importance to local government than just planning. Further key points were:

- It was important to test the Bill against the Coalition's vision for decentralisation and a return to locally-based decision making.
- Despite the ambition to lift the burden of bureaucracy the Bill was complex and imposed many obligations on local government.
- The LGA welcomed the proposed general power of competence; rates for small businesses and a referendum on rates for small business; the cessation of regional planning powers; planning enforcement reforms and the power to determine housing allocations locally.
- Areas for further discussion included neighbourhood planning, particularly as it might be applied to urban areas; the principle of EU fines being passed on to local councils; housing revenue reform buy-out figures, which may enable local authorities to generate funds for new house building, but where the Secretary of State retains retrospective powers to prevent a negotiated deal going ahead; issues around proposals to require the introduction of shadow mayors and referenda which removed the ability for these issues to be determined locally.
- Overall the LGA welcomed many of the proposed reforms; but would be proposing changes to reduce bureaucracy and perceived problems.

- **Forum discussion**

- Colin Haylock of the RTPI pointed out that much had been made of the proposed National Planning Policy Framework, but it did not feature in the Bill.
- Cllr David Smith of the LGA picked up on the provision that neighbourhood plans could propose more, but not less, development than that which was identified in local plans – this would come as a shock to many local communities and may lead to groups competing with each other over the location of development.
- Tony Burton of Civic Voice pointed out that it was the intention to produce a draft NPPF in parallel with the processing of the Bill. There was a key power shift implied in the Bill – this implied a massive culture change to which local government would need to respond.

- Roger Humber of the House Builders Association felt that the political dynamic implied that ward councillors would wish to get control of the neighbourhood planning process.
- Graham Jones of POS concerned about the impact of neighbourhood planning in local authorities, which might have a large number of parishes and where the local authority was required to support community planning initiatives. Notwithstanding this pressure, the process was complex, the freedom for discretion limited and there was a need for conformity to the local plan. It might be that the take-up may be less than anticipated.
- Simon Leask of ATLAS felt that the complications of the process might well put people off from engaging with it.

3. Localism in Practice

Experience on the ground from local authorities leading the way in developing localism

■ Winchester City Council – engaging communities in plan making

Steve Tilbury, Director of Operations, and Jenny Nell, Principal Planning Officer, Winchester City Council

Steve Tilbury and Jenny Nell presented Winchester's approach to 'bottom-up' public engagement using the 'Blueprint' consultation toolkit. This can be viewed at:

<http://www.natplanforum.org.uk/NPFblueprintpresentationv2.pdf>

■ London Borough of Sutton – localism and climate change

Chris Reid, Executive Head of Environmental Sustainability

Chris Reid talked about Sutton's approach to the Big Society and sustainability in the context of 'One Planet Living' and the community-led Hackbridge Sustainable suburb project. His presentation can be viewed at:

<http://www.natplanforum.org.uk/NationalTownPlanningInstitutePresentation-December2010.pdf>

■ Forum Q and A

There was a lively discussion, which focused largely on Winchester's 'Blueprint' technique.

4. Planning Performance Agreements

Simon Leask, Head of ATLAS

Simon made short presentation reporting on the ATLAS report evaluating planning performance agreements, which had been published the previous day. The report can be downloaded at:

http://www.atlasplanning.com/page/topic/index.cfm?coArticleTopic_articleId=98&coSiteNavigation_articleId=98

5. Updates from the Executive Board

The Secretary

Mike Hayes briefly overviewed progress being made in the following areas:

- 2009/10 Annual Report – in course of preparation
- 2010/12 Business Plan – in course of preparation
- Membership policy, subscriptions and funding – the Board were working on a proposal for a class of associate forum membership and positive discussions were underway with a number of organisations about offering a subscription to support the Forum.
- Update on NPF projects:
 - 'Mediation in Planning' – progress on implementing the report's recommendations

ii.Improving the Connection – the relationship between planning and building control

e. Appointment of Vice-chair (Professions) - Simon Leask of ATLAS had agreed to fill the role on temporary basis.

6. Draft note of October 2010 meeting

Postponed to next meeting.

7. AOB

There were no matters arising.

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