Local Government Association briefing
Housing and Planning Bill, House of Lords Committee Stage
17, 21, 22 and 23 March, 2016

Briefing

KEY MESSAGES

- **Planning in England:** An effective democratically-led planning system is critical to good place-making that drives growth and prosperity. Proposals on planning in the Bill, including a new permission in principle, national interventions in local plan making and new performance regimes, and piloting approaches for introducing competition into the processing of planning applications, risk reducing the influence of local communities over decisions that impact on their lives. These points may also affect the capacity of the planning system to strategically and coherently drive growth across economies.

- The Bill is an opportunity to introduce measures that would allow local authorities to develop a planning fees schedule that would enable the full costs of processing planning applications to be recovered.

AMENDMENT STATEMENTS

Amendment 89, before Clause 129, Lord Beecham and Lord Kennedy of Southwark
The LGA supports amendment 89, in the name of Lord Beecham and Lord Kennedy, which would give councils the power to direct publicly-owned land to enable it to be brought forward more quickly. Councils want to help to bring forward development on the wider public estate and have proven successful in doing so through the One Public Estate Programme. This amendment would ensure public authorities engage with a council to dispose of land in a coherent way that is able to deliver best value to the local economy, community and public authorities.

Amendment 89ZA, Clause 130, Lord Shipley
The LGA supports amendment 89ZA, in the name of Lord Shipley, which would ensure that where a local planning authority has complied with relevant requirements in subsection (2) (that it has complied with relevant requirements to submit for examination and the document is ready for independent examination) the examination of its development plan document can continue.

Amendment 89AZA, Clause 131, Lord Shipley
The LGA supports amendment 89AZA, in the name of Lord Shipley. If passed this amendment would mean that where the Secretary of State chooses to intervene in local development documents or schemes under Section 15 of the Planning and Compulsory Purchase Act 2004, any expenditure incurred should be met by the Secretary of State and not local authorities.

Amendment 89AZB, Clause 131, Lord Shipley
The LGA supports amendment 89AZB, in the name of Lord Shipley, which would ensure that development documents prepared by local planning authorities have effect in decision-making until an intervention under section (21) of the Planning and Compulsory Purchase Act 2004 is made.

Amendment 89AZE, Clause 132, Lord Shipley
The LGA supports amendment 89AZE, in the name of Lord Shipley. Where the Secretary of State chooses to use their default powers under Section 27 of the Planning and Compulsory Purchase Act 2004, any expenditure incurred should be met by the Secretary of State and not local authorities.

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Amendment 92D, Clause 136, Baroness Featherstone and Lord Greaves
The LGA supports the intention of amendment 92D, in the name of Baroness Featherstone and Lord Greaves, which would exempt certain types of land from permission in principle. There should be flexibility for local authorities to exempt certain types of development, and development on certain land or in certain areas from permission in principle.

Amendments 92L and 93B, Clause 136, Lord Greaves
The LGA supports the intention of amendments 92L and 93B, in the name of Lord Greaves, which would ensure that permission in principle applies specifically to housing developments in local plans, and land listed as suitable for housing development on the brownfield register.

Amendment 98C, after Clause 137, Lord True
The LGA supports the intention of amendment 98C, in the name of Lord True, which would enable local authorities to bring forward the development of unused or underused public sector land. Councils want to help to bring forward development on the wider public estate and have been successful in doing so through the One Public Estate Programme.

Amendment 100ZA, after Clause 138, Baroness Bakewell of Hardington Mandeville, Lord Palmer of Childs Hill and Lord Shipley
The LGA supports the intention of amendment 100ZA, in the name of Baroness Bakewell of Hardington Mandeville, Lord Palmer of Childs Hill and Lord Shipley, which would introduce time limits for developing land where planning permission is granted. This could form part of a suite of measures to enable councils to incentivise developers to build out sites more rapidly. Other measures could include financial penalties for developers and stronger compulsory purchase powers, including the ability to buy land at its existing use value, where planning permissions have expired and development has not commenced.

Amendment 100ZAZA, after Clause 138, Baroness Thornhill
The LGA supports amendment 100ZAZA, in the name of Baroness Thornhill, which would increase the ability of local planning authorities and their communities to have a say on new development falling within existing permitted development rights, which affects their local area. In particular taking into account the impact on the sustainability of provision of existing uses, for example office space, in the local area.

Amendment 100ZAZB, after Clause 138, Baroness Thornhill
Removing the notice period and compensation arrangements for Article 4 planning powers would enable councils to respond effectively to local concerns over the impact of national permitted development rights in their areas, for example office to residential change of use, the proposed permission in principle or concentrations of certain types of outlets. Currently, where Article 4 directions remove permitted development rights, any subsequent planning application does not have to pay a fee. Amendment 100ZAZB would correct this anomaly.

Amendments 99 and 100, after Clause 138, Lord Clement-Jones, Lord Kennedy of Southwark and Lord Stevenson of Balmacara
The LGA broadly supports amendments 99 and 100, in the name of Lord Clement-Jones, Lord Kennedy of Southwark and Lord Stevenson of Balmacara, which would broaden the prior approval considerations for office to residential conversions under the existing permitted development regime. LGA research in 2014 highlighted a number of unintended consequences arising from the current permitted development rights for office to residential conversion. The LGA (from 2016) has warned against making the permitted development permanent. Instead local authorities should be able to consider conversion of office to residential properties through a full planning application process, taking into account all relevant material planning considerations.

Amendment 100ZABA, after Clause 139, Lord Lucas
The LGA supports the intention of amendment 100ZABA, in the name of Lord Lucas, which would enable local planning authorities to request to the Secretary of State an alteration or suspension of part or all of planning legislation, to allow an alternative approach to be tried. This would be limited to 12 requests and any approval would be limited to a maximum of 10 years. It would enable local authorities to trial new innovative approaches to place-making and spatial planning.

Amendment 100ZAC, Clause 141, Baroness Gardner of Parkes
The LGA supports amendment 100ZAC, in the name of Baroness Gardner of Parkes, which would enable local planning authorities to set fees and charges for any function that they perform. Local planning authorities would then be able to set, for example, fees and charges to enable the cost of processing planning applications to be recovered. Both councils and developers agree that it is important that councils are able to set planning fees locally in order to recover costs. Councils have had to spend in excess of £450 million covering the costs of processing applications over the last three years.

Amendment 100ZB, Clause 141, Lord True
The LGA supports amendment 100ZB, in the name of Lord True, which would allow local planning authorities to develop a planning fees schedule that would enable the full costs of processing planning applications to be recovered. Councils and developers both agree that it is important that councils are able to set planning fees locally in order to recover costs. Councils have had to spend in excess of £450 million subsidising the costs of processing applications over the last three years.

Amendment 101, after Clause 141, Lord Beecham, Lord Foster of Bath, Lord Kennedy of Southwark and Lord Shipley
The LGA supports amendment 101, in the name of Lord Beecham, Lord Foster of Bath, Lord Kennedy of Southwark and Lord Shipley, which would allow local planning authorities to develop a planning fees schedule that would enable the full costs of processing planning applications to be recovered. Councils and developers both agree that it is important that councils are able to set planning fees locally in order to recover costs. Councils have had to spend in excess of £450 million covering the costs of processing applications over the last three years.

Amendment 101A, after Clause 141, Lord Kennedy of Southwark, Lord Tope and Lord True
The LGA broadly supports amendment 110A, in the name of Lord Kennedy of Southwark, Lord Tope and Lord True, which would enable local authorities to consider conversion of office to residential properties through a full planning application process, taking into account all relevant material planning considerations. LGA research in 2014 highlighted a number of unintended consequences arising from the current permitted development rights for office to residential conversion. The LGA (from 2016) has warned against making permitted development rights permanent.

The LGA supports the intention of Lord Greaves and Baroness Royall of Blaisdon to oppose the Question that Clause 143 stand part of the Bill.
Local planning authorities should have the powers and flexibilities to deliver affordable homes in line with the locally assessed need and viability undertaken in developing their local plan with communities.

The LGA supports the intention of Lord Shipley to oppose the Question that Clause 144 stand part of the Bill.
Clause 144 is unnecessary legislation. Councils are already approving 90 per cent of planning applications. Shifting decisions to the Planning Inspectorate (PINs), removes local accountability and risks denting the trust of communities in the planning system

BACKGROUND INFORMATION AND EVIDENCE

Planning in England

An effective, democratically-led planning system will be critical to good place-making, which drives growth and prosperity. Planning is not a barrier to development and local communities continue to approve development with almost nine in every 10 planning applications being granted permission. The number of homes being granted planning permission by local authorities during 2015 was 253,000, which is the highest level since 2007[1]. Local planning authorities must continue to be able to shape and approve developments so that they are backed by local communities, and serve to improve places

[1] Department for Communities and Local Government, March 2016, planning application statistics - https://www.gov.uk/government/collections/planning-applications-statistics

and economies.

Local plan making
We support the Government's efforts to streamline the local plan making process. However, we are concerned about proposals that would give the Secretary of State a range of new powers over local plans, including to intervene in the local plan-making process. Councils have made significant progress with plan making, and getting plans in place requires significant time and effort. It is vital that local plans are not undermined by national policy changes. An approach that seeks to understand what the blockages are and seeks to resolve them is likely to be more beneficial in the long term than the imposition of a plan on an area.

Competition
Applicants and developers need stability from the planning system in order to deliver the homes we need. It is important that the proposals to pilot competition in the processing of planning applications do not destabilise local success or add complexity, uncertainty and additional costs to the planning system. Further, it is vital that planning decisions continue to be made locally through a democratically accountable planning system.

Planning performance regime
Councils recognise the importance of timely and quality planning services, however the current planning performance regime (and the proposals to expand it further to include minor planning applications) is an unnecessary measure that focuses on process targets rather than good quality service provision. Sector-led improvement is the most effective means of achieving continuous improvement, not centrally set targets. Resources should instead be focused on promoting the benefits of sector-led improvement and enhancing the support that is available to local authorities, for example through the work of the Planning Advisory Service (PAS).

Permission in principle
Proposals in the Bill seek to grant permission in principle (through a development order) to land that is allocated for development through, initially, the brownfield register, local plans and neighbourhood plans. It is important that communities continue to have a say on decisions that affect them though their local planning committees. Efforts to introduce a permission in principle should reflect this, and should not create undue complexity or confusion within the existing planning system. There should be flexibility for local authorities to exempt certain types of development and development on certain land or in certain areas from the permission in principle development order as well as from the register of land.

In particular, it is vital that the proposed Technical Details Consent process deals with all material planning considerations, other than the matters of principle set out in the permission in principle. It is also important that new housing developments, which are at the heart of existing and new communities, are built to the highest standards of design and sustainability.

Locally set planning fees
The Bill is an opportunity to introduce measures that would allow local authorities to develop a planning fees schedule that would enable the full costs of processing planning applications to be recovered. Councils have been forced to spend in excess of £450 million covering the cost of planning applications over the last three years[2]. Currently year on year, tax payers are subsidising 30 per cent of the estimate cost of processing all planning applications in England because nationally set planning fees do not cover the full costs. The introduction of locally-set planning fees would enable councils to deliver responsive council planning services that are crucial to growth and building the homes we need.

[2] Local Government Association, November 2015 local services threatened as councils forced to spend £450 million topping up planning fees - http://www.local.gov.uk/media-releases/-/journal_content/56/10180/7550608/NEWS

Compulsory Purchase

Proposals that seek to make the process for compulsory purchase clearer, faster and fairer with an overall aim of bringing more land forward for development are welcome.

We would however like to see the reforms go further, and they should include: a default position that all decisions on confirmation of a compulsory purchase order are delegated to the acquiring authority; a more fundamental consolidation and streamlining of the legislative provisions for compulsory purchase; stronger compulsory purchase powers where planning permissions have expired and development has not commenced; stronger compulsory purchase powers to tackle empty homes.

Public land

Councils support the Government's ambitions to realise value through better and more strategic management of public sector land. The public sector holds more than £300 billion worth of land and buildings and local government is set to achieve £13.3 billion land and property sales up to 2018. We welcome proposals that would require public authorities to consult with their local authority before disposing of surplus land and assets. This would enable partnership approaches for bringing forward wider packages of public land that can bring forward development.

We have called on Government to work with local authorities to exercise a 'power to direct' the sale of surplus public sector land in their local area, bringing forward further development on the wider public estate. Councils should be free to manage their assets locally and we have concerns with the proposal that would grant the Secretary of State the power to direct local authorities to dispose of land which is deemed to be surplus through a new register.

The One Public Estate programme has demonstrated that council management of public land can achieve significant additional capital receipts, providing they have the necessary powers to do so. The Government has recognised this by extending the programme, and Housing and Planning Minister Brandon Lewis MP said in an answer to a parliamentary question in 2015 that "the One Public Estate programme has already shown that, with small levels of investment and support, a great deal can be achieved".

Article 4 directions

We are calling for the Bill to be amended to give councils greater flexibility on Article 4 planning directions, which remove the automatic right to convert properties between different types of use. This is in order to, for example, manage the unintended consequences of office to residential conversions and the problems caused by concentrations of houses in multiple occupation. Amendments to the required notice period and compensation provisions for Article 4 directions would allow local authorities to respond to local concerns and priorities more effectively, enabling all relevant material planning considerations to be considered for specific changes of use as part of the normal planning application process.