

Can Localism Work? Understanding the Communications Issues Raised¹

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“Consultation - a process by which the public’s input on matters affecting them is sought” (Wikipedia). “Consultation - when you discuss something with someone in order to get their advice or opinion about it” (Cambridge online dictionary). “The key to economic, social and political success in the future” (David Cameron in Control Shift describing localism). “By allowing communities to share directly in the rewards of growth and giving them the chance to shape a positive future for their areas, the Bill will create the conditions where people begin to welcome rather than resist growth.” (Greg Clark MP). “The clue is in the title” (Steven Norris, CBRE conference, referring to the Localism Bill).

Contention

Since this Bill was first mooted, a common question asked of me and my colleagues at London Communications Agency by developers and their advisers alike is: “what are the implications of enacting the Localism Bill on local communities, developers and authorities dealing with the planning process?” The contention that comes out clearly through this paper is that whilst the Bill has a very positive central objective, the numerous practical issues that will arise from its implementation are significant for all parties involved in planning and development, placing additional pressure on both local authorities, at a time when resources are very tight, and developers.

In this paper I seek to consider this question by first commenting on some of the key issues regarding consultation. I then look at five fictional case studies which highlight these issues; before ending with some implications and possible recommendations for the development industry specifically and for emerging Neighbourhood Fora (“NF”).

Introduction

However, before doing so all of us have to remember a few home truths about consultation especially when it comes to planning and development.

The first is that consultation is an art not a science. Given the significant level of upfront investment made by developers, particularly on large schemes, it is not surprising that many try to seek certainty. Developers and their planning consultants can be and often are quite black and white about options and decisions with a very fixed time period (usually six weeks) being allocated to consultation as part of the pre-application programme. Yet consultation is all about an interaction between parties where views are expressed and opinions shaped, and not about seeking a definitive answer to a specific question. If developers want certainty then referenda could be the answer, something which the government is proposing for local communities to replace planning permission in certain instances. However, a referendum called to test support for a specific development will equally test the theory that by and large everybody can tell you what they do not like, but very few are clear about what they do. Moreover, framing referendum questions is rarely easy.

¹ Please note that this paper was completed in August 2011. By the time it was published in early November the Localism Bill had moved forward. Therefore some elements of this paper, such as plans for Referenda, have changed.

The second home truth is that engaging large numbers of people in the development process can be a real challenge. Many of the public are actually not that interested in development proposals, unless they are for waste plants or literally up against their back door. Certainly some are implacably opposed to a development from the start (or often what they simply call “change”) and some may be strongly in support, but the vast majority sit on a continuum of interest that varies hugely. This presents a massive challenge to engage the majority and to bring them out to express their views about a hypothetical future.

The third home truth is that whilst an area is usually defined by geography there is no single “community” within that area. I spend a lot of time reminding people of this. “Community consultation” may be a singular expression, but the exercise in practice is a consultation with many different communities, interest groups and, dare I say it, factions as opposed to one specific community group. One of the important early tasks for an emerging Neighbourhood Forum, the new term to be enshrined in the Act, will be to decide on its boundaries. One obvious option will be the political boundaries of, say, a council ward. Another might be some natural or man-made boundaries such as rivers, canals, main roads, railway lines or open spaces. However, a third may be where networks of specific communities already exist and the decision as to whether to include or exclude an area dominated by one specific community may have a real bearing on how a NF will work and how developers will deal with that forum. An example of where this might happen is Fitzrovia in London, a very distinctive part of the city which crosses ward as well as borough boundaries (Camden and Westminster) and has many different communities including residents and businesses and some like the Charlotte Street Association which includes both. Deciding which to include in a consultation is therefore already a difficult task.

The fourth home truth is that, however prescriptive the legislation and supplementary guidance may be, the way the process will work on the ground will not be a simple formula. $1+1=2$ it is not. There will, I am certain, be a set of basic guidelines which many will follow or seek to apply (CLG already publishes guidance notes² as do many local authorities), but as long as the actual decision-making process in local authorities varies as much as it does now, which incidentally is a topic of a whole different paper, then equally I doubt we will see two identical consultations followed.

Context

Hugh Bullock in his paper has dealt with the context in which this Bill has been developed and taken through the Parliamentary process, and I will avoid repeating much of what he has said.³ However, it is worth reiterating the simple fact that there is a clear tension within government between those desperate to encourage growth in the UK economy and those who see the Localism Bill as a way of increasing very local democratic accountability. The former fear that the Bill may actually stymie growth in construction, development and housing; the latter fear that local views will continue to be over-ruled if the Bill is not enacted. The Chancellor’s Budget statement on March 23, 2011 certainly implied that planning for growth trumped localism.⁴ This has been reinforced, we would argue, by the publication of the draft National Planning Policy Framework (“NPPF”) in late July 2011 which is out for consultation until October.⁵

This debate has seen some interesting discussions in both Houses⁶ and a few amendments to the Bill on clauses concerning consultation; notably the raising of the threshold for the number of people to form a NF from 3 to 21, reflecting a concern that many of these fora could be hijacked by very small groups. There was also a new clause inserted by the Secretary of State which will make “local finance

² <http://www.communities.gov.uk/housing/publications/guidance/>.

³ Hugh Bullock Localism paper at the Oxford Joint Planning Law Conference 2011.

⁴ Budget, HM Treasury, March 23, 2011.

⁵ Draft NPPF from CLG, July 2011.

⁶ <http://services.parliament.uk/bills/2010-11/localism.html>.

considerations” become a material consideration for local authorities when deciding planning applications. The thinking behind this is that the council can review the potential financial benefits of a proposed development (e.g. New Homes Bonus and s.106 agreements) as part of making its decision.

Despite these amendments and a healthy discussion, the relatively untouched nature of the Bill at the House of Commons Committee and Report stages and the House of Lords Committee stage does suggest that the Government is very keen to ensure a quick passage for the Localism Bill in order to reach Royal Assent by the end of the year. However, whilst there were only minimal changes in the House of Commons and House of Lords Committee stages, we understand that there may be some Government-led amendments in September during the next Report stage, especially as there now appear to be tensions, some would say contradictions, with the draft NPPF.

As the Bill has been progressing, the Government has also announced two tranches of pilot areas to trial the new neighbourhood planning approach. The first of these revealed that 17 communities, comprising a mix of city, suburban and rural areas, will be given a grant of £20,000 each from a central fund of £1 million to allow local people to “decide the look and feel of development in their Area” although it caveats this by saying “providing it is in line with wider ambitions for growth in their area”.⁷ What is interesting here, though perhaps not unsurprising, is that most of these are proposing to improve or build a specific community asset and will agree to the development of new homes in the same area to ensure its delivery. This is in line with Minister for Decentralisation and Cities Greg Clark’s reference in a *Building* magazine article where it is stated that: “Neighbourhood Development Orders control where development should go and can only be used to increase development for a particular location, not reduce it.”⁸

The second announcement was that eight areas will trial business-led neighbourhood fora with “residents and businesses shaping their neighbourhood together”.⁹ The groups will prepare neighbourhood plans which Clark also said would make it “easier to change the designated use of buildings and expand facilities to meet changing needs and remove the need to apply to the council for every adaptation made to a building”. The eight areas are a mix of business and industrial parks such as Trafford Park in Manchester as well as retail neighbourhoods including Aldershot Town Centre and the South Bank and Bankside in London. Both announcements also highlighted that there would be a local referendum on the plans and that this will still need to fit in with the wider Local Development Framework (“LDF”). It is hard to know at this point whether centrally-funded experimental pilots will provide substantive evidence about the full impact of the proposed reforms.

Of course the set up of neighbourhood groups is not exactly new. Outside London the ability to create such fora, in the form of new town and parish councils, has been around since 1997¹⁰ and in the case of London since 2007.¹¹ The media has cottoned onto this noting that:

“while there are 9,000 town and parish councils in England covering a third of the population, in cities they remain a rarity. Since the law was changed in 1997 to allow the creation of new parish councils anywhere in England (except in London, which had to wait until 2007), councils have been established in Leeds and Birmingham as well as Bradford. But these are urban exceptions to a norm that remains closer to The Archers. London does not have any.”¹²

The way this Bill has been promoted as appealing to the shires is also perhaps less true than it may seem. The Bill as drafted currently precludes neighbourhood fora where there are parish councils already in existence, which is much of rural and semi rural England. This means that whilst the Bill will give new

⁷ Press release from CLG, April 1, 2011.

⁸ *Building Magazine*, May 13, 2011.

⁹ Press release from CLG, May 17, 2011.

¹⁰ Local Government and Rating Act, 1997.

¹¹ Local Government and Public Involvement in Health Act, 2007.

¹² *Guardian*, December, 2010.

local decision making powers to communities across all areas of the country, it will only be in urban areas where the change will be significant. Whilst for some cities this may be welcomed in others it could conceivably create some problems where there has already been reorganisation and devolution in governance arrangements in the past few years to try and create a structure for involving local people in decision making.

Birmingham is an example of this. In 2004 the City Council devolved authority down to 10 “council constituencies” with each comprising four of the city’s 40 wards.¹³ They are co-terminus with parliamentary constituencies and the average population for each is 103,000. The devolution included some core elements of decision-making including on budgets and key services such as bin collections. However, despite this devolvement downwards, at an even more local level the future of the city’s neighbourhood fora and its relationship with council constituencies is hard to judge.

This is of course partly linked to funding with the Birmingham Association of Neighbourhood Forums¹⁴ (“BANF”) which represents the city’s 70-odd neighbourhood fora seeing its budgets cut by the City Council but there are two examples here of the different roles that neighbourhood fora can take.¹⁵

In Edgbaston, the neighbourhood forum has in the past been predominately occupied with opposing development, notably a high profile campaign against the expansion of the cricket ground. However, in other areas of the city the NFs take a more positive view of planning and development, notably in Balsall Heath¹⁶ which the Prime Minister has used as an important and successful “Big Society” case study.¹⁷ Cameron visited Balsall Heath several times when in opposition and was seemingly overwhelmed by the way in which the community improved the area from the bottom up—something the Balsall Heath Forum is credited with after four years of working to improve the area.¹⁸ There was no surprise, therefore, when Balsall Heath was selected as a Neighbourhood Planning Front Runner in April 2011.

So the Localism Bill will empower these groups. However, whilst some like Balsall Heath will use it to improve their area regardless of local authority support, others may see it as a political opportunity to take on the City Council. This is what the local authority was perhaps trying to do away with when it devolved power to the council constituencies.

It is also worth noting that whilst the Localism Bill is promoting some new ideas, particularly for urban areas, the 2007 Local Government and Public Involvement in Health Act¹⁹ has allowed residents and communities in London the right to set up parish councils. Elected parish councils of course already have the powers to charge a precept and control small budgets, but do not have planning powers, although the district council has to take note of their views.

In London two examples of this are Queen’s Park and London Fields. Queens Park²⁰ is in the north of the City of Westminster where there is a very active and well supported campaign for a parish council. There is already a neighbourhood forum in place but the group has seen its funding cut and wants to set up a non-party political parish-type council to address local issues. It has already raised nearly £100,000 from charitable trusts and presented a 1,600 strong petition to Westminster City Council in May 2011. The group hopes to have a decision from the borough on its set-up in the next year.

¹³ Birmingham CC.

¹⁴ <http://www.banf.org.uk/>.

¹⁵ (Incidentally the issue of names for organisation is an issue—Birmingham already has NFs, but they are not NFs as the Bill envisages them; at least not yet. See below).

¹⁶ <http://www.balsallheathforum.org.uk/>.

¹⁷ *Guardian*, February 12, 2011.

¹⁸ *The Times*, July 13, 2008.

¹⁹ <http://www.legislation.gov.uk/ukpga/2007/28/contents>.

²⁰ <http://www.queensparkforum.org/blog.php/>.

The second is an area of Hackney around London Fields where the community has always been very active and keen to improve the local market at Broadway. The proposed Community Council²¹ needs the support of 10 per cent of the 7,352 electors in the area to convince the London Borough of Hackney to permit its formation.

The Economist reported on these groups in a brief article on February 13, 2011 as follows:

“Until 2008, the law prevented Londoners from being represented in this way. But under new rules introduced by the previous Labour government, parish (or community) councils can be set up in the city with the support of 10% of local electors and the approval of the relevant borough (which has few legal grounds to deny the request). The race is on to be first to establish one. Queen’s Park, an up-and-coming part of north-west London, has gathered the most signatures; London Fields, in Hackney, is next.”²²

The article ended with the following paragraph:

“The Queen’s Park campaign was prompted by the woes of the Queen’s Park Forum, a community group that, like many others, is threatened by cuts to its state funding. The thinking is that creating a parish council, able to raise money through taxation, will help to save the project in a statutory guise. In London’s villages, willing society is seeking the protective shelter of little government.”

The timing of the Localism Bill and proposed NFs is therefore set against existing plans by a number of areas to create new parish, town or community councils. The issue of tax-raising powers also brings a whole new dimension to this debate. Many people may not care one jot if their local area is formed into a NF with, we assume, directly elected representatives. But parish or community councils, not NFs, will have the additional power of levying some form of tax or precept on the residents so this option may bring about a very different reaction if it means paying more tax. The Guardian late last year reported thus:

“Getting the necessary support (for parish councils) is not always easy. The obvious stumbling block is the precept charged by a parish council and added to the council tax to fund its activities. While precepts are typically just a few pounds a month, it can be hard to persuade people to pay more tax — even if the money is being spent around the corner. In Bradford, organisers backed away from a precept when people reacted badly, and for now their flagship council is funded by the community-led company formed to implement Labour’s New Deal for Communities in the area.”²³

This issue of money and a precept could perhaps be especially sharply felt in London where residents are already paying an additional precept for the 2012 Olympic Games on top of Council Tax. The website for London Fields Community Council is revealing and up front on this matter. It sets out briefly some pros and cons about establishing a parish council as follows:

“The Pros — more influence over the things that matter; better services for people who live on the estates; a cut of the Community Infrastructure Levy on future large developments (reducing the need for a precept); running local leisure/community facilities (Community Halls, Lido?) and getting the proceeds from them; councillors who live locally and a Community Council clerk to fight our corner; the chance to bid for services to run locally (e.g: management of the Fields, the licensing function for Broadway Market); development of community facilities (Park Keepers’ cottage, Toilets on Broadway, neighbourhood office in vacant shop on Marlborough Ave).

²¹ <http://londonfieldscouncil.org.uk/>.

²² *The Economist*, February 17, 2011.

²³ *Guardian*, December 1, 2010.

The Cons - the Community Council will charge us more Council tax! Community councils can add a small amount to the Council Tax to run local services but they can offset these with fees and charges and the proceeds from a Community Infrastructure Levy on new planning developments. Remember, all the local Councillors elected will be your neighbours and they won't want to see unnecessary expenditure either!

It's just another layer of Government; yes, but it's the closest layer to the community.

There will be liabilities in running community facilities; these would only be transferred to the Community Council with appropriate financial support from Hackney.

The local community would have to manage cuts for the Council; it's inevitable that there will be cuts to services over the next few years. We need a strong local voice to defend them.

The same old faces will be running the show; a more local Council will mean that people will have reason to take part. Everything the Council does will affect almost everyone.²⁴

The upshot of all this is that, at this stage, it is very hard to judge how communities and councils will respond to the changes set out in the Localism Bill and what this will mean for different parts of the country, some of which are already seeking parish council powers. Much will come down to the history of local activism in each area and the council's relationship with the communities there. We could therefore see both some true examples of devolution downwards and local people taking real control of their area but also some 'token localism' where a council may want to keep a tight hand on a locality based on its experiences there. There will be a patchwork of responses, it is certain.

Some key issues

I now turn to a baker's dozen of issues that arise from the Bill in relation to consultation and communications.

Meaning of the word "neighbourhood"

The introduction of a new distinct local boundary defined as a 'neighbourhood' is one of the new elements of the localism agenda. Currently a ward is the smallest democratic area in London and with 624 of them you could say we already have sufficient local level democracy, even with a population of almost eight million people. In the country at large, the smallest area is a parish council and, in 2009, there were 10,474 in England.²⁵

The average number of people represented in a London ward is just over 12,000. The average in a parish nationally is around 2,000. The National Association of Local Councils ("NALC") reports that representation actually varies from the smallest parish council at 100 to the largest town council at 80,000 and in the case of London the smallest ward is at just under 5,000 whilst the largest is at 21,000.²⁶ It is perhaps this difference, in London certainly and possibly in other major metropolitan areas, where a smaller democratic unit might be welcomed by many people. In the case of London Fields they are proposing 400 electors per councillor which compares to an average of perhaps ten times that for a normal councillor in the capital.

That is why the Bill will allow for the potential for a new, even smaller area of local democracy—a Neighbourhood. These are to be defined by local people themselves, who would then petition their local Council for the zone to be defined, and establish an NF as the co-ordinating group which would act as the

²⁴ www.londonfieldscouncil.org.uk.

²⁵ ONS statistics.

²⁶ www.london.gov.uk/datastore.

Neighbourhood Planning Authority for certain (albeit limited) types of development. They can also prepare their own Neighbourhood Development Plans (“NDP”). But, unlike parishes, which could have several powers, forums would only be concerned with planning.

One could argue that parishes already are neighbourhoods with the council acting as the forum. Parish councillors are normally independents and in the majority of cases their election is uncontested. Elements of their role and remit are also very similar to those proposed for NFs, notably that the local authority has to consider the formal response from the parish on planning applications.

In the absence of detail about how all this will actually work, it is hard to understand the impact of state-sanctioned NFs, but there will certainly be implications for the way a council communicates at micro level and how councillors interact with their electorate.

It is also worth noting that we are likely to see the more organised areas, often with larger pockets of professional, white collar workers, be the first to take advantage of these new powers. We might also see those areas with large retired populations, as is the case with many village parish councils, being the ones at the forefront of this change.

The process to create a neighbourhood forum

Over 200 new local councils have been created nationally over the last 10 years²⁷ (though none in London) which are still in place today according to the NALC.

In order to set up a NF the local residents need first to gather 21 people together to push it forward. This was going to be only three in the Bill, but was increased seven fold to 21. They then need to decide on the area they want included after which the Council will consult on the designation of the area.

Here then is a fertile area for debate for the residents, businesses and developers in the area. Could developers campaign to stop a NF? Equally could we see business-led NFs being a more popular option than resident-led NFs? The Government’s trials of both these should give us a good indication.²⁸

Local referenda

This is a big change to local democracy. Subject to certain provisions, these proposed referenda would be automatically triggered by a petition to a local authority signed by just 10 per cent of the adult population within a designated area.²⁹ In fact if the area has a population of 500 people or less you need over 50 per cent; between 500 and 2,500 people you need over 25 per cent; and for more than 2,500 people you require over 10 per cent. These areas must be based on existing boundaries—which in London for example would mean, we assume a ward or group of wards or parish.

10 per cent is a low threshold. Using the latest population figures by borough, the average ward population in London is 12,000.³⁰ So 10 per cent of this is 1,200 people. Of course some boroughs vary significantly—the threshold average is 940 in Kensington and Chelsea, but 1,630 in Barnet.³¹ Either way it could be fairly easy to gather this number of signatories, especially if done electronically, for which the Bill makes provision.

So we could see a raft of petitions for local referenda in London, probably heavily organised by political parties. The same could apply in cities like Birmingham where there is a long history of political involvement on resident and neighbourhood groups. In some cases this could throw up significant challenges for councils, especially where a ward is dominated by, for example, a large number of people from one social, religious or political background. Could we see referenda to ban, for example, drinking alcohol in

²⁷ NALC Communications Toolkit.

²⁸ CLG Press Release, May 17, 2011.

²⁹ Localism Bill, Part 4, Chapter 1—Local Referendums, December 2010.

³⁰ Greater London Authority, *London Borough Council Elections—May 6, 2010*, March 2011.

³¹ Greater London Authority, *London Borough Council Elections—May 6, 2010*, March 2011.

an area? Will we see a referendum on an individual planning application and what weight would the LPA give to this when considering the application? In this instance it appears not, as the Bill introduces the concept of special petitions so that a referendum cannot be held³² for topics for which there already is a statutory consultation process and a right of appeal, as is the case for planning applications.

It will be just as intriguing to see what Councils do with the results. The outcomes of referenda are not in fact binding on Councils—they merely need to “have regard to them” in decision-making, even we assume at a Planning Committee. Nor are they binding on Government. The recent high profile decision by the Secretary of State for Communities to overrule a 96 per cent referendum result in King’s Cliffe, Northamptonshire for the extension of a waste facility to allow low level radioactive waste at a landfill site, demonstrates that in some cases such an exercise carries little weight.³³ We could perhaps see a number of referenda carried out across the country, but then ignored, which could rapidly lead to disillusionment.

Democratic representation

This is a tricky one. In London ward councillors are elected every four years to represent a ward. Most have three per ward and are elected on the ticket of one of the three main parties. This means they represent around 4,000 people each (based on an average ward of 12,000). Of course they do not split the constituencies up in this way, and represent all the ward’s electors, but the maths is worth noting.

The average turnout at the last local elections in London was 62.0 per cent³⁴—the highest recorded since 1964 when Greater London came into existence, and was due to it being on the same day as the General Election. The “normal” turnout for local elections in London has tended to be between 30 and 40 per cent. This is broadly reflected in the English regions, Scotland and Wales. Meanwhile someone could be selected (note not elected) as Chair of a Neighbourhood Forum, based on only 10 per cent of the people in that area. They then have a statutory status that the current, more informal local groups do not have.

And who then speaks for that area—the local ward councillors or the representatives of the NF? What weight would the planning committee give to both speakers, especially if they oppose one another? Surely the representatives of the NF (Chair, committee members) should be elected regularly to ensure some form of regular democratic accountability, especially as a small NF could easily be hi-jacked by a small number of people with time on their hands? The Bill is silent on this topic.

Whilst the Bill precludes having two NFs for an area, there is always the possibility of two or more neighbourhood groups (one a NF and another being a long standing group) in the same area. This would presumably create difficulties in assessing the overall democratic view of the locality and cause major headaches for the local authorities, developers and the groups in question should they offer differing views.

Political Alignment

Based on our analysis, there are currently 16,338 councillors at county, metropolitan, unitary, borough or district level across England. Of these approximately 15,225 represent a political group or party. This leaves some 1,113 who represent independent or residents’ groups other than the Conservatives, Labour, Lib Democrats, Greens etc. However, interestingly there are not that many groups today that would actually call themselves a residents’ group with most defining themselves as independents.

³² Localism Bill cl.48(4)(a) and (b).

³³ *BBC News*, April 7, 2011.

³⁴ Greater London Authority, *London Borough Council Elections—May 6, 2010*.

In the past, however, some councils have been led by residents' groups, notably Havering in East London which has a long history of resident power with many campaigning as "ratepayers" in the 1970s and 1980s. Meanwhile in Elmbridge, Surrey no less than five separate residents' groups, totalling 20 councillors, make up the second biggest group on the council and were in control between 2002 and 2006.

However, at the same time there are neighbourhood groups already in existence that have been set up by the local authority and are made up purely of the local councillors. This means that they are controlled on a party political basis; so for example in places like Homerton in Hackney the NF is made up entirely of Labour councillors. This will make matters confusing if local residents in this area want to set up their own neighbourhood forum which is non-political and wants to produce its own neighbourhood plan.

Given a growing sense of disillusionment with national political parties and the possibility of real power being provided to NFs, I think we will see an initial growth in people standing on an independent ticket at neighbourhood level. In the medium term, direct political engagement by NF leaders at Council level is an inevitable next step with potentially far reaching political ramifications. This could also challenge the old ways of assessing people's views on issues such as affordable housing, density levels and use of Section 106 monies.

Neighbourhood Development Plans ("NDP")

The Government has made it clear that neighbourhood plans, which will have legal "development plan" status alongside local plans, are not a tool for NIMBY-ism but should act as a guide to development and making new buildings and facilities more appropriate to the local context and deciding where they go. Importantly these have to be "in general conformity with the Core Strategy/Local Plan/LDF" or, as was stated in the announcement of the 17 pilot areas, "in line with wider ambitions for growth in their area".³⁵ But what does "in general conformity" actually mean?

The emerging process appears to be

- a. The NF prepares the NDP. (Exactly how it does this is open to debate.)
- b. The authority carries out a "light touch" review by an Independent Inspector (which could be a local planning officer) to check that the plan has paid sufficient regard to the Local Plan, the London Plan (in the case of London plans only) and relevant national policies.
- c. The NF then needs to get over 50 per cent support for the plan from those who vote in a referendum on the NDP.
- d. Then the NDP is adopted as part of the local plan.

Now both plans—the neighbourhood one and the Core Strategy—could, for example, support the principle of residential development on a certain site, but the Core Strategy might well support greater densities than the NDP (which might for example want better access through it and more public realm on it). Is that "in general conformity"?

In the Bermondsey and London Bridge area, Southwark Council is working with an emerging new NF to produce a neighbourhood plan by the end of 2011. As the Localism Bill is not yet law, the council will have to agree with the NF how to take the plan forward when it is completed. One option will be for Southwark Council and the Greater London Authority to revise the draft Supplementary Planning Document/Opportunity Area Planning Framework to take full account of the neighbourhood plan and take it forward for adoption.

³⁵ Press release from CLG, April 1, 2011.

Assets of Community Value

Once the Bill is enacted, every authority/council will have to prepare an annual “List of Assets of Community Value”.³⁶ The general understanding here is that if an asset on the list comes up for sale, whether freehold or leasehold, whether privately or publicly owned, the community will be given time to raise the funds to try to acquire it. How will this work? If an asset is privately held, how long before that private owner says ‘enough’ and sells to someone other than the NF? Equally, say an owner is sitting on a property in order to raise the land value, how will the community be able to step in?³⁷ This could be a closed village shop where a developer is holding out for neighbouring assets to come onto the market allowing for a larger housing development and the NF wants to re-open the shop. For a publicly owned asset this is yet to be fully addressed but our reading envisages that even, say, a closed school would need to be bought (and stifled) by a developer before it can be placed on the register. And if a developer outbids a NF, could that group pressure the council to CPO the land?³⁸

These could of course be used by groups seeking to stifle development, for example if a significant building or open space within a development area were added to the list. We may well see NFs and local people campaigning for certain spaces and places to be on the list (they have no right to list assets themselves) as a way of frustrating development generally, as well as suppressing value and development potential, which could mean it will become harder to buy, sell and plan for development if a site is on the list. (A reverse ransom strip?)

It may also make large scale land assembly more difficult as large sites in London for example often have some ‘community asset’ within them which may need to be re-provided in a different form to facilitate regeneration. This aspect of the Bill could instigate some local battles.

If this Bill had been enacted in 2001 for example, we would have put money on the King’s Cross Railways Lands Group setting up a NF, then preparing a Neighbourhood Development Plan, holding a referendum on the future of the site and seeking to get the site on the borough’s list of community assets. After all, their argument back in the 1990s was that the majority of the land was owned by DfT, therefore “publicly owned” already. Then they would have been able to draw up their own plan for the area and try to get a Neighbourhood Development Order for the scheme they wanted. The implications would have been significant on what is a major strategic site for London, adjacent to two major railway stations, one now serving continental Europe. There would have been the prospect of a far less dense scheme, delivering far less value for Government and arguably making for less sustainable use of a well connected site. That said, both the GLA and CLG could well have argued that this approach was frustrating both regional and national policies for such sites, but that is not to say the local groups would not have tried hard. The same approach could have applied more recently for the neighbouring UK Centre for Medical Research and Innovation project behind the British Library.

Statutory consultation

The requirement for pre-application consultation has been getting stronger over the years, but the Bill now introduces for the first time a new statutory duty to consult based, we assume, on wanting to give local people more influence over the design of proposed developments. This can broadly be placed under three points:

³⁶ Localism Bill, Chapter 4, December 2010.

³⁷ CLG Press Release, June 9, 2011.

³⁸ BPF release reference, May 3, 2011.

1. **Publicity—**

”the person must publicise the proposed application in such manner as the person reasonably considers it likely to bring the proposed application to the attention of a majority of the persons who live at, or otherwise occupy, premises in the vicinity of the land.³⁹ This raises interesting questions about the definition of the words “majority” and “vicinity”.

2. **Local Authority guidance—**

”the person must have regard to the advice (if any) given by the local planning authority about good local practice.”⁴⁰ Again “have regard” could mean a number of things.

3. **Taking account of responses—**

”the person must, when deciding whether the application that the person is actually to make should be in the same terms as the proposed application, have regard to any responses to the consultation that the person has received.”⁴¹ Ditto!

Let’s start with publicity. First, the type of publicity is not defined here. Developers have tended to use a mix of door drop leaflets, letters to local community representatives, local press advertising/Public Relations (“PR”) and occasionally posters to promote the consultation for a development. Websites are also a common tool although they also require promotion via the means above and the full consultation materials do need to be made available online as well as at an exhibition or meeting venue. Will we see NFs challenging the specific choice of publicity used by a developer in the future? And what about the possible request for materials in other languages, especially if a NF has a large proportion of people for whom English is not their first language?

The word “majority” here is suitably vague, particularly taken together with the undefined “vicinity”. We normally work with the developer on a scheme to agree a “red line” for core consultation. This is partly driven by the height of buildings and the views of the proposed scheme from a distance rather than any more specific socio-economic issues. It is also driven in part by the transport layout (roads, rail, tube) and the locations of these physical boundaries. We sometimes overlay ward boundaries, but perhaps would not do so when a development site is in a specific NF — especially if the forum was partly created to respond to development proposals.

Local authority guidance on pre-application consultation is likely to become even more important than it is today. Most local authorities issue guidelines on Statements of Community Involvement (“SCI”) which is one of the supporting documents for a planning application that sets out how the developer has consulted with statutory and non-statutory bodies and local communities. In the past these guidelines have varied in detail to quite a degree from council to council. The previous Government recognised this and the importance of local considerations and adopted a non-prescriptive approach. It therefore only went as far as recommending a “tiered” approach, based primarily on the size of the development, for determining which applications should be subject to wider community involvement.⁴²

National and local guidance to developers will, however, now have to change quite significantly. Not least, will authorities be expected to guide developers in how to handle specific NFs? And what if a developer ignores the advice given?

Perhaps the trickiest phrase in this part of the Bill is “have regard to any responses to the consultation”. Precisely what will this mean in practice? Most developers we work with would argue that they do consider (therefore “have regard to”) the responses they receive—and then dismiss many of them, sometimes giving

³⁹ Localism Bill, Chapter 4, Cl.110, s.61W, December 2010.

⁴⁰ Localism Bill, Chapter 4, Cl.110, s.61W, December 2010.

⁴¹ Localism Bill, Chapter 4, Cl.110, s.61X, December 2010.

⁴² Office of the Deputy Prime Minister, *Statements of Community Involvement and Planning Applications*, December 2004.

a good reason and sometimes not. Perhaps here what we may see are far more robust SCIs to back up developments where *all* responses are addressed clearly and succinctly, even if the developer simply says: “we disagree with this response and will not change the scheme for ... (insert a reason).” We may also perhaps see developers conducting more quantitative, measurable research amongst attendees at exhibitions to quantify levels of support, especially if they need this to counteract the threat of a local referendum on the scheme. One recent exhibition we attended had a questionnaire with a number of questions and five levels of agreement (from strongly agree to strongly disagree). We wonder what the developer will do with the findings, especially if they are not good news. In the same way we wonder how some local groups might seek to shape the findings from a referendum especially if support for a development is better than expected.

According to CLG’s pre application consultation basic guide, a three page note published in February 2011, it is likely that secondary legislation will include looking at the timetable for pre-application consultation, publicity associated with it, and “collaboration between the developer and others on design.”⁴³ This last phrase is worth dwelling on, particularly the word “collaboration”. Is this a pointer towards planning by community design? Or what Jenny Rowlands from Lewes Council in her paper to the JPLC describes as “democratic conversations”?⁴⁴ What we may see therefore, especially on contentious sites, is more collaboration between the developer and the public on design early in the process, although this has its own risks and challenges for developers who often have a fixed land value in their minds and a set timetable.

The real impact of all this will probably be a legal duty, through secondary legislation, to set out the detailed impact of pre-application consultation on a submitted scheme. Here the phrase “have regard to any responses” will be tested—perhaps even in Court.

Community right to build orders

Community right to build orders will apply if over 50 per cent of people vote in favour of a development proposal promoted by the community. At present there does not appear to be a cap on the scale of the development involved, so these could be quite large, although CLG is suggesting that this would apply for relatively small scale developments, and ones where the benefits from the development are very much retained in the community.

This is perhaps one area of the Bill that is potentially both exciting and different and will encourage people to get involved e.g. “Do you want to support a new community centre on the high street?” Equally though, could developers argue that if they get over 50 per cent support for a scheme promoted by them they do not need planning permission either? Could we see developers actually promoting referenda in local areas to test this? Could we also see an innovative developer working with a NF in a joint venture and co-promoting a referendum for the scheme? This approach could possibly be cheaper than taking an application through planning, and the process outlined in point 8 above.

Developments which are “in principle sustainable”

The Draft National Planning Policy Framework⁴⁵ strengthened the statements about presumption in favour of sustainable development and Greg Clark helpfully set out in his foreword a definition of both words. “Sustainable”, says Clark, is about “ensuring that better lives for ourselves don’t mean worse lives for

⁴³ *Pre-application consultation with communities: a basic guide*. CLG, February 2011.

⁴⁴ *Getting Planning Out of the Crossfire—Building better democratic conversations through neighbourhood planning in Lewes District*, Jenny Rowlands, Chief Executive, Lewes District Council paper at the Oxford Joint Planning Law Conference 2011.

⁴⁵ *Draft National Planning Policy Framework*, July 25, 2011.

future generations”, whilst “development” is “growth — accommodating the new ways by which we will earn our living in a competitive world”. He then explained that the two words together meant “change for the better and not only in our built environment”.

Neighbourhoods are likely to have a more straightforward view of sustainable development. They assess “sustainable” more in terms of scale, density and impact on their lives (such as the impact on schools, roads and surgeries). There will therefore be a need to move from the philosophical debate to real practicalities and agreement on when development is “positive growth — making economic, environmental, and social progress for this and future generations” (another Clark-ism) and when not.

Target setting

Target setting, especially for housing in an area, is potentially a major political headache. The Government continues to promote national housing targets and comments regularly on the need to build more affordable homes.⁴⁶ Targets are, however, one thing, site allocations are another and this is where the interesting dynamic will be. Local authorities will no longer be able to blame regional decision-makers for imposing housing targets. Could we see more housing allocations going to areas which do not have a NF? Or in the case of areas desperate for regeneration and investment, could we see them taking it all? Presumably, as now, Inspectors will still have to make some awkward decisions and we may see some Councils setting low targets to avoid conflict with their electorate.

Post-submission consultation

The current guidance from CLG appears to focus only on pre-submission consultation. Yet we all know that many developers submit a planning application knowing that they may well make (minor) amendments to the scheme during the authority’s own statutory consultation process before it goes to committee. So what guidance/expectation will there be on the developer to fulfil the same pre-submission process, post submission? At present some developers make a judgement call about the level of change they are making and whether they need to re-consult or not.

Confusion over names

This may seem a small final point to mention here, but there is a branding issue to consider. At present local groups have all sorts of names—for example, in the central part of Hammersmith and Fulham alone there is the Hammersmith Mall Residents’ Association, Save our Skyline, Friends of Furnivall Gardens, Hammersmith Society, Brackenbury Residents’ Association, Hammersmith Grove Neighbourhood Group and Hammersmith Embankment Residents’ Association to name but seven. Will these organisations have to rename themselves so that there is clarity about where a group has become a NF in legislative terms? Or will they be deemed too small by the authorities, which will annoy them? What about areas where there are already groups called a NF but are actually political creations of the local authority? Some real clarity is needed here to avoid many local people being thoroughly confused, and developers wondering who is and who is not representing an area.

Five case studies

Much of the debate so far has been about theory not practice. Community consultation is all about practice and, as stated earlier, is an art not a science. Here are some examples to consider:

⁴⁶ CLG Press Release, February 14, 2011.

i. **A neighborhood forum disputes a council/developer project**

In these times of tight budgets, every local authority is looking at its assets to see what it can do with them. A council owns a car park in a town centre that it could sell. However, the site is constrained and close to homes on two sides. The council decides to put the car park up for sale and seeks a development partner to maximise the site to increase the amount of capital receipt it generates. The local NF lobbies successfully to get the car park on the list of assets of community value. However, they know that their spending power is likely to be dwarfed by developers. So they decide to run a referendum with the simple question: “do you support a height limit of six storeys in our neighbourhood?” An overwhelming 90 per cent agree from a turnout of over 50 per cent of the residents. Meanwhile the council’s local plan has simply stated that any development in that town centre needs to be “appropriate in scale” and no other buildings in the area happen to be more than six storeys. The NF, supported by a retired architect, both prepares an NDP and submits a concept for the site from three to six storeys and offers a price for the site. A developer, however, proposes a scheme which includes some elements rising to nine storeys and generates a larger receipt for the council. The council selects the developer and the local forum seeks a Judicial Review of the decision. What weight will a judge give to the NF’s NDP, referendum and overall case?

ii. **Community engagement undertaken by a developer**

A developer carries out pre-submission consultation in line with the council’s SCI but does not satisfy the NF which asks for design workshops and then another round of pre-application consultation which the developer declines to do. As part of this the developer does not reduce the height of the tallest building in the proposal despite a unanimous vote opposing it from the NF committee. The NF runs its own referendum on the application and over 50 per cent of those who turn out voted against the scheme. However, the borough approves the scheme in part because ward councillors are happy as New Homes Bonus and other s.106 money will be spent in their ward. The NF appeals to the Government to step in. What weight is placed on the referendum? Does the Government intervene? Ultimately, it will be the decision of the Government to decide on this and the initial judgment citing the Localism Bill will set a precedent for all other cases.⁴⁷

iii. **Council boundary conflict**

Local authority A has a major development site and is in favour politically (including ward councillors) of a mixed-use development put forward by the landowner. This has a high proportion of affordable housing. The resident population in council A around the site is quite small and has not really engaged in the process despite a well-publicised and proactive consultation campaign by the developer. There is no formal NF or NDP for the area. However, there is a very vocal and large anti-development NF next door in council B which is only a short distance away. They have responded in force to the pre-application consultation and have held their own referendum which has come out very strongly against the plans noting particularly a lack of public transport provision and the threat of people living in the new scheme parking in their streets. They are backed by the councillors in their ward next to the site. Does council A have to take note of the referendum in council B or can it simply ignore it as it is not on their patch and cite that the proposals conform to their own borough plan?

⁴⁷ And note, of course, para.39 and the current approach to such referenda in the Bill,

An example of this could have been the recently opened football stadium in Brighton, East Sussex, had it been for a mixed-use development rather than a football stadium. The site is situated on the outer fringes of Brighton and Hove CC's jurisdiction on the border with Falmer Parish Council—which comes under the auspices of Lewes DC.⁴⁸ Brighton and Hove CC felt it an appropriate location for a football stadium but this was contested by Falmer Parish Council and Lewes DC—a viewpoint supported by the planning inspector. The plans were complicated further as they bordered the South Downs and an area of outstanding natural beauty. The decision was subject to two inquiries and was eventually granted. Had this been post-Localism Bill, would the football club have had to take more due care and consideration with the views expressed by Falmer Parish Council? In theory, yes, but there are arguments to suggest that as long as these concerns are addressed (and the club would certainly argue that measures such as parking restrictions have done so) then they could still develop the land without the support of the neighbouring authority's residents.

iv. **Neighbourhood plan**

A village NF creates a NDP which is broadly in conformity with the Core Strategy for the district in that it recognises the need for some extra housing in the village. However, the NF wants a cap on density and units. The district, however, does a region-wide housing site selection and selects this village for more than the NF wants. What weight is given to the position of the NF in this situation given they have prepared a NDP which broadly meets the demands of the Core Strategy? Will local authorities be able to bring forward more regional/sub-regional proposals that “trump” NDPs?

v. **Neighbourhood in favour but council against**

A neighbourhood forum has called for a large supermarket in their area, in their neighbourhood plan, on council-owned land and have successfully touted an international operator to take on the site and deliver some housing alongside it as part of a master-planned development. The local authority, however, are concerned over the knock-on effect of added traffic in a neighbouring area and are unhappy with the amount of NHB and s.106 being offered as part of the proposals. The council refuses the planning application despite strong support from the neighbourhood group. As the Bill currently stands, the neighbourhood forum will either have to accept this decision or make the case for an appeal or, if there are possible grounds, seek a Judicial Review over the decision making process. In other words, no difference to the current legislation in place. The neighbourhood group will suffer from the decision made by the local authority that dictates views of the entire council and not just the ward(s) in question. With the Localism Bill arrangements giving the neighbourhood forum the power to overturn a council decision, it is hard to see the neighbourhood group being able to take this any further. Should there be an inquiry, the authority would be able to argue successfully that the whole of the authority area must be considered rather than simply a neighbourhood group. However, should other neighbouring groups/wards support the scheme, the Bill at least gives a voice to the residents and this would in turn lead to the council looking again at their decision to refuse the scheme. But the Localism Bill rightly does not give full powers for small minority groups to challenge satisfactorily the wider council area.

⁴⁸ <http://www.sussex.ac.uk/falmerstadium/timeline>.

What this means for different people involved in the process

For CLG, there may be a growing expectation to lay down some rules for Neighbourhood Fora to follow. Whilst the Government is generally keen to avoid top-down rules and regulations when driving localism forward, there would be some benefit in considering a core level of guidance in this area. CLG already publishes some helpful guidelines.⁴⁹ However, compare this to the huge variations across London's 33 boroughs on how planning is handled today! It seems that the intention of the "Neighbourhood Planning front runner" process that CLG is funding is to develop learning in this area. CLG may not want to produce any formal guidance as this runs counter to Ministers' views that it is for the local area to decide precisely how it operates the system. However, given the issues raised during the Bill's progress, the need for supplementary guidance is clear. One of the difficulties will come in achieving any kind of consistency in the independent examination of Neighbourhood Plans unless the Planning Inspectorate produces some good practice guidance on this which might perhaps be endorsed by Ministers.

At local level, for the chair of a planning committee, s/he will need to be careful how to handle representatives elected by a referendum when they are making representations to the planning committee. In some local authorities only ward councillors can speak for or against a scheme—will this be widened in such cases to include NF representatives? We would suggest that this would have to happen.

For councillors the emergence of neighbourhood fora chairs may well change the way they do business. Councillors may often be asked to set up the shadow forum and once the local authority review has concluded the forum can be created. Whilst many councillors already attend local groups' meetings, there may well be an expectation to attend all—not least for fear of being out-manoeuvred by a chair of a neighbourhood fora with an eye on a council seat! In turn this may lead to more local residents standing as independents or for residents' parties at local council elections, particularly if they are dissatisfied with their ward member(s) or/and local ruling party.

Councillors also will have the opportunity to engage more with developers and express an opinion. Whilst they have to watch the issue of pre-determination carefully, effective engagement and discussion with developers in the run up to a submission of an application and then a decision should ensure that more committee members have a clearer understanding of the scheme and therefore a better grasp of the issues to weigh up.

For local authority CEOs, Finance Directors and Directors of Planning the fact that the Localism Bill now has an amendment which means that financial issues are a material consideration means that their role in assessing the real value of a development to the councillors will be enhanced. Furthermore, apportionment of s.106 of the New Homes Bonus and business rates at a very local level will become more of an issue and they will need to be aware that subsidiarity may apply down to the smallest democratic unit, which may well be the neighbourhood. The non-domestic rate yield of a major new project could be massive in relation to local council tax yield. Also for some local authorities they may be under pressure to set up an umbrella body to help the growing number of NFs in their area—Birmingham's Association of Neighbourhood Forums has no less than 70 fora as members.

For planning officers the way in which local plans are prepared in the future will have to change to reflect the growing neighbourhood focus. In the case of Haringey, for example, we understand that the emerging Core Strategy is seeking to reflect ward boundaries more (although very few people actually know what ward they live in!). Consultation on these plans may well become more onerous in the future with workshops with these groups on the emerging local plans taking place before they are then published for comment. They will also need to show more detail and rationale on how they have responded to comments from these fora. In addition these officers will need to bid for resources to help service these fora. The types of things they may be asked to help with could include providing background

⁴⁹ *Supporting Communities and Neighbourhoods in Planning*, CLG, January 2011.

information/maps/data etc, running engagement/plan making workshops, advising on existing relevant policies that should be taken into account such as from LDFs and the London Plan and turning community ideas into plain text, maps and diagrams.

For the in-house lawyer for a council advising the planning committee, s/he will need to think carefully about the weight to be given to neighbourhood plans/voices, in comparison with borough-wide plans. The draft National Planning Policy Framework has been updated to note that neighbourhood plans should “be in general conformity with the strategic policies in the Local Plan”.⁵⁰ This indicates that it will not necessarily be the case that the Local Plan trumps the Neighbourhood Plan and there could be cases where a NF could argue that a plan which meets the NDP’s objectives should receive a planning permission despite being counter to the Local Plan.

For local residents chairing NFs, they will have to act in a different way. Once they are created by a referendum, they will have a semi-statutory duty to represent fairly and accurately the views of their NF. This places a greater onus on them than in the past. For example, with a minimum number of members being 21, there are issues around when a meeting is quorate and how their internal processes will work. And of course developers (or borough officers), concerned about the stance such a group might take over a scheme, may well request to see minutes of meetings and see proof that certain proposals or policies laid out in the neighbourhood plan have been properly considered and agreed by a robust number of local people. Informality will be a thing of the past.

Lawyers, planning consultants or PR advisers acting for such neighbourhood groups will have an important role to play in guiding these NFs to ensure that they do meet some basic levels of accountability. This could be a mini business growth area, albeit there may not be much money to be earned. If these groups do not, or are unable to, employ professional advisers then they will need to rely on the chair and key committee members having a good enough knowledge of the planning and legal systems. Will this therefore favour those with a background in these subjects when it comes to fora elections?

For developers the game will undoubtedly change. They could make representations in response to neighbourhood plans; they could challenge how these plans were put together; they could offer to help groups develop their plans; they could perhaps form a joint group with a NF to push forward a development; they must put these people on their A list to consult with; they may have to consult them a lot earlier than others; they will need to show how they have consulted with these people and given due regard to their views (even if they disagree with them). They could also lobby to create business-led neighbourhood fora. They may also have to deal with a lot of independent politicians who are not affiliated to any party.

For the media they will need to weigh up how to position the views of such groups, especially in comparison with the borough or authority. Local papers currently tend to give more room to the views of residents and are less likely to challenge these than that of the local authority or the developer. Will this balance change and give developers and local authorities an opportunity to gain more neutral/positive (and some would say balanced) coverage on their plans?

Some recommendations for developers on community engagement (mainly focused on when a forum has been established)

Before buying a site it will become even more important to check whether there is an existing NF and understand the issues that are driving that forum. If one does not exist, it will be worth checking whether there are plans for one and, if not, some developers might want to consider, with the support especially of local businesses, setting one up. Also before buying a site, developers or their lawyers or planning consultants will need to check whether it is on the list as a site of community value, or whether there has been an attempt to put it on the list.

⁵⁰ *Draft National Planning Policy Framework*, July 25, 2011.

Once a site is bought, it will be essential to meet with the relevant local council very early in the development's process to agree a programme of consultation which will meet the expectations of the local authority and the relevant NF or NFs. This may seem obvious but some developers do not do this. I would suggest too that the developer then presents this programme of consultation to the forum early on and gain their acceptance of the process (and get that minuted).

On sites which might be the subject of a campaign to put them on the asset list, it would be worth preparing a detailed Site Parameters' document. This would manage expectations on what can physically (and perhaps financially) be delivered on the site. This is an important recommendation as often local people believe a site has no limitations when issues such as decontamination, underground railways or tunnels, or height restrictions can and do make a big difference to how a scheme is developed.

On the actual engagement process, developers will have to accept that the consultation process will be more inclusive than it has been in the past and that the forum and the wider communities may expect to be involved in the design process rather than just being shown plans and asked to comment. So investing more in promotion and "design for real" workshops with architects and designers may become the norm. It is also likely that we will see more formal Council-led Planning Fora as part of the pre-application consultation process, which some developers may welcome as it would reduce the risk of being accused of not consulting properly. We would recommend that developers avoid holding exhibitions and/or meetings only a few weeks before submitting an application. This is a dead giveaway that they are not having due regard to views as the ability to change a scheme and all the accompanying reports that quickly is impossible. Allowing at least six weeks before is recommended, moving up to eight weeks if an Environmental Impact Assessment is needed.

Allow open expression of views on the development's website and ensure that all views expressed, however extreme, are recorded in the SCI and dealt with. Developers will also have to accept that the local media may give them an even harder time than they already do.

However, developers can and should use this new emerging democratic process and statutory nature to their advantage by placing an onus on NFs to run their processes properly. Too often in the past local groups have campaigned against a scheme without anyone asking to see how they agreed their stance. For example, ask to see minutes of meetings to ensure that decisions have been made correctly and arguments properly debated and attend NF meetings to observe the process.

Developers will also need to understand that neighbourhood politicians may well no longer be part of the traditional political mix and that, as residents' representatives on the ground, there may be a very different view towards them.

Re-consider how s.106 payments (including NHB and CIL) might be best used to both mitigate the impact of the development and meet the agendas of the NF. Also, point to the benefits of the extra local taxation generated by new schemes—this may be substantial.

Some recommendations for emerging neighbourhood fora

There are some key principles to follow for emerging NFs based on what is in the Bill and the "trial" areas that are currently drawing up their own plans.

The NF must actively seek out and engage with members across their area rather than relying on information from the local authority. There will always be the usual suspects but new forums should look to recruit a cross section of members from a range of backgrounds and with different skill sets.

They must be proposing something positive for the area in their emerging plans. Most of the 17 trial areas are looking at restoring and building a new community facility and enabling this by "allowing" surrounding residential development and not simply seeking to stifle development.

They will also need to manage the politics, perhaps more so than many informal groups do now. Whilst it is not essential that they are non-party political, they must ensure that the NF is not taken over by one political group.

A good relationship with the LPA will be vital, not least as documents like the Neighbourhood Plan will need to be updated and revised as things change in the area.

They will need to hold open and regular elections, although as with parish elections it may be that the majority of these are uncontested.

Proper engagement with local businesses will be crucial, especially if there is a move back to local authorities setting and keeping the business rate.

They will also need to develop relationships with conservation and amenity groups. There may well be some cross-over with memberships if the group is locally based and the NF may be able to benefit from the conservation/amenity group's relationship with the LPA and other statutory bodies.

Summary

So some 99 paragraphs later, what does this all really add up to? There can be some doubt that these efforts to imbue localism into neighbourhoods will have the desired effect that the government is seeking. For starters, there is perhaps not enough real benefit in creating NFs for many people; and those that decide to do so may be driven by a desire to limit development through tightly drawn NDPs. It will be a brave chair of a NF who not only seeks to embrace change but drive it through in both a positive NDP and/or a Community Right to Build Order, especially in parts of London.

The term “token localism” could easily become all too common, taking precedence over Jenny Rowlands’ “democratic conversations”. Perhaps this is too cynical a view, drawn from more than a decade’s experience of trying to support change in London. In other cities in the UK, some of the investment we have seen in London would have been welcomed, if not with open arms, then at least in a positive light. More specifically I fear that there are many inherent conflicts—as highlighted by the case studies—that the planning system will remain highly uncertain and that we will see years of such issues being tested at appeal and through the courts before any kind of new consensus emerges.

It can also be seen that the planning aspects of the Bill place far more onus on hard-pressed local authorities than might have been the case. The expectation by neighbourhoods of their local authorities will change. This can and probably will be a good thing but the biggest pressure point in all this is with the local authorities.

As for the development industry, it has managed to battle on through recessionary cycles and regular policy changes and will do so again through this phase of the planning process too. Some developers will have to change the way they do business radically, but for many who already deliver well run pre application consultations, the changes may be marginal at best.