

**DLP BRIEFING NOTE 77**

Prepared by  
**DLP Planning Ltd**

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## **DLP Planning Ltd**

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## **The Localism Act 2011**

The Localism Act received Royal Assent on 15<sup>th</sup> November following 11 months of Parliamentary scrutiny with the Government hopeful that most of its provisions will come into force by April 2012.

Speaking on the Localism Act and what it will mean for local communities, Eric Pickles, Secretary of State for Communities and Local Government stated:

*"Today marks the beginning of an historic shift of power from Whitehall to every community to take back control of their lives.*

*The Localism Act pulls down the Whitehall barricades so it will no longer call the shots over communities - bug bears like housing targets and bin taxes are gone.*

*For too long, local people were held back and ignored because Whitehall thought it knew best. That is changing for good."*

Greg Clark, Minister of State for Decentralisation stated:

*"The Localism Act sets out a series of measures with the potential to achieve a substantial and lasting shift in power away from central government and towards local people. They include: new freedoms and flexibilities for local government; new rights and powers for communities and individuals; reform to make the planning system more democratic and more effective, and reform to ensure that decisions about housing are taken locally."*

The key elements of the Act relating to planning are summarised below.

### **The Abolition of Regional Strategies**

The Government's intention to abolish Regional Strategies was made clear in 2010, but Section 109 of the Act grants the power to allow this to happen. In practice this may still take some time while the Strategic Environmental Assessment process runs its course, with the possibility of legal challenges to the findings causing further delay.

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

Section 110 requires Local Authorities and public bodies to work together on planning and sustainable development issues. There is however, as yet, a distinct lack of detail as to how this will be monitored and enforced.

### **Community Infrastructure Levy (CIL)**

This section of the Localism Act allows for greater flexibility on how the money is spent including the maintenance costs of infrastructure. It also now requires a 'meaningful proportion' of the levy raised to go directly to the neighbourhoods where the development has taken place and allows local authorities a certain amount of freedom in setting the rate that developers will pay.

This reflects the proposed changes set out in the draft CIL Regulations which are currently being consulted on.

The final decision on whether to adopt the charging schedule following the Inspector's report is now back with the charging authority as the Inspector's report recommending approval will no longer be binding.

## **Reform the way Local Plans are made**

The Act will limit the discretion of Planning Inspectors to insert their own wording into Local Plans. It also seeks to ensure that, rather than focusing on reporting progress in making plans to Central Government, Authorities focus on reporting progress to local communities.

## **Neighbourhood Planning**

Section 116 of the Act introduces the powers for communities (residents, employees and businesses) to come together through a local parish council or neighbourhood forum to draw up their own neighbourhood plan with technical advice provided by local planning authorities. The intention here is to give local communities an opportunity to influence where they think new development should go. The plan must be in line with national planning policy and the strategic vision for the area as set by the local authority. Local people will be able to vote on their neighbourhood plan in a referendum and if approved by a majority of voters, it will be brought into force by the local authority.

## **Community Right to Build**

The Act provides for a community organisation to bring forward development proposals which, providing they meet minimum criteria and can demonstrate local support through a referendum, will be able to go ahead without requiring a separate traditional planning application. The benefits of the development, such as new affordable housing or profits made from letting the homes, will stay within the community, and be managed for the benefit of the community.

## **Consultation**

The Act introduces a statutory requirement for developers to consult with local communities before the submission of certain planning applications. They must also be able to show how they have complied with these requirements and taken account of the responses when submitting an application.

## **Enforcement**

The Act seeks to strengthen planning authorities' powers to tackle abuses of the planning system, such as deliberately concealing unauthorised new developments.

## **Nationally Significant Infrastructure Projects**

The Act confirms that the Infrastructure Planning Commission (IPC) is to be abolished; meaning that decision making for major infrastructure projects will once again become the responsibility of Government Ministers. It will also enable National Policy Statements to be voted on by Parliament.

## **Clarifying the Rules on Predetermination**

The Government has also used the Localism Act to clarify the rules on 'predetermination'. These rules were developed to ensure that Councillors came to Council discussions - on, for example, planning applications - with an open mind. In practice, however, these rules had been interpreted in such a way as to reduce the quality of local debate and stifle valid discussion.

The Act makes it clear that it is proper for Councillors to play an active part in local discussions, and that they should not be liable to legal challenge as a result.

### **What Happens Next?**

The Government hopes to bring most of the provisions of the Act into force by April 2012.

DLP Planning Ltd will be monitoring closely the timeframe for when different parts of the Act do take effect, as well as progress on the National Planning Policy Framework and other policy documents. We will issue further client briefings on these matters in due course when further detail becomes available.

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