

HIGHBURY GROUP ON HOUSING DELIVERY

SUBMISSION TO LOCALISM BILL COMMITTEE

Summary

Neighbourhood plans need to operate within a clear statutory framework and contribute to meeting strategic housing objectives at local authority, sub-national and national level. The group is concerned that the overall impact of the proposals will be to strengthen the position of residents opposing development and that the proposed incentives will not generally be sufficient to counter this effect.

1. Introduction

The Highbury Group is an independent group of specialists from public, private and independent sectors from housing, planning and related professions which prepares proposals for Government and other agencies on responses to the current economic context following on from the 'credit crunch' aimed at maintaining the output of housing including affordable housing.

The group was established in 2008 as the Highbury Group on housing and the credit crunch and met at London Metropolitan University in Highbury Grove, Islington, London. The group's name was changed in September 2010 and it now meets at the University of Westminster, 35 Marylebone Road, London NW1

It comprises the following core members: Duncan Bowie - University of Westminster (convener); Stephen Ashworth - Denton Wilde Sapte ; Julia Atkins - London Metropolitan University; Bob Colenutt - Northampton Institute for Urban Affairs ; Kathleen Dunmore - Three Dragons ; Michael Edwards - Bartlett School of Planning, UCL; Deborah Garvie - SHELTER ; Stephen Hill - C20 Futureplanners ; Roy Hind - Bedfordshire Pilgrims HA ; Angela Housham - Consultant ; Simon Kaplinsky - PRP Architects; Seema Manchanda - L B Wansdsworth; Tony McBrearty – Consultant; Kelvin McDonald - Consultant ; Dr Tony Manzi - University of Westminster; James Stephens - HomeBuilders Federation ; Peter Studdert - Cambridgeshire Horizons ; Janet Sutherland - JTP Cities; Paul Watt - Birkbeck College

The key purpose of the group is to promote policies and delivery mechanisms, which

- * increase the overall supply of housing in line with need
- * ensure that the supply of both existing and new housing in all tenures is of good quality and more affordable by households on middle and lower incomes.
- * support the most effective use of both existing stock and new supply
- * ensure that housing is properly supported by accessible infrastructure, facilities and employment opportunities

2. The Localism Bill and Housing Delivery

2.1 The Subsidiarity Issue

The Highbury group recognises that for planning policy to be effective, there needs to be a balance between the different levels of decision making – national, sub-national or regional, the local authority level and the neighbourhood level. The role of planning is both to facilitate the development of sustainable communities but also to mediate between conflicting interests. Planning needs to recognise that decisions over both development rights and access to both land and investment to develop are taken at a number of levels within the democratic system and that given spatial inequities in terms of distribution of resources and amenities and inequity in terms of household and individual access to them, some mechanism for planning to operate at a strategic or ‘more than local’ level is necessary if these inequities are to be reduced – an objective which has been regard both in planning law and guidance as the third component of spatial planning, being of equal importance to the objectives of economic growth and environmental sustainability.

2.2 National and sub-national planning

The Group therefore regards mechanisms for planning at national and sub-national level as important as well as mechanisms for planning at the local authority and neighbourhood level. As resource investment decisions are still to a considerable extent made by national government, and such decisions to some extent reflect the spatial distribution of both need for development and capacity for development to be delivered in terms of appropriate land supply, the operation of the planning system needs to reflect this reality if planning is to assist the delivery and effective use of national resources. The Government recognises this necessity, both in its commitment to publish new national planning guidance but also in its decision to develop a national infrastructure

strategy. It is our view that there needs to be an explicit relationship between national investment decisions and a spatially differentiated national policy framework. Such investment and planning frameworks need to ensure and support the development of new sustainable communities in areas where there is both the demand and capacity for such development. It has to be recognised that in developing such communities, there needs to be a balance between meeting national policy objectives and the preferences of existing residents within these areas. In this context, some national guidance is required in relation to issues such as the overall need for additional housing to meet both household population growth and the need to replace unfit housing, the affordability of new homes in relation to household incomes and savings, the quality of additional homes in terms of minimum standards, and the density of development in terms of delivering sustainable communities and a minimum quality of life for households. These are all matters which are the responsibility of a national government and should not be matters left solely at the discretion of local decision making processes, whether local planning authority or neighbourhood based.

2.3 Local Authority Level Planning

The Group welcomes the decision of the Coalition Government to substantially retain the current system of Local Planning Authority planning through the Local Development Framework system. The group retains the view that there is a need for planning co-ordination at the sub-regional and regional levels, especially in the case of London, though recognises that there concerns of democratic deficit within the pre-existing regional planning system outside London. The group would argue that a democratisation of the system would have been preferable to the abolition of regional strategies. Nevertheless it is necessary for a system of cross-authority planning to be re-established. The proposed duty to co-operate must be strengthened to ensure effective strategic planning on a sub-regional basis. Such a structure needs to be brought into effect both for city regions as groupings of local authorities, but also for sub regions centred on county towns and for rural areas. It is critical that no local authority is able to opt out on collaborative planning on strategic issues with its neighbours. Each local planning has to respond in terms of contributing to meeting the long term challenges faced by the country as a whole in terms of the challenges of economic, environmental and social sustainability arising from population growth and other external pressures.

It is recognised that the planning regime established by the 2004 Planning

and Compulsory Purchase Act was over bureaucratic and process driven, which partly explains the delays in many planning authorities with adopting sound core strategies. However changes in the development market together with inadequacy of long term public investment in housing, transport, social and green infrastructure, raised concerns as to the deliverability of demand based plans. While the 2008 Planning Act removed some of the less productive process requirements, it is important that the new regime is allowed to bed down without significant further changes. Local authorities and the planning inspectorate need to be resourced to deliver the local planning system, which has at its heart public engagement, democratic decision making and independent professional assessment. It is important that the current system of ensuring both consistency of process and soundness of plan is retained including the need for a Local Planning Authority in its plan to have regard to impacts on its neighbouring areas and needs and demand arising from outside its borders. It is also important to retain the process of impact appraisal and plan review, and this needs to be supported by a continuous process of monitoring outcomes and updating the evidence base. The Group is therefore concerned at the proposals in the Bill to weaken the current requirements for consistency of evidence base on monitoring in terms of the Annual Monitoring Reports. The information in the AMRs is useful both in meeting the Local Planning Authority's own duties to inform their electorate, but also should inform both national government and its agencies in their own investment and policy decisions.

2.4 Neighbourhood Planning

2.4.1 The role of neighbourhood planning within the planning framework

The group welcomes the intention of the Government to encourage and support planning at a spatial level below that of the local planning authority. While the current legislation allows for a process of both area action plans and development briefs for sites to be drawn up by local planning authorities within a process of public engagement, some of these powers have perhaps not been used as widely as originally envisaged, partly because the focus of most planning authorities has been on preparing their core strategies to meet the requirements of the 2004 Act as well as processing planning applications to meet Government target timescales. Consequently, many planning authorities have been more process driven and reactive than proactive in the sense envisaged by legislation. The sheer volume of statutory work within planning

departments has perhaps meant that there has been less public engagement in local planning issues that for example in the 1970's and 1980's, while 'public engagement' in planning at borough wide or regional level has become increasingly professionalized and rarely productive for either the planning authority or those members of the public seeking to engage in the process.

The critical issue however is that any framework for planning at a sub-local authority level has to recognise the need for a balance between different levels of decision making in relation to the different levels at which investment decisions take place, and that the social sustainability agenda of planning means that planning has to have regard both to spatial inequalities and the fact that planning decisions can both reduce and reinforce spatial inequalities. A planning system which transfers significant planning powers to a neighbourhood level carries the risk of reinforcing existing spatial inequities if such a system allows neighbourhoods to make decisions which result in negative consequences, whether direct or indirect in terms of opportunity costs, on households outside the neighbourhood. In terms of the concerns of the Highbury group, one example of this would be a neighbourhood which opposes more affordable housing, which clearly has a negative impact on households outside the neighbourhood who do not have access to affordable housing. Different areas have different capacity to provide developments of different types and it has to be the responsibility of a national government to ensure that relatively scarce resources, and land and development capacity, is a limited resource, are used most effectively to meet the needs of the population of the nation as a whole.

In the group's view, the provisions of the Localism Bill do not appear to fully meet these criteria.

2.4.2 Defining the Neighbourhood and the Status of a Neighbourhood Forum

The Localism Bill puts a duty on the Local Planning Authority to designate a Neighbourhood for the purposes of the Bill's provisions, but states that this should only in response to a community group application. Whereas for parished areas, the parish becomes the neighbourhood planning area, for unparished areas, the size and boundary of an area can be proposed by any group of three or more residents. This allows for competition between different groups who may be proposing overlapping neighbourhood areas. There is also a question as to the size of area within which neighbourhood planning is appropriate, especially in terms of the

burden on a local authority of consulting on and supporting a large number of plans for areas comprising only a few streets or perhaps only a few hundred residents. There is also a logic in ensuring some link between neighbourhood planning and the existing democratic process. There would therefore appear to be a strong case for defining a local authority ward as the minimum basis for neighbourhood planning, with the option of grouping wards. This would also avoid any issue of overlapping boundaries. Ward councillors would have a key role in the neighbourhood planning process. Such a system would in effect be an extension of the ward based community councils which operate in some urban areas at present. This would also remove any requirement for extensive pre-determination consultation and negotiation, as the establishment of a forum could be subject to a local referendum based on the electoral register, with a voting threshold being set. There may also be a case for neighbourhood planning for a group of adjacent wards which may be in more than one local planning authority.

The Bill sets a criterion that a neighbourhood planning forum can be initiated by a minimum of three people resident within the proposed area. This threshold is very low. Should the ward be established as a minimum area, surely a petition of at least 100 residents should be required for the process to be initiated. Moreover the provisions in the Bill state that anybody 'wishing' to live in an area can join a forum. It is unclear how this could be enforced. If voting on a neighbourhood plan is to be limited to persons registered on the electoral register is proposed, this would not just exclude recent movers or people who are not registered, which can be a significant proportion of the resident population in urban areas of considerable residential transience, but will clearly exclude non residents who have interests within an area, as well as excluding business interests. It is important that such processes do not further marginalise households who may already be marginalised.

2. 4.3 The Local Authority Role

The Bill gives the Local Authority a duty to support neighbourhood forums. It is however unclear what this duty covers. This could be an onerous requirement at a time when local authorities are facing severe revenue constraints, without any reduction in their existing planning responsibilities. However, with the provision that the LPA can charge to a neighbourhood forum for planning services and/or admin support, this may discriminate against poorer communities as in practice only better off neighbourhoods will be able to self fund plans. There is also the risk that applicants will fund a neighbourhood plan to ensure it allows for

their development proposal. This in effect weights a neighbourhood planning system in favour of residents and developers who are best resourced. A local planning authority should be able to prioritise support for those neighbourhoods who are unable to privately resource their plan-making.

The provisions in relation to assessment of neighbourhood plans needed to be strengthened. The Local Planning Authority must be required to ensure that the neighbourhood plan conforms with the adopted local authority core strategy. It is critical that neighbourhood plans do not jeopardise a local authority's ability to deliver its core strategy. Consequently for conformity to be assessed, a core strategy must set its key strategic targets at neighbourhood level. The determination of wards as the territorial areas for neighbourhood planning will simplify this process. The specification of housing targets at neighbourhood level is essential. Similarly employment land or open space targets should be specified at neighbourhood level. An LPA should be able to veto a neighbourhood plan which fails to deliver on these core targets. This should however be an iterative process, with neighbourhood plan proposals which go beyond the existing core strategy plan and which are supported in the neighbourhood referendum, contributing to the review of the core strategy in terms of incorporation in such a revised LPA wide plan. It is noted that the Government in its regulations is setting out a definition of matters considered to be strategic in terms of neighbourhood plan compliance with adopted Local Development Documents. This will be important in ensuring an appropriate balance between neighbourhood interests and the delivery of LPA wide policy objectives.

2.4.4. Assessment of neighbourhood plans

Ministers and the provisions of the Bill focus on a light touch assessment of neighbourhood plans. This is a matter for concern, as while bureaucratic processes need to be minimised, there is nevertheless a need to ensure that neighbourhood plans do not have unintended negative consequences. Neighbourhood plans, to have a statutory basis and to establish a framework for the determination of development proposals, must meet the criteria currently applying to other development plans. Plans must be demonstrably sound. This means they must be supported by an evidence base, must have regard to wider demand and supply issues, must be subject to an impact appraisal, including sustainability and equalities impacts, and also be deliverable. The independent assessor should be suitably qualified and the examination should be held in public with oral representations as well as hearings, and with the local planning

authority represented. The local planning authority should make a written submission as to any proposals in the neighbourhood plan which are not in conformity with the LPA's Local Development Documents and put at risk the delivery of any strategic policies or targets in LDDs.

A Local Authority should be able to veto a plan which does not meet conformity requirements. This includes objections on the grounds of prematurity, if a LPA has not as yet adopted its core strategy.

2.4.5 Plan review and Neighbourhood Development decisions

There remain some further substantive issues which do not appear to be covered by draft clauses.

Firstly there is the process of plan review. Can plans be updated to reflect changing circumstances, for example in response to development proposals? There is the possibility that a group of residents might wish to initiate a new neighbourhood body to initiate revisions. Is the decision as to whether such a review proceeds a matter for the LPA or is it a matter to be determined primarily by the membership of the neighbourhood forum?

The process by which a neighbourhood plan is adopted through a neighbourhood development order and then sets a framework for development decisions is unclear. While it is proposed that schemes of a strategic nature will still be determined by the LPA, the process by which a neighbourhood forum can determine applications within the order is unclear. Would the LPA have the power to call in development proposals which it considered to be of a strategic nature. For a neighbourhood forum to itself act as a planning authority, there needs to be a process as well as professional resources for assessment of development proposals. There also remains the issue of ensuring that impacts of a scheme beyond a neighbourhood are taken into account. It is arguable that any proposal which has any such wider impacts should be for the LPA to determine rather than the neighbourhood forum.

There is also the critical issue of ensuring that developers are not able to impact either on neighbourhood plans or the determination of development proposals at a neighbourhood level, through the making of payments to individuals in order to impact on the use of their vote. It is the view of the group that any such payments be made illegal and subject to a criminal prosecution. Any payments by a developer to a neighbourhood forum to assist with the preparation of a neighbourhood

plan should be publicly recorded.

3 Conclusion

The test of the Localism Bill from the Highbury Group's perspective is whether it contributes to achieving the group's four core policy objectives:

- * to increase the overall supply of housing in line with need
- * to ensure that the supply of both existing and new housing in all tenures is of good quality and more affordable by households on middle and lower incomes.
- * to support the most effective use of both existing stock and new supply
- * to ensure that housing is properly supported by accessible infrastructure, facilities and employment opportunities

Given the Government's stated objectives, there is a further test – whether the proposals will encourage or discourage community led housing initiatives.

Our conclusions are as follows:

1. In introducing an additional tier of neighbourhood planning, the Bill will introduce another layer of bureaucracy which house builders will have to negotiate i.e. neighbourhood plans, neighbourhood forums, local referenda. This will in turn create uncertainty about the weight to be attached to Core Strategies and approved Local Plans, thus reducing certainty. And if developer costs/risk go up there will be less money left over for s 106 or CIL.
2. The Bill will definitely not encourage more affordable housing because many local residents in more affluent areas will not include very much affordable housing in their own plans for fear of bringing down the value of their own homes. While the New Homes Bonus may help to overcome this resistance and reduce these risks in some circumstances, this will depend on what size of development is included within the New Homes Bonus (small schemes will escape); on who will receive the NHB; when it will be paid; on the strength of local reaction to schemes with a NHB

incentive; on the politics of the local authority (some will be against more housing whatever the incentive). It will reduce some of the risk on some schemes but not on others. It is optimistic to assume that the NHB is sufficient to overcome inbuilt nimbysism in many parts of the greater south east and the southwest, and council leaders of different political parties have made this point.

3. Neighbourhood plans and neighbourhood development orders are themselves bureaucratic and technical which will deter many the delivery of community initiatives (in much the same way as the Community Right to Buy legislation has done in Scotland). Nevertheless neighbourhood plans and neighbourhood development orders can potentially be generated by parishes and neighbourhood forums. The problem is (again this happened in Scotland) the ability to produce plans does not mean the capacity and ability to implement them. Thus, the bill provides a stimulus to community led *planning* but does not provide a means of delivering community led *development*. Only by coupling planning powers with community access to land purchase (at below market price), and access to capital funding for building houses, and significant technical support can the community be genuinely empowered. Moreover, in as much as it may happen in some areas, it will be the richer areas of the country that will be able to take advantage because they have skills, contacts, and wealth within own communities. Imagine how disadvantaged the poorer areas will be without Government support.

4. The Bill thus has the potential to be quite divisive with some areas able to benefit, while others are at a serious disadvantage in both resisting development they do not want, and empowering them to build housing they do want.

5. Our main concern is that the introduction of neighbourhood based planning will have a negative impact on the provision of housing in more areas than it will have a positive impact and that the New Homes Bonus will not generally be sufficient to overcome this negative impact. When taken together with the Government's decision to no longer fund social rented housing, the impact on the provision of new social rented housing, rarely promoted in community led initiatives, will be devastating. The

fundamental problem is that the devolution of planning powers to neighbourhood groups not supported by investment resources will assist those neighbourhoods seeking to stop development without empowering those who support development. The proposals made above, in terms of bringing neighbourhood plans within an evidence based local authority led planning system should mitigate some of these negative impacts, while ensuring local authority led plans also contribute to regional demand is critical if available resources are to be used effectively and greater social polarisation avoided.

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