

Localism Bill
First evidence session

Tuesday 25 January 2011
Morning session

Councillor Gary Porter – Chairman of the Environment and Housing Programme Board at the LGA

Alex Thomson – Chief Executive of Localis

Neil McInroy – Chief Executive of the Centre for Local Economic Strategies

Andy Sawford – Chief Executive of the Local Government information unit

Nic Dakin (Lab) questioned whether or not the Bill would achieve its vision.

Andy Sawford outlined that there were a couple of big concerns. One is in regards to the way in which the Bill is being introduced – in terms of both the legal environment and the way in which Whitehall operates – and the other is the 142 powers the Secretary of State has retained for himself. There was also criticism of the limitations of the general power of competence.

David Ward (Lib Dem) asked how far localism could go without a substantial shift in the way in which revenue can be raised at a local level.

Andy Sawford said that financial freedom is “absolutely fundamental” to the freedom of local authorities.

Neil McInroy said that it was not possible to predict the consequences of the Bill due to the scale of the “radical changes” proposed in the Bill. However, he also said that the limitations on the power being granted to local authorities inhibited the localism agenda – “the Bill wants to be radical but it prescribes, and it needs to be as radical but prescribe less.”

Jack Dromey (Lab) asked whether the national planning policy framework should be put on a statutory footing, particularly the presumption in favour of sustainable development.

Alex Thomson said that there had been an assumption that the presumption in favour of sustainable development would be built into the Bill.

Alison Seabeck (Lab) asked what elements are missing from the Bill.

Alex Thomson said that he felt the planning provisions should go further, more in line with *Open Source Planning*. He also said that the Community Right to Buy “looks more like a community right to express an interest to buy”.

Eric Ollerenshaw (Con) asked how the panel saw neighbourhood development plans working in the system.

Councillor Porter said that “is the district or upper-tier development plan is the locally supreme document and sub-district plans have to fit in with that, then this will work really well.” He stressed though that this should be turned on its head and that the neighbourhood plans should be used to develop district-wide plans. He said that the “previous system has failed, so it is time to change, and local government really welcomes that. It is the end of regional spatial strategies – top-down targets that failed, year on year, to deliver the homes we needed.”

He went on to say that RSSs were negative both in imposing too many homes and too few homes on areas. “What people want is the right development in the right place. What they do not want is the wrong development in the right place, if that makes sense.”

Neil McInroy said that there “needs to be an element of understanding of the scale of functions of planning and of how certain planning decisions have a particular scale. We would not have to have neighbourhood plans, which makes it difficult for a series of small plans and makes a more confused picture when large-scale strategic planning decisions need to be made.”

He said that “we need to see where that scale of planning will take place in the future and how we would build up the blocks of all these individualised neighbourhood plans that people have put a lot of work and effort into. We need to see that a big scale does not ride over the top of them, but still manages to conglomerate them; it is a tricky business and a lot more work needs to be done on it.”

In response to what was missing from the Bill, Andy Sawford said it needed to go a lot further: “Our vision of localism is one in which the local community and councils have a great deal more power in the criminal justice system, the welfare system, the stewardship of local natural resources and so on. That is a much more encompassing view of how communities should be self-determining and over which areas of community life. I think that is a bit of a challenge to bring forward.”

Stephen Gilbert (Lib Dem) asked what the top two implications would be for housing policy from the Bill.

Councillor Porter said that the first was that more affordable homes would be built due to the incentives (this was certainly not a unanimous view, and most witnesses actually thought less homes would be built as a result of the changes, certainly in the short-term). The second implication was the changes to the housing revenue account system.

Tony Burton – Civic Voice
Councillor Keith Barrow – Leader of Shropshire Council
Councillor Mike Jones – Leader of Cheshire West and Chester Council

Tony Burton welcomes the community right to buy, but questioned whether it would amend the decision-making process at all. “It does not matter how good a community case is, if the social value – or environmental value, as it could be in some cases, if land is involved – of the asset is not fully recognised in the decision-making process. If it is simply on best consideration – simply a straight financial judgment – in some ways you may find communities frustrated, because they put a huge amount of communication, effort, passion into building their case and they still lose out at the end of the day.”

He said that neighbourhood planning “is at the heart of the legislation”, but said that the processes involved were quite complex and could lead to preventing some areas from creating neighbourhood plans: “Our worry is that at the moment the Bill will be picked up much more quickly in areas of high social capital, in rural areas, and in those areas where developers or landowners will essentially fund the neighbourhood planning process – in other words in areas of development change. We would like to see a much more universal approach, and that does require a more savvy and a better resources mechanism of support from Government and elsewhere than we are seeing at the moment. The £3 million for community support that is being transferred from planning aid is extremely welcome, but we are not sure it will cover the ground, and the potential demand that there should be if the neighbourhood planning process is to be as successful as we would want it to be.”

Councillor Barrow said that the role of the councillor will change as a result of the Bill, as they will have to become more community orientated. He described the process his council was adopting towards the LDF: “Instead of drawing a boundary round communities and saying that that is the extent of development, we are saying, how many houses does that community want? What is the need there for affordable and other types of housing? We are establishing a number, and that number dictates the amount of planning that will be allowed to take place. We are putting a larger amount of land in the process, so that people can pick and choose.”

Stephen Gilbert (Lib Dem) questioned whether housing need and housing want are conflicting things, and how they could be resolved.

Councillor Barrow said that it could only be through negotiation. “Some smaller communities are very reticent about development; others are embracing it. The other point is that there can be financial incentives built in, to put more monies into community through the planning process.”

Councillor Jones said that the removal of pre-determination would also be a positive thing, allowing members to full engage in the planning process.

Nic Dakin (Lab) questioned how conflict would be resolved in the case of an incinerator, “when nobody wants it in their local patch”.

Tony Burton said that there is a “really important role for the strategic policies within the local plan, and any neighbourhood plan needs to ensure that it conforms with that.” He also said that the Bill is “relatively quiet, as are the Government more generally, about

the role of the public's involvement in that local planning process." He said if members of the public "are brought into some of those strategic choices in the right way – on the front foot, feeling that they are genuinely being listened to, as opposed to just being consulted – there is a greater chance of resolving more of the conflict. This does not suggest that we will be able to, as it were, ensure that this is an entirely smooth process."

He also criticised the abolition of planning aid, arguing that not enough money had been made available for neighbourhood planning.

Professor Jones – Emeritus professor at LSE

Professor Stewart – Emeritus professor at Birmingham University and the Institute of Local Government Studies

Derek Myers – Chair of SOLACE, the Society of Local Authority Chief Executives

Professor Jones began by asserting that the Bill should not be called the Localism Bill, because it is actually a centralism Bill, due to the number of powers it confers on the Secretary of State. He also said that the Bill was ambiguous, because it was simultaneously attempting to devolve power to local government and decentralise to sub-local government entities.

Professor Stewart said that it remains “a bit obscure” as to what localism is. He criticised the definition of a neighbourhood forums as undemocratic: “There is one marvellous bit in the Bill that says that a neighbourhood forum must have at least three people living in the area, which hardly makes it representative... even if that body has a large number of members, there still remains the issue of how we actually secure the fact that it is being representative and accountable to local people”.

He said that “bodies that are not elected should not be taking decisions on matters that affect the whole community. I am all in favour of community groups doing as much as possible, actively bringing pressure to influence and being involved, but decisions should be left to elected members. I am in favour of parish councils and having their equivalents in urban areas too. They would be proper elected bodies. I am worried if we give power over the community to self-selected minority groups.”

Professor Jones said that the legitimacy lies in being elected: “I am very reluctant to confer legitimacy, governmental authority and decision-making power on self-selected groups that usually represent either rather eccentric, nutty individuals, or narrow sectional interests.”

Both professors agreed that unless the Bill was amended, central Government would only be further empowered, and it would lead to a weakening of political involvement on a local level.

Sir Simon Milton – Deputy Mayor and chief of staff to Boris Johnson, Mayor of London
Mayor Jules Pipe – Directly elected mayor of Hackney

Mayor Pipe said that there is a “lack of clarity about how these community plans and neighbourhood forums would work and how anything drawn up by such a body would operate, or even something drawn up by competing bodies because it is not clear, if more than one organisation came forward to propose neighbourhood plans, how those competing plans would be seen by the authority.”

He also queried the meaning of “neighbourhood”, and “how these plans dovetail with the local development framework or the unitary development plan”.

Afternoon session

Richard Capie – Deputy Chief Executive at the Chartered Institute of Housing

Campbell Robb – Chief Executive of Shelter

David Orr – Chief Executive of the National Housing Federation

David Orr stressed that there was a real need for the presumption in favour of sustainable development: “In an environment where we need all the help we can get to build the new homes that we desperately need, it seems to us that a presumption in favour of sustainable development should be in the Bill, and not just in the planning framework.”

Campbell Robb said that he did not believe the Bill would deliver extra affordable housing that is needed.

Richard Capie said that the jury is still out on whether the planning reforms would deliver the number of new homes that the country required, but that “one risk will be during the transition from the existing framework”.

Campbell Robb said that one of Shelter’s fears is “about the lack of consistent methodology for assessing planning need in a locality. This is not about brining back regional strategies, but we absolutely need to be able to understand the situation...What is not in here is any way for any of us to be able to assess local authority against local authority, and their planning needs. The Bill could benefit from consistent guidance to local authorities about how they assess that local housing need, and how they are going to address that need.”

David Orr said that he was “apprehensive about the easy equating of the collapse in house building with the regional spatial strategies... the fact that, last year, we built the smallest number of new homes since 1923 is a consequence of the credit crunch, the collapse in the housing market, the fact that a lot of the major developers had real struggles, and the real difficulty of the availability of mortgage finance. That will be made worse by the significant cut in capital investment for new affordable housing.”

He stressed that “removing regional spatial strategies, without putting anything in their place, was a short-term mistake, because it meant that property planning applications, which were going through the system and may have delivered new homes, were withdrawn.”

He described the new homes bonus and community right to build as “very interesting”, but that the planning system needed to be based on the presumption in favour of sustainable development, without which “we will not see the new supply”.

Roy Donson – Regional Planning and Strategic Land Director for Barratt Developments
Jennie Daly – Managing Director of Harrow Estates (part of the Redrow group)
Pete Redfern – Chief Executive of Taylor Wimpey
Alan White – Deputy Chairman of the Emerson Group

Peter Redfern began by saying that he does “not find it difficult to support the principle of localism”, but has reservations over the “scale and time of transition risk from an old to a new system, which we believe will impact negatively on planning permissions in the short term, and therefore on housing delivery.”

He said that there needed to be some sort of “safety net” through the transition period, “a regular test to make sure that the provisions are broadly working, as people adjust. Having a time scale for implementation, to make sure that people are given time to adjust to that process, is critical to ensuring that there is not more damage caused in the short term than there are gains in the long term. Our argument all the way through discussions about the localism agenda and planning has been that there should be some sort of transition arrangement, and measurement of what the planning progression is on a local level, how local communities are adapting and how they are dealing with lack of resourcing. The first key is to have some form of measurement of whether the Bill is working or not.”

Jennie Daly said that while the Bill would remove RSSs, it introduces a neighbourhood planning framework, “effectively removing one tier and replacing it with another”. She said: “The number of hurdles that must be considered in order to navigate the planning process and deliver housing remains effectively the same. There are certainly issues with the RSS and housing numbers; the assistance and housing delivery element of it. The neighbourhood development plans can potentially introduce a plethora of issues, but at an extremely local and detailed level. The burden on the house building industry remains the same. So the opportunity for the Bill to reduce some of the delay and cost burden and to stimulate housing delivery, in terms of an actual process, remains the same.”

All witnesses welcomed the statutory footing for public consultation, and all – surprisingly – said that they already complied with it. Jennie Daly said that one concern was that developers would have to have regard from local authorities, meaning that “what one local authority considered to be good practice could get bigger and bigger and become a hurdle to the proper delivery of development”. She also said that clarity was needed to the duty to have regard to community responses, because it would not always be possible to have regard to everyone’s wishes, particularly if they conflicted.

Roy Donson said that it was important that there was a recognition that development had to be viable, because “without viability, development does not happen”.

Jennie Daly said that there is a lack of clarity about how neighbourhood planning would actually work in practice: “AS neighbourhood development plans will not be required by statute, an authority will have a difficulty, in that it will not be a level playing field. They cannot plan to a certain level and then see if neighbourhood plans develop. They have to start either specifying where development will go, or not. In which case, what is the purpose of a neighbourhood development plan? Does community engagement not

revolve around the authority engaging in a more holistic and in-depth manner through their local plan?

Roy Donson said that the presumption in favour of sustainable development was “missing” from the Bill, and it was important that it was included.

Nick Raynsford (Lab) asked how long it would take for the development industry to get back to the levels of building achieved in 2007-08.

Pete Redfern said that without the Bill, it would probably be around six years, but with the Bill, it was likely to be seven or eight. Jennie Daly concurred. She also stated that there would be a real problem in calculating housing requirements with the abolition of RSSs.

On the third party right of appeal, none of the witnesses felt that it should be added to the Bill. Pete Redfern said that the success rate on appeals they had run the previous year was 94%, and that appeals impacted a developer both in terms of time and cost. Given that the success rate of authorities defending appeals was so low, there was no need for a further right to community / third party appeal. He also said that there were fears that the right to buy had “huge potential for abuse”.

Pete Redfern echoed the earlier views that community forums were undemocratic, saying that the bar was too low and that there is a fear that “you could have someone with no real interest coming in and almost taking over the decision, without really getting a lot of community support behind them”.

Alan White described the problem with the new homes bonus; “In areas where you do have affordability problems and where the new homes bonus might give local authorities the reason to grant planning consent, I venture to suggest that it is insufficient to actually make them in the more affluent... They are not going to change their mind... They will not have development. We could end up giving the new homes bonus to areas that would build houses if there was any demand, in any event, without the bonus, and in fact it will not be sufficient to create houses where affordability is probably the worst.”

He said that targets had to be based against both need and demand.

Liz Peace – Chief Executive of the British Property Federation

Alison Inman – National Federation of ALMO's

Adrian Penfold – Head of Planning and Corporate Responsibility at British Land

Andrew Whitaker – Planning Director of the Home Builders Federation

Andrew Whitaker argued that housing development is necessary infrastructure needed by the country, and that people have to face up to that: “we need to move people’s views from housing as a polluter to housing as necessary infrastructure in its own right”.

He said that the key was the transition process: “What do you do when you move from a regional spatial strategy target into using your own evidence base, or a different evidence base...?” Liz Peace echoed this view, saying that “we are worried about the in-between position, not because we carry a candle for the regional level of planning... but simply because the duty to co-operate under the Bill, to put it bluntly, seems spineless.”

Andrew Whitaker said that the threat of not having any targets was that you end up with fewer houses than are needed. “You need to make some assessment, in my opinion, of the amount of development needed for the country as a whole in order to ensure that you do not deprive people of the right to live somewhere where they want to live.”