

Committee:	Date:
Planning and Transportation	25 th October 2016
Subject: Neighbourhood Planning Bill	Public
Report of: Remembrancer	For information
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Summary

This report advises the Committee of the provisions of the Government's Neighbourhood Planning Bill, recently introduced to Parliament. The Bill will prevent the use of pre-commencement planning conditions without the agreement of the applicant, and empower the Secretary of State to impose further restrictions on the use of planning conditions through regulations. It also makes changes to the neighbourhood planning regime and the compulsory purchase system.

Recommendation

The Committee is invited to receive this report and note the provisions of the Bill which may affect its work.

Main Report

1. The Neighbourhood Planning Bill was introduced into the House of Commons last month and will have received its first debate by the time of this meeting. It is the eighth Bill proposing reforms to the planning system since 2010, and is presented as a further measure to encourage house-building. The provisions of the Bill are summarised below.

Planning conditions

2. The Bill will prevent the use of pre-commencement planning conditions (that is, conditions which must be discharged before development is started) unless their terms are agreed in writing between the planning authority and the developer. The Secretary of State will be able to specify exceptions to this rule in regulations, although none has yet been indicated. If the planning authority considers a pre-commencement condition necessary to make the development acceptable, but the condition is not agreed by the developer, the authority's only option will be to refuse planning permission. The developer will then be able to test the necessity of the condition on appeal against the refusal. The Government argues that this will ensure that pre-commencement

conditions will only be used where “strictly necessary,” thereby minimising delays to construction.

3. The Bill also contains a wide power for the Secretary of State to impose restrictions on the use of planning conditions through regulations. The power will be used in order to prevent the use of conditions which the Government considers to fail to comply with the tests set out in national policy, including those of necessity, relevance, precision and reasonableness. Potential examples include conditions which impose disproportionate financial burdens, conditions which require development to be carried out in its entirety, and conditions which duplicate other regulatory requirements such as building regulations.
4. A technical consultation is being carried out in tandem with the passage of the Bill, seeking detailed views on the process for seeking agreement to pre-commencement conditions and the other conditions which ought to be prohibited. The Director of the Built Environment is currently considering whether or not any response by the City Corporation is required, and will be able to advise the Committee further at the meeting.

Neighbourhood planning

5. The neighbourhood planning regime was introduced by the Localism Act 2011. It enables ‘neighbourhood forums’ (parish councils or other representative local groups designated by the local planning authority) to formulate neighbourhood development plans (containing planning policies for the neighbourhood) and neighbourhood development orders (permitting certain development in the neighbourhood), which take effect following public consultation, independent examination and a local referendum. There are as yet no neighbourhood forums in the City.
6. The Bill proposes minor modifications to the neighbourhood planning system. It will give neighbourhood plans weight at an earlier stage of the process, by enabling them to be taken into account in planning decisions after they have passed examination but before they have been approved by referendum, and requiring them to be taken into account once they have been approved by referendum but before they have been formally adopted by the local planning authority. It will put in place a quicker system for making modifications to a neighbourhood plan, where the modifications are not such as to change the nature of the plan, and for adjusting the boundaries of neighbourhood areas. It will also require a local planning authority’s Statement of Community Involvement to set out policies for giving advice or assistance in connection with neighbourhood planning. As with the changes to planning conditions, a technical consultation has been issued about the details of the changes, which the Director of the Built Environment is considering.

Compulsory purchase

7. The Bill proposes significant reforms to the compulsory purchase system. They will affect all authorities with compulsory purchase powers, including local authorities (and the Common Council acting in that capacity). There are

two main elements to the changes. The first is the introduction of a new right for purchasing authorities to take temporary possession of land for purposes connected with the compulsory purchase scheme (for instance, storing building materials or equipment). This power will be accompanied by a notice procedure and compensation rights, and subject to detailed regulations. The second element seeks to clarify the basis on which compensation is calculated, in particular through codifying the rules of the 'no-scheme' principle (whereby the effect of the compulsory purchase scheme is to be disregarded when assessing the value of land). It will tend to reduce the amount of compensation payable. More minor changes will strengthen the rights of tenants under short leases to compensation for disturbance, and impose a six-week deadline for the purchasing authority to publish confirmation notices once they are made by the Secretary of State.

8. The Bill will also empower the Greater London Authority and Transport for London compulsorily to purchase land for mixed regeneration and transport projects, removing the need for separate compulsory purchase orders covering transport purposes and regeneration purposes respectively.

Other measures

9. Two further changes are proposed which will place new requirements on local planning authorities. First, the Bill will empower the Secretary of State to make regulations requiring periodic reviews of statements of community involvement. The frequency of review is currently being consulted on, but is proposed to be every five years. Second, the Bill will require the register of planning applications to include information about prior approval applications and other notifications in relation to permitted development rights, in order better to allow the Government to assess the use and effect of those rights.

Next steps

10. The Bill will place new requirements on the Common Council, particularly with respect to the procedure for agreeing pre-commencement conditions with planning applicants. The provisions of the Bill have been referred to the Director of the Built Environment so that suitable preparation can be made to implement these measures. As noted above, two technical consultations have been issued on the details of the changes; the Director of the Built Environment is considering these and will advise the Committee on the need (or otherwise) for a response by the City Corporation. The passage of the Bill will be monitored and further developments reported to the Committee, including any engagement with parliamentarians and officials needed to secure the City Corporation's position in the light of the consultations referred to above.

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