

Written evidence submitted by the Royal Institute of British Architects (RIBA) (NPB 04)

Submission to House of Commons Public Bill Committee

Neighbourhood Planning Bill

The Royal Institute of British Architects champions better buildings, stronger communities and higher environmental standards through the practice of architecture and our 40,000 members. We provide the standards, training, support and recognition that put our members – in the UK and overseas – at the peak of their profession. With government and our partners, we work to improve the design quality of public buildings, new homes and new communities.

1. The UK is suffering a severe housing shortage. At the same time, developers lack the consistency they want from the planning process, local planning authorities lack the powers and resources they need to promote quality place making, and many people feel they have inadequate control over what is happening in their communities.
2. The RIBA therefore welcomes this Bill, which sets out a number of sensible reforms for a more efficient and effective planning system. In particular we welcome measures to reform compulsory purchase and neighbourhood planning, and the plan for a register of prior approvals for permitted development rights.
3. While we support the moves to restrict the use of unnecessary planning conditions, we are also keen to ensure that this does not have any unintended negative consequences.
4. It is important that the measures in the Bill do not increase financial pressure on already hard-pressed local planning authorities.
5. We believe that there is an urgent need to increase the transparency of viability assessments, which the Government should legislate for without delay. The passing of the Bill provides an opportunity to do this.

Neighbourhood Planning: Part 1, Clauses 1-6 and Schedule 1

6. The RIBA broadly welcomes the provisions on neighbourhood planning in the Bill.
7. We are concerned that they could increase pressure on hard pressed local authorities without extra funding. A proliferation of

neighbourhood plans is no substitute for a well-developed local plan.

8. Clause 5 is welcome. The support local authorities are delivering to neighbourhood forums and parish councils is variable, and greater transparency about what support is on offer can only be a good thing.
9. However transparency will not be enough. The process of neighbourhood planning makes significant demands on communities in terms of time and resources. And, crucially, it contains complexities which are impossible to navigate without professional support. In many neighbourhoods it appears that such professional support is drawn informally from within the community – for instance through the participation of retired planners, developers and architects. However, this resource is simply not available in many disadvantaged communities. As a result, fewer are able to access the opportunities that neighbourhood planning brings.
10. With proper support and guidance, there is the potential for neighbourhood plans to go further than they can do currently to promote a better quality built environment. This could include the development of design codes alongside the neighbourhood plans.
11. We would welcome amendments which seek to provide additional financial support to disadvantaged communities for neighbourhood planning.
12. We would further welcome amendments which seek to enable neighbourhood forums and parish councils to be more ambitious about their approach to the built environment. For instance, this might include a requirement upon the Government to produce a toolkit or guidance to assist neighbourhood forums and parish councils to develop design codes.

Planning conditions: Part1, Clause 7 and Schedule 2

13. We welcome measures within the Neighbourhood Planning Bill that curtail the overuse of pre-commencement planning conditions.
14. However, pre-commencement conditions do have an important role to play in the planning system. The completion of archaeological investigations is most appropriately dealt with at the pre-commencement stage. Moreover, the *detail* of various

issues such as ecological damage, surface water discharge and flood mitigation, infrastructure capacity, traffic impacts, and land contamination reports are regularly worked out at pre-commencement stage.

15. The Government must therefore be careful that the Bill does not lead to unintended consequences. The danger is that it could force local authorities' hand, leading them to address issues through Section 106 agreements, reject plans outright, or accept substandard commitments from developers where there is a significant need for the development to go ahead.
16. Similarly, we welcome the plan to prescribe the use of certain planning conditions, as long as they are those that are genuinely inconsistent with the National Planning Policy Framework.
17. We are encouraged that the Government has issued a consultation on these issues, which we will be responding to in due course.

Planning Register: Part 1, Clause 8

18. The RIBA does not support the extension of permitted development rights to the conversion of commercial to residential property. We are concerned that, since its introduction, the measure has led to poor quality, unsuitable conversions, and the loss of important commercial space in town and city centres. We would be happy to provide examples of this if it is of interest to the Committee.
19. The RIBA is particularly concerned that permitted development allows developers to breach the Nationally Described Space Standards, even when these have been adopted by local planning authorities. We would welcome an amendment to prevent housing built under permitted development from being exempt from the Nationally Described Space Standards.
20. Nevertheless, we do welcome the proposal from the Government to require local planning authorities to record prior approval for permitted development rights on the planning register. This will ensure government and the public are able to keep track of permitted development rights for office to residential conversion.

Compulsory Purchase: Part 2, Clauses 9-20

21. The RIBA welcomes to compulsory purchase power set out in the Bill.

Viability Assessment Transparency: Proposed Amendment

22. The RIBA believes that this Bill presents an important opportunity to introduce legislation to end the use of commercial confidentiality in viability assessments in section 106 and CIL negotiations, apart from exceptional circumstances.

23. Viability assessments are used by developers to argue that that planning obligations under Section 106 of the Town and Country Planning Act 1990 (often known as S106 agreements) would make a new development financially unviable.

24. Despite the Planning Practice Guidance encouraging transparency, developers may opt not to disclose their viability assessments to the public on grounds of commercial confidentiality. It is widely accepted that this is sometimes done in order that they can negotiate down their S106 obligations without public scrutiny. As a consequence, affordable housing may be reduced and the quality of the built environment may suffer.

25. What is more, a lack of transparency creates distrust and animosity among residents, which sometimes results in lengthy legal proceedings contesting disclosure – regardless of whether the developer was justified in the modelling they used for the viability assessment.

26. There is a growing consensus that viability assessments should be made available to the public. The Communities and Local Government Select Committee¹, London Mayor Sadiq Khan² and Greater London Authority Conservative Housing Spokesman Andrew Boff have all called for full transparency for viability assessments.³ The cross-party London Assembly Planning Committee has called for the ending of commercial confidentiality in viability assessments unless there are exceptional circumstances.⁴

¹ <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmcomloc/190/190.pdf>

² http://questions.london.gov.uk/QuestionSearch/searchclient/questions/supplementary_question_283311

³ <http://www.conservativehome.com/localgovernment/2015/08/conservative-mayoral-candidates-on-the-issues-3-housing.html>

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https://www.london.gov.uk/sites/default/files/london_assembly_planning_committee_letter_-_viability_assessments_final.pdf

27. Islington Borough Council have issued Supplementary Planning Guidance stating that 'information submitted as a part of, and in support of a viability assessment should be treated transparently and be available for wider scrutiny'.⁵ It allows for exceptions to this in very limited circumstances and only in the event that there is a convincing case that disclosure of an element of a viability assessment would cause harm to the public interest to an extent that is not outweighed by the benefits of disclosure.
28. However, the council is in an unusual position, in that interest in development in the area is so high that it can afford to act unilaterally. What is needed is a uniform approach to transparency across the country, so that developers know they will be open to public scrutiny wherever they decide to operate.
29. We therefore propose an amendment to the Neighbourhood Planning Bill to ensure that viability assessments in are public documents with no commercial confidentially restrictions except in cases where disclosure would not be in the public interest.

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⁵ <https://www.islington.gov.uk/~media/sharepoint-lists/public-records/planningandbuildingcontrol/publicity/publicconsultation/20152016/20160122developmentviabilityspdadoptedjan2016.pdf>