

## Written evidence submitted by the Local Government Association (NPB 12)

### 1. About the Local Government Association (LGA)

- 1.1. The Local Government Association (LGA) is the national voice of local government. We work with councils to support, promote and improve local government.
- 1.2. We are a politically-led, cross party organisation which works on behalf of councils to ensure local government has a strong, credible voice with national government. We aim to influence and set the political agenda on the issues that matter to councils so they are able to deliver local solutions to national problems.

### 2. Summary

- 2.1. Local government shares the Government's ambition to increase housing supply. Councils want to play a lead role in building new homes and support measures that will enable councils to capture the value from increased land prices on land they acquire for development. This will allow investment in the vital infrastructure that boosts housebuilding and creates places that people want to live. We would suggest the Bill could do more to help the Government achieve its ambitions on speeding up the delivery of new homes, particularly those that have already been granted planning permission.
- 2.2. Cllr Tony Newman, a member of our Environment, Economy, Housing and Transport Board, gave oral evidence to this Committee on Tuesday 18 October. Cllr Newman outlined the views of the LGA on pre-commencement conditions and highlighted the need for local authority planning services to be adequately resourced.<sup>1</sup> In particular, he raised our call on the Government to permit planning fees to be set locally by councils, which is a key ask in our Autumn Statement submission.<sup>2</sup>
- 2.3. **Part 1, Clauses 1-6:** It is important that any proposals do not have the unintended consequence of undermining the ability of a local planning authority to meet the wider strategic objectives set out in an emerging or adopted Local Plan, by unintentionally giving greater weight to the status of neighbourhood plans than to Local Plans.
- 2.4. It is vital to the success of neighbourhood planning that the Government undertakes a full review of the financial support provided to councils. This should ensure existing funding is adequate to allow local authorities to meet their statutory duties in relation to neighbourhood planning.
- 2.5. We are concerned by proposals that would allow the Secretary of State to require councils to review their statements of community involvement at prescribed times. Councils, who understand their local communities, are best placed to set out how and when they will engage the community and key stakeholders and involve them in the planning process.

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<sup>1</sup> [Hansard transcript, Neighbourhood Planning Public Bill Committee \(First Sitting\), 18 October 2016](#)

<sup>2</sup> ['Growth and opportunity for all: Local solutions to national challenges', the LGA's submission to the Autumn Statement 2016, 10 October 2016](#)

- 2.6. **Part 1, Clause 7:** An effective, democratically-led planning system is critical to good place-making that drives growth and prosperity. Councils approve almost nine out of 10 planning applications and there is little evidence to suggest development is being delayed by planning conditions. The National Planning Policy Framework and the associated national planning practice guidance already sets out clearly expectations on use of planning conditions and the new primary legislation is unnecessary.
- 2.7. There is a risk that these proposals may have a number of unintended consequences including the potential for increased number of planning application refusals and/or statutory timescales for processing planning applications being missed, if agreement cannot be reached on pre-commencement conditions between an applicant and the local planning authority.
- 2.8. **Part 1, Clause 8:** Having access to open data on permitted development, including the numbers of resulting residential units, will enable increased scrutiny of the impact of national permitted development rights and the scale of their uptake. It is crucial that any additional requirements on councils are funded.
- 2.9. **Part 2, Clauses 9-30:** We welcome the proposals to clarify in statute the principles and assumptions for assessing compensation for land acquired through compulsory purchase, in particular the extension of the 'no-scheme principle' to include relevant transport projects. This will prevent the public sector paying for land it acquires at values inflated by previous public investment in transport projects.
- 2.10. It is difficult to determine the full implications of the proposals as there is much detail that will be determined in regulations that have not been published alongside the Bill and there are a number of consultations still open for comment. Draft regulations should be published as soon as possible to allow for effective scrutiny.
- 2.11. **Planning fees:** We would like to see the Bill amended to permit planning fees to be set locally by councils. This would enable local authorities to deliver responsive council planning services that are crucial to growth and building the homes we need.

## BACKGROUND INFORMATION

### 3. Neighbourhood planning (Part 1, Clauses 1-6 and Schedule 1)

- 3.1. Councils are responding positively to neighbourhood planning and are engaging and providing support accordingly to those areas wishing to take forward a neighbourhood plan or order. We support the intention of the Bill to streamline the process for reviewing and updating neighbourhood plans.
- 3.2. The National Planning Policy Framework (NPPF) and the associated national planning practice guidance already clearly sets out expectations on the weight that may be given to relevant policies in emerging neighbourhood plans in decision taking.<sup>3</sup> We would welcome further

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<sup>3</sup> [National Planning Practice Guidance](#)

clarity on how it is intended the proposals in the Bill will strengthen the existing neighbourhood planning process in practice.

- 3.3. It is important that any proposals do not unintentionally give greater weight to the status of neighbourhood plans than to Local Plans. This would undermine the ability of a local planning authority to meet the wider strategic objectives set out in an emerging or adopted Local Plan.
- 3.4. It is vital to the success of neighbourhood planning that the Government undertakes a full review of the financial support provided to councils. This should ensure existing funding is adequate to allow local authorities to meet their statutory duties in relation to neighbourhood planning. The Government should also work with local planning authorities to establish whether additional assistance, beyond the minimum level of support required by regulation, would deliver neighbourhood plans more effectively. Any resulting additional requirements on councils must be fully funded.
- 3.5. Given the status that approved neighbourhood plans have in the determination of applications for planning permission it is crucial that they are based on a robust evidence base with deliverable policies, in the same way that applies to a Local Planning Authority in preparing its Local Plan and setting out the strategic needs and priorities of the wider local area.
- 3.6. We are concerned at proposals that would allow the Secretary of State to require councils to review their statements of community involvement at prescribed times. Councils, who understand their local communities, are best placed to set out how and when they will engage the community and key stakeholders and involve them in the planning process.

#### **4. Planning conditions (Part 1, Clause 7 and Schedule 2)**

- 4.1. An effective, democratically-led planning system is critical to good place-making that drives growth and prosperity. Councils approve almost nine out of 10 planning applications and the number of homes granted planning permission by local authorities in the year to March 2016 was 265,000, the highest figure since 2007.<sup>4</sup>
- 4.2. There is little evidence to suggest development is being delayed by planning conditions. Planning conditions provide a vital role by enabling planning permissions to go ahead which would otherwise be refused or delayed while the details are worked out. They can also save developers time and money as they do not need to invest in detailed submissions until after the principle of the development is granted.
- 4.3. The NPPF, and the associated national planning practice guidance, already clearly sets out expectations on use of planning conditions and the new primary legislation is unnecessary.
- 4.4. There is a risk that, should agreement not be reached on pre-commencement conditions between an applicant and the local planning authority, the number of planning application refusals may increase and/or statutory timescales for processing planning applications be missed. Restriction of the imposition of certain planning conditions by the

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<sup>4</sup> [DCLG: Planning Applications in England January to March 2016](#)

Secretary of State could also reduce the ability of local planning authorities to include conditions that are necessary to address issues which might be specific to a local area or an individual development site.

- 4.5. We are calling for the Bill to do more to help the Government achieve its ambitions on speeding up the delivery of new homes, particularly those that have already been granted planning permission. Joint working between councils and developers is the most effective way of dealing with any concerns about planning conditions and the LGA strongly advocates the use of early, collaborative discussions ahead of planning applications being submitted for consideration. An advice note on best practice principles for using and discharging conditions was developed in 2015 by a cross-sector group and DCLG to help planning authorities, developers and statutory consultees.<sup>5</sup>
- 4.6. Cllr Tony Newman, a member of our Environment, Economy, Housing and Transport Board, gave oral evidence to the Public Bill Committee on Tuesday 18 October. During that session the Minister of State for Housing and Planning, Gavin Barwell MP, cited the District Councils' Network (DCN) submission to the Committee. Mr Barwell stated that the DCN had "*acknowledged that the discharge of planning conditions can be a factor in slow decision making and supported the Government in seeking to address conditions.*" Mr Barwell asked why district councils take a different view to that of the LGA and Cllr Newman agreed to clarify this in our written submission.
- 4.7. We understand that the DCN have emphasised in their Committee Stage briefing that a central reason for delay in the discharge of planning functions is that statutory consultees requires a significant number of conditions, and play a key role in the discharge of these conditions. A key concern of district councils has been the slowness of statutory consultee responses and the impact this is having on timely decision making which can influence significantly the speed at which the conditions are discharged.<sup>6</sup>
- 4.8. If the Government is minded to go ahead with the proposals we believe that there should be a default period, after which an applicant's agreement on proposed pre-commencement conditions would be deemed to be given, if no response had been received from the statutory consultee. This would help to minimise the risk of a local planning authority failing to determine an application within the statutory periods and appeals being permitted on the grounds of 'non-determination'.

## **5. Planning Register (Part 1, Clause 8)**

- 5.1. Clause 8 amends section 69 of the Town and Country Planning Act 1990 to extend the scope of the planning register to include information about prior approval applications or notification for permitted development rights in England to be placed on the register. Local authorities already record these details for applications for planning permission<sup>7</sup> to feed in to DCLG statistical data sets and we would welcome clarity on why the legislation is necessary.
- 5.2. Having access to open data on permitted development, including the

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<sup>5</sup> [Using and Discharging Conditions – Ten Best Practice Principles](#)

<sup>6</sup> [District Councils' Network - Neighbourhood Planning Bill Committee briefing](#)

<sup>7</sup> [Government live tables on planning application statistics](#)

numbers of resulting residential units, will enable increased scrutiny of the impact of national permitted development rights and the scale of their uptake. It is crucial that any additional requirements on councils are funded.

- 5.3. LGA research in 2014 highlighted a number of unintended consequences of the permitted development rights allowing offices to be converted to residential units without the need for planning permission.<sup>8</sup> This included a reduction in viable office space, an increase in housing that did not meet identified housing need and a reduction in the provision of affordable housing. 82 per cent of councils that responded also reported that the £80 fee for dealing with prior approval applications meant they were operating at a loss.
- 5.4. Local authorities have also raised concerns at the Government's intention to amend the office to residential permitted development right to allow the demolition and rebuilding of existing office buildings for residential use on a like-for-like basis.<sup>9</sup> In addition, to the unintended consequences listed above this could undermine ambitions in local plans, for example increased density of residential units in town centres, perhaps through taller buildings. The new right risks delivering less additional housing than if a scheme was considered through a normal planning application process.

## **6. Compulsory Purchase (Part 2, Clauses 9-30)**

- 6.1. Compulsory purchase powers are an important tool available to councils for assembling the land needed to help deliver growth. We welcome the proposals to clarify in statute the principles and assumptions for assessing compensation for land acquired through compulsory purchase, in particular the extension of the 'no-scheme principle' to include relevant transport projects. This will prevent the public sector paying for land it acquires at values inflated by previous public investment in transport projects. We have called for local authorities to be able to acquire land at closer to existing use value, to capture more uplift in land value for infrastructure and community benefits.
- 6.2. We would also like to see reforms go further to make the process for compulsory purchase clearer and faster. This should include:
- Stronger compulsory purchase type powers where planning permissions have expired and development has not commenced. Data suggests that the number of potential new homes on sites with planning permission could be in the hundreds of thousands.<sup>10</sup>
  - A default position that all decisions on confirmation of a compulsory purchase order are delegated to the acquiring authority; and
  - A more fundamental consolidation and streamlining of the legislative provisions for compulsory purchase.

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<sup>8</sup> [LGA media release, 'Charities and businesses evicted under Government planning rules', October 2014](#)

<sup>9</sup> [DCLG press release, 'Thousands more homes to be developed in planning shake up', October 2015](#)

<sup>10</sup> [LGA media release, '475,000 homes with planning permission still waiting to be built', January 2016](#)

## 7. Planning fees

- 7.1. The Bill provides an opportunity for the introduction of locally set planning fees, including those for dealing with permitted development applications and discharge of planning conditions. We are seeking to amend the Bill in this regard, which would enable councils to deliver responsive council planning services that are crucial to growth and building the homes we need.
- 7.2. As we have highlighted in our submission ahead of HM Treasury's Autumn Statement, developers, builders and councils are united in their call for adequately resourced planning departments that can deliver housing growth through active planning. Locally set fees will enable this. A British Property Federation survey found two thirds of its private sector respondents would be willing to pay increased fees to help under-resourced planning departments keep providing an effective service.<sup>11</sup>
- 7.3. It is crucial that planning services are properly resourced. Between 2012 and 2015, councils have been forced to spend in excess of £450 million to cover the cost of planning applications, with that figure rising every year.<sup>12</sup> This means that year-on-year, taxpayers are subsidising approximately 30 per cent of the estimated cost of processing all planning applications in England because nationally set planning fees do not cover the full costs.

October 2016

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<sup>11</sup> [BPF survey results, October 2015](#)

<sup>12</sup> ["Local services threatened as councils forced to spend £450 million topping up planning fees", LGA media release, November 2015](#)