

The Localism Bill

Response from the Historic Towns Forum

1.1 The Historic Towns Forum (HTF) welcomes the opportunity to comment on the Localism Bill, which seeks to shape the operation of local government and, from the Forum's perspective, in particular the planning system and protection of the Historic Environment. The Forum welcomes the Coalition Government's intention to shift the balance of policy making towards the communities it affects. These comments focus only on those areas relevant to the purposes of the Forum, which embrace a broad concern for historic towns and cities.¹

Part 1 Local Government

Chapter 1 General Powers of Authorities

1.2 The Forum welcomes the intention to give local authorities a general power of competence. This is long overdue, and we expect it to reflect a new acknowledgement by this Government that local authorities should be given more trust and allowed a greater level of local self-determination.

Chapter 4 Predetermination

1.3 The Forum welcomes the reform on the matter of predetermination. This should encourage a more open debate on planning matters, lead to a better informed public and assist in coming to transparent and robust decisions. However, if a greater say is given to local communities, and Councillors seek to protect their popularity by siding with NIMBYs early in the formal determination of planning decisions, the greater freedom may significantly reduce the possibility of difficult decisions being taken fairly and with wider and longer term interests taken into account. Clear guidance will be required.

Part 4 Community Empowerment

Chapter 3 Community Right to Challenge

1.4 This affects areas of interest to the Forum. We have members who are parish and town councils and local amenity groups and many of them might be keen in principle to have the opportunity to take on buildings and services if the circumstances and terms are right. The Forum does not object to the principle, but

¹ The Historic Towns Forum promotes prosperity and heritage in historic towns and cities. It represents the interests of local authorities, but its membership also includes corporate and amenity organisations involved in heritage. Key aspects of its work are: promoting best practice; and taking a holistic, joined-up, approach to historic places.

feels some concern about the implications for consistency, fairness and economy if services and facilities are the responsibility of, or carried out by, different bodies in different parts of a local authority's area.

1.5 In the event of a transfer of heritage assets, note that new guidance for local authorities and public sector bodies looking to transfer the ownership and management of historic buildings, monuments or landscapes to community based organisations is now available on the English Heritage website. The advice has been compiled in partnership with the Heritage Lottery Fund, National Trust, Architectural Heritage Fund, Prince's Regeneration Trust and the Development Trust Association's Asset Transfer Unit. It is broadly supported by the Forum.

Chapter 4 Assets of Community Value

1.6 All Listed Buildings, Scheduled Monuments, Conservation areas and protected landscapes are, by definition, assets of community as well as heritage value. It is not clear whether these come within the scope of the Bill. This should be clarified and a statement made as to which, if any, such assets may be included. Where an asset, such as a pub or community hall, is included on the list its conservation status should also be described. Such a listing should be linked to the Historic Environment Record.

1.7 However, there is a distinction to be made between the community value and communal heritage value of designated heritage assets that are in private ownership and use. Some provide passive public interest as background and setting; others privately owned and in public use - pubs, shops, tourist attractions etc – represent active public use of heritage. In addition there are publicly owned heritage assets that are used by the public and the responsibility of public or civil agencies. We request that the Bill acknowledges the different levels of public interest in historic places and allows and encourages people to take an interest and protect the historic significance of all such places. We would stress the point that the public interest of heritage assets, whether publicly or privately owned, should not be tradable for private gain.

Part 5 Planning

1.8 The Forum wishes to see the Bill uphold the principles of the UK's planning system: to achieve a balance between competing, but not always equally articulate, interests to ensure that long-term public benefit is achieved. The Bill should also state that sustainable development, balancing the sometimes competing needs of the environment, the community and the economy, is the objective of all plan-making, including Neighbourhood Development Plans.

Chapter 1 Plans and Strategies

1.9 The Forum believes that there is a role for a strategic approach to planning in providing a context for proper coordinated planning across groups of local authority areas. Within this, it also provides an invaluable policy framework for the protection of the natural and historic environment across significant areas of the country.

1.10 Local authorities already cooperate fully on many day to day issues. However, the Forum welcomes the requirement to do this on planning matters (S90).

1.11 The Forum has concerns about the Secretary of State's powers to direct, such as the withdrawal of a Development Plan, which appears to be contrary to the principle of localism. We are also concerned about the absence of a definition of sustainable development anywhere in the Bill. If a definition is subsequently to be included we argue strongly for a definition that acknowledges the historic significance of places and all heritage assets as components of the environment for which retention is an inherent component of sustainable development. Their contribution to identity, continuity, adaptability and diversity is critical.

1.12 The relaxation of requirements for Annual Monitoring Reports, S93, is welcome.

Chapter 2 Community Infrastructure Levy

1.13 The Forum welcomes the commitment to the introduction of the Community Infrastructure Levy (CIL) and the clarification given in the Bill, S94. Further detailed guidance will be required and the relationship of this with the National Planning Policy Framework needs to be established.

1.14 The proposal to allow the proceeds from CIL to be used for maintenance, ongoing and operational costs is welcome (S95). The Forum believes that this should include active conservation of the historic environment. Heritage is an essential component of an area's physical and cultural infrastructure, and that it should be used and invested in, just like other such infrastructure.

Chapter 3 Neighbourhood Planning

1.15 The HTF recognises the potential benefits of neighbourhood planning in promoting community engagement, responding to local needs and supporting informed decision making. Indeed, neighbourhood planning is already established, in a variety of forms under the existing planning regimes, and best practice can inform the new and broader opportunities that the Bill seems to offer. Subject to clear guidance, which is yet to be provided, it may work very effectively with the proposed National Planning Policy Framework and local planning through the Local Development Framework. However, it can only work if adequate resources are provided (see below). The concurrent reduction in local authority resources, especially staff with the necessary skills and experience to encourage and respond to neighbourhood planning activities, is wholly contrary to the apparent aspiration of the Bill. The practicalities remain to be worked out and the following will need to be addressed:

- a. ensuring that there are adequate resources for neighbourhoods and local authorities to carry out the work;
- b. capacity building in poorer communities to ensure that they are not left behind in the process;

- c. defining communities in non-parished areas, especially where communities overlap and/or do not follow administrative boundaries such as those for wards; and
- d. taking account of the impacts on and opinions of adjacent areas not defined as being within the geographical neighbourhood but still affected by policies or proposals.²

1.16 Our principal concern in this Chapter is in regard to the introduction of Neighbourhood Development Orders (S96) and their potential impact on aspects of the historic environment that are of acknowledged importance. Referring to the Planning (Listed Buildings and Conservation Areas) Act 1990:

- a. S66 says: “In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.” And
- b. S72 says: “In the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”

In the view of the HTF this establishes the national importance of historic buildings and conservation areas which must not be overridden by Neighbourhood Planning. Schedule 12 of the Bill has the effect of abolishing the sections quoted above and the Forum cannot believe that this was the intention of the Secretary of State and an amendment is essential. We believe that the Government would want to stimulate local interest in and responsibility for the historic environment as a means of getting people interested in localism and neighbourhood planning in the first place.

1.17 Neighbourhood planning has the potential to improve planning and protection of the historic environment with Neighbourhood Plans (S96) as a key policy tool. For these to be effective they must be flexible, consistent with wider practice, focused on local issues and be prepared as quickly as fairness and democratic accountability allows. In drawing up neighbourhood plans, it is not clear which policies in Local Development Frameworks are likely to be so ‘strategic’ that they become the overriding consideration. This needs to be clarified. The Forum considers that, given the national importance of Listed Buildings and Conservation Areas, historic environment policies in Local Development Frameworks are always of strategic importance (they should already form part of a Local Authority’s Core Strategy). Neighbourhood Plans should be drawn up in conformity with overarching historic environment policies, among other things. Neighbourhood Plans should not be simply a localised version of an LDF document.

1.18 The protection afforded to matters of acknowledged conservation importance (important archaeology, the setting of Listed Buildings and Scheduled Monuments, extensions to a listed place of worship that falls under ecclesiastical exemption,

² This is crucial to historic environment interests. Protected assets are designated because of local national or international importance, and this wider responsibility of local communities has to be explicitly acknowledged and enforced.

development in Conservation Areas, the protection of registered parks and gardens, and the protection of buffer zones around World Heritage Sites) should be reinforced through Neighbourhood Plans and Development Orders. Conservation Area appraisals and action plans could constitute Neighbourhood Plans (they cannot currently be Supplementary Planning Documents) if they have been conducted with the necessary rigour and local engagement. The HTF suggests that the Government recommend such action as a means of accelerating the neighbourhood planning process in appropriate circumstances.

1.19 The provisions for making charges in relation to neighbourhood planning (S97 & S100) is important. Without proper resources neighbourhood planning will not succeed in its objectives. Local Planning Authorities can support Neighbourhood Forums in drawing up Neighbourhood Plans by providing advice and expertise: we query the capacity of Local Planning Authorities to supply this essential enabling support in view of widespread budget cuts. The preparation of Plans might be supported financially, but the mechanism for this must be realistic and spelt out clearly. If this funding is dependent on CIL or some other form of levy on development it will favour those areas where the Plan realises significant development potential. This will disadvantage areas where development opportunities are limited, either through weaknesses in the local economy or where conservation and the management of limited change is the top priority. Neighbourhood planning could also be open to abuse where there is strong private sector commercial interest in the new system because of the potential financial benefits for developers and landowners.

1.20 The Bill states that a Neighbourhood Forum can be established through a minimum of three people who live or want to live in the area. Three is too small to represent a reasonable body of opinion for even a small community. The inclusion of people who 'want' to live in an area will leave the system open to abuse by people who are not stakeholders in the community they purport to represent. It is not clear how the Local Authority is to decide on which group of (three) people best represents the community. Further guidance is required to avoid damaging conflict here, even a breakdown of neighbourliness. Unless the planning process does secure wide community involvement there are some real dangers that small numbers of possibly unrepresentative people will set the agenda or conversely that Neighbourhood Forums will be unduly influenced by developer interests.

Chapter 4 Consultation

1.17 The HTF welcomes the proposals for enhanced consultation by developers. This will encourage public engagement in the planning process and help to ensure a higher standard of development.

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