

What does the Localism Bill mean for the built environment sector?

An Open-City briefing note

Introduction

The architecture organisation Open-City's recent business briefing on the Localism Bill, hosted by British Land at Broadgate Tower, London EC1, explored some of the key elements of the Bill and the challenges and perceptions surrounding it. **Professor Janice Morphet, Visiting Professor at University College London and Director of rmjm Consulting**, was the principal guest speaker at the event.

Her take on the Bill was insightful, highlighting some of the details of the Bill – and the questions that still remain about them – that may have previously been overlooked.

This Open-City briefing note highlights some of the main points of her presentation and the discussion. Professor Morphet's briefing focused on nine different areas. These are set out below. In addition other important points raised are summarised at the end.

1. The Bill and European Policy

The Localism Bill was presented to Parliament in December 2010. Its stated aim is to 'devolve greater powers to councils and neighbourhoods and give local communities more control over housing and planning decisions'. The Localism Bill is based around two pre-election Conservative manifestos: *Control Shift*, relating to local government, and *Open Source*, relating to planning. However, some aspects of the Bill, perhaps surprisingly, clearly appear to be derived from both European Union policy and from the policies of individual member states.

Of the latter, three are of particular importance to the built environment sector:

1. Planning changes are modelled on those of the Netherlands
2. The banking system is modelled on Germany
3. Local Enterprise Partnerships are based upon a French sub-regional model

In terms of European Union policy overall, the Lisbon Treaty is influential. It is important to remember that the UK Government is signed up to the Lisbon Treaty, which may therefore impose certain requirements. From the treaty, there are three main elements that seem to fit the UK definition of localism loosely, the last of which also chimes with the discussions around the 'Big Society':

1. Policy proposal and decisions have to be tested against locality: this is known as the Territorial Impact Assessment (TIA)
2. Principle of subsidiarity
3. Services: access to services, changing nature of services and a broader definition of services.

2. What isn't mentioned in the Bill is just as important as what is

Much of what was expected to be in the Localism Bill is not actually present. The main points are listed below.

What was expected in the Bill?	Comment
Changes to the local plan system	No mention of this, but it is interesting to note change in language - civil servants and ministers are not using the term 'Local Development Frameworks' any longer but referring to 'Local Plans'. It seems to be a move back to Local Development Plans, although 'Local Development Framework' is not a legally defined term.
No change in housing numbers	Within the Bill there is no change to housing targets or numbers. In fact neighbourhood plans should deliver the housing numbers identified by the Local Authority <i>or more</i> than that number.
Local Enterprise Partnerships (LEPs)	LEPs will be in the Local Growth Bill. However, while the Local Growth Bill is yet to be seen, LEPs are rapidly taking shape. LEPs at present have 70% coverage in England. There are important points to note: <ul style="list-style-type: none"> • LEPs will not have any statutory powers, but they will have 'legal personality' as outlined in the Localism Bill. • LEPs are able to be Local Authority Bodies, by pooling powers together under section 101 of the 1972 Local Government Act. • Although LEPs do not have to take on strategic planning issues, they do have responsibility for infrastructure investment. This role for LEPs will be important for planning. Further to this LEPs will be dependent on the infrastructure of the Local Authority. • It has been proposed that LEPs should have spatial plans. • An important link is between LEPs and the National Infrastructure Plan. If a LEP wants to promote growth and investment in infrastructure, the LEP will need to know its infrastructure requirements, and get them included in the National Infrastructure Plan.
Presumption in favour of Sustainable Development	The Coalition government's proposal so far is that an application will be deemed consent based on its definition of 'Presumption in favour of Sustainable Development' where there is no sound plan in place. 'Sustainable Development' has not yet been defined in any legislation but is likely to be the same as that used by the EU.
National Infrastructure Plan	England is the last in the UK to have a National Infrastructure Plan, unlike the devolved nations (Scotland, Wales and Northern Ireland), who have produced their own National Infrastructure Plans. It was released in 2010, and in fact does not just cover only England but for the whole of the UK. Infrastructure investment programme for the UK is currently being reviewed; the results of the review will be released at the end of 2011.

3. Local Government and the Bill

The Localism Bill will give 'General Power of Competence' to Local Authorities. What this means is Local Authorities will have the legal personality of individuals. This will give them the power to instigate changes, such as creating banks and development companies, that are traditionally considered private sector activities. There is even mention within discussion of the Bill that there will be extended periods of finance repayment from the current 30 years to 60 or 90 years.

With these powers Local Authorities will be able to raise capital against the whole of their property portfolio, rather than capitalize a scheme on a site. This recognises the significant Local Authority landholding nationwide. Through the removal of the regional tier (outside London), Local Authorities will no longer be able to say that decisions are the responsibility of Central Government (and formerly regional government). The decisions will now be firmly in the hands of Local Authorities, particularly Council Members.

Professor Morphet argued that the perceived debate around neighbourhood planning might be a diversion from these fundamental changes, which potentially offer great opportunities for Local Authorities in particular.

4. Role of Planning

Within the last decade there have been subtle changes in the planning system, as planning now looks at investment across all sectors. The creation of Infrastructure Delivery Plans (IDPs) by Local Authorities represents this at a local level. This system is similar to that of the 1970s.

5. Housing

It is important to note that housing targets have **not** been abolished with the Regional Strategies in the Localism Bill. Housing targets have in fact moved down a tier, and become the responsibility of Local Government, leaving Local Authorities in charge of housing numbers. The removal of Regional Strategies has left Local Authorities with Strategic Housing Market Assessments (SHMAs). SHMAs provide the evidence base for local housing targets, and may lead to housing numbers going up, not down. Shelter's Local Housing Watch website shows that within England a greater amount of housing is needed than the regional tier of planning had agreed.

6. Neighbourhood Plans

At present, the situation with Neighbourhood Plans is fluid. CLG are inviting ideas on how they could be improved. It was argued by Professor Morphet that this area of the Bill may be a diversionary tactic, and it will not have the impact everyone expects. An example given was that if you have an Environmental Impact Assessment (EIA), you cannot have a Neighbourhood Plan. At present Local Authorities are worried about how they will fund advice to groups that want to prepare Neighbourhood Plans. However, Professor Morphet argued that perhaps Local Authorities should be thinking about how they will decide which Neighbourhood Plans to fund and support.

7. Duty-to-Co-operate

The duty relates to working across administrative borders. It is assumed that this will happen through Local Enterprise Partnerships, which is presently more important outside of London.

8. Planning Powers in London

There will be changes to the planning system in London. London Boroughs will be given back some of planning powers, and some will receive them for the first time, which will mean that the Mayor's role will be reduced. This is still very fluid at present and the implications are still being realised.

9. What's next?

Professor Morphet suggested that as the Bill passes through Parliament:

- The beginning of the Bill, with local government reforms, seems unlikely to be changed.
- However, other parts of the Localism Bill, such as Neighbourhood Plans and Duty-to-Co-operate, are still fluid and may change at committee and report stages.

Other Points Raised in the Q&A discussion

- Through referendums on neighbourhood plans children, particularly teenagers, will be disenfranchised, as they are unable to vote
- Councillors are going to have to explain to their local communities that neighbourhood planning is about building houses, rather than design quality, loft conversions or conservation areas
- Neighbourhood plans have to be in conformity with the local plan
- There could be a big industry in revising Strategic Housing Market Assessments (SHMAs)
- Until all sides of the industry feel comfortable with the Community Infrastructure Levy (CIL) no one will use it, and the current Section 106 arrangements will carry on

About Open-City

A high-quality built environment plays a key role in making cities liveable. Open-City's Advocacy & Enabling work focuses on in-depth collaborative engagements that help councillors, communities and other stakeholders to consider what 'design quality' means, why it is vital in creating a more liveable city and how to demand it in their neighbourhoods. For more information visit <http://www.open-city.org.uk/advocacy/index.html> or email us at advocacy@open-city.org.uk