

The Localism Act 2011 – Planning and Regeneration Elements:

Area Committee and Forum Report

Marc Dorfman Asst Director Planning and Regeneration – L B Haringey @ 19-3-12

Contents

- A) Introduction
- B) 14 Areas of Change - List
- C) 5 Key Impact Areas - List
- D) 1 - Community Infrastructure Levy
- E) 2 - Neighbourhood Planning Initiatives
- F) 3 - Pre Application Consultation on Major Planning Applications
- G) 4 - Planning Enforcement
- H) 5 - National Planning Policy Statement and Framework
- I) London Borough of Haringey Town Planning Service to Members of the Public, Community Organisations and Area Committees/Forums

A) Introduction

The Act will devolve greater powers to local communities ie councillors, councils, neighbourhoods – both residents and businesses.

There are 14 changes that will impact on town planning and economic regeneration from the Localism Act.

Attached (previously circulated) is a useful 2011 national public guide on Neighbourhood Planning (NP). The detailed regulations about how NP will operate have only just been published (March 2012). These are being reviewed by the Council. Haringey is developing a Council Web Advice page and a Frequently Asked Questions page.

This report is a summary of legislation and guidance and is subject to change as the details of Regulations covering the Localism Act and the National Planning Policy Framework become available and clear.

5 key changes:

- Community Infrastructure Levy
- Neighbourhood Planning (Plans, Development Orders and Right to Build Plans)
- Pre Application Public Consultation
- Planning Enforcement
- National Planning Policy Framework

B) List of 14 changes, (including the 5 key ones)

- 1. Pre Determination and the Role and Responsibility of Planning Decision Makers and local councillors**
- 2. Abolition of Regional Planning Strategies**
- 3. Duty of Public Authorities to Cooperate on Planning Matters**
- 4. Local Development Scheme - LDS (the local authority timetable for its formal planning documents that sit with the authority's Local Development Framework - LDF)**
- 5. The Adoption of Development Plan Documents that make up the Local Development Framework - LDF (the suite of formal plans a local planning authority produces to control the use of land and promote sustainable development - ie Core Strategy/Vision/Objectives; Sites Plan – key development sites; Development Control Policies; Waste Plan; Low Carbon/Green Plans; Area Action Plans, Area Improvement Plans and Supplementary Guidance. To this will be added Neighbourhood Plans/Orders/Right to Build Plans)**
- 6. Local Development Framework Annual Monitoring**
- 7. Community Infrastructure Levy – the Charging Schedule and its Use. The Community Infrastructure Plan**
- 8. Neighbourhood Planning (Plans, Development Orders and Right to Build Plans)**
- 9. Pre Application Public Consultation**
- 10. Planning Enforcement**
- 11. Infrastructure Planning Commission**
- 12. National Planning Policy Statements and National Planning Policy Framework**
- 13. London – Housing, Regeneration, Environment and Transport Functions**
- 14. London – Mayoral Development Corporations**

C) List of 5 Key Impact Areas

- Community Infrastructure Levy
- Neighbourhood Planning (Plans, Development Orders and Right to Build Plans)
- Pre Application Public Consultation
- Planning Enforcement
- National Planning Policy Framework

D) 1 - Community Infrastructure Levy (CiL); the Charging Schedule; the Use of CiL and the Community Infrastructure Plan (CiP)

- Community Infrastructure Levy and Planning Obligations: The 2008 Planning Act and the Localism Act have now established CiL as the main mechanism for planning/development schemes to contribute to the provision of “community infrastructure” (eg education; health; decentralised energy; leisure; public transport; local and emergency services; local services), as opposed to development site impact/compliance, (eg traffic management; essential environmental improvements/public open space) which will remain with s106 obligations.
- Mayoral and Borough CiL: CiL will be a standard or variable charge on net new residential and commercial floorspace. The charge would be set after public consultation and a public examination, which would also look at what it should pay for – a Community Infrastructure Plan (CiP). The current CiP is in the Haringey Core Strategy of the Local Development Framework. Any CiL must be in place by 2014. The Mayor has put his CiL in place to make contributions to the cost of Crossrail. From April 2012 he will charge £35m2 for new net floorspace.
- Community Infrastructure: Since CiL is about “community infrastructure” – it will be about pooling resources to contribute to benefits for the community, based on need and priority across the Borough to help deal with growth.
- Housing: Affordable Housing will be able to be collected under both CiL and S106
- New Freedoms and Local Proportions: Compared to the Planning Act 2008, the Localism Act and associated Regulations will –

- A) give more freedom to the LPA and –

- B) introduces the concept of a “local meaningful proportion” of CiL. There will be public consultation on how the proportion would be spent. It must deal with the “community infrastructure” impact of development. The details of “meaningful proportion” will be set out in Regulations on which there is currently government consultation. This does not apply to the Mayor’s CiL.

E) 2 - Neighbourhood Planning (Plans, Development Orders and Right to Build Plans)

- New Neighbourhood Planning Tools: The Localism Act changes provisions of the Town and Country Planning Act 1990 and the Planning Act 2004 to allow for the first time, statutory plans and development

orders to be promoted by organisations other than the LPA (Borough/Mayor). The Localism Act creates **3 new Neighbourhood Planning Initiatives (NPIs) - 3 new community planning tools:**

- Neighbourhood Plans (NP): for a local area, they establish a set of local planning policies that take precedence over any approved LDF/Local Plan
 - Neighbourhood Development Orders (NDO): for the local area, they introduce new/extra permitted development, over and above existing national allowances
 - Community Right to Build Plans (CRtBP): for the local area/site, they set out significant new development that can be built via a referendum, instead of a planning application process
- Neighbourhood Forums: To promote NPIs, there first needs to be an agreed Neighbourhood Forum (NF) for an agreed Neighbourhood Area. A NF can be established by a minimum of 21 representative local people. Forums must be open and transparent. Forums and Areas must be approved the Local Planning Authority.
 - What NPIs are for and what can they do?:
 - must take into account the “the social, economic and environmental well being of the area” and respect existing approved Local Plans and their growth targets and plans.
 - The boundary and purpose of NPIs must meet criteria set out in the Act and National Policy (ie they must promote development and growth as set out in an up to date Local Plan and/or National Policy)
 - should not block development.
 - can influence type, design, location and land use/development mix.
 - If an NPI is going to have a significant impact on another neighbouring area – this should be taken into account.
 - There are 5 stages of NPIs:
 - Define and agree the Neighbourhood Area / Forum and NPI purpose including proposal public consultation
 - Prepare the Plan/Order, including public consultation
 - Have the Plan/Order checked by an independent examiner/enquiry
 - Carry out a Referendum on the Plan/Order
 - LPA Adopts the Plan/Order
 - What the Local Planning Authority must do:
 - Once agreed, the LPA is required to support NPIs with advice and guidance and pay for public examinations/inspections and local referendums

- Otherwise local groups/NFs are expected to lead and work up the NPIs.
 - Referendums are won by simple 51% majorities of those who turn out (NPs and Orders) and 80% for Community Right to Build Plans.
- Agreement and Approval of NFs and NPIs:
 - The LPA is required to assess and approve or reject Neighbourhood Areas, Forums and NPIs before they go ahead by checking they comply with the Localism Act and the new National Planning Policy Framework (NPPF), in particular para 17, (though this may change since the NPPF is in draft at the time of writing).
- What Neighbourhood Forums and Planning Initiatives must do:
 - respect existing Local Plans (ie those created by LPAs - Haringey UDP/LDF and London Plan) and existing strategic policies housing and economic development (eg projected housing growth/numbers, major projects and economic/business growth)
 - consider the opportunity to provide more development than proposed by the Local Plan
 - consider the opportunity to provide more permitted development than in national allowances.
- How could Neighbourhood Forums and Planning Initiatives work ?
 - NFs/NPs must represent a neighbourhood not simply a site or street.
 - They must be open and representative of people living and working in the area.
 - A NF and NPlan can be a Residential Forum/Plan, or it can be a Business Neighbourhood Forum/Plan.
 - In proposing a Neighbourhood Forum/Plan – the proposing group must carry out pre submission public consultation and show how it meets the stipulations of the Act and NPPF – and show the results of the consultation.
 - The LPA must advertise the Neighbourhood Area/Purpose – then the LPA must assess the proposal and if it agrees it – it must advise on its development, including public consultation, examination in public and a referendum. If the LPA does not support a NF or NPI it must set out its reasons.
 - NFs will be able to cross LPA/Borough boundaries, but there can only be one NF for an area. In the case of Business NFs and proposed plans, there will be separate referendums for residents and businesses and if there are contrary results the LPA decides on how to move forward.
 - Neighbourhood Development Orders and CRtBuild Plans – broadly follow the same procedure.

F) 3 - Pre Application Public Consultation on Major Planning Applications

- Developers will be required to carry out pre-application consultation on certain types of major planning application. The threshold has not been defined yet, but is expected to be:
 - Residential: 200+ dwellings or site area > 4 ha
 - Commercial: Floor space > 10,000 sq m or site area > 2 ha

G) 4 - Planning Enforcement

- The Localism Act provides 3 new enforcement powers:
 - Retrospective Planning Applications – if there is an enforcement notice in place a retrospective planning application cannot be submitted. Any appeal against the notice will deal with whether planning permission should be granted
 - Concealment and Time Limits – if an unauthorised development has been “concealed” (definition to be agreed), then the LPA has 6 months to serve a planning enforcement order (to Magistrates Court) and 1 year to act even if up until that point the unauthorised development had been in place long enough to claim immunity from enforcement (in general 4 years for use and engineering and 10 years for a structure). The “concealment” (eg house built in a barn) remove the immunity.
 - Unauthorised Adverts and Defacement of Property – LPA can more easily remove the structures that adverts are on and can clean surfaces – then put a charge on the land to recoup the costs.

H) 5 - National Planning Policy Statements (NPPF)

- The Draft NPPF was published in July 2011. Consultation is now closed and a final document is expected in March 2012.
- The Draft NPPF covers the following areas:
 - What is the purpose of town planning and the “presumption in favour of sustainable development”
 - The functions of neighbourhood planning and the principles of good planning
 - Plan-making
 - Development Management (Development Control)

- Business and Economic Development
- Transport
- Communications Infrastructure
- Minerals
- Housing
- Sustainable Communities
- Green Belt
- Climate change, flooding and coastal change
- Natural environment
- Historic environment

I) Town Planning Services to Haringey Area Forums, Committees and Members of the Public

Plans

- Comment on and help develop local authority plans/improvement strategies for the Borough and the area (eg Core Strategy, Tottenham Strategy). This includes any Community Infrastructure Levy. Notification to all members.
- Comment on and help develop local authority planning briefs/supplementary guidance. Notification to all members.
- Comment on and help develop Neighbourhood Plans, Development Orders, Right to Build Orders as and when the Localism Act comes into force (likely to be April 2012).

Major Planning Applications

- The Localism Act will also require some "major" planning applications to be consulted on by the applicant before an application is submitted – these applicants will be directed to Area Cttee members and meeting dates. Final decisions on planning applications stay with Planning Cttee and on "plans" with the Authority.

Enforcement and Appeals against a refusal of Planning Permission

- Planning Enforcement and Planning Appeals: All members of the public have access to this service. Service on demand.

Standard Planning Applications and Planning Policy - Information, Consultation and Decisions

- Notification to all Councillors of all planning applications made. All applications on the Council web site. This allows all cllrs, any member of the public and any organisation to see all applications made and submit a comment if they want to. Physical notification to properties close to any planning application site. In some cases applications go to the Council Design Panel for consideration and to Development Management Forums

(very local public meetings) – Area Cttee members will be notified.
Summary of comments available to public.

- Area Cttee chair/members are able to ask for presentations to be made to Area Cttees/Forums. Standard and statutory public consultation timescales will remain the same.
- Planning Committee reports are on the web site and councillors and members of the public can make representations at Planning Committee which is responsible for making decisions
- Planning Policy and Plan reports are on the web. Public consultation on these are set out in a Statement of Community Involvement. The Local Planning Authority is responsible for making decisions on plans and policy.
- Regular Planning and Regeneration updates of the Council web site.