



Intelligent Transport  
Planning Solutions



## Power to the 'hood?

*“There is no such thing as society. There is living tapestry of men and women and people and the beauty of that tapestry and the quality of our lives will depend upon how much each of us is prepared to take responsibility for ourselves and each of us prepared to turn round and help by our own efforts those who are unfortunate.”*

(Margaret Thatcher; Interview for Woman's Own, October 1987)

### The Localism Bill and neighbourhood planning

After numerous false dawns, the Localism Bill was finally published on 13th December 2010. At 406 pages (over two volumes) it is clearly a massive piece of legislation covering not only planning but also the conduct of councillors, social housing and a range of other matters. The underlying theme is the empowerment of the electorate as a counter to what the coalition government perceive was an overly centralist system from which ordinary people felt disengaged.

In terms of planning, perhaps the most radical (at least in terms of concept) proposal of the bill is the introduction of neighbourhood planning. Under these proposals neighbourhoods would be given planning powers both to approve development and to draw up development plans in their area.

Neighbourhood planning seems to rely on a belief that Britain – or England at least – is composed of a network of internally coherent communities all pulling in the same direction for the greater good of the whole. Many commentators have argued that this represents a radical change of direction from the Conservative philosophy of Margaret Thatcher who argued that there was no such thing as society.

However, as the above quote illustrates, what 'Mrs T' was actually saying at the time is not far removed from the approach which underpins the new bill. 'Society' to Mrs Thatcher meant Government and her aim was to encourage self determination and a paternalistic approach to the wellbeing of others.

In the same way that Mrs Thatcher's era has come to be characterised only by the self interest elements of her philosophy, so again, there is every danger that those most eager to take up the 'opportunities' presented by Neighbourhood planning may have as their driver, preservation of a situation which suits themselves.

Whilst clearly much is retained for secondary legislation, the bill as it stands would seem to offer every opportunity to facilitate the preservation of narrow interests.

### Who or what counts as a neighbourhood?

A parish council, on application, can be empowered by a local authority to represent an area. This seems a sensible suggestion in principle but does raise questions about how representative such bodies historically have been. Perhaps more contentiously, where there is no parish council a group of people living or wanting to live in an area can apply to become a 'neighbourhood forum' for that area and be empowered in the same way.



At least three members of the forum (and there only need be three!) must be living there and they must satisfy the local authority that they are there to further the wellbeing of individuals living in the area. Once empowered, a neighbourhood forum would normally be in place for five years. The areas they control cannot overlap and any disputes or issues are to be resolved by the local authority. In my view, unless robust controls are put in place, there is every danger of neighbourhood forum status being afforded to groups who may not reflect a true cross section of community interests and no measures seem to be in place to require election of individuals, albeit a written constitution will be required.

Of course the same un-representative tag could also be applied to parish councils, many having the characteristics of a closed club of elderly residents, but this perhaps in part reflects the hitherto limited powers of such a body, a position which is likely to change with a broader and perhaps younger membership standing for election. However, the danger remains that they will still tend to be characterised by the traditional middle class.

### Once empowered what can neighbourhoods do?

#### 1) Create Neighbourhood Development Orders (NDOs)

A NDO grants planning permission for certain types of development for some or all of the neighbourhood's area. It could be for a specific site or it might allow (for example) permission to build minor extensions to existing buildings throughout the whole of the area. In practice, I would anticipate the permitted types of development being very restricted, indeed certain types of major development are specifically excluded by the bill (national infrastructure and proposals subject to an EA). Proposals must also still be in accordance with the LDF prepared by the district or unitary authority.

#### 2) Create a Neighbourhood Development Plan (NDP)

This becomes part of the Development Plan (alongside the local plan) and so again proposals in the area must comply with it. The danger perhaps is that district/unitary authorities themselves seek to avoid contentious decisions on locations for new housing and employment, a move which is aided by the lack of regional or structure plan guidance – now finally abolished by the bill- and the fact that we are faced with a return to non-binding Inspectors reports. In certain parts of the country, I can envisage a real danger of a policy vacuum regarding the siting of new development.

Of course the Government believes that the incentive of housing delivery payments will provide ample encouragement for the delivery of new housing, but I remain to be convinced. Again the danger is that those whose focus is the maintenance of property values will hold sway over those in need of more affordable housing and where housing is encouraged, it may not be in those areas where the market wants to deliver.

In both cases (NDOs and NDPs) neighbourhoods must follow quite a complex process of submitting documentation to the local authority which verifies it and appoints an independent examiner. Once approved by the examiner the local authority will set up a referendum. If more than half the people voting in the referendum support the measure then the local authority must set up the NDO or NDP.

What the bill doesn't say is what happens if the order/plan is rejected and yet the neighbourhood body that produced it remains in place for the balance of their nominated period and cannot be replaced. Are we left with an impasse?

### What will the bill mean for landowners and developers?

Assuming the bill progresses in its current form, it will have major implications for landowners and developers:

- There will be an even greater emphasis on consulting and engaging with local communities where neighbourhood bodies are in place both in terms of promoting development but also in ensuring that the development potential of sites owned or controlled are maintained. Promoters of development will not be able simply to pay lip service to consultation but will be required to show how a scheme has been amended to reflect comments expressed. Developers will also need to directly engage with community forums and in certain cases perhaps lobby locally to gain support for or vote down NDPs.
- Development budgets will also need to reflect the extended time and costs incurred both in delay but also via the introduction of CIL payments and 'compensatory' projects to gain local support. This and the inevitable downward pressure on site values is a whole topic in itself.
- In the short term at least, there is likely to be more planning by appeal until communities get to grips with the responsibilities imposed by the new bill.

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