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Linking people, places and ideas...

The Localism Act 2011

The Localism Act received Royal Assent on 15 November and its provisions will be brought in over the next few months. The Act will introduce a number of key changes that will affect the development and property industry, including the way in which local government can operate. Here is a summary of the key changes:

Changes to the planning system

Abolition of regional strategies – this puts an end to regional policy that the Government announced it would do a year ago. However, the Regional Strategies will still remain part of the development plan, to be taken into account in planning decisions until the relevant part of the Act is brought into effect.

A duty to cooperate requires local authorities and other public bodies to work together on planning issues, including major development schemes, public transport networks and environmental works.

Neighbourhood planning will allow communities, both residents, employees and business, to come together through a local parish council or **neighbourhood forum** and say where they think new houses, businesses and shops should go – and what they should look like.

Neighbourhood Plans must accord with national planning policy, the strategic vision for the area set by the local authority in its Core Strategy and with other legal requirements. Local people will be able to vote on it in a referendum. If the plan is approved by a majority of those who vote, then the local authority will bring it into force.

Local communities will be able to require local authorities to make a **Neighbourhood Development Order (NDO) where a referendum shows a majority in favour. NDOs will** grant full or outline permissions for certain categories of development within a defined area.

Community right to build - the Act gives groups of local people the power to deliver the development that their local community wants. A community organisation, formed by members of the local community, will be able to bring forward development proposals which, providing they meet minimum criteria and can demonstrate local support through a referendum, will be able to go ahead without requiring planning permission.

The Act introduces a new **requirement for developers to consult local communities before submitting planning applications for certain types of development.** This is only likely to apply to major developments, but details of this are still to come.

The Act **strengthens enforcement rules**, giving local authorities more power to take action against unauthorised development.

Reforming the community infrastructure levy (CIL) – the CIL that local authorities require developers to pay in connection with new development currently has to be spent on new

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infrastructure. The Act provides for more flexibility by allowing the money raised to be spent on things other than infrastructure and gives the Government the power to require that some of the money raised from the levy goes directly to the neighbourhoods where development takes place.

Reform the way local plans are made - the Act will limit the discretion of planning inspectors to insert their own wording into local plans. It also ensures that rather than focussing on reporting progress in making plans to central government, authorities focus on reporting progress to local communities.

Nationally significant infrastructure projects – the Act abolishes the Infrastructure Planning Commission and restores its responsibility for taking decisions on major infrastructure projects to Government ministers. It also ensures the national policy statements, which will be used to guide decisions by ministers, can be voted on by Parliament.

Changes for local government

A general power of competence will give local authorities the legal capacity to do anything that an individual can do that is not specifically prohibited.

Rules on pre-determination now make it clear that it is proper for councillors to play an active part in local discussions, and that they should not be liable to legal challenge as a result.

Greater local control over business rates means that councils now have more freedom to offer business rate discounts - to help attract firms, investment and jobs. Whilst councils would need to meet the cost of any discount from local resources, they may decide that the immediate cost of the discount is outweighed by the long-term benefit of attracting growth and jobs to their area.

The Act will allow people to decide, via a referendum, whether they want an **elected mayor**. Referendums for the largest cities outside London are being planned for May 2012.

The Act enables **public functions to be transferred from central government and quangos to local authorities, combined authorities and economic prosperity boards** in order to improve local accountability or promote economic growth. Authorities will be encouraged to come forward with innovative proposals to develop their areas, improve local services, and boost their local economy.

Councils will be able to choose how they organise themselves and run their affairs in a way that suits their local circumstances, such as how they should be governed, set up committees and scrutinise other public bodies.

New rights and powers for communities

A community right to challenge gives local community groups, parish councils and local authority employees the right to express an interest in taking over the running of a local authority service.

A community right to bid allows community groups to bid to take over the running of 'assets of community value', such as community centres, swimming pools, libraries, markets and pubs which may otherwise be lost. The Act requires local authorities to

maintain a list of such assets and gives community groups the time to develop a bid and raise the money to bid to buy the asset when it comes on the open market.

Right to approve or veto excessive council tax rises - whilst the Government will determine a limit for Council tax increases, if an authority proposes to raise taxes above this limit, this will need to be approved via a public referendum.

Changes affecting housing

Social housing allocations reform - The Act gives local authorities greater freedom to set their own policies about who should qualify to go on the waiting list for social housing in their area. This means that they are now able, if they wish, to prevent people who have no need of social housing from joining the waiting list. Authorities are still obliged to ensure that social homes go to the most vulnerable in society and those who need it most.

Social housing tenure reform – the Act allows for more flexible arrangements for people entering social housing. Social landlords will now be able to grant tenancies for a fixed length of time. The minimum length of tenancy will be two years in exceptional circumstances with five years or more being the norm. There is no upper limit on the length of tenancy.

Other changes allow local authorities to meet their **homelessness duty** by providing good quality private rented homes and to keep **rent from social tenants** which authorities may use locally. **A national home swap scheme** will allow social tenants to swap houses with those in other parts of the country. Of good news for those selling their house, the Act **abolishes Home Information Packs**.

Overview

The Localism Act provides the potential for a cultural shift in the way that planning decisions are taken in England and Wales. We now await the introduction of the Act's provisions and details through Regulations over the coming months. The real test will be its implementation and the resources made available to enable the planning system to deliver the new requirements.

The main concern for the development industry is the emphasis on community engagement, plan-making and decision-making which could not only slow down the planning process and increase uncertainty, but also give power to those who seek to resist new development in their area. There remains the concern over the conflict between the Act's localism provisions and the 'growth objectives' of the Government's draft national Planning Policy Framework and how this will be resolved.

Clarification is needed on the transitional arrangements, in particular the way in which applications will be considered before local plans and neighbourhood plans are prepared and approved. Yet it is essential that the new provisions provide the certainty required by the development industry which will enable much-needed development to proceed.