

Growth and Infrastructure Bill and extensions to Permitted Development rights

Purpose

For discussion and direction.

Summary

This paper provides an overview of the LGA's lobbying programme on the Growth and Infrastructure Bill and sets out a proposed forward influencing programme. This paper also sets out current and planned activity to take forward LGA lobbying on the proposals to extend permitted development rights for specific householder applications.

Recommendations

That the Board:

1. **agrees** the draft forward parliamentary lobbying programme for the Growth and Infrastructure Bill; and
2. **agrees** the draft forward influencing programme for permitted development rights.

Action

As directed by the Board.

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Part 1 Growth and Infrastructure Bill

1. The Growth and Infrastructure Bill was introduced to Parliament on 18 October 2012. The Bill contains many of the measures announced previously by the Government on 6 September 2012. The Bill had its second reading on 5 November and began committee stages in the Commons on 13 November.
2. The LGA issued an 'on the day' briefing in response to the Bill, has submitted written and oral evidence to the House of Commons Bill Committee and will be issuing further and subsequent briefings and relevant amendments for each stage of the Bill process. The LGA has also begun meeting with key stakeholders, MPs and CLG to discuss the Bill and this will continue throughout the Bill's process through Parliament.
3. Part 1 of this paper provides an overview of the LGA's positioning on the bill, key proposed amendments and a forward programme of work.
4. The LGA has stressed that the bill is
 - 4.1 **A missed opportunity.** This Bill presents an ideal opportunity to empower local areas to drive economic growth. Whilst measures to align the town and village green registration process with the planning system are helpful overall, the Bill will miss that opportunity. The LGA will be proposing measures to broaden the scope and increase the ambition within the bill.
 - 4.2 **Misguided.** The Bill's focus on planning is misguided and will not tackle the real barriers to growth.
 - 4.3 **A blow to democracy.** The Bill is at odds with the Government's localism programme by providing sweeping new powers for the Secretary of State to take away decision making from locally and democratically accountable councillors.
 - 4.4 **Centralising.** The Bill proposes a massive shift of resources and responsibilities from councils to the Planning Inspectorate (PINs), an unelected quango, which is likely to result in delays to planning applications and removal of local accountability, as well as significant expansion in the scale and role of the Inspectorate.
 - 4.5 **Counterproductive.** The measures to remove local choice and influence in favour of central decision-making risk seriously denting trust at the local level meaning some communities may be increasingly reluctant to accept new development in their areas. The measures will also introduce delay and unnecessary bureaucracy into the process, contrary to the aims of the legislation.
 - 4.6 **Redundant.** There are a number of clauses that will have no impact on growth.

Item 2

5. The LGA has already been actively lobbying MPs, government and stakeholder organisations on the big issues for local government. We are meeting individually with key MPs and the LGA Vice Presidents from all parties.
6. The House of Commons 2nd Reading of the Growth and Infrastructure Bill took place on Monday 5 November 2012. The LGA briefed MPs in advance of the debate, resulting in widespread use of our arguments from across the chamber. This included contributions from:
 - 6.1 Hilary Benn MP, Shadow Secretary of State for Communities and Local Government
 - 6.2 Joan Walley MP (Stoke on Trent North, Lab)
 - 6.3 Mary Glendon MP (North Tyneside, Lab)
 - 6.4 Annette Brooke MP (Mild Dorset and North Poole, Lib Dem, LGA Vice-President)
 - 6.5 David Ruffley (Bury St Edmunds, Con)
 - 6.6 Bill Esterson (Sefton Central, Lab)
 - 6.7 James Morris MP (Halesowen and Rowley Regis, Cons, CLG Select Committee member)
 - 6.8 Clive Betts MP (Sheffield South East, Lab, Chair of CLG Select Committee)
 - 6.9 Martin Horwood MP (Cheltenham, Lib Dem)
 - 6.10 Ian Murray MP (Edinburgh South, Lab, Shadow business minister)
7. The Bill has now entered Committee Stage, and Cllr Mike Jones (supported by Paul Raynes) gave evidence to the committee on Tuesday 13 November. During the remaining committee stages we will work with MPs from all sides of the House to table amendments and to press for more information from Government on issues such as powers to designate authorities and to extend the nationally significant infrastructure planning regime.
8. We be seeking amendments to the following parts of the Bill (included in the order they appear in the Bill):
 - 8.1 **Clause 1** - provides applicants with option to apply direct to Secretary of State if the council has been designated. (The LGA will put forward an amendment to delete this clause).
 - 8.2 **Clause 4** - limiting information the planning authority can require to 'reasonable and material to the determination'. (We will be citing this as an example of unnecessary and centralist legislation).
 - 8.3 **Clause 5** - modification of the discharge of affordable housing elements of s106 agreements. (The LGA will put forward an amendment to delete this clause).
 - 8.4 **Clause 7** - Amendments to the Communications Act (we will highlight our concern regarding the proposed extension of permitted development rights for broadband boxes and seek clarification on how this is linked to the measures in the Bill).

21 November 2012

Item 2

- 8.5 **Clauses 12-14** - Registration of town and village greens (we will be supporting these clauses).
- 8.6 **Clause 21** - Extending the Major Infrastructure Planning Regime to include commercial and business projects (we will be seeking further information on these clauses and highlighting our concerns that this takes decision making out of local hands).
9. The LGA has numerous proposals which it will be urging Parliament to consider in order to ensure the Bill has a positive impact on growth. These will include:
- 9.1 **Removal, or relaxation, of the housing borrowing cap:** Local authorities have demonstrated their ability to borrow prudentially. Continuing to impose a cap, particularly on housing borrowing, is unnecessary and contrary to localism. Relaxation of the limitations here would allow for some authorities to double or treble their development programmes providing both much needed affordable housing and a huge stimulus to the local construction industry. This clause will also reinforce and link to the research and publication we are undertaking in partnership with the National Federation of Arms Length Management Organisations (ALMOs), the Chartered Institute of Housing (CIH), and others to make the case for the borrowing cap to be lifted or relaxed.
- 9.2 **Devolve economic powers to drive local growth.** The Localism Act included provision to allow for devolution of such powers, for example skills and transport. This is being taken forward in some areas through City Deals; however devolution has been limited so far. This could be achieved by introducing a “right to challenge” for local authorities to allow councils to bid to take over functions and services delivered by Government departments, or by inserting a duty on the Secretary of State for Communities and Local Government to act on clauses 15 and 16 of the Localism Act 2011.
- 9.3 **Improve powers to bring properties back into use and to unblock stalled sites:** The compulsory purchase scheme could be used to better effect to bring empty properties¹ back into use and unlock stalled sites. We would like to discuss with government how we can speed up the process and reduce liability for costs up front.
- 9.4 **Removal of the current power held by Highways Agency** to give directions to restrict the granting of planning permission, by local planning authorities (if they impact upon the strategic network). The Highways Agency is already a statutory consultee on planning applications that may impact on the strategic road network, and a named partner under the duty to cooperate in the Localism Act. They should be required to negotiate appropriate transport solutions rather than being able to veto development unconditionally.
- 9.5 **Improvements to statutory consultee system** so that consultees can be forced to pay costs if they are late with a submission and removing requirements to re-consult with statutory consultees in cases of minor amendments to permissions.

¹ There are 700,000 in England existing homes sitting underused with many in poor condition and empty for long extended periods of time.

Item 2

- 9.6 **Require water companies (and other utilities subject to economic regulation) to have regard to future housing numbers** in planning infrastructure.
- 9.7 **Improvements to Empty Dwelling Management Orders (EDMOs)**, to make them a useful tool, quicker, and less bureaucratic.
- 9.8 **Allowing councils more flexibility over the permitted development framework by making it easier to use Local Development Orders.** Further details are provided in section 2 of this report.
10. We continue to highlight developments on the Growth and Infrastructure Bill to member councils through the Environment and Housing Bulletin, the Parliamentary Bulletin, First and the Chairman's bulletin and encourage them to raise their concerns with their MPs, Ministers and in the local press.
11. We have also been discussing the bill with stakeholders including key government departments (DCLG, DCMS and DEFRA), the Home Builders Federation, Campaign to Protect Rural England, National Housing Federation, Chartered Institute of Housing and the Planning Officers Society to highlight councils' concerns.
12. We will be pursuing discussions with the following organisations over the coming weeks: British Property Federation, Royal Town Planning Institute (RTPI), the Royal Institute of British Architects (RIBA), and Shelter.

Part 2 Extension to Permitted Development Rights for householder extensions.

13. The government proposed a relaxation of permitted development rights for householder extensions as part of its Housing and Growth package on 6 September. These measures would require amendments to secondary legislation through the General Permitted Development Order. A consultation on these measures was published on 12 November.
14. The proposal has generated significant media interest and the LGA has secured front page coverage in the national press highlighting our concerns. This is alongside coverage of the views of individual councils citing their opposition to the measures.
15. Discussions with CLG continue at political and officer level regarding this policy including formal correspondence from the Board Chairman to Ministers outlining our concerns. Officers have, as requested at the last board meeting, developed a number of mechanisms for councils to demonstrate their concern with this proposal, should they wish. These include:
- 15.1 Development of a model motion for debate at full council; and
- 15.2 Development of a template letter which could be sent to Government citing concern with the proposal.
16. An update on progress will be provided at the meeting.

21 November 2012

Item 2

17. There is also an opportunity through the Growth and Infrastructure Bill to pursue a more ambitious amendment which would allow local authorities the flexibility to set permitted development rights. This would build on and take forward the campaigning work undertaken earlier this year to allow for an umbrella use class. Officers are discussing the detailed amendment with planning officers.
18. In summary our proposal would make the case that a national approach to permitted development and changes of use will inevitably lead to unintended consequences and adverse impacts in different localities. Encouraging investment of a particular type by relaxing permitted development rights or encouraging change of use may be right for one area and not for another. The current system allows central government to set out permitted development rights and provides local authorities limited tools to amend this. However these tools are cumbersome and expensive and as a result are not well used.
19. We propose that it is made easier for councils to determine permitted development at local level either by providing them with powers to set their own permitted development framework locally – subject of course to consultation and a local impact assessment; or by making Local Development Orders easier to use.

Financial Implications

20. This work can be delivered within existing budgets.