

Housing and Planning Policy Update April 2011

Introduction

Housing and planning policy is undergoing a major change under the Coalition Government. Its policy is to remove and reduce top-down methods of regulation and performance management in favour of a localist and community-empowered approach. Much of this shift is enshrined in the Localism Bill. The Communities and Local Government Select Committee's response to the abolition of Regional Spatial Strategies is something of a response to that change, recommending strategic and Government-led approaches to mitigate some of the perceived risks of the Coalition's programme.

This briefing gives an update on new housing and planning- related legislation currently progressing through Parliament, information on latest housing and planning policy, and provides an update on the Cala Homes court case.

Budget 2011

The 2011 Budget includes support for first time buyers. The "FirstBuy" scheme will allocate £250million for equity investments, part-financed by the bank levy, to help first time buyers purchase a new-build property. The Government expects 10,000 households to be helped by this policy.⁽¹⁾

For more information on the FirstBuy scheme, contact the Homes and Communities Agency: www.homesandcommunities.co.uk

The Support for Mortgage Interest (SMI) scheme will be extended. The 13-week waiting period and £200,000 limit on eligible mortgage capital will remain in force for new working age SMI claimants until January 2013.⁽²⁾ More information can be found at: http://www.direct.gov.uk/en/MoneyTaxAndBenefits/BenefitsTaxCreditsAndOtherSupport/DG_180321

Stamp duty land tax rules applied to bulk purchases for residential properties will be reformed, and Real Estate Investment Trusts will be made easier to set up and more accessible to investors.⁽³⁾

New Legislation

Localism Bill 2010-11

The Localism Bill is one of the key mechanisms that the Coalition Government is using to make changes to housing and planning legislation and practice. The Localism Bill proposes new legislation on housing and planning issues, including:

Abolition of

- Regional Strategies
- The Infrastructure Planning Commission
- Strengthening planning enforcement rules

(1) HM Treasury Budget 2011, p34 section 1.121: <http://bit.ly/gWvkiW>

(2) HM Treasury Budget 2011, p34 section 1.121: <http://bit.ly/gWvkiW>

(3) HM Treasury Budget 2011, p34 section 1.121 / 1.123: <http://bit.ly/gWvkiW>

Reforms to

- The community infrastructure levy
- Local plans
- Neighbourhood planning
- Homelessness legislation
- Council housing finance
- Social housing tenure & allocations
- Social housing regulation
- Planning enforcement rules to strengthen them

New

- Duties on public bodies to cooperate on planning issues
- National Homeswap scheme
- Community Right to Build
- Requirement on developers to consult communities before submitting very large planning applications
- Powers for London boroughs to decide planning applications in their areas

SWO have produced a briefing on the Localism Bill which is available from:

<http://www.swo.org.uk/EasySiteWeb/getresource.axd?AssetID=46792&type=full&servicetype=Inline>

Parliament.uk have also produced a detailed research paper on the housing and planning elements of the Localism Bill. It can be found at:

<http://www.parliament.uk/briefingpapers/commons/lib/research/rp2011/RP11-003.pdf>

The full text of the Bill, and updates on its passage through Parliament can be found at

<http://services.parliament.uk/bills/2010-11/localism.html>

Department for Communities and Local Government (DCLG) consultation: “Local decisions: a fairer future for social housing”

This consultation ran from 22 November 2010 until 17 January 2011. This document and the consultation responses were intended to form part of the Localism Bill, however the consultation came to an end on the same day that the Localism Bill received its First Reading in Parliament so there has been some controversy as to the influence that the consultation will have.

The consultation document can be found at:

<http://www.communities.gov.uk/publications/housing/socialhousingreform>

A summary of consultation responses can be found at

<http://www.communities.gov.uk/publications/housing/localdecisionsresponse>

Energy Bill 2010-11

Introduced to Parliament (House of Lords) on 2 December 2010, this Bill is about to receive its Second Reading in the House of Commons. The Bill incorporates elements of the [Coalition's Programme for Government](#), the first [Annual Energy Statement](#) published on 27 July 2010, and the [Carbon Plan](#) published on 8 March 2011.⁽⁴⁾

(4) Energy Bill explanatory notes, para.3: <http://bit.ly/geArU4>

Most of the Bill is designed to facilitate financing and installation of energy efficiency measures in homes and businesses. This has implications for housing and planning policy. Other parts of the Bill are intended to secure fair competition in energy and low carbon energy markets.

Key parts of the Bill relating to housing and planning authorities include:

- A 'Green Deal' financing framework for fixed improvements to the energy efficiency of domestic and non-domestic properties.⁽⁵⁾
- Powers for the Secretary of State to make regulations to require private landlords to make energy efficiency improvements to their domestic and commercial properties. Any regulations must improve the energy efficiency of the sector **without** decreasing the number of properties available for rent. The earliest date regulations could be made is April 2015.⁽⁶⁾
- Requirements for domestic landlords to meet reasonable requests from tenants for energy efficiency improvements, where a specified financial support package is available.⁽⁷⁾
- The Secretary of State will have powers to oblige landlords with the worst performing non-domestic properties to undertake energy efficiency improvements before the property can be let out.⁽⁸⁾
- Clause 105 of the Bill repeals the [Home Energy Conservation Act \(1995\)](#).

Additional sections of the Bill focus on reductions in carbon emissions, home-heating costs, energy efficiency and tariffs, but are not directly or specifically related to housing and planning policy.

Full details of the Bill, including its full text, explanatory notes and progress through Parliament can be found at: <http://services.parliament.uk/bills/2010-11/energyhl.html>

Welfare Reform Bill 2010-11

Introduced into Parliament on 16 February 2011, this Bill will replace a range of working age means-tested benefits and tax credits with the 'Universal Credit.' This is proposed to begin in 2013.

Alongside the Universal Credit, several other changes to the benefits system are proposed:

- Personal Independence Payments will replace the Disability Living Allowance.
- Restrictions on Housing Benefit entitlement for social housing tenants whose accommodation is larger than they need.
- Up-rating Local Housing Allowance rates by the Consumer Price Index.
- Amendments to the upcoming statutory child maintenance scheme.
- A limit of 12 months to be placed on payment of contributory Employment and Support Allowance.
- Caps on the total amount of benefit that can be claimed.

Details of the Bill including explanatory note and its progress through Parliament can be found at: <http://services.parliament.uk/bills/2010-11/welfarereform.html>

The Welfare Reform Committee is currently hearing oral evidence as part of its scrutiny of the Bill. More details, including how to contribute, can be found at:

<http://www.parliament.uk/business/news/2011/march/welfare-reform-bill-second-reading>

(5) Energy Bill explanatory notes, para.13: <http://bit.ly/geArU4>

(6) Energy Bill explanatory notes, para.108: <http://bit.ly/geArU4>

(7) Energy Bill explanatory notes, para.109: <http://bit.ly/geArU4>

(8) Energy Bill explanatory notes, para.110: <http://bit.ly/geArU4>

Research Paper 11/23, published on 4 March 2011 in the Houses of Parliament library is titled "Welfare Reform Bill: reform of disability benefits, Housing Benefit, and other measures." It is available at <http://www.parliament.uk/briefingpapers/commons/lib/research/rp2011/RP11-023.pdf>

Housing Benefit Changes

The Government are reforming the Housing Benefit and Local Housing Allowance regimes. The first of these changes came into effect on 1 April 2011 and more will follow.

The Department for Work and Pensions has issued guidance for local authorities on these changes in HB/CTB Circular A25/2010: <http://www.dwp.gov.uk/docs/eia-uprating-2011.pdf>

Further details of these changes, including viewpoints from different parts of the housing sector, the following sources will be useful:

- Standard Note SN/SP/5638, published on 4 March 2011 in the Houses of Parliament library is titled "*Housing Benefit: implications of the June 2010 Budget and October 2010 Spending Review.*" It outlines the measures aimed at reducing Housing Benefit expenditure set out in the June 2010 Budget and the October 2010 Spending Review, together with comment and an assessment of the impact of those measures. It can be found at: <http://www.parliament.uk/briefingpapers/commons/lib/research/briefings/snsp-05638.pdf>
- Chartered Institute for Housing 1 April 2011: "*Briefing Paper on the impact of forthcoming changes to Housing Benefit and Local Housing Allowance*" <http://www.cih.org/housingbenefit/Housing-Benefit-Briefing-April-2011.pdf>
- BBC news website 31 March 2011, "*Impact of Housing Benefit reform in graphics:*" <http://www.bbc.co.uk/news/uk-12906528>

Planning update

Planning (Developer Bonds) Bill 2010-11

This Bill was introduced to Parliament on 27 October 2010 under the Ten Minute Rule motion. The text of the Bill will not be made publicly available until nearer its Second Reading debate which is scheduled to take place on 17 June 2011. The key element of this Private Member's Bill is to give powers to local authorities to require developers to deposit a bond to be used to maintain an area if the developer does not maintain it properly; specifically this means un-adopted street-scene and other areas that are part of a new development.

Details of the Bill can be found here (27 Oct 2010: Columns 343-345): <http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm101027/debtext/101027-0002.htm#10102752000002>

The progress of the Bill can be monitored here:

<http://services.parliament.uk/bills/2010-11/planningdeveloperbonds.html>

The Communities and Local Government Committee report: "Abolition of Regional Spatial Strategies: a planning vacuum?"

This report is the result of an inquiry into the abolition of England's regional strategic planning system. It was published on 17 March 2010 and expressed concerns that the abolition of Regional Spatial Strategies (RSS) might impede the country's economic recovery and interfere with house-building.

Key conclusions and recommendations include:⁽⁹⁾

- Parts of the RSS have been useful and they should not be hurriedly abolished. These include integrating infrastructure, economic development, housing, data collection and environmental protection.
- The speed with which the government announced its intention to abolish the RSS has led to a degree of inertia. The government should remedy this quickly with guidance on how to address key strategic planning issues and continue to deliver Local Development Frameworks.
- The Localism Bill should clarify transition arrangements from the previous planning system to the new one.
- The Localism Bill should include provisions to ensure effective strategic planning.
- The Government should work with all sectors to devise and promote an agreed approach to 'larger-than-local' planning issues the cut across two or more authorities.
- The Government should enshrine a "biting obligation" in national policy for local authorities to have regard to evidence in planning policy.
- The Localism Bill should include a new strategic framework on environmental aspects of planning. Local authorities preparing Local Development Frameworks should also be required to contribute to national targets on environmental issues, for instance on renewable energy.
- The Committee approves of the decision not to give planning powers to Local Enterprise Partnerships.
- Robust mechanisms should be put in place to ensure that local authorities play their part in meeting housing need.
- The Committee has concerns that the Government will be able to meet house-building targets within its plans to promote localism in planning decision-making. The Committee recommends that the Government report back to the Parliament in 2013 on the rate of affordable and market house-building, and the influence of government policy on build rates.
- The New Homes Bonus scheme should be linked to homes provided in line with local plans and robust assessment of housing need. The New Homes Bonus should also better reward delivery of affordable housing.

The full report can be accessed at:

<http://www.publications.parliament.uk/pa/cm201011/cmselect/cmcomloc/517/51702.htm>

The conclusion and recommendations can be accessed at:

<http://www.publications.parliament.uk/pa/cm201011/cmselect/cmcomloc/517/51711.htm>

Local Enterprise Partnerships and Planning

DCLG has stated that "Consistent with localism, we will not be prescribing planning roles for LEPs - it is for them to decide what roles they want to take on and on what basis they do this reflecting their needs, skills and ambitions."

In its 11 March 2010 edition, "Planning" magazine carried out a survey of what planning role, if any, each LEP would be interested in. Attitudes were mixed, and at the time of publication 11 of the 31 LEP Boards had yet to meet. More information and a full report can be found at

<http://www.planningresource.co.uk/news/login/1057477/> (you may need to log in) with a blog entry at <http://regenandrenewal.blogspot.com/2011/02/future-of-leps-planning-role-remains.html>

⁽⁹⁾ Parliament.uk, 25 March 2011, Communities and Local Government Committee, *Abolition of Regional Spatial Strategies...*: <http://bit.ly/gM2qiT>

The National Planning Casework Unit (NPCU)

This new body has been established by the Government to take responsibility for the planning casework previously handled by the Government Office Network. Specific responsibilities of the NPCU (and work it will not be carrying out) are outlined in a DCLG letter dated 10 March 2010, from the Chief Planning Officer to all English local planning authorities. It can be found at:

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/1862176.pdf>

The NPCU begins work with immediate effect.

Housing update

New Homes Bonus

The New Homes Bonus is designed to provide a financial incentive to encourage local authorities to facilitate housing growth. It will match the council tax raised on increases in effective stock. The Bonus will exist alongside the planning system. The scheme will provide local authorities with a financial incentive equal to the national average for the council tax band on each additional property built. This incentive will be paid for six years and will not be ringfenced. Affordable homes will receive an additional payment.⁽¹⁰⁾

Details on the level of Bonus, additional enhancements and definitions can be found in the New Homes Bonus final scheme design, available at

<http://www.communities.gov.uk/publications/housing/finalschemedesign>

Update on Cala Homes' challenge to the abolition of Regional Strategies

Following an announcement by the Secretary of State on 27 May 2010, Regional Strategies were abolished with immediate effect on 6 July 2010 in a letter from the Chief Planning Officer. That letter can be viewed here: <http://www.communities.gov.uk/documents/planningandbuilding/pdf/1631904.pdf>

Cala Homes made a successful High Court challenge to this decision and on 10 November 2010 Regional Strategies were re-established. The full text of this judgement (Case No: CO/8474/2010) can be found at: <http://www.bailii.org/ew/cases/EWHC/Admin/2010/2866.html>

Cala Homes then made a judicial review challenge at the High Court. In this, they attempted to prohibit planners from using the government's intention to abolish Regional Strategies as a material consideration in planning decisions. Cala Homes lost this challenge. The full text of this judgement, dated 8 February 2011 (Case No: CO/12056/2010) can be found at:

http://www.4-5graysinnsquare.co.uk/uploads/docs/section5/12056_2010_Cala_Homes.pdf

In summary, Regional Strategies continue to remain part of the statutory development plan, but that the Government's intention to abolish them can be treated as a material consideration by planning authorities in the usual way; ie depending on circumstances.

Cala Homes has suggested that they will appeal to the Court of Appeal.⁽¹¹⁾

These judgements do not affect the Government's desire to abolish Regional Strategies which will be finalised in the Localism Bill.

(10) DCLG website, 17 February 2011, New Homes Bonus: final scheme design, p.6: <http://bit.ly/h7Mcaa>

(11) Planning Portal website, 10 February 2011: <http://bit.ly/hopqGW>

Planning Inspectorate has provided advice for Planning Inspectors in light of the Cala judgement. It can be found here:

http://www.planningportal.gov.uk/uploads/pins/advice_for_inspectors/impact_of_cala_homes.pdf

Self-financing for local authority housing

The Localism Bill contains clauses that will abolish the current housing subsidy scheme in favour of a self-financing model. On 1 February 2011, the DCLG published a guidance and policy document: *“Implementing Self-Financing for Council Housing.”* It sets out the rationale, methodology and financial parameters for the government’s reforms of the council housing finance system in England. The document also outlines the wider policy context in which these changes will sit.

The document can be viewed here:

<http://www.communities.gov.uk/publications/housing/implementingselffinancing>

The Chartered Institute for Housing have produced a briefing on the self-financing model which can be viewed here: <http://www.cih.org/policy/HRAreform-implementbriefing-Feb11.pdf>

Low-carbon energy generation: Feed-In Tariff review

Begun on 1 April 2010, the Feed-In Tariff (FiT) scheme allows households, businesses and other organisations to claim financial support for electricity they produce from renewable and low carbon sources.

FiTs have three financial benefits:⁽¹²⁾

- A payment for all the electricity produced
- Additional bonus payments for electricity exported to the national grid
- A reduction on standard electricity bills.

The Government is currently reviewing the first year of FiT regime. Details of this review, as well as a consultation on fast-tracking of FiTs for small scale schemes, can be found here:

http://www.decc.gov.uk/en/content/cms/what_we_do/uk_supply/energy_mix/renewable/feedin_tariff/feedin_tariff.aspx

The Homes and Communities Agency have also produced guidance for its partners with schemes in receipt of HCA funding. The press release and guidance can be found here:

<http://www.homesandcommunities.co.uk/HCA-issues-Feed-In-Tariff-guidance-for-partners>

(12) Feed-In Tariffs Ltd website, 25 March 2011: <http://bit.ly/i9ctDQ>

Summary of Links

Support for Mortgage Interest (SMI) scheme

http://www.direct.gov.uk/en/MoneyTaxAndBenefits/BenefitsTaxCreditsAndOtherSupport/DG_180321

HM Treasury Budget 2011

http://cdn.hm-treasury.gov.uk/2011budget_complete.pdf

Homes and Communities Agency website

www.homesandcommunities.co.uk

Localism Bill 2010-11

<http://services.parliament.uk/bills/2010-11/localism.html>

SWO briefing on the Localism Bill 2010-11

<http://www.swo.org.uk/EasySiteWeb/getresource.axd?AssetID=46792&type=full&servicetype=Inline>

Houses of Parliament Research Paper on Housing and Planning elements of the Localism Bill

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DCLG consultation: "Local decisions: a fairer future for social housing"

Consultation document: <http://www.communities.gov.uk/publications/housing/socialhousingreform>

Summary of responses: <http://www.communities.gov.uk/publications/housing/localdecisionsresponse>

Energy Bill 2010-11

<http://services.parliament.uk/bills/2010-11/energyhl.html>

Welfare Reform Bill 2010-11

<http://services.parliament.uk/bills/2010-11/welfarereform.html>

Welfare Reform Committee

<http://www.parliament.uk/business/news/2011/march/welfare-reform-bill-second-reading>

Parliamentary Research Paper on Welfare Reform Bill

<http://www.parliament.uk/briefingpapers/commons/lib/research/rp2011/RP11-023.pdf>

Department for Work and Pensions guidance on Housing Benefit and other changes instituted on 1 April 2011

<http://www.dwp.gov.uk/docs/eia-uprating-2011.pdf>

Houses of Parliament Research Paper on Housing Benefit: implications of the June 2010 Budget and October 2010 Spending Review

<http://www.parliament.uk/briefingpapers/commons/lib/research/briefings/snsp-05638.pdf>

Chartered Institute briefing paper on the impact of forthcoming changes to Housing Benefit and Local Housing Allowance

<http://www.cih.org/housingbenefit/Housing-Benefit-Briefing-April-2011.pdf>

Impact of Housing Benefit reform in graphics

<http://www.bbc.co.uk/news/uk-12906528>

Planning (Developer Bonds) Bill 2010-11

<http://services.parliament.uk/bills/2010-11/planningdeveloperbonds.html>

Communities and Local Government Committee report:

“Abolition of Regional Spatial Strategies: a planning vacuum?”

Report: <http://www.publications.parliament.uk/pa/cm201011/cmselect/cmcomloc/517/51702.htm>

Conclusions and recommendations only:

<http://www.publications.parliament.uk/pa/cm201011/cmselect/cmcomloc/517/51711.htm>

Local Enterprise Partnerships and Planning

Survey: <http://www.planningresource.co.uk/news/login/1057477> (you may need to log in)

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Cala Homes Case

10 November 2010 judgement: <http://www.bailii.org/ew/cases/EWHC/Admin/2010/2866.html>

8 February 2011 judgement:

http://www.4-5graysinnsquare.co.uk/uploads/docs/section5/12056_2010_Cala_Homes.pdf

Planning Inspectorate advice post-8 February 2011:

http://www.planningportal.gov.uk/uploads/pins/advice_for_inspectors/impact_of_cala_homes.pdf

Self-financing for local authority housing

DCLG: <http://www.communities.gov.uk/publications/housing/implementingselffinancing>

Chartered Institute for Housing: <http://www.cih.org/policy/HRAreform-implementbriefing-Feb11.pdf>

Feed-In Tariff review

DECC: http://www.decc.gov.uk/en/content/cms/what_we_do/uk_supply/energy_mix/renewable/feedin_tariff/feedin_tariff.aspx

HCA guidance:

<http://www.homesandcommunities.co.uk/HCA-issues-Feed-In-Tariff-guidance-for-partners>