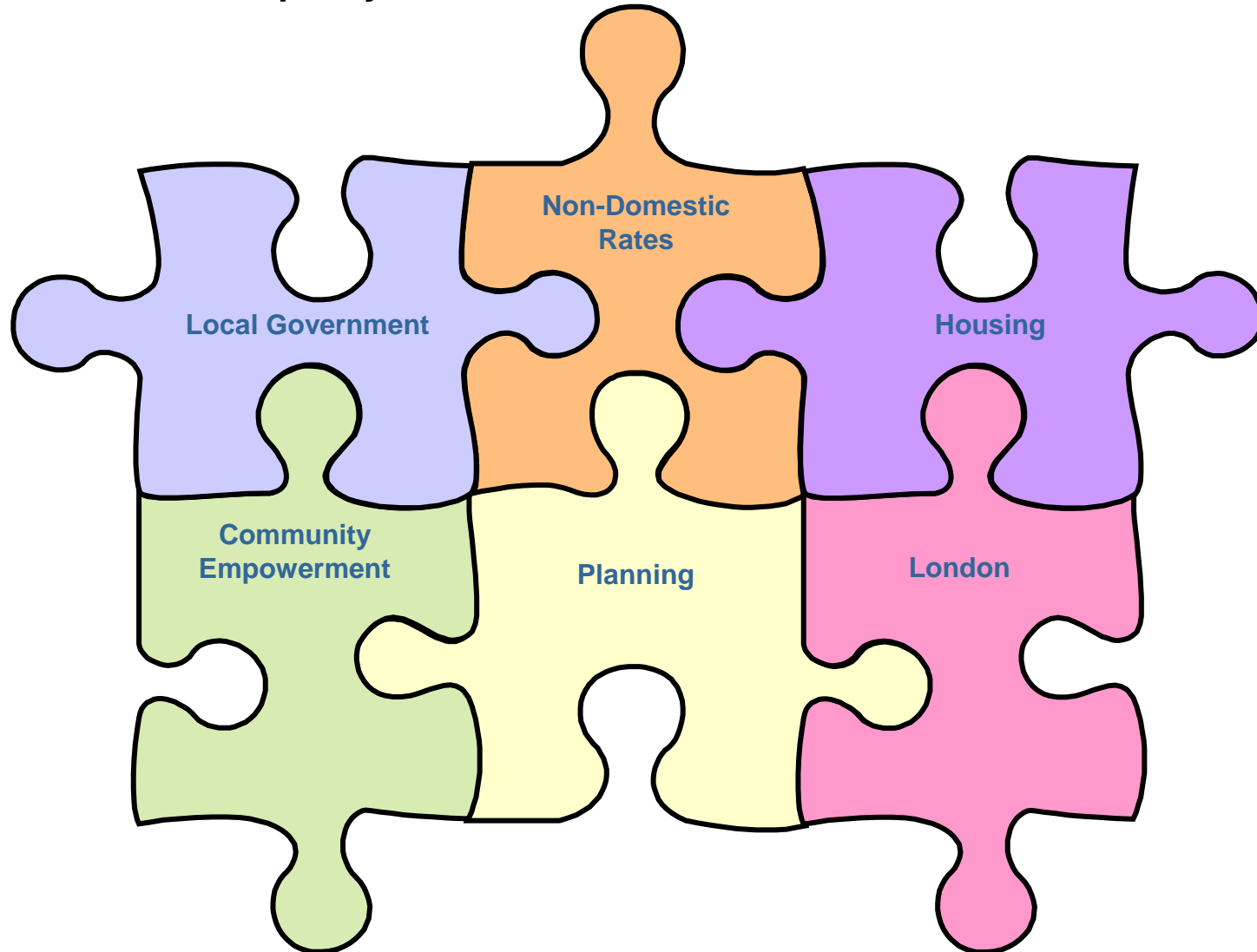


# The Localism Act: Planning

January 2012

Made up of a number of interlinked policy themes with over 40 policy areas



“When people know that they will get proper support to cope with the demands of new development; when they have a **proper say** over what new homes will look like; and when they can influence where those homes go, **they have reasons to say “yes” to growth.**”

Greg Clark MP, 18/11/10

## **Regional Strategies and Duty to Cooperate**

- Act delivers a new approach to strategic planning which is more localist.
- Provides powers to abolish Regional Strategies, which provided fixed boundaries and issues for cooperation and provided top down targets.
- Places a ‘duty to cooperate in relation to the planning of sustainable development’ on local authorities and other public bodies (defined in regulations).
- Requires local planning authorities and public bodies to engage constructively, actively and on an ongoing basis in relation to planning of sustainable development – and to consider joint agreements and planning documents.
- More flexible system, where central government provides the tools and the incentives, rather than the prescription.

## Local Plan Reform

- Act intends to remove unnecessary bureaucracy from local plan making process and to encourage it to focus on communities rather than central government:
  - Authorities are no longer required to submit their **Local Development Scheme** (which sets out their plan making timetable) to the Secretary of State or Mayor of London for approval. Instead they will have to publish up-to-date information about the scheme direct to the public.
  - Removes the ability of **Planning Inspectors** to insert their own wording into local plans in order to make them sound. Instead the local planning authority will have to decide how to make the plan sound.
  - A local planning authority will be able to **withdraw a development plan document** after it has been submitted to a planning inspector for examination without seeking to the Secretary of State's approval.
  - Changes local planning authority **annual reports** so that instead of reporting yearly to the Secretary of State they must publish information direct to the public at least yearly.

# Neighbourhood Planning and Community Right to Build

Localism Act allows for neighbourhood planning which can consist of:

- Neighbourhood development plans (policies relating to development and the use of land in the specified area, which are taken into account by the local planning authority when considering planning applications);
- Neighbourhood development orders (which provides upfront full or outline planning permission for developments, negating the need to apply for planning permission)
- Community Right to Build Orders (which allow development below a certain scale, provided the benefits of the development stay within the community).

## Neighbourhood Planning and Community Right to Build

Where there are no town or parish councils, local planning authorities can designate 'neighbourhood forums' to draw up a neighbourhood plan – providing they meet certain requirements:

- Are open to people who live or work in the local area and to local councillors;
- Have at least 21 members;
- Are established for the purposes of promoting the improvement of social, economic and environmental well-being of the area;

The neighbourhood forum must agree the boundaries of the area concerned with the local planning authority.

## Planning- Pre-application consultation

Provides planning applications above a certain threshold will only be valid if accompanied by a statement setting out how the community have been consulted on the proposals.

- Threshold to be set in regulations;
- Developer must have regard to any advice from a local planning authority;
- Developer must have regard to any comments or responses received as part of the consultation when deciding whether to make any changes to their application before submitting it.



## **Retrospective planning permission**

- The Act ensures that unscrupulous developers cannot delay enforcement action by both applying for retrospective planning permission and appealing against enforcement action on that grounds that planning permission should be granted.

## **Time limits for enforcing concealed breaches of planning control**

- Allows a local planning authority to apply to a Magistrate's Court to allow enforcement action where the time limits for action has expired and the breach has been deliberately concealed.

## **Assurance as regards prosecution for person served with an enforcement notice**

- The Act enables local planning authorities to assure any person receiving an enforcement notice (where the authority does not think they are responsible for the breach) that they will not be prosecuted.

## **Planning offences: time limits and penalties**

- Increases the penalties for failing to comply with a 'breach of condition' notice, given the large profits that can be made by ignoring planning rules.
- Provides that some offences relating to trees and advertisements can be brought within six months of sufficient evidence coming to light (rather than 6 months from the offence).

## **Unauthorised advertisement and defacement of premises**

- Provides increased powers to deal with advertising hoardings, persistent fly posting and graffiti.

## Planning- Projects of national significance

- Abolishes the **Infrastructure Planning Commission** and returns decision making to the relevant democratically elected Minister.
- Requires **National Policy Statements**, against which national infrastructure decisions must be made, to be agreed by a vote in the House of Commons (following debate in both Houses).
- Contains a number of other measures to **streamline** and improve the process for considering nationally significant infrastructure – such as altering which local authorities have to be included in pre-application consultation and allowing the Secretary of State to direct projects into the nationally significant infrastructure regime without requiring an application to a local planning authority first.

## Planning- local finance considerations

- Sets out, for those who may be in doubt, that where local finance considerations (such as the New Homes Bonus) are material to a planning application they should be taken into account.
- Clause makes clear this is not intended to mean they should always be taken into account, nor that they should be given greater weight than would otherwise be the case.
- Intended to reinforce the existing legal position set by case law.

## Planning at neighbourhood level

The Government is giving neighbourhoods far more ability to determine the shape of the places in which people live through 'neighbourhood plans'.

- Empower communities – residents and business- to **take control of the future of their areas**
- Neighbourhood led
- Light-touch but robust– real power and safeguards
- Flexible - inspire innovation and creativity
- Pro-growth - exploring ways of enabling community supported development
- Critical role for local plan in setting strategic context
- New basis for partnership work with local authority

## Localism Act - Basic Conditions for Neighbourhood Planning

they must be appropriate having **regard to national policy**;

they must be in **general conformity with the strategic policies**  
in the development plan for the local area

they must be **compatible** with EU obligations

they must be **compatible** with human rights requirements

For neighbourhood development orders and community right to  
build orders:

they must have **regard to** the protection and enhancement of  
listed buildings and conservation areas.

A community applies for a neighbourhood area to be designated

If no parish or town council, a neighbourhood forum is designated

If there is a parish or town council, they take the lead

Work up details with the community and  
Consult **statutory consultees** as appropriate

The local authority can help here

Submit proposals to the local authority

LPA to advise on general conformity with Local Plan and when/which statutory consultees to involve

The examiner is checking the basic conditions – a plan or order must:

- have an appropriate fit with local and national policy;
- have special regard for listed buildings and conservation areas;
- be compatible with EU and ECHR obligations

Independent Examination

Local authority checks proposals

Community referendum

A simple majority is required here

Make a plan or order

To learn lessons and identify good practice.

Experiences will inform the development of secondary legislation, policy, practice guidance and promotional initiatives.

Received proposals for 125 projects for the Neighbourhood Planning Front Runners scheme (17 in first wave), including business areas

Each is receiving up to £20,000 of support from government

Aim is to produce a DPD or LDO

Some will continue next year into producing a neighbourhood plan or order under the Localism Act



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## Neighbourhood Planning – Building on the Best of Community-led Planning

What is new? Real statutory weight

Building on the best of community-led planning (e.g. parish plans)

All existing tools remain available (e.g. SPD, DPD)

Community-led

Focus and flexibility is key

Shaping not stopping development

