

ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS

1.	Meeting:	Cabinet Member for Cohesion
2.	Date:	19th June 2012
3.	Title:	Localism Act 2011 Update
4.	Directorate:	Resources

5. Summary

This report provides an update, detailing the commencement of the Act to date; issues arising from specific provisions in the Act; and the process of engagement of members in addressing the issues identified and determining ways forward.

6. Recommendations

That Members:

- a) **Notes the recent updates on the Localism Act including issues arising from members' seminars;**
 - b) **Make recommendations for any issues to be given detailed consideration by Select Commissions or for decision by relevant Cabinet Members.**
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7. Proposals and Details

Commencement of the Act

Following Royal Assent to the Act on November 15th 2011, the provisions are being commenced over a period of time. Most of the provisions have now been brought into force or dates have been announced for commencement. However, where provisions have been made enabling the government to provide further detail in Regulations, in some cases no Regulations have yet been made.

Taking the Act forward in Rotherham

Given the cross-cutting nature of this Act, the Council has taken a co-ordinated approach to assessing the issues arising whilst the Bill was passing through parliament. This has involved a series of reports and members seminars to highlight the provisions and enable early discussions, including with M3 managers, parish councils and the voluntary & community sector.

Since the passing of the Act, there has continued to be a whole Council approach, facilitating detailed reports and briefings to be made including:

- Detailed reports to Cabinet Members on the issues arising within their portfolio;
- Reports to Standards Committee and Rotherham Audit Chairs;
- Report to Cabinet;
- Further reports to Scrutiny (Overview & Scrutiny Management Board);`
- A further programme of members' seminars, this time each one focussing on part of the Act; and
- Information sessions for managers.

An overview of the seminars covered to date including the issues arising and RMBC's latest position are given below:

Planning

Parishes and neighbourhood forums can use neighbourhood planning to:

- develop a shared vision for their neighbourhood
- set planning policies for the development and use of land
- give planning permission through Neighbourhood Development Orders and Community Right to Build Orders

Officers presented an update on Localism and Neighbourhood planning to Planning Board on 15 March. A commitment was given to do further updates to members as more clarity emerges in the shape of new regulations and/or guidance and best practice examples.

Planning Aid will be running a Neighbourhood Planning event at My Place on 6th July. There are pros and cons to this - it would be useful to get more clarity on Neighbourhood Planning but risk that it could generate applications from parishes to prepare a neighbourhood plan that we would not be able to resource. The issue of "who pays for Neighbourhood Planning" is complex and not helped by lack of a clear

steer from government. In particular, who pays for any examination and referendum on a neighbourhood plan and how that charge could be recouped - if at all.

The event would allow us to get our message across to parishes that a better approach would be for them to engage with the Local Plan "sites" consultation process to influence the future shape of their communities. This could be a "win win" outcome that uses existing processes rather than embarking on a new, untried approach.

A further risk is that neighbourhood plans could run counter to our emerging Local Plan strategy and preferred locations for growth. As any parish could commence a neighbourhood plan now, we could end up in a "race to the finish" in terms of completing our LDF to provide the overarching plan that neighbourhood plans have to conform to. Our decisions on when to hold a referendum could be key if this situation occurs.

Ultimately, a corporate decision would be required on priorities if one or more neighbourhood plans are commenced - if we wish (or are required) to support and finance these then we would have to divert resources accordingly. As the pressure would fall on Planning, the obvious risk is delay to the Local Plan.

It is envisaged that a session will take place with the Parish Council Network on Neighbourhood Planning and already a session has been done with the Wickersley Parish Council on request.

Asset Management

We will have to maintain a list of assets of community value, which could be buildings or land, assets, need not belong to the Council, but could be a pub or post office for example.

The Assets of Community Value member's seminar took place on 17th of April. It was well attended with nearly 20 members present. Members were particularly interested around the:

- 1) Register of AOCV and when will this be in place.
- 2) Costs associated with maintaining this register.
- 3) Issues around compensation on reduced land sale value.
- 4) Publicity and awareness raising to communities around AOCV.

It was explained that specific regulations have not been introduced yet and are awaiting further detail on all the above. More wider publicity will be rolled out once we have more guidance issued. We informed members that we will arrange a follow up seminar once we have more detail/information. Members agreed to this and said they look forward to the next update.

Community Right to Buy

A Member Briefing was held to provide Members with an introduction and update on the Community Right to Buy and Register of community Assets. The presentation

gave a brief introduction on Localism and an overview of the Community Right to Buy. The presentation also provided detail on the Community Right to Buy process including, definition of assets of community value, nomination criteria and nomination requirements, review of a listing, decision and right of appeal, triggering the moratorium, exemptions and exclusions, and compensation.

There were issues arising from the Member briefing. Member raised concerns over the future use of assets, and the mechanisms which would need to be in place to restrict the use to community purposes only. Members provided a scenario that if a community group wanted to redevelop an area of land which was originally purchased for community purposes, what safeguards could be put in place to prevent this. It was highlighted that any member of any community could be a developer who could exploit the process to their advantage and for their own personal gain.

Members also wanted to establish how the Council were going raise awareness of the legislation. There was a general consensus that the promotion of the new legislation to raise awareness should be limited to restrict the number of applications received. Of those applications received, the Council must be clear and explicit from the start of the process; that any community group who intends to purchase an asset of community value will have to compete with the open market at an open market value. This could restrict the number of applications received and provide community groups with other opportunities under the Asset Transfer Policy to occupy rather than purchase land or buildings.

Members were updated on the fact that the Council had made a decision not to nominate their own assets. This decision was agreed by Members.

The latest of Community RTB is that the CLG announced that over the next three years there will be £17m of funding available to contribute to the costs of communities preparing submissions for Community Right to Build Orders. Under the Localism Act's Community Right to Build, communities can grant planning permission for new buildings they want to see go ahead, sidestepping the normal planning application process.

In order to bring forward a Community Right to Build Order, members of a community will need to form a formal organisation with the purpose of furthering the interests of the local community.

If more than 50 per cent of people support a Community Right to Build Order in a local referendum, then the local planning authority must grant permission.

Council Tax

- Council Tax- Rotherham has frozen it's council tax, so should be no need for referendum on council tax increase
- Government will publish a 'percentage council tax increase each year over which will trigger a referendum'

Community Right to Challenge

Provides that people will be able to express an interest in taking over the running of a council service e.g. voluntary and community organisations; charities; parish councils etc.

The Government have now announced a proposed commencement date of 27th June for the Community Right to Challenge provisions of the Localism Act 2011.

RMBC is a member of the Regional Procurement Group where they have been collaborating to develop a pro forma which includes a flowchart and process to address the 'Community Right to Challenge' when it comes into force.

An officer from the Commissioning Team will be preparing a paper explaining what needs to be done in preparation for the Community Right to Challenge'.

Housing

- **Allocations-** we can set our own policies/criteria in respect of who should qualify to go on the Housing Register. i.e. Allocate on Need. RMBC carrying out consultation on this.
- **Tenure Reform-** will provide for flexible tenancies, no more secure tenancies that people are familiar with. The changes will only apply to new tenants. Currently out to consultation locally before deciding whether to implement it

Member development session was held on Wednesday, 4 April. Key issues arising from the presentation include:

- Lots of interaction around options and challenges presented by Localism Act
- Luke warm response to temporary tenancies
- Possibility of ending homelessness obligation in private sector fairly well received, as was changes to succession rights
- Good discussion around applying criteria to housing register – members liked the inclusive nature of existing system but understand the difficulties
- Officers took the opportunity to raise the complex issues facing housing, including the impact of welfare reform and incentivised RTB on housing
- Need to marketing around 'Right to Buy'.
- Need to absorb what tenant's cash back scheme means, where tenants will have the opportunity to make their own home improvements.
- Currently responding to the consultation on 'Social Housing Fraud'.
- Consulting on the RMBC Housing Strategy.

VCS

A presentation on RMBC's perspective on the Localism Act was made at VAR at the Community Rights Made Real Workshop in February this year which was organised by VAR, Urban Forum, COGS and NCVO. It was well attended by the regional VCS, TARA's and local authorities. The presentation was well received and it was acknowledged that RMBC was well advanced compared to other LA areas.

Planning Aid did a useful presentation on how Neighbourhood Planning would work and one pilot area did a presentation on progress in one of the rural areas. They had representation from professionals such as architect, surveyors and builders, but acknowledged difficulties in getting local people up to speed in the process. Also £20,000 is not much as most of it is used to pay for the plan and referendum. It is uncertain how Neighbourhood Plans are different from the LDF and it is very unlikely that RMBC will be able to resource Neighbourhood Planning and also deprived areas may not have the same access of opportunity compared to affluent areas that may have more skills, knowledge and money.

The VCS expressed that they would want to be involved in the consultation of the development of the framework developed by Strategic Commissioning for taking over services and challenge. Consultation will take place with Parishes and VCS.

There have been 4 Neighbourhood Planning workshops delivered so far by Planning Aid and Locality for the VCS, TARA's and Parishes.

Governance

Two sessions have been held for member on changes to governance. Unlike many provisions in the Act, the governance provisions do not prescribe, but facilitate change. Key issues arising include:

- No desire to change governance model in Rotherham;
- Changes to “Standards” – abolition of Standards Board; consultation with Parish Network has taken place.
- The role of members leading and representing communities in light of the change from partnership working to challenge introduced by the Act;
- Pay Policy- the Council will be required to adopt a Pay Policy covering ‘Senior Pay’ and the relationship with the ‘lowest paid’. A report has been prepared by Strategic HR.
- A more effective role for scrutiny; and
- Scepticism about provisions for transfer and delegation to local government.

8. Finance

There are financial issues arising from the Act including the potential for “new burdens” not previously identified in government impact assessments, and some for provisions of the Act to have been potentially misrepresented. The latter includes the impression given that local authorities have been freed-up to give business rates discounts, whereas state aid rules apply and the requirement to have regard to the interests of council tax payers, who would effectively have to meet the costs of any discounts given.

The greater potential financial issue at this stage relates to neighbourhood planning and covering the costs of inspection and referendum. Notwithstanding that the Government has made provision to provide financial support for neighbourhood planning, debate during the passage of the Bill specifically covered the issue of the recovery of costs by local authorities and there being no new financial burden. Consequently, the Act enables the government to make Regulations to for local authorities to levy charges and the neighbourhood planning impact assessment

identifies that local authorities will recover costs from neighbourhood plan promoters. Debate on the Bill suggested that the costs of inspection and referendum would be met by developers when the new development provided for by the Neighbourhood Development Order is commenced. However, no Regulations have been made providing for levying charges, and advice recently received by the Council from civil servants suggests that the Council will have to meet all the costs, an apparent direct contradiction to assurances given to Parliament in the passing of the Bill.

9. Risks and Uncertainties

Many of the provisions of the Act have now been implemented. The main areas of risk remain those provisions where it is not possible to fully assess impact. These are mainly around planning; community right to challenge; and assets of community value. Some coverage in the media, including government statements may confuse the provisions of this Act with the provisions of the Local Government Finance Bill, currently before parliament, especially around statements covering business rates.

The programme of reporting will mitigate any risks arising from the uncertainties by ensuring that fully detailed reports are made in a timely manner, providing for informed decisions in good time.

10. Policy and Performance Agenda Implications

The Act should not be seen in policy isolation from other government legislation that impact on the Council, especially around changes in health and welfare reform; changes to local government finance and policy development for social care.

The Council's Local Government Reform Implementation Plan provides an overview of this broader government policy agenda, as it affects the Council and the priorities set out in the Corporate Plan.

11. Background Papers and Consultation

Localism Act 2011 (c. 20)

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