



AGENTS & DEVELOPERS WORKING GROUP

*Planning & Regeneration Services
including Building Consultancy*

Wednesday 12 January 2011

2 – 4:30pm The Study, Upton House

	<p><u>BoP Attendees:</u></p> <ul style="list-style-type: none"> • ST - Stephen Thorne, (<i>chair</i>) Head of Planning & Regeneration • SB - Shelley Barnett, (<i>minutes</i>) PA to Stephen Thorne • SPL - Sue Ludwig, Business Manager • RTG – Richard Genge, Planning and Regeneration Manager <p><u>A&D Attendees:</u></p> <p>MB – Malcolm Brown, NB - Neil Bichard, PT - Peter Traves, DN – David Nash, PR – Paul Robinson, LB – Laurence Bowen, IM – Ivan Maughan, JS - John Souter, MS - Maurice Stainer</p>
	<p><u>Apologies:</u></p> <p>Martin Godfrey and Mike Clark</p>
1.	<p><u>Minutes of the last meeting</u></p> <p><i>Affordable Housing</i> – The Affordable Housing DPD went to Economy Overview and Scrutiny Committee on 04/11/10 and was well debated; the issues regarding the toolkit were highlighted. As a result of this Planning and Housing are putting together a seminar for Members on the subject.</p> <p>PT questioned the position in Bournemouth? MB commented that at the Committee meeting a Member complained regarding the lack of affordable housing but that the threshold was too high to justify contribution. PT highlighted that the uncertainty surrounding contributions is an issue at the early stages as developers are uncertain prior to bidding on a site.</p> <p>ST explained to the group that he was awaiting papers from David James on behalf of the Contributions Working Group and MB highlighted that they cannot reach an agreement.</p> <p>PT reported that the contributions most affect low cost housing which is disproportionate. The problem is buying a site without planning permission as there are too many uncertainties.</p> <p>MB commented that CIL will deal with the contributions but it won't deal with Affordable Housing. The issue being that the policies haven't worked through the system yet and are unlikely to be noticed for 3 years after.</p> <p>DS reported that Banks won't fund affordable housing developments and that there is more money required for Code 3.</p> <p>DN explained his personal experience of developers and how difficult it can be to keep permissions alive as policies move and that the current policies were set in the peak of the market rather than the current recession.</p> <p>ST suggested that he group puts together a paper for Town Centre Bridge Advisory Group (TC Bag) which is a sounding board for developers with politicians. The group to provide a 'position statement' and choose the presenters for the group.</p> <p>MB highlighted that the new affordable rent structure from government may chance things?</p>

	<p>DN commented that the price psqm isn't necessarily going up – as contractors are undercutting to get the job and keep the work going.</p> <p>DN said there needs to be a credible evidence base with an example above and below with a high and low value. ST suggested that the group put together 3 examples of why it doesn't work.</p> <p>Code for Sustainable Homes With regard to Code for Sustainable Homes JS questioned why they need to pay for their initial submission forms to be vetted? ST responded that otherwise where is the checking? MB feels the Code aspirations should be in the policy rather than the valuation. Need to ensure consistency across planning and building consultancy requirements.</p>
<p>2.</p>	<p><u>Coalition Update</u> The Coalition has so far not said anything about the Local Development Framework (LDF) process. So far in the Localism Bill a big chunk of it is planning; neighbourhood plans, neighbourhood development orders. ST is liaising with other councils with regard to strategic planning (LEP's).</p> <p>The Local Engagement Forum has now been signed off 06/12/2010, please find the relevant report at; http://ha2.boroughofpoole.com/committeedocuments/agendas_minutes_reports_show_meeting.asp?meetingid=2666</p> <p>The group asked about the 'garden grabbing' and appeals are being lost on this concept although it is not defined as garden grabbing.</p>
<p>3.</p>	<p><u>Parking Policy</u> DN asked why the group hadn't been part of the initial formation of this document. RTG responded that this is a Member driven document and is not yet a planning document. MB reported that he felt changes in policy are minimal after consultation has taken place and are therefore seen as pointless.</p> <p>The group felt that they should be providing more solutions and partaking in the formation of policies. ST suggested that the group provide a collective response to consultation. DN to coordinate.</p>
<p>4.</p>	<p><u>Update on Transport Contributions and appeals</u> ST is creating an options paper with other officers. The Transportation officers will be providing more info to include; Proposal</p> <ul style="list-style-type: none"> • Proposal • Impact • Mitigation • Project • Costs
<p>5.</p>	<p><u>Pre-Application Discussion</u> MB feels there is still an issue of quality and consistency of advice and that the advice should be agreed with the line manager. PT reported the issues of timing, quality and reliability with regard to pre-apps and that none had recently been returned on time.</p> <p>LB would like to champion the pre-app process as some has been brilliant but consistency is not there and this is due to individual officers. The lack of conversation and communication by the officers makes it become a lottery and if it goes to a certain officer it is likely to be an unsuccessful process.</p>

	<p>ST and RTG acknowledged the comments and that there is an issue of consistency and a training need. SPL highlighted that we need to know who it is so that the process can improve and ensure that more will utilise the system. It was commented that more proactive discussion rather than written responses would be an improvement. PT raised the element of arrogance in some officers 'that they know best' when it is not always the case. ST understands that it is not about agreeing all the time but respecting each others position and ST wants to delivery a service that is meaningful. IM felt that delays are due to the untimely sign offs by the line manager. RTG commented that this is the wrong way round as the planning officers should be discussing the site prior to the pre-app. ST felt that a Senior Planning Officer should be empowered to give an opinion but also highlighted that the team can become risk adverse due to all of the complaints. MB didn't mind if they say no as long as it is justified. ST to investigate.</p> <p>DN believes in pre-app and recommends the process to clients however, a recent pre-app which had a 3 week target was received after 7 weeks and with no update from the case officer in between. The monitoring of pre-apps needs to be addressed and the element of 'customer care'.</p> <p>The group felt that the reference to S106 was a lazy response as it just says 'refer to our website'. The group felt a more detailed response would be better. ST highlighted that this is to ensure that the Case Officer remains in control of the case at all times and that bargaining isn't done with other units with regard to their contributions. Some of it is now formulaic, which is where the website is helpful – the website gives a worst case scenario.</p> <p>PT reported that from a practical point of view a formulaic approach is fine on a relatively modest scheme. The issue is the scale of the development and the formulaic approaches. How does the formula actually work? PT attended a workshop at Bournemouth which was looking at a radical change of approach; rather than rate per unit – rate of sqm per development.</p> <p>DN suggested that a telephone call be introduced as procedure rather than the pre-app letter. ST was unsure of this as there is nothing in writing then. LB reported that the dynamic pre-apps are best especially when Clients see the pre-app process as a comfort but they want to pay less upfront which means the architects are at risk.</p>
6.	<p><u>Committee Presentation</u> MB felt that the SPO jumped in to defend the recommendation and their words sounded like those of a residents association rather than an officer which turned the debate. MB felt the officer strayed- RTG to investigate with Chair of Planning and Committee Clerk.</p>
7.	<p><u>Officer Responses</u> Letters go into a black hole – no monitoring Discharge of conditions; 3 months to get a response – this should be straightforward and be done within 2 weeks.</p>
8.	<p><u>Structure moving forward</u> ST explained to the group the cuts/redundancies process that is currently being undertaken. The new structure starts from 1st April 2011 as a savings measure. ST explained the difficulties and strain he and his Managers had been put under to find these savings. The re-structure includes; 2x Development Management Teams; 1xBorough Wide with a portfolio of 'Localism' & 1xCentral & Regeneration with a portfolio of 'Design'. Each team will have an urban design officer within the team. RTG will be the line manager for the DM teams, enforcement and the tree team. There will be generic support to all activity. The restructure has resulted in 11.1 posts redundant but this includes vacant posts and voluntary redundancies. The re-structure has been done in a proper and</p>

	<p>considered manner to deliver the service. The Policy and Economic Development teams haven't changed with regard to the re-structure except the inclusion of a conservation officer into the policy team.</p> <p>MB commented that he can see positivity in the commercial development in Poole.</p>
9.	<p><u>A.O.B</u> Validation Checklists – revised lists have now been updated. Website –the group felt that the old website was easier and faster. KP has contacted MB for feedback. It was commented that the alphabetical search facility was easier before. Mike Clark is retiring – ST wanted to thank him for his time on the working group and was grateful for his input. Best wishes for the future.</p>
	<p><u>Next Meeting</u> Annual Meeting - Wednesday 16th March 2011 6pm in the Council Chamber, Civic Centre</p>

Agents and Developers Annual Meeting

Wednesday 16th March 2011

Council Chamber

6pm-8pm

Minutes

Cllr Stribley opened the meeting and welcomed the guests. Each attendee then introduced themselves.

Attendees from the Borough of Poole were;

Cllr Stribley	Chairman, Planning Committee
Stephen Thorne	Head of Planning & Regeneration Services including Building Consultancy
Shelley Barnett	PA to Stephen Thorne
Cally Antill	Head of Housing and Community Services
Doug Evans	Borough Team Manager, Development Management
Nigel Jacobs	Planning Policy and Implementation Manager
Sue Ludwig	Business Manager

Stephen informed the group that the Members had recently received a seminar on Affordable Housing. Peter Traves had attended on behalf of the Agents and Developers working group and Stephen highlighted that Peter's presentation was well received and his contribution to the seminar was much appreciated. The seminar was important for Members to understand the complexities and experience of developers in this market.

Stephen explained that the last 4/5 months had been really difficult with regards to budget cuts and a unit re-structure. Stephen assured the group that he will be doing something about the customer service that some have received. Stephen informed that group that this was due in part to low morale, with half of the unit receiving 'at risk' letters just before Christmas. Moving forward in this New Year and in the new structure his priority will be on service provision.

The new Planning and Regeneration structure is attached; Appendix 1

Stephen provided an update on Localism and this can be found in Appendix 2

Stephen updated the group on;

- A guidance note that Stephen has written on the engagement of Councillors in the planning process which is going to Planning Committee tomorrow 17.03.11.
- The Local Engagement Forum has been adopted this year and the Town Centre Bridge Advisory Group is being renamed as the Member Engagement Forum.
- There is an examination in public planned for later this year on CIL (Community Infrastructure Levy)

John Montgomery of Tanner and Tilley asked how proactive Planning and Regeneration are going to be at promoting neighbourhood plans. Nigel Jacobs responded by saying that Broadstone are the only group that have shown an interest so far and he felt that the process sits better with rural parishes as administrative urban areas can cause confusion.

Questions/Answers

Malcolm Brown provided this question prior to the meeting;

Q. I have recently compiled a Planning Statement for a site which my firm will shortly be putting to the market. I have identified 21 documents in the Report which may have a bearing on the determination of a planning application on this site. Some of these documents are well in excess of 100 pages. It would have been 22 if I had gone into the Poole Characterisation Study. Does Poole Borough Council not think that this is excessive? Bear in mind that the current Government is intending to rationalise all of its Planning Policy Guidance and Planning Policy Statements.

A. Nigel explained that not all planning documents will be relevant for each application. Admittedly if someone is working in the area for the first time it may appear daunting however by utilising pre-application discussions with the Council this will enable an agents/applicants to be guided to the relevant documentation without the need to go through it all. Those who are familiar with the area and the policy context will probably already be in a position to understand what may or may not apply. As to the number of documents, each plays an important role in securing sustainable development and contributing to a better Poole. Wherever we can and given the regulations that apply we try to keep documents as clear and concise as possible.

David James questioned the necessity of all this extra work with regard to policies and resource that has been incorporated into the planning process since 2005. He also felt that design guides are too prescriptive and therefore creating 'too many cooks' in the design process.

John Montgomery felt that it was prescriptive guidance and questioned the relevance of the validation requirements. This concern was met by the majority of the group. Neil Bichard requested that the validation system was more flexible and less pedantic and felt that it was sometimes a stalling mechanism.

Doug Evans responded with sympathy towards the points being made and that the wish is to streamline the process with the 1APP form. Currently it is a target driven process and front loaded so that everything is received at stage one so that there are no hold ups throughout the process.

The current process takes away discretion as the checking process is an administrative task. Sue Ludwig informed the group that the current procedure was put in place in part to respond to concerns by Agents and Developers that requests for further information were received too late in the planning process and caused delays therefore front loading the system should reduce this.

John Montgomery felt the problem is that the documents required cost clients a lot of money just to tick a box.

Doug Evans responded by explaining how the Localism Bill will be looking at these procedures.

Sue Ludwig highlighted that the pre-application discussions should be determining what is required to validate your application. David James raised concern with regard to senior planning officers disagreeing with pre-app discussions outcomes after they have taken place.

David James commented on behalf of John Yeoman that he would rather pay more money and have a senior decision maker earlier in the process. David James also raised concern with regard to limits on negotiation by planning officers. Stephen Thorne responded by saying that there is a balance to be struck with negotiating. For example if negotiations haven't been available in the last few months it would either be because the application is off the mark or during the restructure process where work has been redistributed to other planning officers. In response David James requested that senior officers look at the applications earlier in the process.

Adrian Black raised concern with the checklist driven culture. He highlighted that checklists shift work to advisors and economically you make the process less economic as it shifts costs to the wrong places.

Sue Ludwig explained that fee income charges don't come close to covering the costs of determining an application and the unit must look for the most efficient and economic way of managing the processes.

Phil Easton felt that the conservation officer responses were received too late in the process and that case officers use them for refusals. It was also raised that the comments are subjective and at time bizarre.

David James highlighted that the Building for Life scoring system is not consistent across the piece. The assessment is done by applicant and officers and guided by opinions. This needs to be more regulated.

Derek Simester highlighted that it is the developer who carries the risk.

Phil Easton commented that Poole is great for contemporary buildings but it is such a struggle due to the residents fighting against it.

David Nash highlighted that communication is really important going forward. With regard to validation we need to think about what is relevant and critical to the decision making process. With regard to consultees (the public) it is easy to say no sometimes to development, whereas sometimes we should be challenging the consultees.

Malcolm Brown felt that some planning officers are challenging consultees and will listen and respond – a hands on approach which is helpful.

The New Forest Validation process was raised to be one to look in to – as the generic statement covers topics highlighted.

Stephen Thorne raised the topic of fees and locally set fees. Currently Poole are not in a position to be introducing this as there is a lot of work to be done in order to find out the actual cost of each application.

Adrian Black commented that the work needs to be done for economic balance. John Montgomery raised the topic of ‘planning performance agreements’ where work is guaranteed for a price – therefore buying a better service.

May Palmer raised the issue with regard to a prime site at Broadstone and that a response has not been received since September 2010. Stephen Thorne responded to this to explain to the group that this is not acceptable and that there should be ‘trust on delivery’.

Simon Greenwood appreciated Stephen’s comment but asked whether other service units are supporting as well. Stephen highlighted that Cally Antill, Head of Housing and Community Services was in attendance to take any questions about housing matters and that Stephen is trying to get planning to the centre of business in Poole but currently not succeeding. As most decisions have a spatial expression in Poole, Stephen is trying to get rid of the ‘last minute’ mentality but acknowledges he has work to do. Cally explained to the group that Housing and Community Services are passionate about deliverables for Poole.

The group highlighted concern with regard to the delay in conditions discharge and pre-app responses.

Darryl Howells, senior planning officer requested that agents don’t leave it until the last minute to submit as it is a 2 way system.

The group felt there was no compensation for the delays and that the system is not fit for purpose.

Stephen Thorne is aware that there needs to be a review of conditions as they need definite triggers within them. Doug Evans commented that the problem needs to be fixed but with less resource it may be worth avoiding the conditions in the first place or ensuring that they are necessary and not part of a cut and paste culture.

John Montgomery felt that it was good that Stephen is looking into the conditions and that there should be more flexibility with the approach and not pre-written conditions.

David Nash highlighted that the working group should be utilised to review the conditions.

Stephen Thorne informed the group that as well as reviewing conditions he is reviewing the scheme of delegation to ensure that the right level of delegation is achieved to deliver the National Targets.

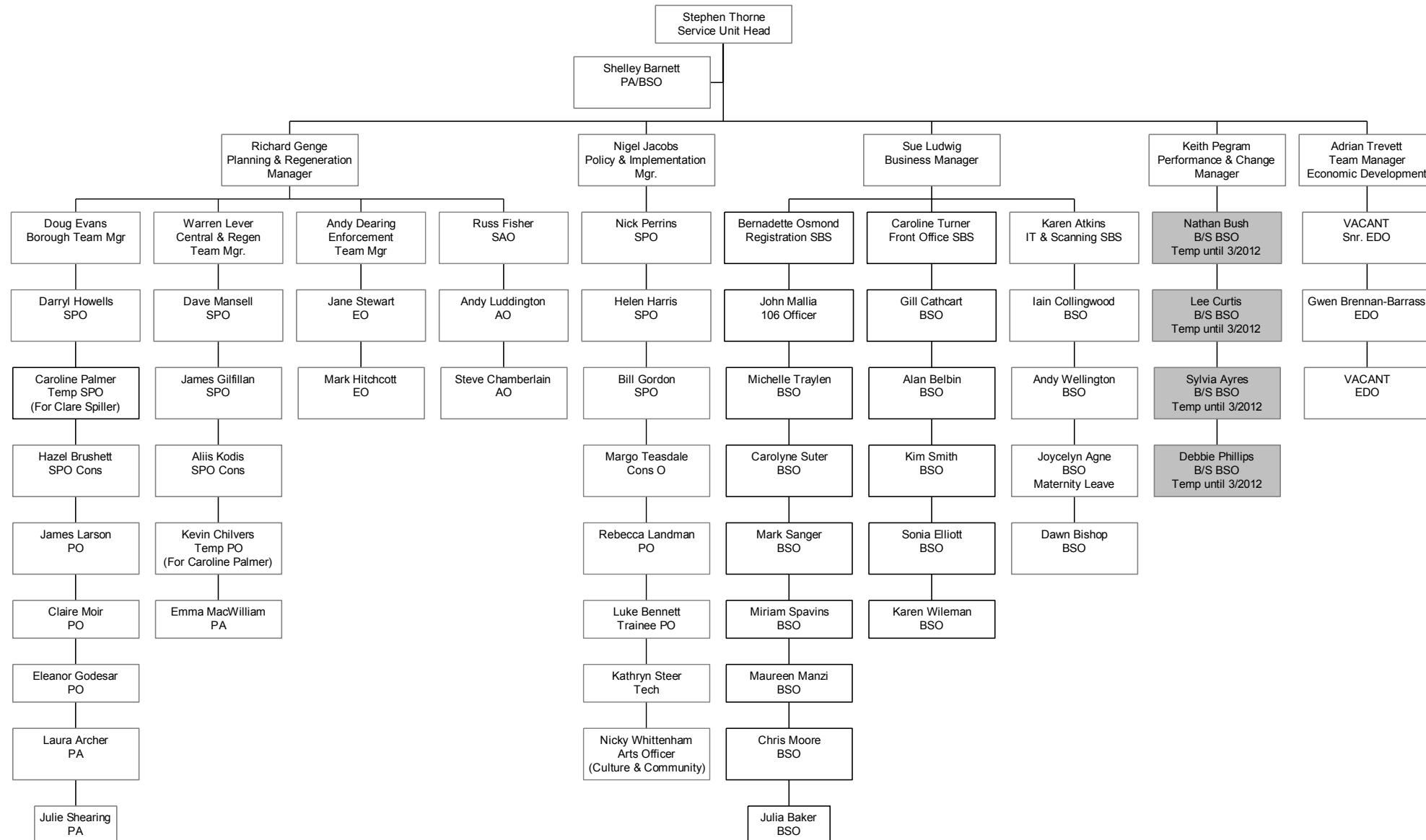
Derek Simester was encouraged by news regarding Lloyds Bank providing funding. Cllr Stribley highlighted that Poole is the 2nd lowest funded Unitary Authority. Cally Antill confirmed that Poole is not in one of the pilot areas for the Lloyds Bank scheme.

The Working Group for 2011/12 was confirmed as;

- David Nash, Urban DNA
- Ivan Maughan, Maughan Architecture
- Laurence Bowen & Paul Robinson, RBStudio Ltd (alternating)
- Peter Traves, Evans & Traves
- Mark Parsons, Parsons and Joyce
- Martin Hanham
- Adrian Black, You Home
- Graham Thorne, Thornes Chartered Surveyors & Estate Agents
- May Palmer, Harry J Palmer Ltd

Planning & Regeneration Services

1st April 2011



BRIEFING PAPER – DECENTRALISATION AND LOCALISM BILL

Introduction

The Localism Bill was introduced into the House of Commons on the 13th December 2010. This is intended to be one of the flagship pieces of legislation from the Coalition Government embodying many of their key policies. The Bill is presented as the main vehicle for measures that will strengthen the capacity of communities and individuals to find solutions to local problems. Other key policy announcements; the abolition of regional structures, the push on financial transparency, the removal of top down targets, are all part of this overarching policy drive: to decentralise power and move from big government to big society.

Set out in Section 2 to this report is a summary of the key issues in the Bill and an overview of their implications for the Borough of Poole. The measures set out in the Bill can be grouped under four headings as set out below.

SUMMARY

1 New Freedoms and flexibilities for local government

A set of policies designed to enable local authorities to focus on the priorities of local people and deliver services in more innovative ways, with a strong expectation of partnership working and collaboration. **The General Power of Competence** will enable the authority to do anything within the law to meet the needs of its local population, for example set up a bank, develop property etc. The **abolition of the Standards Board** will enable local authorities to manage Councillor conduct in the way they feel is appropriate to reduce the time spent dealing with petty complaints or misleading accusations. It will become a criminal offence for councillors to deliberately conceal or misrepresent a personal interest. The rules of **predetermination** will be clarified to make it easier for Councillors to play an active part in local discussions and better represent their constituents with reduced risk of legal challenge. Twelve cities will be obliged to hold referendums for directly elected Mayors during 2012 and Councils will be able to revert to the **committee system** should they wish to.

2 New rights and powers for communities

These provisions set out the legal foundation for developing 'big society' approaches to public services. The **Community Right to Challenge** will enable voluntary and community groups and social enterprises the right to express an interest in taking over the running of a local service. The council will be obliged to respond to this challenge and undertake procurement exercises to open up its services to competitors. The publication of spend and contract data is a key enabler of this. The **Community Right to Bid** will enable local communities to bid to take over assets important to their communities and will require local authorities to maintain a register of all assets of value to their communities, including those which are privately owned. Communities will also have the right to trigger **local referendums** on any local issue that they think is important – subject to sufficient people signing a petition, although the council would not be required to act on the outcome. The **Right to Veto Excessive Council Tax Rises** will only apply if the authority decides to set a tax increase above a ceiling set by government, effectively, a cap with local negotiation.

3 Reform to make the planning system clearer, more democratic and effective

The legislation for **regional strategies** will be repealed and regional strategies abolished. Local planning Authorities and other bodies will have a **duty to cooperate** in relation to the planning of 'sustainable development'. There are some changes to the role of the Planning Inspector, reducing their power to amend local planning documents. Planning authorities will

be required to report on the progress of the local plan to the community, rather than to government. The key planning change, the right for communities to draw up a **'neighbourhood development plan'** comes with an important caveat: these will only be allowable if they agree the same level or more development than already set out in the planning authority's local plan. Planning authorities will be required to provide technical advice and support as required. The **Community Right to Build** will give groups of local people the ability to bring forward small developments with benefits staying within the community. There will be a new **requirement to consult** communities before submitting very large planning applications. **Enforcement** will be strengthened with powers given to remove structures used for unauthorised displays and to not determine an application for planning permission if any part of the relevant land is subject to an enforcement notice. The **Infrastructure Planning Commission** will be abolished with the powers transferred to the Secretary of State. The **Community Infrastructure Levy** will be made more flexible allowing funds to be used to maintain existing infrastructure and allow the government the power to require that some of the money goes directly to where development takes place.

4. Reform to ensure that decisions about housing are taken locally

A set of policies designed to provide social landlords with more discretion over how they manage their housing in the best interests of their local community. Tenure reform will enable landlords to offer **flexible tenancies**, with a minimum of a 2 year term, lifetime tenancies will still be an option. Local authorities will have greater freedom to set their own **housing allocation policies**, including being able to prevent people, who have no need of social housing, joining the waiting list. People who experience **homelessness** will no longer be able to insist on a socially rented property, but accept suitable options in the private rented sector. The **Housing Revenue Account** will be reformed and landlords will keep their rental income and use it locally to maintain their homes. A web based national **Homeswap Scheme** will enable tenants to exchange properties anywhere in the UK. The **Tenant Services Authority** will be abolished with a residual function picked up by the Homes and Communities Agency. There will be a **single Ombudsman** dealing with social housing matters. Landlords may be able to use **incentives** to move people out of the social rented sector into owner occupation and HIPs have been abolished.

Next Steps

The Bill is not yet law, however it would be prudent to begin to consider what action the Council should take in the first instance. One of the main criticisms of the Bill is that while it appears to offer power to local authorities and communities, much of this is very tightly controlled and caveated by government. Part of our approach needs to consider how community expectations may need to be managed in light of the limited flexibilities key parts of the legislation seem to allow, particularly around planning. There is a need to explore the future role of elected Members in light of the proposals in the Localism Bill and other emerging policy and legislation, ideally in advance of local elections. Beyond May, there will need to be wider consideration given to our corporate governance framework and the organisational development project needs to be informed by the policies brought forward in the Bill, perhaps through updating the Changing Times programme. More detailed analysis of the implications of sections of the act, particularly on commissioning, procurement, asset management, planning and housing issues, will need to be developed as the Bill passes through parliament.

It is important to remember that proposals can be subject to modification or removed during the Parliamentary process. It is likely that Royal Assent will be given before November 2011 and the first provisions of the Act will then probably be implemented in early 2012.

Section 2 Detailed Commentary

The Bill runs to 206 clauses and 24 schedules. Some of the key issues for Local Authorities are set out above:

There are a many other provisions as well, but this report focuses on the ones which have a most obvious and immediate effect on Poole.

Set out below is a summary of the key provisions and a commentary on the implications for the Borough of Poole.

Local Authorities General Power of Competence (Sections 1 – 7)

A further development in the attempt by various governments over the years to give Local Authorities wider powers. Historically, Local Authorities have been seen as ‘creatures of statute’ which means that they can only do the things which Parliament have empowered them to do through statutory provision.

The Act takes a fairly radical step forward and equates a Local Authority to an individual by stating that a Local Authority has the power to do anything that individuals generally may do. This includes powers to undertake anything anywhere in the United Kingdom or elsewhere, the power to do it for commercial purposes or for a charge (or without a charge), and the power to do it for the benefit of the Authority, its area, or persons resident in the area. The Power of Wellbeing will be repealed.

The power will not be back dated and therefore cannot be used to cure defects in legal authority before the Act comes into force.

Any charges levied under this authority are subject to the usual provisions that taking one financial year with another income should not exceed the cost of provision. The person being charged must have agreed to the service being provided for a charge and the power excludes either services which are statutory and which must be provided free of charge, or alternatively, services for which statutory charging provisions already exist.

Where the Local Authority chooses to undertake a commercial activity, if it wishes to charge a commercial rate for this service then it must do so through the agency of a company, or a registered friendly society.

Implications for the Borough of Poole

This is indeed a far reaching change to the legal framework for Local Authorities. In theory, there will in future be less concern over whether or not the Authority has the legal power to do things that it wishes to do. In the very broadest sense, it may be assumed that most activities will be authorised by this legislation. However, this should not be taken as a green light to ignore the financial or legal consequences of service decisions, particularly decisions to move in new and different directions. Robust risk assessments will be needed in terms of considering any exercise of powers under these provisions.

The Council will still owe a general fiduciary duty to local Council Tax payers, and since the current suite of checks, balances and controls in terms of the Council’s corporate governance framework have been developed in relation to existing powers and duties, careful thought will be needed in terms of expanding any areas of activity to ensure that they do not expose the Council to undue legal and financial risk.

Predetermination – Section 13

Manifesto promises to ‘abolish’ pre-determination have been fulfilled through this section of the Localism Bill. There was much disquiet expressed in some circles that over zealous interpretation of the Code of Conduct for elected Members and legal advice around the common law doctrine of pre-determination was preventing elected Members fulfilling their representative role on behalf of local communities where proposals, particularly in the realms of planning and licensing, were controversial. It is a fundamental principle of both the common law and the European Convention on Human Rights that a person has a right to a fair hearing. In local authority terms, this is particularly important when dealing with certain quasi-judicial matters such as planning and licensing. One facet of this is that it is expected that those making the decision will weigh up all the facts and the evidence in the matter and reach a considered decision, rather than coming to the matter with their mind already made up.

Over the years, the question of pre-determination has been the subject of many cases in the High Court and the Court of Appeal. Defending such cases can be expensive for local authorities, hence the advice that has been routinely given to Members over the years to avoid any semblance of pre-determination. In recent years, the Courts have reached a more balanced view of pre-determination which essentially found that it is acceptable for people to have expressed general views for or against proposals so long as they remain open to consideration of all the relevant facts. In other words, pre-disposition is o.k, so long as it does not extend to pre-determination.

The much heralded ‘abolition’ of pre-determination in the Bill, tends to simply repeat the position that has been arrived at by the Courts, namely that simple statements about views before a decision are not to be taken from the face of it be an indication of a ‘closed mind’. Unfortunately, the wording of the statute would appear to be fertile ground for legal challenge, because if there is other evidence that a decision maker did have a closed mind, this could still be the basis of a successful legal challenge. Given the financial sums involved in some developments, and the emotional capital invested in many planning issues, it does not necessarily seem that Section 13 of the Localism Bill will see an end to challenges on the basis of pre-determination.

Implications for the Borough of Poole

If passed into law, Section 13 may mean that some relaxation can be made in terms of the advice given to Members over pre-application discussions, statements, and Members’ general treatment of quasi-judicial matters before the Hearing. Nevertheless, it will be important to achieve a clear balance between allowing Members to undertake some limited community advocacy and still ensuring that any decision making process is free of bias and allows a fair hearing. It would seem that the provision provides some protection against mild or reasonable pre-decision comments being turned into a vehicle for a successful legal challenge, but Members who are determined to campaign for or against something or to express vehement views in advance may still need to be excluded from the decision making process to ensure fairness.

Standards – Sections 14 to 20

Another much heralded pre-election promise was to abolish the existing standards regime.

Prior to the Bill’s publication, the Government had already announced the abolition of the national body overseeing standards, Standards for England, and the Bill confirms that. The Bill proposes a statutory duty on authorities to promote and maintain high standards of conduct by Members, but removes the requirement for a mandatory Code of Conduct. Local

authorities may either revise their existing Code of Conduct, adopt a Code of Conduct to replace their existing Code, or withdraw the existing Code without replacing it. On the assumption that an authority has a Code of Conduct, the authority must investigate any written allegations made to it of failure to comply with the Code, but there are no mandatory sanctions that can be imposed against a Member's will.

A Register of Members' Interests must still be maintained.

There will no longer be a statutory requirement to have a Standards Committee.

In the absence of mandatory sanctions as currently operated by the Council's Standards Committee, it is intended that new criminal offences will be created as follows:

- Failing to register a financial or other interest
- Failing to disclose an interest when taking part in the business of an authority
- Taking part in the business of an authority where an interest exists.

Charges under these offences may only be brought at the direction of the Director of Public Prosecutions.

Implications for the Borough of Poole

The Borough of Poole has currently adopted the statutory Code of Conduct for Members and, as required, has a Standards Committee. Decisions will need to be taken in consultation with Members as to whether or not a Code of Conduct should be adopted in the future and whether a Standards Committee in revised form would be of assistance in discharging the Council's statutory duty to promote and maintain high standards of conduct (currently one of the key terms of reference of the existing Standards Committee).

The current standards regime has sometimes been time consuming, bureaucratic, and slow to operate due to externally imposed regulations. The legislation gives the authority the opportunity of revising its approach to standards, however, in doing so it is hoped that some of the lessons of the past few years can be learnt. Any standards regime needs to be seen as genuinely contributing to higher standards of behaviour, rather than being used to pursue political or personal advantage.

An authority may choose to have a non-statutory Standards Committee (as Poole did before 2002) and will be able to choose its make up. Some views have already been expressed that a Committee should be retained, but to be fair, these were from the Committee themselves. In practice, this will be something for the new Council to consider after May.

Pay accountability – Sections 21 to 26

Authorities must prepare an annual senior pay policy statement which will set out the authority's policies relating to the remuneration of Chief Officers. This must set out the remuneration for each Chief Officer, how pay is to be increased or added to, use of any performance related pay, bonuses, and the treatment of pay on termination. The statement must be approved by the resolution of the authority, i.e. it must go through Full Council. The first statement must be prepared and approved before the end of the 31st March 2012, and presumably this will be accommodated as part of the budget process each year.

Implications for the Borough of Poole

These provisions will be relatively simple to implement as part of the annual budget process and build upon the existing transparency arrangements for Chief Officers' pay.

The definition of Chief Officer given in the Act will include the three Statutory Officers, Strategic Directors, and in all likelihood, Service Unit Heads.

EU Fines – Sections 30 – 34

An unusual set of provisions seem to give Central Government the power to pass on the responsibility (in part at least) for paying any financial sanctions imposed on the UK by the EU. This would be used in cases where the breach was in relation to functions performed by local authorities.

Impact on the Borough of Poole

This could impose a further financial burden on the authority, however, it is not considered that this is a major threat. For the section to be operative it would have to be shown that the Borough had, by its actions, caused or contributed to the breach of EU law at a national level. The authority is of course already liable for actions brought under EU legislation directly against the authority itself.

Non-domestic rates, etc – Sections 35 – 38 (also including Council Tax s56-65)

Although the Bill may appear to give local authorities additional freedoms, it also contains several provisions that bypass councils and will instead increase the power that residents will have over local public spending. In many cases these will actually act as additional constraints on the authority, such as;

Requiring local authorities to hold a referendum on any proposed Council Tax increase above a certain threshold. This replaces the Secretary of State's power to cap, but ministers will still be able to decide on the threshold above which any proposed increases are 'excessive' and therefore must be subjected to an expensive local vote that would probably reject the rise;

Allowing councils to grant a discount in business rates – but not increase them above the level set nationally;

Scrapping the power for councils to introduce 'bin taxes';

Requiring local authorities to allocate a proportion of Community Infrastructure Levy revenues back to the neighbourhood from which they are raised – although councils will have greater control over setting their charging levels.

Implications for the Borough of Poole

While these provisions might empower local people in a limited range of circumstances, and allow some local flexibility to incentivise some local businesses, a 'threshold' is a 'cap' under a different name and reduces the control of the Council over its finances.

Community Empowerment – Local Referendums – Sections 39 – 55

These sections give the power to groups of local residents under certain conditions to trigger local referendums.

A local authority must hold a local referendum if it receives a qualifying petition, or one or more of the Members of the authority for that area make a request.

Petitions must be signed by 5% of the Local Government electors in the area and must state the question to be put at the referendum. The authority must provide facilities for petitions to be submitted in an electronic form. It seems that the legislation allows for referendums to be called in relation to areas within the authority as well as for the authority's area as a whole, raising the possibility of Ward based referendums. In the case of local Members requesting referendums, they must be a Member for the area for which the referendum is requested, and where there is more than one Member for that area or Ward, a majority of the Members must make the request.

Although the power to determine whether a referendum is held is granted to the local authority, the local authority may only refuse to hold a referendum on the following grounds.

- That promoting or opposing the referendum is likely to lead to contravention of existing law.
- The question is not a local matter.
- That the question relates to a matter specified by order by the Secretary of State.
- That the request is vexatious or abusive.

Assuming all the tests are passed, the authority must resolve to hold a referendum. The date of a referendum must not generally be within two months of the resolution to hold a referendum. If there is an election or another referendum due within six months, then the referendum will be held on that date, failing which as a long stop, the referendum must be held within twelve months. Those entitled to vote at the referendum will be those entitled to vote generally in elections, i.e. those on the Electoral Register.

Interestingly, a local authority does not have to take any action with regards to the outcome of a referendum, but it must publicise its decision not to do so together with its reasons. These decisions would presumably be influenced by political and public relations considerations as much as anything else.

Implications for the Borough of Poole

It remains to be seen how much use would be made of these provisions. To obtain a petition satisfying the relevant percentage is quite a tall order in relation to the Borough as a whole, however, there appears to be the possibility raised in the legislation that if petitions can be organised on a Ward basis, then the 5% figure would be correspondingly lower. Administration of any referendums would fall upon the Council's Electoral Services team and would inevitably involve additional costs even where a referendum is combined with another election. As a guide, to hold a referendum for the whole Borough in the absence of any other type of election, would cost approximately £250,000.

Council Tax – Sections 56 – 65

(see comments above under NNDR heading)

Community Right to Challenge (to run services) – Sections 66 – 70

Under these sections, a community or voluntary body, a charity, a Parish Council, two or more employees of the authority, or other persons or bodies specified by the Secretary of State, may submit an expression of interest in relation to providing or assisting in providing a relevant service on behalf of the authority. Regulations will dictate what services are relevant and presumably may exclude some. If the authority accepts the expression of interest, it must carry out such a procurement exercise relating to the provision of the service as is appropriate having regard to the value and nature of the contract that may be awarded.

Implications for the Borough of Poole

There may be opportunities for other bodies to provide services that are currently provided by local authorities. The provisions are calculated to facilitate this, although it remains to be seen given the provisions with regard to procurement exercises, whether or not in the event the body triggering the request would end up being the successful contractor. The authority appears to have discretion as to whether to accept any expressions on interest, and presumably this will be down to the relevant business assessment.

Assets of Community Value – Sections 71 – 88

These sections are aimed at preventing the loss of community facilities. The local authority must maintain a list of land in its area that is land of community value. Registration on the list lasts for five years. The provisions may cover both land and buildings and regulations will supply further details on the procedures to be adopted and what types of facilities may or may not be included. Whilst it is the duty of a local authority to compile this list, nominations for inclusion may also be made by the community. It seems clear at this stage, however, that this does not just cover publicly owned land or facilities.

Where land is listed as being of community interest, an owner may not dispose of the land until they have notified the local authority of their wish to dispose of it, and any specified moratorium period has ended. Any expression of interest being received from any community interest group to be treated as a potential bidder for the land. Regulations may specify a regime of compensation to be payable presumably in the event that the value of land is diminished, etc.

Implications for the Borough of Poole

These provisions are aimed at preventing the loss of community facilities, particularly it is believed in rural areas. There have been much publicised problems involving the sale of premises such as pubs, village shops, etc, for other uses simply because other uses are more commercially gainful than the existing use. Nevertheless, as drafted, these provisions constitute an apparently draconian restriction on the rights of individuals to dispose of freehold property.

It is clear that the description of community asset could also include much land owned and occupied by the authority and could seriously hamper efforts to realise assets through the sale of unwanted facilities, etc. Urgent consideration might need to be given to accelerating any proposed disposals in the light of this proposed legislation.

The provisions relating to compensation are also of concern. On the face of it, it would appear likely that a private owner whose land is included in such a register might well feel that the land had been 'blighted' in some way, and that their freedom to dispose of their asset had certainly been restricted. Whilst unclear at this stage, it is assumed that responsibility for compensation will rest with Local Authorities.

Considerable resource implications may well arise out of the requirement to compile a register and these should be considered further. It is a surprise that these provisions do not yet appear to have excited more comment from those potentially affected.

Planning – Sections 89 - 120

This is a major section of the new legislation and one which will have significant implications for the Borough as a local planning authority. This briefing note will only deal with the outline of the principal changes and further details will be provided by the Head of Planning and Design Services in due course. In terms of plans and strategies, the Government have fulfilled their manifesto pledge to abolish regional spatial strategies. However, a new duty is imposed on local planning authorities and other bodies to co-operate and 'engage constructively' with each other over the preparation of development plans with the aim of maximising the effectiveness of sustainable development. The legislation also reintroduces some flexibility for local planning authorities in terms of the adoption or modification of inspectors' reports into local development plan matters. Local authorities may now make some modifications to the inspectors' recommendations, so long as they do not materially affect the overall policies.

The Act makes a number of changes to the provisions regarding the Community Infrastructure Levy (CIL), for example requiring some of these funds to be passed to neighbourhoods where the development has taken place, enabling funds to be spent on the ongoing costs of infrastructure as well as the initial costs, and greater control over charging levels, although this will still be subject to independent examiners interpretation of what is reasonable.

Implications for the Borough of Poole

The abolition of the RSS and no formal proposal for 'larger than local' planning creates a void at an important level. All the more so in somewhere like SE Dorset where the conurbation and its hinterland need a coherent strategy for the area and agreement on how it is to be delivered. There are formal and informal working arrangements that have worked well but something will need to be put in place to ensure that unpalatable decisions are made and that one authority does not scupper wider ambition. Strategic planning is critical for the coordination of infrastructure planning particularly for issues such as nature conservation, transportation and schools.

Neighbourhood Planning Orders & Community Right to Build

The Act provides that recognised bodies (i.e. Parish Councils/Neighbourhood Forums) may seek to introduce Neighbourhood Development Orders in certain areas. These Orders will set out the types of development that may be permitted in an area (although interestingly, not the types of development that will not be permitted), the adoption of such Orders will be subject to a referendum of those in the area and approved by more than 50% of those voting at such a referendum. Provisions are to be made by regulations with regard to the charging regime for neighbourhood planning. Regulations may also provide for the local authority to give financial assistance to those seeking to promote neighbourhood planning. The Community Right to Build will give local communities to power to take forward development in their area without the need to apply for planning permission, subject to agreement through referendum. This provision is mainly aimed at rural communities and again, is to increase rather than prevent development.

Implications for the Borough of Poole

The planning provisions in the Bill have been much trailed, but there is some concern that the publicity from Central Government may have led communities to believe that some of the changes are more far reaching than they are. The provisions with regard to neighbourhood planning are very much centred around the ability to permit certain types of development in an area, but do not appear to extend to preventing certain types of development. There are clearly areas in the Borough where the residents might be looking for a greater say in planning decisions and may wish to look into the possibility of Neighbourhood Development Orders. Such residents, however, have tended to be generally opposed to development and it does not appear that a Neighbourhood Development Order would give them the carte blanche to refuse certain types of development within an area as perhaps had been hoped. There is a strong presumption that Neighbourhood Development Orders would have to deliver growth at the same level or above that already identified in a core strategy/local plan for an area. Consequently, whilst there might be some significant interest from parts of Poole's community to do such plans for reasons of preserving the status quo, this will not necessarily be a justified reason. It is not clear at this stage whether community groups are properly aware of this. Branksome Park Residents Association has already expressed an interest and Planning and Regeneration are considering appropriate approaches to this.

There are clearly some financial implications in this, particularly in providing non statutory help in managing more localised change and providing appropriate technical assistance or extensive design guidance to support the production of such plans, the responsibility for which will fall on the council. There may also be a resulting loss of income with regard to planning applications if a greater category of developments were deemed to be prior approved.

The definition of neighbourhood organisation is fairly wide and flexible, and it is certainly the case that some of our Residents' Associations would qualify as such bodies, should they wish to take these proposals forward. (Definitions as set out in Schedule 9 of the Bill.)

Pre-application Consultation

Persons intending to make applications for planning permission in connection with significant applications will be required to carry out consultation and publicity in relation to the application with the local population and must take into account any consultation results received when submitting the application.

Implications for the Borough of Poole

This approach has already been highlighted to local developers as good practice and the existing arrangement to promote community engagement supports this. Making this an obligation for developers, and if done at best practice standards, this could offer benefits for the Borough.

Enforcement

The Bill seeks to put an end to what some have considered an abuse of the planning system whereby retrospective applications may be submitted in cases where an Enforcement Notice has already been issued. In such cases, the authority may decline to determine such a retrospective application. This puts an end to the sometimes lengthy procedures of appeals, subsequent applications, and further appeals which sometimes attend some controversial enforcement sites. The Act also deals with cases of concealed breaches of planning control (for instance, houses constructed behind haystacks). Such cases have hitherto foundered

on the inability to prove the length of time for which the breach has been subsisting. The Bill gives local authorities the right in such circumstances to apply to a Magistrates Court for an Order effectively authorising them to take enforcement action within six months of the breach first becoming apparent. The Act also contains other provisions designed to overcome certain legal difficulties in taking enforcement action which hitherto hindered local planning authorities, particularly in the area of unauthorised advertisements.

Nationally significant infrastructure projects

The Bill abolishes the infrastructure planning commission and makes alternative proposals for dealing with certain nationally important projects.

Housing Allocation and Homelessness

The Bill contains significant technical provisions with regard to housing and homelessness provisions. The headlines include making it clear that housing shall not be allocated to persons from abroad who are subject to immigration control or are asylum seekers. Housing authorities are given greater flexibility over the terms of their own housing allocation schemes, but there are still statutory responsibilities that they must take into account particularly with regard to homeless persons and persons in priority need. The Bill includes proposals around:

Allowing social landlord to introduce fixed-term tenancies (of a minimum of two years), in addition to lifetime ones;

Allowing councils to find homes in the private rented sector for homeless families who are eligible for housing, instead of being obliged to provide socially rented accommodation for them;

Removing tenants who are not in housing need from the scope of allocation rules when transferring to different properties;

Allowing councils to decide who should qualify to go on their housing waiting list (although the rules for eligibility will be set centrally);

Making it easier for social tenants to relocate through a new internet-based National Homeswap Scheme;

Replacing the Housing Revenue Account subsidy system with a locally run system that allows councils to keep rental income and use it to maintain their homes. To achieve this, the Bill will enable a one-off payment between Government and each council;

Abolishing the Tenant Services Authority, transferring its remaining functions to the Homes and Communities Agency and encouraging tenants to scrutinise the services offered by their landlords;

The ability to facilitate moves out of the social rented sector into owner occupation through changing legislation to allow incentive schemes.

Implications for the Borough of Poole

The proposal to create a new **local authority flexible tenancy** has already been the subject of heated debate locally. The comments we sent to CLG in response to the consultation paper Fairer Future for social housing very nearly wasn't a joint response at all due to the very different perspectives of the PHP as 'landlord' view along with the tenants view from

HSP and the Council as 'landlord' and strategic housing view. In the end we submitted both perspectives in the one document explaining that it was understandable how views easily became polarised. The flexible tenure proposal with a minimum term of 2 years will be in addition to the current secure and introductory tenancy options. If this is introduced by the Government it will be for us locally to develop a clear policy on if and how we plan to use them. As always in these matters the devil will very definitely be in the detail for example deciding how short or long the fixed term would be, what the review mechanism would be to either end or reissue the tenancy, when a 'tenancy for life would be more appropriate' Other issues we have initially raised with CLG are included in our response. One of the potentially perverse incentives which arises with the proposal is the notion that as tenants better their incomes and circumstances they may be at risk of not having their tenancy renewed as a direct result and both BoP and PHP agreed this would not be right.

Giving power back to **local authorities to manage their own waiting lists** would be welcomed locally (and by all local authorities with housing shortages). Since 2002 all local authorities have had to have 'open' waiting lists so that anyone from anywhere in the country to can apply for housing in any area. This has created a massive burden for all housing teams simply keeping up with the processing and annual review of applications from households, the majority of whom would have almost no chance of housing, yet all need detailed checking and assessment. In Poole, we add about 100 applications a month to the Housing register and review about 300 a month. There are 4000 households on the register with less than a tenth obtaining social housing in a year. The ability to apply to multiple areas has meant great difficulty in assessing the true level of need for social housing.

The ability to discharge the councils **statutory homeless duty** into the private sector is a sensible proposal given the extreme shortages of social housing identified above. The majority of people coming to us for help, whether statutorily homeless or not, are helped into the private sector but to meet a duty this had to be for a minimum 2 year period and with the households consent. The new proposals allow a 12 month tenancy to be secured and without consent of the applicant. However, accessing the private sector is becoming increasingly difficult with changes to HB in particular making it more unaffordable and landlords less and less likely to take our clients. We would propose to use the majority of the increase in the CLG homelessness grant to have a dedicated private sector development officer whose remit would be to increase the supply of privately rented homes available to us and to work with landlords and lettings agents, the bond and deposit scheme and HB colleagues to make this a realistic solution.

The bill's enabling clauses for **housing finance reform** are as expected and will see the abolition of the housing revenue account subsidy system (also known colloquially as the tenant tax) and the move to the self financing system. All stock owning local authorities will be given a debt settlement figure from central govt which will effectively enable authorities to buy themselves out of the subsidy system and to keep thereafter all the rental income from homes.

Grant Shapps added more detail in a written statement which appears to finally clarify the position on stock transfers. Where over hanging debt is an issue there will be no subsidy from the government. This, the move towards the potential to increase social rents to up to 80% of market value, and the aim to a more level playing field between Council, RSL and privately rented homes, seems to mean an end of whole stock transfers as an option.

There are various references to giving Councils 'flexibility to use their social housing stock to maximum effect and reduce waiting lists' but no real clarity on how this will be so. Each local authority will need to produce allocations and tenancy strategies with the knowledge that, for every view that shorter term tenancies will give more people a chance for housing when the really need it and not when they don't need it, there is an opposite view that says shorter

term tenancies will lead to unsustainable communities and the further polarisation of poorer people and less able households within social housing

The Housing Quality Network described these changes in the housing world as being a revolution and beyond our current frame of reference with no research, no targets, no Tenant service authority and no audit commission.

The remaining provisions of the Bill are not considered to have any significant implication on the Borough of Poole.

Tim Martin
Head of Legal and Democratic Services

Emma Leatherbarrow
Strategy Manager.

January 2010



AGENTS & DEVELOPERS WORKING GROUP
Planning & Regeneration Services
including Building Consultancy
 Wednesday 15 June 2011
 2 – 4:30pm Room 134, Civic Centre

	<p><u>BoP Attendees:</u> ST - Stephen Thorne, (<i>chair</i>) Head of Planning & Regeneration, SB - Shelley Barnett, (<i>minutes</i>) PA to Stephen Thorne, SPL - Sue Ludwig, Business Manager, NJ – Nigel Jacobs, Planning Policy & Implementation Manager, NP – Nick Perrins, Senior Planning Officer, Policy, DH – Darryl Howells, Senior Planning Officer, Development Management</p> <p><u>A&D Attendees:</u> DN – David Nash, PR – Paul Robinson, LB – Laurence Bowen, IM – Ivan Maughan, GT – Graham Thorne, AB – Adrian Black, MJP – May Palmer, MP – Mark Parsons & MH – Martin Hanham</p> <p><u>Apologies:</u> Richard Genge & Peter Traves</p>
1.	<p><u>Introductions:</u> ST welcomed the new group and each member introduced themselves.</p>
2.	<p><u>Coalition Update: Fees</u> The Coalition is Localism Bill is passing through. ST reported that there is no resource for Localism initiatives and the Business Plan is currently being reviewed to say what we are going to have to stop. There is a consultation on Change of Use which Doug Evans is currently providing a response to. SPL informed the group that Localised Fee Setting will be introduced in April 2012 and it involves a lot of work. SPL reported that BoP have joined a Planning Advisory Service (PAS) benchmarking model which is based loosely on the Building Consultancy fee setting model. This model takes into account time spent on tasks, overheads and provides a formulaic response. The unit will be embarking on a time recording exercise from 27th June. LB asked whether classifications would be staying the same? The response was unconfirmed and that we are all finding our way at the moment. Part of the PAS survey will be a „satisfaction survey’ as part of the decision process. AS it is a national survey this would feed back to PAS. If you have any questions regarding this please feel free to email Sue; s.ludwig@poole.gov.uk ST highlighted that as a working group we should be working together on this and the group to be a critical friend and provide feedback. There will clearly be tensions and issues and ST will be liaising with other Chief Planning Officers to ensure consistency.</p>
3.	<p><u>Pre Application Advice</u> PR reported that they agree in principle to the pre-app process and have supported it in the past but following recent experience where they have received inconsistent advice and varied responses the success of the process is under question and they are not confident in recommending the service to their clients. They did report that to date some instances have been successful but this is dependant upon which officer is allocated the application. The quality of the service is dependant upon good advice and a timely response to make it worth while. The advice needs to be subjective and constructive. ST asked whether it was worth assessing the objectives of the process? AB suggested a menu selection for the officers so that a response could be chosen from a list? AB also asked whether pre-apps are measured with final decisions to see consistency. This is not currently measured. NJ commented that it should be implementable rather than procedural. LB highlighted that it is the quality of the response that is the issue and it is currently too much of a lottery. They reported that there has been a significant change since Christmas and therefore an increase in full applications as pre-apps are not being</p>

	<p>supported. DH agreed with the majority of things said and explaining that currently planning officers are not giving a priority to pre-apps and therefore the quality is not good. DH would like to take the opportunity to review the process again and make it more constructive. DH suggested a process whereby you chose a preferred planning officer but this would not support the transparency of the unit and there would be issues of perception. ST highlighted the forensic interest in the planning service and perceptions are dangerous. The group agreed that sometimes the process does work well but it is the inconsistency which is the problem. PR requested clarification of the process. ST asked what the group would prefer to see. PR to co-ordinate with group and provide bullet-points for DH to create a template. DH to present findings at the next meeting.</p>
4.	<p><u>CIL Implementation Update</u> Nick Perrins provided a presentation to the group on CIL. Questions were raised regarding ratings; zero rate is not an option at the moment due to contributions required for heathlands. NP explained that this is a snapshot in time. MH queried why commercial wasn't included? AB felt that by recovering money on space that it was introducing a barrier to development in the lower value areas. GT asked whether strategic transport is factored into this? The response was that it is factored. DN asked how often the viability is tested? NJ responded that it is tested yearly and can be recharged.</p>
5.	<p><u>Design Forum / Design Review Panel</u> There is no progress yet due to resource constraints. ST reported that we are trying to provide it in partnership with Bournemouth. The methodology of the forum is to refer developments/designs to it for feedback. It is likely that it will be chaired/championed by a Politician. It is an opportunity to present a case for genuine design advice. Aliis Kodis is leading on this under Warren Lever in Planning. ST to get an update and feedback to the group. ST is also keen to progress the SPD Design Guide and for the group to input into it and the SPD consultation process. LB highlighted that it is critical to have something like this in place following the Characterisation Study which the group believe is providing negative reasons for refusal against progressive architecture. ST highlighted that the Characterisation Study is a reference book and needs to ensure officers are aware of this. The group asked how are these documents applied? They appear to be a tool for no progress/development. ST suggested not to chair the meeting in the future as most of the focus is on DM and Policy and the relevant Managers could chair the meeting instead.</p>
6.	<p><u>Re-structure Feedback</u> IM raised the issue that the planning officer is deferring to urban design comments as a reason for refusal and using their comments word for word. IM reported that this has been happening since April. ST highlighted that the urban design team no longer exists and that the case officer is the point of contact so that there is one voice coming out of the unit. With regard to the re-structure ST explained that money has dictated and posts were made redundant. The Central & Regeneration area previously lacked focus with the team divide and due to projects coming forward it was felt that it needed more focus. Please find the link below to the SPG Refresh work on the Town Centre; http://www.boroughofpoole.com/downloads/assets/Poole_Central_Area_SPG_Refresh.pdf. Warren Lever now Team Manager for Central & Regeneration has the portfolio of Design whilst Doug Evans Team Manager for the rest of the Borough has the portfolio of Localism. LB questioned the balance of applications between teams and asked whether it had been reviewed? ST responded and informed the group that the numbers were being reviewed and that the Central & Regeneration team were working closer with policy for new developments as ST is trying to broaden the horizons of staff</p>

	<p>and create a multi disciplinary team.</p> <p>ST reported that the DC team is progressing to the DM culture but is not quite there yet as they have been used to targets and speed over quality.</p> <p>ST has introduced a file review process where Managers will review the applications to ensure the officer reports are well explained and in a logical order.</p> <p>IM expects the planning officer to have a better grasp on urban design. LB felt that the pre-apps had been affected by the re-structure and also that trees were not highlighted at pre-app stage and perhaps this should be included in a proforma of what to review at pre-app stage.</p> <p>ST informed the group that transportation planning officers had been running a weekly surgery in planning to improve communication and this was seen as a success.</p>
7.	<p><u>Terms of Reference</u></p> <p>ST read out the initial terms of reference which was agreed when the group began. DN put forward bullet points that the group was happy to endorse with the original terms to be a precursor.</p> <p>ST highlighted that we should now be constructively working forward; CIL, fees and other policy consultations as a group.</p> <p>Agreed Terms of Reference;</p> <p>“To work together, in the best interests of Poole to achieve high quality development outcomes in an open and transparent way.</p> <p>The Borough of Poole Agents and Developers Working Group represent the development industry and are stakeholders who collaborate with the Council (through quarterly meetings and as a consultee group when required) in order to improve the practice and outcomes of Spatial Planning and Development Management within the Borough as follows:</p> <ul style="list-style-type: none"> • As a critical friend to review proposed policy and procedural changes • As a safeguard to ensure development viability is taken into account • To ensure consistency and fairness • To promote high quality sustainable development • To optimise the delivery and implementation of development • To provide a source of information and feedback to assist the monitoring and management of policy and development implementation”
8.	<p><u>Update on Parking and Layout SPD & Interim AH Tariff</u></p> <p>NJ reported that Poole is pro-growth and the ambitions for the town are around growth. It is the importance of meeting the needs of the town. The Parking SPD had been amended and was going to Economy Overview & Scrutiny on 6th July.</p> <p>Affordable Housing – AB asked why there isn’t a level threshold based on sales value? NJ responded that policy had to comply with National policy and there is no guarantee that housing would be occupied by those who needed it.</p>
9.	<p><u>A.O.B</u></p> <p>Service Provision – ST is working through this and is resolute to deal with it.</p> <p>Political Landscape – This has changed since May and there is a new Planning Committee. ST was pleased that the first Committee had worked well and moving forward there will be a more formulaic approach to the structure.</p> <p>Building Consultancy – LB informed the group that Building Consultancy need to be more proactive to get the business back as they are not used anymore because the competition is better on price and the responses are instant. You can send emailed drawings one day and receive a comment back the next, with a certificate in a week. Some responses can be within 7/8 hours. From BoP the responses to a quote can take 3/4 days and cost £150 more than competition with an out of office response to the partnership working email. MJP supported this and had the same experience and has even waited over a week for a quote.</p>
	<p><u>Next Meeting</u> Wednesday 7th September, Room 134 2 - 4:30pm</p>



AGENTS & DEVELOPERS WORKING GROUP

*Planning & Regeneration Services
including Building Consultancy*

Wednesday 7 September 2011
2 – 4:30pm Room 134, Civic Centre

	<p><u>BoP Attendees:</u> RG – Richard Genge, (<i>chair</i>) Planning and Regeneration Manager, SC – Susanne Christie, (<i>minutes</i>) PA to Stephen Thorne, SPL - Sue Ludwig, Business Manager, NP – Nick Perrins, Senior Planning Officer, Policy, DH – Darryl Howells, Senior Planning Officer.</p> <p><u>A&D Attendees:</u> IM – Ivan Maughan, GT – Graham Thorne, MJP – May Palmer, PT – Peter Traves</p> <p><u>Apologies:</u> Stephen Thorne, Nigel Jacobs, Adrian Black, Martin Hanham and David Nash, Paul Robinson and Laurence Bowen.</p>	<p><u>Action</u></p>
<p>1.</p>	<p><u>Introductions:</u> RG introduced himself and those around the table.</p>	
<p>2.</p>	<p><u>Minutes of last meeting:</u> Terms of Reference (TOR) – discussion held with reference to the TOR, detail contained within minutes dated 15 June 2011. RG asks the group how this detail could be communicated to the wider community in order to garner buy in? Suggested an attachment to the BoP website and an email to the group containing a link.</p>	<p>SC</p>
<p>2.</p>	<p><u>Coalition Update: Fees</u> SPL reiterated detail contained within the previous meetings minutes. Final figures yet to be confirmed, once detail is received the proposal will go before Parliament with a prospective role out of April 2012. PT – enquires as to the level of fees? SPL explains that no detail is confirmed but there has been some suggestion that there may be an extension to the remit of what is currently charged but that fees will not actually rise e.g. tree work applications do not currently attract a fee. Note: Group concerned that they should be consulted when details are confirmed. SPL confirmed that a meeting could be scheduled to ensure consultation.</p>	<p>SPL</p>
<p>3.</p>	<p><u>Pre Application Advice</u> IM – provided an example of a Pre – Application in which he was personally involved. It was progressing well. The Planning Officer informed the client that a site meeting was not required and yet two days before the completion date the application was refused by the Conservation Officer?</p> <p>PT – traditionally he had advised clients against the Pre – Application process as he had issues with the timeliness and quality of responses. On the whole Planners consider applications very seriously, having undertaken a great deal of thought so why use the Pre-Application service? However he accepts that some plans are very complicated and thus this system would apply. PT provides an example: one particular application involved 3-4 months of Pre-Application talks incorporating significant fees and an understanding that every party had signed up to the Planning Application, which was duly submitted. The viability study went to DB two months <i>after</i> the application had been received by Planning and therefore targets were never going to be met. Over a year of negotiation with considerable fees paid by the client to eventually be</p>	

	<p>informed that the planning officer had 'concerns about the application'.</p> <p>IM – concerned that departments within Planning are not liaising with each other? Plans are being refused due to conservation issues, is the 'tail wagging the dog'? Agents and Developers are in some instances fixing their fees based on favourable Pre-Application advice which transpires to be anything but.</p> <p>All – raised concerns that Planning had strayed too far away from the original brief. Money is taken in good faith, advice provided which is followed and the Application is still declined.</p> <p>DH – explains that a meeting has been arranged to discuss the whole Pre-Application process and he will take on board the issues raised here today.</p> <p>ST – has already suggested that a meeting take place between the Agents and Developers and Planning Officers in order to promote dialogue. More especially because some Planning Officers have had no experience/understanding of work within the private sector.</p>	DH
4.	<p><u>CIL Implementation Update</u></p> <p>Nick Perrins explained that the consultation officially ends 9th September (email containing hyperlink to the website distributed immediately after this meeting). Following the official closing date for consultations there is a period of review and testing. A second round of consultations then takes place which will lead up to Christmas 2011. Looking for adoption April/May 2012.</p> <p>PT – feels that the level of contributions is affecting the developments.</p> <p>NP – would be useful to put forward, where possible, what level of CIL would be broadly acceptable.</p>	
5.	<p><u>Twin Sales Bridge</u></p> <p>It is planned to finish late 2011. No official announcement as yet for the official opening. SPL – actioned to establish if a date has actually been set for the official opening.</p>	SPL
6.	<p><u>Internal Consultation Period</u></p> <p>IM – concerned that applications may linger within the department until the last minute, with site visits being undertaken in the very last week?</p> <p>RG – explains that applications were being monitored by way of a 'tracker' system.</p> <p>DH – explains that planning officers now have 7 weeks and not 8 weeks to determine an application.</p>	
7.	<p><u>General legislation update</u></p> <p>RG – raised awareness of the Community Working Group minutes which are placed onto the BoP website and ran briefly through various aspects of the detail.</p>	
8.	<p><u>A.O.B</u></p> <p>None</p>	
	<p><u>Next Meeting</u> Wednesday 30th November 2011, Room 134 2 - 4:30pm</p>	



AGENTS & DEVELOPERS WORKING GROUP

*Planning & Regeneration Services
including Building Consultancy*

Wednesday 30 November 2011

2 – 4:30pm The Study, Upton House, Poole.

		<u>Action</u>
	<p><u>BoP Attendees:</u> RG – Richard Genge, (<i>chair</i>) Planning and Regeneration Manager, SC – Susanne Christie, (<i>minutes</i>) PA to Stephen Thorne, SPL - Sue Ludwig, Business Manager.</p> <p><u>A&D Attendees:</u> GT – Graham Thorne, MJP – May Palmer, PT – Peter Traves, DN – David Nash, MH – Martin Hanham.</p> <p><u>Apologies:</u> Stephen Thorne, Adrian Black, Ivan Maughan, Laurence Bowen, Mark Parsons, Paul Robinson.</p>	
1	<p><u>Introductions:</u> RG introduced himself and those around the table.</p>	
2	<p><u>Minutes of last meeting:</u> Terms of Reference (TOR) – Suggested an attachment to the BoP website and an email to the group containing a link, completed. Pre-Application issues – PT confirmed that the pre-application issues which he highlighted during the last meeting had not been concluded. The discussion meeting was still to be arranged by Darryl Howells. RTG explained that he was looking to drive consistency between the officers and their teams and accepted that there were still some questions surrounding timescales. Twin Sales Bridge – the official celebration is planned for March 9th but it is anticipated that the bridge will open to public and traffic in the early New Year.</p>	DH
3	<p><u>Localism Act</u> The Bill went before Parliament and has now been officially signed off. It is available to download. Doug Evans is the point of contact within the Unit. All agreed to place this as a standing agenda item at future meetings.</p>	SC
4	<p><u>CIL Implementation Update</u> This is going to Environment Overview and Scrutiny Committee Monday 5th December. Shortly afterwards it will be presented to Cabinet, followed by a further period of consultation leading up to Christmas. Looking for adoption April/May 2012. RTG details the rates as follows: Higher rate – from £211 to £150 per m² Town Centre and Regeneration area – from £168 to £100 per m² Remainder of the Borough - £75m². Commercial - £0. The figures are inclusive of SEDTCS and there will be a two year review in order to reflect the markets. MH – questions whether CIL will be applied to 'change of use'. If it is not then it could transpire that Heathlands would not benefit from any contributions? RTG to liaise with Nigel Jacobs.</p>	NJ
5	<p><u>Local Fee Setting</u> SPL confirmed that there is no further detail in the Governments autumn statement. There is some suggestion that as it has not yet been debated or agreed it may not actually be adopted, but to date we can only surmise. Next year there may be an increase across the board in terms of the National Fee. If however it does go ahead, there will be a period of consultation, with all members from this forum being invited to participate. It was concluded by all that as Government was being lobbied by the Development Industry, this may not be the best time to introduce these fees?</p>	
6	<p><u>Viability Assessment</u> PT – principle issues surrounding timeliness and processing which have caused</p>	

	<p>concern. In particular when entering into Pre-application enquiries. Would it be possible to enter into the viability assessment at the start of Pre-application? If the client accepts that they have to pay a fee to the District Valuer at the beginning of the process this would certainly resolve the issue.</p> <p>RTG – takes an action to consider extension of the Pre – application process.</p> <p>MP – in negotiating with the District Valuer why is the interest cost of holding land during the application period not considered an acceptable development cost? RTG – to consult with the District Valuer.</p> <p>MP – East Dorset District Council concluded that the viability assessments were not public information and as such do not place the detail onto their web site.</p> <p>SPL – to establish why we do not adopt the same policy?</p>	<p>RTG</p> <p>SPL</p>
7	<p>Parking and Highway Layout SPD</p> <p>DN – concern surrounding the process leading to the adoption of this SPD. The Agents and Developers represented a cross section of the development industry yet their opinions appear to not be fully represented?</p> <p>RTG – confirmed that the document did go to public consultation and the working group were fully aware of the issues being raised by this forum. There is a consultation statement on the Borough of Poole website, please refer to the following link:</p> <p>http://www.boroughofpoole.com/EasysiteWeb/getresource.axd?AssetID=7240&type=full&servicetype=Attachment</p> <p>DN – suggested that in future feedback is provided for the group in order to confirm that their comments had been taken into account. SPL – confirms that Nigel Jacobs always welcomes all feedback, do feel free to contact him directly should you require. RTG – liaise with Nigel Jacobs to ensure that going forward, feedback is circulated.</p> <p>RTG- confirms that the Secretary of State is reviewing two further documents, Infrastructure and Site Specific Allocations DPD's.</p>	<p>RTG</p>
8	<p>A.O.B</p> <p>Facility to provide feedback for incorrect detail – PT, is there such a process if specific elements of detail are found to be incorrect within character assessments for example? RTG, confirmed that this is possible if it is established that detail is factually inaccurate an addendum could be added to a document – please email Nigel Jacobs in the first instance.</p> <p>NPPF, alternative view – DN draws everyones attention to an alternative document that has been produced. He will circulate the link to the detail.</p> <p>Power station site – GT, when will the application be received? RTG, confirms that we are in active discussion with Gallaghers. Outline plans have been received for Pilkingtons which is the adjoining site. Gallaghers may chose to wait and see the outcome of the Pilkingtons application?</p> <p>Minor amendments – PT, why do formal applications now have to be made for these amendments? RTG, explains that a Minor Material Amendment would allow one plan to be substituted for another, the condition being varied in order to make the substitution. In terms of Non Material Amendments - the question being asked, is the amendment of any significance? In this instance the Council does not provide any defined terms in relation to what is acceptable or unacceptable. RTG would eventually like guidelines to be produced.</p> <p>Action – RTG to look at the condition</p>	<p>RTG</p>

	<p><u>Next Meeting</u> 29 February 2012 @ 6pm - Annual General Meeting 11 January 2012 @ 2pm Civic Centre – we notice that this date had been placed into our calendars and onto the website. Please be advised that this meeting has been cancelled and we look forward to welcoming you at the AGM in February.</p>	<p><u>SS</u></p>
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