



STRATEGIC AVIATION SPECIAL INTEREST GROUP
of the Local Government Association

ITEM 5: LOCAL DEMOCRACY, ECONOMIC DEVELOPMENT AND CONSTRUCTION BILL (LDED&C)

Summary

This paper reports on issues of interest from the 'Local Democracy, Economic Development and Construction Bill' (LDED&C) currently passing through Parliament.

Following a number of unsatisfactory outcomes with respect to aviation planning decisions and major aviation expansion proposals, concern was high amongst the SASIG membership that not only were local issues not being afforded sufficient weight, but the means by which Councillors could represent their local issues were also being undermined.

This Bill impacts on these areas through the mechanisms by which Local Authorities will be required to implement local democracy. It also formalises the outcome from the Sub-National Economic Development and Regeneration review (SNR) carried out by the Government last year - the creation of Local Authority Leaders' Boards that will have joint responsibility with Regional Development Agencies (RDAs) for drawing up and implementing Regional Strategies, which will replace Regional Spatial Strategies (RSSs).

The main points are:

- the requirements for Local Authorities to promote local democracy and empower local communities could provide valuable mechanisms through which local issues can effectively be tackled;
- the 'local economic assessments' that Local Authorities will be required to produce to underpin their decision-making provide a mechanism for developing stable local economies based on a mix of sectors;
- Local Authority's Leaders Boards and Regional Development Agencies will jointly produce the overarching Regional Strategies. The Secretary of State's reserve powers in this area must be tightly defined; and
- the support for cross-border and cross-agency working is to be supported.

Recommendation

That SASIG work with the Local Government Association to promote the points raised in this report as the Bill progresses through Parliament.

Introduction

- 1 On 3 December 2008, the 'Local Democracy, Economic Development and Construction Bill' (LDED&C) was announced in the Queens speech. Baroness Andrews, Under Secretary of State at the Department for Communities and Local Government (DCLG) introduced the Bill to the House of Lords on 4 December 2008. The second reading took place on 17 December 2008, and the Bill is now passing through Grand Committee in the Lords.
- 2 On 29 January 2009, the DCLG released a series of detailed policy papers to enhance the debate on delivering the objectives of the Bill, on Regional Strategies, options for sub-regional co-operation, and 'local economic assessments'.¹ The Bill is expected to receive Royal Assent in the summer.
- 3 The Bill is designed to make legislative provisions for the proposals outlined in the 2008 Local Government White Paper 'Communities in control: real people, real power'.² The Government sees the Bill as part of its drive to give regions and local areas a greater strategic role governance. The Bill also enacts the proposals resulting from the Government review of Sub-National Economic Development and Regeneration (SNR) carried out last year: (i) that Local Authorities be given new powers and incentives to drive local prosperity, economic growth and regeneration, tackle social deprivation and inequality; (ii) that Central Government devolve powers and resources to the most appropriate levels; and (iii) that Regional Strategies (RSs) be drawn up in place of Regional Spatial Strategies (RSSs).
- 4 The LDED&C Bill seeks to introduce a number of legislative proposals to give local people new rights to influence the delivery of local services, and greater responsibility to Local Authorities to promote economic development, helping communities respond to local challenges. Amongst these are proposals for a new duty on local Government to promote democracy, and powers to create 'economic prosperity boards' (EPBs) through which Local Authorities will discharge their new duty to undertake a 'local economic assessment'. The most significant proposals from the 'Communities in Control' White Paper are contained within this Bill with a number of proposals being subject to further consultation.³ In addition to this Bill, a draft Community Empowerment Bill has been laid for the coming session.
- 5 The LDED&C Bill has triggered many revisions to existing legislation including the Local Government Act 2000, new statutory guidance on the power to promote well-being, and new guidance on the Local Transport Act 2008. Most importantly, the Bill requires the formation of new regional partnerships and the replacement of Regional Spatial Strategies (RSSs) with Regional Strategies (RSs). The Bill is likely to have a significant impact on Local Authority operations and strategic planning.

¹ <http://www.communities.gov.uk/publications/citiesandregions/ldedcregionalstrategies>

² Department for Communities and Local Government (DCLG) (July 2008) 'Communities in control: real people, real power'.

<http://www.communities.gov.uk/publications/communities/communitiesincontrol>

³ Further explanatory notes on the text of the Bill are available on the parliament website, here: <http://www.publications.parliament.uk/pa/ld200809/ldbills/002/en/2009002en.pdf>

Main provisions

- 6 The LDED&C Bill is the latest step in the Government's agenda for the modernisation of local Government, which includes devolving power from central to local Government and transforming services through local community empowerment measures. The Bill contains a number of proposals focusing on local democracy, local accountability and local economic growth.
- 7 The Bill has also been updated with requirements to promote climate change mitigation and sustainable development policies through a series of amendments tabled by Ministers following the Second Reading (amendments 65-67).

Local democracy

- 8 The measures to enhance local democracy included in the Bill are:

Duty to promote democracy

- 9 This new duty will ensure councils raise awareness of their work and services, informing local people about the local decision making process, how services are designed, how to make their voice heard and how to stand for a civic role. The Bill is intended to give local people a greater role in decision-making about their locality.

Extending the duty to involve

- 10 This new duty will extend the provisions in the Local Government and Public Involvement in Health Act 2007 that placed a duty to involve on best value authorities (applicable from April 2009). The Bill proposes to extend the duty to statutory partner authorities, giving citizens and communities more opportunities to shape public services in their area.

Local accountability

- 11 When delivering services, Local Authorities already have a range of duties to facilitate local accountability. However, the Bill introduces a number of new measures to improve this function, including:

Duty on Local Authorities to respond to petitions

- 12 This proposed duty (Part 1, Chapters 1–3 of the Bill) will require Local Authorities to respond to petitions, with the aim of improving transparency in local decision-making and encouraging citizens to take up opportunities to influence local decisions. Petitions are an important mechanism that can be used to raise awareness, enabling individuals and communities to highlight issues and express concerns to decision-makers. Local Authorities will be required to promote understanding of the petitioning process to interested parties, publish schemes for handling petitions, and provide for e-petitioning.

Strengthening overview and scrutiny

- 13 The Bill contains proposals to increase the capacity of Local Authority overview and scrutiny functions, (Part 2, Chapter 1 of the Bill) through the creation of a scrutiny officer. The proposals aim to raise awareness of local accountability mechanisms, by

broadening the scope of what joint overview and scrutiny committees can consider. The Bill also enables the creation of joint County/District scrutiny committees, where councils wish to do so, amending the provisions in the Local Government and Public Involvement in Health Act 2007, which allowed the creation of joint scrutiny committees relating to Local Area Agreement (LAA) targets. The new Bill allows such committees to be set up for additional purposes.

Local economic growth

- 14 The current economic slowdown is having tangible effects nationwide, and councils are already taking the lead in finding local solutions. The Bill introduces new measures requiring Local Authorities to promote local economic growth.

Duty to undertake local economic assessments

- 15 In order to ensure Local Authorities have high quality evidence to inform their economic development decisions, the Bill proposes a new duty on local Government to prepare local economic assessments. Local Authorities will be expected to consult with statutory partners when developing these assessments, and work in partnership with other Local Authorities and Regional Development Agencies. The evidence gathered will underpin the new Regional Strategies.

Economic Prosperity Boards

- 16 The Bill also proposes new voluntary powers to create 'Economic Prosperity Boards' (EPBs). These are intended to give Local Authorities the ability to create corporate bodies at sub-regional level to promote economic development. The statutory framework for this allows sub-regions to set up area-specific arrangements for economic decision-making, recognising the importance of regional variations and local knowledge.
- 17 A further option for Local Authorities to work together on economic development will be via statutory Multi Area Agreements (MAAs). There will be more formal powers to develop MAAs for those areas that want them, as well as options to retain an existing MAA.
- 18 Combined authorities will be able to take on the functions of an EPB and also the functions of an Integrated Transport Authority⁴ (ITA). An ITA will have the powers previously held by Passenger Transport Authorities to levy congestion charges, workplace parking charges, and local road pricing schemes. The LDED&C Bill does not empower combined authorities to raise a levy to cover other non-transport costs, nor to set a council tax precept.
- 19 In the 2008 Pre Budget Report the Government said it would work with two or three areas to develop more detailed proposals for EPBs by the time of the next Budget in April 2009, to make sure that the package of devolutionary measures offered matches the level of local ambition for greater devolution.

⁴ There are currently five integrated transport authorities (ITAs); West Midlands, Greater Manchester, South Yorkshire, Tyne and Wear, Merseyside, and West Yorkshire. These were previously passenger transport authorities, shifting to ITAs on 9 February 2009 when the relevant provisions in Part 5 of the Local Transport Act 2008 commenced.

Regional Strategies (RSs)

- 20 The LDED&C Bill requires the production of Regional Strategies (RSs), which will combine all previous regional strategies – economic, transport and spatial (Clauses 65-82 of the Bill). The new RSs will apply to every region in England except London.
- 21 The Government intends that RSs will provide for sustainable economic growth, comply with their sustainable development principles⁵, and provide measures for the mitigation of and adaptation to climate change (Clauses 65-78 of the Bill),
- 22 RSs will be developed by the Regional Development Agency in partnership with the new Local Authority Leader's Boards. The Bill provides far-reaching reserve powers to the Secretary of State to intervene at any point in the drawing up of Regional Strategies and the establishment of regional Leaders' Boards.
- 23 The Secretary of State may also specify which parts of the current Regional Spatial Strategies and Regional Economic Strategies will be carried over into the new unified RSs and has the power to revoke all or part of a RS.

SASIG comments

Duty to promote democracy

- 24 Local participation in the democratic process increases where the public expectation of Local Authorities' ability to deliver on strategic priorities is high. Empowering Local Authorities to provide strong representation for community interests at a national level, especially on high-profile issues, will therefore improve rates of local democracy.
- 25 With reference to aviation, however, there have been instances where Local Authority input has been overridden. For example, in the Planning Inquiry following Uttlesford District Council and Hertfordshire County Council's refusal of BAA's application to increase use of the existing runway at Stansted airport. The Planning Inspector's handling of that Inquiry has left it unclear as to the grounds on which challenges can and cannot be raised. This has left a void into which local impacts have fallen.
- 26 The provisions for consideration of major infrastructure projects set out in the Planning Act 2008 are another area where consideration of local implications has been weakened. The new Infrastructure Planning Commission can question those presenting evidence, however there is no provision for cross-examination, despite this having been shown to be a vital stage for improving the viability and acceptability of major development schemes.

Duty to extend involvement

- 27 Local Authorities frequently consult statutory partner authorities and local stakeholders in carrying out their duties. The various guidelines promoting the involvement of community groups and the engagement of difficult-to-reach sectors of the community are well-utilised. However, if Local Authorities are to support community organisations

⁵ The Government's sustainable development principles are: living within environmental limits; ensuring a strong, healthy and just society; achieving a sustainable economy; promoting good governance; and using sound science responsibly.

in responding to numerous consultations, with multiple consultation events on similar issues, often within tight timescales, it is crucial that this new duty is accompanied by a holistic and joined up approach to consultation by *all* participants. Appropriate resources for community consultation should be provided for Local Authorities to assist with delivering this duty.

- 28 The Local Government Association has suggested that the Bill should require central Government departments to periodically review their activities in order to establish whether they are being carried out at the lowest possible level of Government, and, if they are not, to devolve the function.

Petitions

- 29 It is important that the LDED&C Bill is not too prescriptive about the requirements for petitions and the subsequent responses. All stages of the process must be transparent to avoid the process being devalued.
- 30 Since Local Authorities will be required to respond to all petitions, irrespective of whether or not the issues fall within their jurisdiction, powers must be conferred on Local Authorities in order for them to pursue issues with other service providers.
- 31 In the case of aviation, the ability of Local Authorities to respond effectively to issues such as noise nuisance, air pollution, and congested surface access routes, is limited. Inability to deliver an outcome satisfactory to petitioners as a result of these constraints should not be construed as a failure to respond.

Co-ordination and co-operation

- 32 Measures in the Bill that promote cross-agency and cross-border working are to be supported. Enabling cross-border working has been particularly effective in the arena of Joint Area Action Plans (JAAP), by expediting policy formation, enabling prompt scrutiny of proposals, and broadening the scope of local consultations. For example, work undertaken by Rochford and Southend on Sea Borough Councils on part of their JAAP regarding the expansion of Southend Airport allowed better coordination of surface-access transport planning.

Local economic assessments

- 33 Local economic assessments are likely to be useful for characterising each area's economy, supporting successful features, and identifying gaps. A broad base of economic activities is an important part of a stable economy. Aviation activities form a part of such economies, but as with any other sector, become a destabilising factor if allowed to become a dominant feature.

Regional Strategies (RSs)

- 34 Whilst it is important to ensure that Regional Strategies (RSs) are comprehensive and well-founded, the powers in the Bill afforded to central Government to dictate the content of RSs undermine the principle of devolution, and the value of the specific local circumstances upon which such strategies will have been formulated.

- 35 The Bill must have clarity as to the specific circumstances in which central Government's reserve powers will be used. In the case of aviation, the delivery of transport planning, measures to tackle climate change, and housing strategies, are just some of the responsibilities of Local Authorities that are influenced by central Government policy on aviation. The Bill should contain provisions to ensure that RSs will not be undermined.

Conclusions

- 36 Many of the powers outlined in the Bill are reiterations of existing powers. The level of structural reorganisation and policy re-writing required to enact the Bill will require a good deal of Local Authority resources, which will be wasted unless tangible devolution is achieved as a result.
- 37 The Bill places many duties on local Government to assume responsibility for delivering local engagement, but few on central Government to devolve appropriate power to achieve these aims. The Government should adopt this approach by requiring each Department to periodically review its functions and devolve those that are appropriate to lower levels, along with the necessary powers and resources.
- 38 The LDED&C Bill makes provisions to empower authorities in many instances, but the potential for central Government interest to over-ride extensive local planning and consultation is retained.
- 39 A 2006 Council of Europe report assessed the extent to which control or supervision by central authorities is changing. Of the 28 countries assessed, the UK was ranked as one of 7 countries, including Azerbaijan, where central control or supervision is increasing.⁶ The dominance of central Government over local Government in the UK is a pressing concern. Recent legislation, for example, the 2008 Planning Act, has served to highlight the disparity between the importance afforded to local impacts and that of national policy. Measures proposed to support community involvement in key decisions have been roundly criticised as potentially doing the very opposite
- 40 The frequency of central Government demands for changes and revisions to regional strategies has left little time for their successful implementation and created a vast administrative burden. Nonetheless, local councils and other regional bodies have responded well to delivering these strategies, with solutions such as Rapid Sustainability Appraisals and Local Involvement Networks.

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