Behind the new planning rhetorics

Oliver Wright asks if the Growth and Infrastructure Bill will inspire anything more than lively debates in parliament

Introduced to parliament on 18 October on a fast-track basis and expected on the statute books by April 2013, the Growth and Infrastructure Bill is apparently designed to, "help the country compete on the global stage", cut "excessive red tape", and comprises a "comprehensive series of practical reforms... bringing important benefits to the economy". This is a high rhetorical standard to live up to.

In fact, the exaggerated language used by Department for Communities and Local Government (DCLG) masks what may be a useful, targeted piece of legislation.

What is more, the second reading of the bill on 5 November produced some very spicy exchanges.

In the blue corner, Eric Pickles MP branded the planning system "at times Kafkaesque" and outed a London borough, which has since been struck from the record, as the worst planning authority in all Christendom.

And, in the red corner, Hilary Benn MP said: "There are a couple of words for what he is doing. It is a concept much loved by communist parties the world over. It is called democratic centralism... The powers he is asking the House to give him... are, frankly, enough to make any self-respecting democratic centralist slap him on the back in gratitude and give him a cigar to chomp on. In no time at all, he has gone from claiming to be the friend of localism to taking a hammer and sickle to local democratic decision making."

The bill is now in committee until 6 December but in the meantime, here are a few highlights:

1. Planning applications

Perhaps most controversially, applicants for planning permission in 'underperforming' local authority areas will have the option to submit their application direct to the secretary of state, rather than run the gauntlet of a chaotic local planning office and await an appeal process.

The criteria for what 'underperforming' looks like is to be prescribed. Some ideas for what that criteria might be are a persistent failure to meet statutory time-periods; statistical tendency to refuse major applications; refusals which are consistently overturned on appeal; councils which regularly have costs awards made against them; councils with local plans which are anachronistic.

Statistics published in *Planning Magazine* have certainly made some authorities sweat. In any event, we can expect heightened performance for the next few months across the board.

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2. Bureaucracy

Two new requirements will mean that councils can no longer strenuously refuse to validate applications if they don't provide the letter of what is required on national or local application document lists: (a) the application documents required must be "reasonable having regard, in particular, to the nature and scale of the proposed development"; and (b) application documents need only address a matter "if it is reasonable to think that the matter will be a material consideration".

3. Village greens

The controversial system enabling local groups to stop development on land by registering it as a town or village green has two significant new hurdles to face.

(1) Landowners can issue formal statements specifying once and for all that the land in question is not to be taken as being a village green.

(2) No one can apply to register the land in question as a village green if, for example, a planning application has been made for the land in question (and indeed subsequently granted), or draft, or to be adopted, or already adopted policy allocates the land for development.

4. Affordable housing

The government has been making much play of unviable section 106 agreements - which make planning permission subject to certain obligations on the developer - and their role in holding development up.

Legislation is now proposed to focus minds on renegotiation of affordable housing obligations.

New section 106BA proposes new specific tests and processes for such applications where the section 106 agreement in question secures affordable housing. Most notable of these is the introduction of an 'economic viability' test: where an agreement is proven to be economically unviable it stands to be varied to make sure development can commence.

5. Infrastructure

Helpful tweaks are made to the infrastructure regime: easing the conversion of power stations from coal, enabling the variation of consents for electricity generating stations, reducing the availability of special parliamentary procedure for nationally significant infrastructure projects under the 2008 Planning Act regime, and widening the potential projects which can take advantage of the 2008 regime.

So, in the midst of overblown rhetoric, not to mention accusations of communism, a handful of potentially effective measures emerge. The regulations to be drafted which specify which authorities are 'underperforming' may be some of the most hotly awaited of their kind this parliament.

Whether or not Britain will be more competitive on the global stage, the reader must judge.

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