

# Levelling Up and Regeneration Bill: Key Implications for Planning

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## Introduction

Following publication of the Levelling Up White Paper in February, the **Levelling Up and Regeneration Bill** formed part of the Queen's Speech announcements in parliament delivered by Prince Charles on the 11<sup>th</sup> May 2022.

According to the Government, the Levelling Up and Regeneration Bill intends to *'devolve power and give local leaders and communities the tools they need to make better places'* and includes several proposed changes to the planning system. At this stage the Bill only provides a framework for the proposed reforms and the majority of the detail on how changes will be implemented will need to be brought forward in secondary legislation.

The following summarises what we believe are the key changes to note in terms of planning:

## Plan Making

There are a number of changes which are proposed to reform the plan making process:

- New **'National Development Management Policies'** produced by the Department of Levelling Up, Housing & Communities (DLUHC) will contain general DM policies (covering things such as Green Belt, heritage protection, biodiversity) to streamline Local Plans and avoid duplication of policies.
- Statutory requirement for **Design Codes** covering an entire LPA area to form part of the Development Plan.
- Replacement of Supplementary Planning Guidance with **Supplementary Plans**, which will be subject to a light touch examination and given greater weight.
- **Removal of the requirement for LPAs to evidence a 5-year supply where plans are up to date** (i.e. adopted within last 5 years)
- Neighbourhood Plans given greater weight in planning decisions, and **'Neighbourhood Priorities Statement'** to be provided to improve transparency of local priorities.

- Expectation that **Local Plans to be developed within 30 months** (including 2 rounds of public consultation and an Independent Examination) and reviewed **every 5 years**.
- The Duty to Cooperate will no longer be a legal test, but Inspectors will still need to apply a policy test of judgement on engagement.

This all intends to provide greater clarity on how proposals will be determined and what policies applications will be assessed against. There are several proposed changes to the plan making process and the makeup of the Development Plan system, with the inclusion of National Development Management Policies, the replacement of SPDs with Supplementary Plans and increasing the weight given to Neighbourhood Plans in decision making.

The introduction of National Development Management Policies, which will be consulted upon in due course, should reduce duplication and provide consistency across the Country. This is also seen by DLUHC as a way of streamlining the plan-making process so Local Plans just focus on policies relevant to their area. It is also intended to encourage LPAs to maintain up-to-date Local Plans, otherwise National Policies will take precedence.

## Development Management

- Powers to charge developers and promoters for statutory consultee advice in certain circumstances
- Consultation on **increasing planning fees** by 35% for minor application and 25% for major will follow.
- LPAs to be given powers to impose **Development Commencement Notices and Completion Notices** to improve delivery and address 'perceptions of land banking'.

The Bills introduction of measures to allow LPAs to issue Commencement and Completion notices is intended to secure the build out of planning permissions and address 'perceptions of land-banking'. The increase in planning fees has been included to assist increase Local Authority revenues, but DLUHC has been keen to stress it must lead

## Contact us:

4 Abbey Court, Fraser Road, Priory Business Park, Bedford, MK44 3WH

t 01788 562233

f 01234 831266

e [bedford@dlpconsultants.co.uk](mailto:bedford@dlpconsultants.co.uk)

[www.dlpconsultants.co.uk](http://www.dlpconsultants.co.uk)



to an improvement in service levels.

### Infrastructure Levy

The Bill includes measures for a new national **Infrastructure Levy (IL)** to be introduced across England which will replace CIL (except in London) and S106 and will be compulsory for all Local Planning Authorities.

- Rates are to be based on the **Gross Development Value (GDV)** of developments rather than floorspace and will include Affordable Housing.
- LPAs will have the ability to set different rates for different areas within their District and for different types of site (e.g. brownfield/greenfield).
- A new **'Right to Require'**, will remove negotiations for on-site / off-site Affordable Housing by requiring local authorities to decide what proportion of the Levy they receive as 'in-kind' as on-site Affordable Housing.
- LPAs will be expected to produce **'Infrastructure Delivery Strategies'**, to set out where and how infrastructure spending is allocated.

The IL is to be rolled out over several years and through a 'test and learn' approach. Further details and mechanisms to be consulted upon and will come forward via detailed regulations.

### Street Votes

The Bill includes new **'street vote'** powers, allowing residents on a street to bring forward proposals to extend or redevelop their properties in line with their design preferences. Where prescribed development rules and other statutory requirements are met, the proposals would then be put to a referendum of residents on the street, to determine if they should be given planning permission.

Secondary legislation is required to set out precisely how 'street votes' will work, although it does place a greater emphasis on the need for local design codes to be in place.

### Environment & Heritage

The Bill proposes to replace the EU SEA and EIA regimes with a new 'clearer and simpler' system of **Environmental Outcome Reports**, based on tangible environmental outcomes set by Government. The Bill includes a non-regression clause with current EU legislation meaning that the standards of environmental protection currently expected will not be reduced.

The Bill also emphasises the role in planning in protecting the historic environment and will require LPAs to maintain **Historic Environment Records**. The Bill also improves the enforcement powers available to protect listed buildings by introducing **temporary stop notices** to stop unlawful development.

### Enforcement

The Bill intends to make the enforcement of planning breaches more effective and efficient by:

- Revising the **time limit for enforcement to 10 years in all cases** (i.e. 4 year rule to be scrapped).
- The introduction of **Enforcement Warning Notices**.
- An increase in fines associated with certain planning breaches
- The doubling of fees for retrospective applications;
- **Extending the time period for temporary stop notices** from 28 to 56 days
- The Planning Inspectorate will also have the power to dismiss certain appeals where the appellant causes undue delay.
- The scope for appeals against enforcement notices will also be tightened so that there is **only one opportunity to obtain planning permission retrospectively**.

### Timeline

The Bill received its first reading on 11<sup>th</sup> May. A date for second reading stage is yet to be announced, although DLUHC has indicated it expects the parliamentary scrutiny process to be completed by early 2023.

Once enacted, the bill will become a formal Act of Parliament. Secondary legislation will then need to be brought forward setting out the regulations to deliver the provisions within the Act. DLUHC will be consulting on a range of aspects including the detailed proposals for the Infrastructure Levy and National Development Management Policies in the coming months.

If you wish to find out more about the Levelling Up and Regeneration Bill or how DLP can assist with any other planning queries, please get in touch at [enquiries@dlpconsultants.co.uk](mailto:enquiries@dlpconsultants.co.uk)