

# Levelling-Up and Regeneration Bill

## CONTEXT

- Long awaited planning reforms first expressed in August 2020 in the Planning for the Future White Paper were announced at the Queen’s Speech 2022, with the Levelling Up and Regeneration Bill presented to Parliament on 11 May 2022.
- The extent of the reforms has reduced from the White Paper.
- The Bill and associated regulations and guidance once enacted will become the primary piece of legislation to prepare local plans under, and amends other planning acts, such as the Town and Country Planning Act (TCPA 1990) and the Planning and Compulsory Purchase Act (PCPA 2004).
- An accompanying policy paper from DLUHC, Levelling Up and Regeneration: further information, provides much greater detail on forthcoming changes and the direction of travel for Government.

## NATIONAL POLICY AND WEIGHT OF POLICY

- National development management policies (NDMPs)
  - Non-strategic development management policies will be effectively phased out of local plans, to be replaced by a suite of National Development Management Policies (s 84).
- Development plans and the NMDPs will have the same weight in decision making (s 83 (2)):

*“...determination must be made in accordance with the development plan and any national development management policies unless material considerations strongly indicate otherwise.”*

- The NMDPs will take primacy where there is a conflict with local plans (s 83 (2)).
- The NPPF will be retained alongside this NDMP and will still hold very strong weight in plan-making as it is given statutory force (Schedule 7, s 15CA) – however, its role will likely change as one to guide plan-making.
- Consultations will be carried out regarding this change – one regarding the vision for the NDMP and NPPF, and one regarding specific policies.

## IMPACTS ON PLAN-MAKING?

- Planning authorities must prepare, maintain and comply with **local plan timetables** (Schedule 7, s 15B), which will replace **local development schemes**.
  - The aim of a statutory 30-month timeframe for local plan production was not introduced under the bill, however this will be introduced under regulations.
- **Duty to Cooperate** will be repealed, and will be replaced by a ‘flexible alignment test’ to be set out in national policy (yet to be confirmed). There will be a duty for infrastructure providers to engage in the process however.

# DAC Planning Briefing Note May 2022

- **Spatial Development Strategies (SDSs)** are provided for, giving two or more planning authorities the option to prepare joint SDS (Schedule 7, s 15A) to form part of the development plan for an area (s 82 (3)).
- **Supplementary Plans**
  - Local Planning Authorities (LPAs) given a new power to produce ‘Supplementary Plans’ (Schedule 7, s 15CC)
  - These will replace Supplementary Planning Documents (SPDs), and will be given the same weight as a local plan and will form part of the development plan for the area (s 82 (3)).
  - Supplementary Plans must be independently examined.
- The requirement to maintain a **five-year land supply** will be removed where an up-to-date local plan is in place. The presumption in favour of development where a five-year land supply cannot be demonstrated will then not apply, incentivising planning authorities to have an up-to-date local plan.
- **Examination** of plans will change, and a local plan will only have “effect so far it is adopted or approved under the Bill”. However, the main purpose of examination will still be to test soundness.
  - “Gateway” checks are intended to spot problems at early stages.
  - After submission for examination, an authority may only withdraw a local plan if the examiner or SoS recommends it (Schedule 7, s 15E).

## INFRASTRUCTURE LEVY

- Schedule 11 of the Bill provides for a new Infrastructure Levy (IL). The Community Infrastructure Levy (CIL) is essentially abolished but retained for Greater London and Wales only.
- DLUHC intends for this to be a locally determined, mandatory levy, charged on the value of property when it is sold and above a minimum threshold, with rates set as a percentage of gross development value rather than floorspace.
- Regulations, post-technical consultation, will:
- Introduce a right to require a level of affordable housing.
- Require developers to deliver integral infrastructure for sites.
- Roll the IL out nationally over several years.
- S106 is to be retained for larger sites (the definition of which is to be defined) to reflect the complexities of these sites.
- Sites permitted before the IL is introduced will continue to be subject to their CIL and S106 requirements.
- To support the IL, **infrastructure delivery strategies** must be prepared and published by charging authorities (CAs) (Schedule 11, s 204Q):
- The IDS will set out the CAs plans regarding the provision, improvement, and replacement of infrastructure in the area.
- Regulations will provide for the independent examination (alongside Charging Schedule or local plan examinations) (Schedule 11, s 204Q (6) and (7))

## NEIGHBOURHOOD PLANNING

- s 88 of the Bill amends PCPA 2004, adding that a Neighbourhood Development Plan (NDP) may include:
  - Policies relating to the amount, type, location and timetable of development in the area, and details of supporting infrastructure for that development.
  - Policies to achieve objectives related to local characteristics or circumstances (including site specific) and design requirements to be met.
- NDPs must not repeat (forthcoming) National Development Management Policy, and NDPs must contribute to the mitigation and adaptation to climate change.
- Introduction of **Neighbourhood Priorities Statements** under Schedule 7, s 15K.
  - Any qualifying body may make a statement, to be known as a “neighbourhood priorities statement”, which summarises what the body considers to be the principal needs and prevailing views of the community in the neighbourhood area in relation to which the body is authorised, in respect of local matters.
  - Regulations may further provide for the form, content, procedure etc. of these, and local plans must have regard to these.

## NEXT STEPS / CONCLUSION

- Consultations to be carried out on many of the proposed changes, including:
  - NPPF and NMDP vision and policies consultations.
  - Technical consultation on Infrastructure Levy.
  - Environmental Outcome Report consultation.
- Planning procedure changes will begin to take place from 2024. The Bill requires Royal Assent, regulations and changes to national policy.
- Minimisation of disruption is acknowledged and a desire for plans to continue to come forward in the meantime is expressed by DLUHC.
- While not as radical as *Planning for the Future*, the Bill consolidates and streamlines planning legislation, especially regarding the Infrastructure Levy.
- DLUHC have expressed a wish to involve the profession in these ongoing consultations, and further details on transition will be provided.
- DAC Planning recommends reviewing the *Levelling Up and Regeneration: further information* document and reading relevant sections of the Bill in full for further clarity.

## HIGH-LEVEL SUMMARY OF CHANGES

National Development Management Policy	To replace general DM policies in local plans and will have the same weight as the development plan, and primacy in cases of confliction.
Weight of local plans	Greater weight is provided to local plans (and the overall development plan) in decision making. Material considerations would have to 'strongly' indicate why proposal are not in accordance with the development plan.
Supplementary Plans	New document to replace Supplementary Planning Documents (SPDs), forming part of the development plan and will have statutory weight.
Duty to Cooperate	Repealed and replaced by 'flexible alignment test' to be set out in national policy.
Local plan timetable	LPA must prepare, maintain and adhere to a local plan timetable, replacing Local Development Schemes.
Spatial Development Strategy (outside of GLA)	Statement of policies for development, land use and infrastructure that are strategically important to an area, which can be produced jointly by two or more authorities, and which the local plan must have regard to.
Infrastructure Levy	To replace the Community Infrastructure Levy as a locally determined, mandatory levy, charged on the value of property when it is sold and above a minimum threshold
Infrastructure Delivery Strategy	Charging authorities will be required to produce this, setting out a strategy for infrastructure delivery and spending of the IL, produced with infrastructure providers.
Neighbourhood Development Plans	Amendments to PCPA 2004 to refer to the content of NDPs.
Neighbourhood Priorities Statements	New way for qualifying bodies to set out goals for neighbourhood areas based on local matters, and local plans must have regard to these.
Environmental Outcomes Report	Part 5 of the Bill makes provisions for EOR regulations, to specify outcomes for environmental protection of the natural environment (which must have regard to the environmental improvement plan). Projects and plans must not impact on the delivery of these outcomes, which the EOR will demonstrate.
Street Votes	Holding clause provided for further regulations (Chapter 4, Schedule 96) to allow residents of a street to propose development and vote on whether it should be given planning permission.