

## READING BOROUGH COUNCIL

### REPORT BY EXECUTIVE DIRECTOR OF ECONOMIC GROWTH AND NEIGHBOURHOOD SERVICES

<b>TO:</b>	<b>PLANNING APPLICATIONS COMMITTEE</b>		
<b>DATE:</b>	<b>1 JUNE 2022</b>		
<b>TITLE:</b>	<b>LEVELLING-UP AND REGENERATION BILL</b>		
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#### 1. PURPOSE AND SUMMARY OF REPORT

- 1.1 [The Levelling-up and Regeneration Bill](#) received its first reading in the House of Commons on Thursday 12<sup>th</sup> May following, it is claimed, more than 40,000 responses to the government's 2020 White Paper 'Planning for the Future', and the subsequent inquiry into planning reform by the Housing, Communities and Local Government Select Committee.
- 1.2 The purpose of this report is to provide you with a summary of what officers see as the headlines in the Bill and the implications for the planning system generally and more specifically, Reading.

#### 2. RECOMMENDED ACTION

- 2.1 That you note this report.

#### 3. PROPOSED CHANGES

- 3.1 The Levelling-up and Regeneration Bill is a wide-ranging bill, encompassing a number of proposals relating to devolution and regeneration, with significant proposed changes for the planning system. It follows on from both the Levelling Up White Paper, published on 2<sup>nd</sup> February 2022, but also the Planning White Paper which was published on 6<sup>th</sup> August 2020, a response to which Planning Applications Committee agreed on 7<sup>th</sup> October 2020.
- 3.2 The proposed changes to Planning relate to many aspects of the system, including development plans, development management, enforcement, infrastructure funding and heritage. The main changes

are summarised below. A policy paper to accompany the Bill can be found on the gov.uk website<sup>1</sup>.

### **Development plans**

3.3 Whilst the Bill takes forward the agenda for planning reform which began with the Planning White Paper, it is notable that the changes proposed do not include most of the more radical proposals from that document. For instance, the proposals for zoning land for growth, regeneration and protection have been dropped, as have suggestions for automatic permissions where they would accord with the development plan. The Bill nonetheless includes very significant proposals for plan-making.

3.4 The most significant changes are summarised below:

- The Bill would change the legal basis for decision-making, a change which impacts on both development management and policy. The first change is that National Development Management Policies are given the same legal status as the development plan in decision-making. The second change is that decisions should be made in line with these policies unless material considerations “strongly” indicate otherwise, thus strengthening the primacy of policy.
- As detailed above, it is proposed that a suite of National Development Management Policies be produced which will apply across England, something that was proposed in the White Paper. These policies would cover matters that apply in most areas, with general heritage protection given as an example, and would therefore reduce the content of local plans. Whilst local planning authorities would be able to include their own development management policies where required, the draft Bill requires that these be in conformity with and not repeat the national policies, meaning that justifying a divergence from national policy through the examination would no longer be possible.
- Spatial Development Strategies to cover more than one authority would be introduced, mirroring the system already in place in London, albeit that these would be prepared on a voluntary basis. They would have development plan status, would cover matters of strategic importance and would be subject to consultation and examination.
- The Local Development Scheme (LDS), which sets out the timetable for producing planning policy, would be replaced by a Local Plan Timetable, with which the authority must comply.
- There is a requirement to prepare a single Local Plan, which means the ability to have more than one Local Plan document in place for a single authority is removed (a Minerals and Waste

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<sup>1</sup> [Levelling Up and Regeneration: further information - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

plan is a separate item in the Bill, and not affected by this requirement). Although not specified in the Bill, the expectation that a Local Plan be prepared within 30 months is retained. Regulations would need to follow to set the process out in detail.

- Gateway checks would be introduced whereby the local planning authority would seek advice from a person appointed by the Secretary of State on the Local Plan at stages during production that would need to be prescribed.
- The duty to co-operate in local plan making would be removed and replaced by an 'alignment' test, which would be introduced through national policy.
- There would be a requirement for certain public bodies (still to be prescribed by the Secretary of State) to assist with plan-making upon request by the plan-making authority. This is likely to particularly apply to infrastructure providers.
- Minerals and Waste Plans are included as a separate element within the Bill, with the requirements generally mirroring those for Local Plans, including the preparation of a timetable.
- Supplementary planning documents (SPDs) would be replaced by a new system of supplementary plans. These could only deal with development at specific sites, infrastructure provision, affordable housing or design requirements. These supplementary plans would need to go through an examination process (albeit a process that is lighter-touch than for local plans), and unlike SPDs would have development plan status.
- The Bill contains a requirement that the whole of the authority's area be covered by a design code. This would set the requirements with respect to design across the area. These can be part of the Local Plan or as one or more Supplementary Plans.
- The Secretary of State would be able to appoint a Local Plan Commissioner to investigate and potentially intervene if a local planning authority is failing in Local Plan preparation, or if a Local Plan or Supplementary Plan is considered to be unsatisfactory, and would be able to seek reimbursement from the authority.
- Neighbourhood forums or parish councils would be able to prepare a Neighbourhood Priorities Statement, a document that sets out the priorities for an area without needing to undertake a full Neighbourhood Plan, which would need to be taken into account in preparing the Local Plan.
- The Bill contains a number of powers for the Secretary of State to prescribe matters such as data standards and form and content of Local Plans.

- The requirement to prepare a Statement of Community Involvement, detailing how consultation and engagement would be undertaken on planning documents, would be removed.

### **Infrastructure delivery**

3.5 As proposed in the Planning White Paper, a new Infrastructure Levy is to be introduced through the Bill that would replace the Community Infrastructure Levy (CIL) across most of England (except for London). Much of the detail would need to be provided through future regulations, but the following represent some important elements:

- It would be a requirement to operate the Levy, as opposed to the current situation where local authorities can choose whether or not to operate CIL.
- The Levy would be set at a local level though a requirement to prepare a Charging Schedule, rather than being set by national government as was the proposal in the White Paper. As for CIL, the Charging Schedule needs to go through an examination process.
- Rather than being based on a charge per square metre of floorspace in different uses, it would be expressed as a proportion of the final gross development value, meaning that it will be difficult to know what the final level of contribution will be until development is complete.
- The Levy would cover affordable housing, currently secured by Section 106 agreements, and when setting Levy rates, authorities will need to consider the desirability of maintaining previous rates of affordable housing supply, with the government having stated that it wishes to see those rates maintained or increased.
- The negotiation around affordable housing would be removed, with local authorities able to require that a certain amount of a development be delivered as on-site affordable housing.
- A charging authority must prepare an Infrastructure Delivery Strategy which sets out how funds collected under the Levy will be used. This Strategy will be subject to independent examination.
- The proportion of CIL to be spent on the local area in which development takes place (which is currently 15% in Reading) and on administration (5%) is expected to be carried across to the new Levy.
- Section 106 agreements would be retained only for the largest sites to secure the provision of on-site in-kind infrastructure.
- An explicit recognition that the Levy will need to be introduced through a ‘test and learn’ process, meaning it is likely to evolve

as experience of operating it develops. This was, in practice, the case with CIL, which underwent a number of amendments to the regulations in the years after it was introduced.

#### **Development management**

- 3.6 The Bill includes measures which will allow what is called “a transformation in the use of high-quality data and modern, digital services” across the planning process. It provides for several technical changes to the processes of planning, to make the system work more efficiently and effectively to reduce the administrative burdens felt by local authorities, statutory consultees and others involved in the system.
- 3.7 It should be noted that officers are working with other officers in the Council on a current project to replace the current planning applications registration system with a more responsive system which is better integrated to other Council customer service systems and the project is also investigating opportunities for increased digitisation and customer self-service for Planning.
- 3.8 With regards to planning application fees while the Bill provides for the doubling of fees for retrospective applications it does not include closing the ‘free go’ loophole for second applications, which also dissuades many developers to correctly engage with the Council’s chargeable pre-application advice service.
- 3.9 During a Broadcast by the Department for Levelling Up, Housing & Communities (DLUHC), presented by Joanna Averley, Chief Planner and Simon Gallagher, Director of Planning at DLUHC on 12<sup>th</sup> May, it was noted that they would also be looking to increase the planning application fee charge by 35% for Major applications and 25% for all other types of applications. There was an expectation that the increase would be directed to local planning authorities to help them to deliver the transformation towards a more digitised service.

#### **Environmental outcomes reports**

- 3.10 Current methods of assessing the environmental impact of proposals and plans, using Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA, which for plans usually takes the form of Sustainability Appraisal) would be replaced by Environmental Outcomes Reports, which assesses the impacts of plans and proposals on specified outcomes. The detail is yet to be outlined, with the Bill mainly giving the Secretary of State powers to make regulations regarding this proposal.

#### **Heritage**

- 3.11 The Bill would make some changes regarding heritage. These include:
- Ensuring that the statutory duty to have regard to the preservation of listed buildings and conservation areas also

applies to other assets including scheduled monuments, registered parks and gardens and world heritage sites.

- Temporary stop notices for unauthorised works to listed buildings are introduced.
- Removal of the right to claim for compensation where a Building Preservation Notice is in effect.
- Introduction of a statutory duty to hold an up-to-date Historic Environment Record.

### **Enforcement**

3.12 The Bill seeks to introduce measures to ensure that planning enforcement works effectively by:

- Extending the period for taking enforcement action to ten years in all cases - currently changes to residential use and new structures gain immunity from enforcement action after 4 years;
- introducing enforcement warning notices;
- increasing fines associated with certain planning breaches;
- doubling fees for retrospective applications;
- extending the time period for temporary stop notices from 28 to 56 days;
- giving the Planning Inspectorate the power to dismiss certain enforcement appeals where the appellant causes undue delay;
- The scope for appeals against enforcement notices will be tightened so that there is only one opportunity to obtain planning permission retrospectively; and
- Enabling temporary relief to be given for enforcement action against prescribed planning conditions, where it is necessary to lift constraints on operations (e.g. for construction and delivery times).

### **Other matters**

3.11 The Levelling Up and Regeneration Bill covers a wide range of matters, many of which do not relate to the planning system directly. These are not dealt with in depth here, but some of the matters covered include:

- Measures around devolution and combined authorities;
- Provision for locally-led Urban Development Corporations;
- Changes to compulsory purchase;
- Powers to instigate high street rental auctions of vacant properties;
- Making existing temporary measures for pavement licensing permanent;
- Various market reform measures including a discretionary council tax premium on second and empty homes of up to 100%; and
- Notification requirements for amending street names.

## **4. NEXT STEPS**

- 4.1 The Bill is expected to receive royal assent in 2024, so changes to the system will take some time to come into effect. In the meantime, the government is planning a number of consultations on detailed elements of the Bill, including:
- Technical consultations on the Infrastructure Levy, compulsory purchase and quality standards for Nationally Significant Infrastructure Projects;
  - The proposal for Environmental Outcomes Reports (to replace Environmental Impact Assessments);
  - Planning fees;
  - The vision for the new version of the National Planning Policy Framework and the national development management policies.
- 4.2 Future reports will be brought to the relevant committee setting out the Council's response to these consultations when they take place.
- 4.3 There will also be further detail on transitional arrangements, but the government has stated that progress on plan-making should continue in the meantime.

## **5. CONTRIBUTION TO STRATEGIC AIMS**

- 5.1 The operation of the planning system in Reading contributes to the following priorities in the Corporate Plan 2022/25:
- Healthy environment;
  - Thriving communities;
  - Inclusive economy.
- 5.2 The changes proposed within the Levelling-up and Regeneration Bill will affect how the planning system in Reading is to address those priorities, but much of the detail to understand the implications is dependent on regulations or additional provisions that will need to be subject to future consultation.

## **6. ENVIRONMENTAL AND CLIMATE IMPLICATIONS**

- 6.1 The implications for the environment and the response to the climate emergency will largely depend on the detail of the proposals and how they will operate. Many of the environmental and climate elements in the Reading Borough Local Plan are in the general development management policies, and, under the proposed new planning system, development management policies would be set at national level. Therefore, the implications would depend on the content of those policies, which will be subject to further consultation.
- 6.2 The proposals for Environmental Outcomes Reports will change the way that environmental impacts are assessed and reported for both

development proposals and development plans. Again, the detail of how these will operate is yet to be established.

- 6.3 It is worth noting that, as currently drafted, there would be a statutory requirement for the development plan to ensure that development and the use of land contributes to the mitigation of, and adaptation to, climate change.

## **7. COMMUNITY ENGAGEMENT AND INFORMATION**

- 7.1 In terms of policy, the requirement to consult the local community and take account of the responses is retained within the Bill, but the detail of how this will operate is largely passed onto future regulations, which, among other elements, will identify the main consultation stages. The existing requirement to prepare a Statement of Community Involvement would be removed.

- 7.2 Planning decisions are made in accordance with adopted local development plan policies, which have been adopted by the Council following public consultation. Statutory consultation also takes place on planning applications.

## **8. EQUALITY ASSESSMENT**

- 8.1 The equalities impacts of the Bill still need to be formally assessed. There are no equalities implications of the recommended actions of this report.

## **9. LEGAL IMPLICATIONS**

- 9.1 The Levelling-up and Regeneration Bill forms draft primary legislation that would include making amendments to legislation such as the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning Act 1990.

## **10. FINANCIAL IMPLICATIONS**

- 10.1 It has not been possible to fully assess the financial implications of the measures proposed in the Bill.

## **11. BACKGROUND PAPERS**

- Planning for the Future - Planning White Paper (August 2020) [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/907647/MHCLG-Planning-Consultation.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/907647/MHCLG-Planning-Consultation.pdf)
- Changes to the Current Planning System Consultation (August 2020) [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/907215/200805\\_Changes\\_to\\_the\\_current\\_planning\\_system\\_FINAL\\_version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/907215/200805_Changes_to_the_current_planning_system_FINAL_version.pdf)