

Committee(s): Planning & Transportation Committee	Dated: 07/06/2022
Subject: Levelling Up and Regeneration Bill	Public
Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?	n/a
Does this proposal require extra revenue and/or capital spending?	N
If so, how much?	£0
What is the source of Funding?	n/a
Has this Funding Source been agreed with the Chamberlain's Department?	n/a
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Summary

The Levelling Up and Regeneration Bill was announced in the Queen's Speech on 10 May 2022. The Government states that the Bill is intended to improve the planning process through reforms to enhance the plan-led system; deliver high quality design and protect heritage; enable infrastructure; enhance local democracy; provide better environmental outcomes and enable neighbourhoods to shape their surroundings.

The Bill is essentially enabling legislation which provides the primary legislative framework for more detailed regulation through secondary legislation and national planning guidance. This report has been prepared in consultation with the Remembrancer's Office and summarises the key provisions of the Bill as they relate to the work of the Planning & Transportation Committee, with a focus on planning reform. Where necessary, further reports responding to anticipated consultation on secondary legislation and planning guidance will be brought back to the Planning & Transportation Committee for decision.

Recommendation(s)

Members are asked to note this report.

Main Report

Background

1. In August 2020, the Government published and consulted on a Planning White Paper which set out proposals for a fundamental change to the way the planning system operates in England. The intention was that changes would be introduced through a standalone Planning Bill. The Planning & Transportation Committee approved a response to the White Paper at its meeting on 27 October 2020.

2. City Corporation officers in the Environment Department and Remembrancer's Office maintained a detailed watch on the development of the Government's approach, in particular liaising with officials on planning and open spaces issues. The Corporation made a submission to the Government's consultation. Government received over 44,000 responses to the White Paper and has yet to publish its formal response to the consultation.
3. In February 2022, the Government published a Levelling Up White Paper, setting out its proposals to reduce regional inequality in the UK and ensure that everyone across the UK has equality of opportunity and can benefit from sustained rises in living standards and well-being. The White Paper touched on planning issues but was principally concerned with the wider levelly up agenda.
4. Following publication of the Levelling Up White Paper, Ministers confirmed their intention to not bring forward a separate planning reform bill and that changes to planning arising from the Planning White Paper would be considered within a wider Levelling Up and Regeneration Bill. It seems likely, however, that the broad opposition to the Planning White Paper's proposals, including from the Government's backbenches, will result in few of the proposals being taken forward.

Current Position

5. The Levelling Up and Regeneration Bill was announced in the Queen's Speech on 10 May 2022. The Bill was published in the House of Commons for its first reading on 11 May and the second reading is scheduled for 8 June 2022. Following enactment, subsequent Government measures will bring about updates and amendments to regulations and policy. Some of these matters will be subject to public consultation.
6. The Bill contains 196 provisions and 17 schedules which set out more detailed change. The Bill is accompanied by a 248 page Explanatory Notes document and, separately, DLUHC has produced a 'further information' policy paper which particularly addresses changes to the planning system.
7. The Government states the Bill's objective is to reverse geographical disparities between different parts of the United Kingdom. The Bill has four broad aspects. First, the Bill creates a duty on the Government to report annually on progress on levelling up across the UK. Second, a framework of new devolution arrangements at county level is set out. New powers to regenerate areas and changes to the planning system are the two aspects detailed in this report.
8. The Bill seeks to improve the planning process through reforms to enhance the plan-led system; deliver high quality design and protect heritage; enable infrastructure; enhance local democracy; better environmental outcomes and enable neighbourhoods to shape surroundings. This report outlines the key Bill proposals that are relevant to the work of the Planning & Transportation Committee. The report has been prepared in consultation with the Remembrancer's Office.

A. Empowering local leaders to regenerate towns and cities and restore local pride in places

9. The Bill strengthens and introduces additional provisions to assist regeneration and the use of previously developed land, including making permanent existing temporary measures on pavement licensing that were introduced during the Pandemic. These measures streamline and make cheaper the process of applying for a licence to put furniture on the highway. Other provisions introduce high street rental auctions which would allow a local authority to compel landlords to lease out vacant commercial property on high streets and in town centres that has been vacant for more than one year. Changes are also made to enhance local authority compulsory purchase orders to encourage regeneration and to provide that fair compensation is paid for the value attributable to prospective planning permission ('hope value').

B. Making better places through a plan led system

10. Significant changes are proposed to the role and content of local plans and the process for preparing them. The current requirement for planning applications to be determined in accordance with the local plan will be strengthened, with additional weight given to up to date local plan policy and strong reasons needed to override policies in the plan. The same weight will be given to other parts of the development plan, including neighbourhood plans prepared by local communities, and spatial development strategies (the London Plan).
11. The Government has indicated it will develop a series of National Development Management Policies, building on current policy in the National Planning Policy Framework (NPPF). These national policies are intended to provide a consistent approach across England on issues which apply in most areas such as Green Belt and heritage policies, reducing duplication at the local level and replacing local policies. These policies would carry the same weight as policies in the development plan. Local plans will be limited to addressing locally specific matters such as allocating land for development.
12. The Bill proposes new commencement notices which will be required when a scheme with planning permission starts on site. In addition, the Bill will give more control to authorities to issue completion notices to developers to complete their project.
13. Existing supplementary planning documents will be replaced by Supplementary Plans, which will go through a scaled back process for preparation and public examination and carry greater planning weight.
14. In a move that has some resemblance to proposals in the Planning White Paper, the Bill provides that the process for preparing local plans will be speeded up, in part reflecting the more limited scope that local plans will have following the publication of National Development Management Policy. Regulations will be amended to set out an expectation that local plans will be prepared in 30 months, including evidence gathering, 2 rounds of community consultation and a public examination. The statutory 'duty to cooperate' with key stakeholders will be replaced with a more flexible test of alignment with neighbouring borough policies. The current requirement for plans to be updated at least every 5 years

will be retained. New Local Plan Commissioners may be deployed to support or takeover plan making if local authorities fail to meet this statutory duty.

15. Changes are proposed to the evidence requirements underpinning local plans, particularly housing delivery. The current requirement to demonstrate a 5 year supply of deliverable housing land will be removed, but only where a local authority has an up to date local plan. Conflicting ministerial statements have been made over whether the national target of 300,000 new homes per year will be retained and whether binding targets will be set for individual local authorities.
16. A number of measures are proposed to progress a wider digital delivery programme, including improvements to planning data and developing data driven planning software through, for example, setting common standards and software requirements. The local plan will be much shorter, digital and map-based. The Government considers that the use of digital tools enables greater community engagement with planning.

C. Community Engagement

17. As well as giving neighbourhood plans greater weight in planning decisions, the Bill will increase the accessibility of neighbourhood planning by allowing parish councils and neighbourhood forums to produce a 'neighbourhood priorities statement' which the local authority will be obligated to take account of when preparing its local plan.
18. 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.
19. Local authorities have existing time limited powers to enable developers to undertake pre-application consultation with local communities. The Bill will remove the time limitation and enable pre-application engagement with communities to be required before a planning application is submitted.

D. Delivering infrastructure

20. The Bill proposes to replace the existing Community Infrastructure Levy (CIL) and s106 planning obligations requirements with a new non-negotiable, locally set Infrastructure Levy.
21. The Levy will be charged on the value of property when it is sold and applied above a minimum threshold. Levy rates and minimum thresholds will be set and collected locally, and local authorities will be able to set different rates within their area. The rates will be set as a percentage of gross development value rather than based on floorspace. The expectation is that developers will be better able to price the cost of contributions into the value of land and allow for contributions to respond to market conditions. It is intended to remove the requirement for obligations or contributions to be renegotiated if market conditions change.

22. The Government's intention is that the new mechanism will secure at least as much affordable housing as currently. Local authorities will have a new 'right to require' enabling councils to determine the portion of the levy they receive in-kind as onsite affordable homes.
23. Local authorities will be required to produce Infrastructure Delivery Strategies outlining how the Levy will be spent.
24. Sites permitted before introduction of the Levy will continue to be subject to CIL and s106 Planning Obligations. There will be a retained role for s106 Obligations to support the delivery of infrastructure on large sites and narrowly targeted s106 Obligations will continue to be used to ensure the delivery of essential infrastructure integral to the development of a site.
25. Further consultation is promised on the detail of the new Infrastructure Levy and the intention is that it will be piloted via what is described as a "test and learn approach" and rolled out over several years.

E. Design

26. Reflecting the Government's emphasis on the need for a high quality of design in buildings and spaces, the current NPPF guidance on the need for each local authority to have a design guide or design codes in place will become a statutory requirement. Local authority-wide design codes will have full weight in making decisions on development. These guides, or codes, should either be set out within the local plan or in a supplementary plan. The national 'Office for Place' will support local authorities to turn design visions into local standards, deliver design codes and design better outcomes.
27. Designated heritage assets, including scheduled monuments, registered parks and gardens, World Heritage Sites and registered battlefields are to be given the same statutory protection as listed buildings and conservation areas. Local authorities will also have a new statutory duty to maintain an Historic Environment Record. Enforcement powers to protect listed buildings will be strengthened.

F. Environmental Assessment

28. The Bill will replace existing environmental assessment processes (Strategic Environmental Assessment, Sustainability Appraisal and Environmental Impact Assessment) with a requirement for 'Environmental Outcome Reports'. There is no detail in the Bill or supporting explanatory information on the scope of this new reporting, but the Bill does place a duty on the Secretary of State to ensure that it does not reduce the overall level of environmental protection.
29. Proposed changes to the NPPF will ensure that the reforms to the Environment Acts such as biodiversity net gain and adapting and mitigating climate change are embedded in plan making and decisions.

G. Other changes to planning procedures

30. There are a number of more detailed measures proposed in the Bill intended to make the planning process work more effectively and efficiently, including:
- Changes to enforcement provisions to extend time limits for taking action and to tighten the scope for appeals against enforcement.
 - New powers to amend planning permissions in limited circumstances to allow greater post-permission flexibility.
 - Speeding up the planning appeals process.
 - Allowing statutory consultees to charge developers for planning advice
31. Alongside the Bill, the Government also intend to increase planning fees for major developments by 35% and for minor applications by 25%, subject to consultation, to improve capacity within local planning authorities.

Potential impacts on the City of London Corporation

32. A number of changes set out in the Bill will have a direct impact on the City Corporation and the delivery of planning services within the City of London. Other changes are likely to have greater impact on authorities elsewhere in England, particularly those with Green Belt or a significant requirement for new housing development. These wider changes are likely to have a greater impact on City Corporation activity outside of the Square Mile, such as the management and operation of the City's open spaces. Officers in the Environment Department and Remembrancer's Office will engage with the Bill as it passes through Parliament.
33. The Bill is also, to a large extent, enabling, in that it provides the primary legislative basis for more detailed policy through secondary legislation and regulation, which will be the subject of consultation and engagement. Further information published alongside the Bill also sets out the intention to make substantive changes to the NPPF and other planning guidance which will also be the subject of consultation. Where necessary, further reports will be brought back to this Committee in response to these consultations.
34. Potential impacts arising from the Bill and further information as published include:
- **Local Plan Review:** In December 2021, this Committee approved a pause in the preparation of the City of London Local Plan to enable further evidence gathering and assessment to respond to public consultation objections, the impacts of the Pandemic and the need to align with the Climate Action Strategy. The intention is that a revised Plan will be brought back to this Committee later this year, or early in 2023, with a view to submit the Plan for Public Examination in autumn 2023. Unless there is further significant delay to the Local Plan, it should be able to progress to adoption before new provisions for the content and process of preparing Plans under the Bill comes into effect. It is understood that DLUHC is looking at potential transitional arrangements which potentially will enable the City Corporation to progress to adopt the current draft Local Plan provided it is sufficiently advanced at the date the Bill is enacted. Progressing the Local Plan would ensure a continued strong policy framework for planning decisions, which is

essential given the uncertainty over timescales for the proposed national changes to come into effect.

- **Infrastructure Levy:** There is still much uncertainty around the new Infrastructure Levy and how it will work. The Bill's aims to simplify the planning contributions process and ensure that contributions are linked to market performance are laudable, but it is by no means clear that the mechanisms set out will be less complex than current proposals, or how existing non-financial s106 obligations or s278 transport contributions fit within the structure. The proposals also potentially make on-site delivery of affordable housing more difficult to achieve. The City Corporation will need to continue to liaise with DLUHC and engage in the proposed consultation process to ensure that any new mechanism enables the delivery of required infrastructure and affordable housing in the City.
- **Community Engagement:** Improving consultation at all stages of the planning process is essential in the City as well as nationally. A revision of the City Corporation's Statement of Community Involvement will be brought back to this Committee in September 2022 and this provides an opportunity to embed some of the provisions within the Bill, e.g. emphasising the need for effective pre-application consultation. There has been much attention in the press on the concept of 'street votes', but currently this is just a headline proposal, lacking the further information to understand what this would mean in the City of London and how it could apply to commercial development.

Corporate & Strategic Implications

35. There are no direct corporate or strategic implications arising from this report. Implementation of the Levelling Up and Regeneration Bill and its associated secondary legislation and guidance will have a range of corporate and strategic implications. These will be detailed in future reports which address consultation on, or implementation of, relevant parts of the Bill.

Conclusion

36. The Levelling Up and Regeneration Bill was published on 11 May 2022. It seeks to improve the planning process through reforms to enhance the plan-led system; deliver high quality design and protect heritage; enable infrastructure; enhance local democracy; provide better environmental outcomes and enable neighbourhoods to shape their surroundings.

37. The Bill is essentially enabling legislation which provides the primary legislative framework for more detailed regulation through secondary legislation and national planning guidance. This report has been prepared in consultation with the Remembrancer's Office and outlines the key provisions of relevance to the Planning & Transportation Committee. Where necessary, further reports responding to consultation on secondary legislation and planning guidance will be brought back to the Planning & Transportation Committee.

Background Papers

Report to Planning & Transportation Committee 27 October 2020: City Corporation response to the Planning White Paper

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