

**Decision Maker:** DEVELOPMENT CONTROL COMMITTEE

**Date:** Tuesday 26 July 2022

**Decision Type:** Non-Urgent Non-Executive Non-Key

**Title:** LEVELLING UP & REGENERATION BILL - PLANNING IMPLICATIONS

**Contact Officer:** Tim Horsman, Assistant Director (Planning)  
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**Chief Officer:** Director of Housing, Planning, Property and Regeneration

**Ward:** All Wards

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1. Reason for decision/report and options

To advise Members on the proposed bill, the likely impacts on planning and related matters and the timelines for the proposed changes.

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2. **RECOMMENDATION(S)**

**Members note the potential impacts of the Bill**

## Impact on Vulnerable Adults and Children

1. Summary of Impact: N/A
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## Transformation Policy

1. Policy Status: Not Applicable New Policy: New government policy
  2. Making Bromley Even Better Priority (delete as appropriate):
    - (1) For children and young People to grow up, thrive and have the best life chances in families who flourish and are happy to call Bromley home.
    - (2) For adults and older people to enjoy fulfilled and successful lives in Bromley, ageing well, retaining independence and making choices.
    - (3) For people to make their homes in Bromley and for business, enterprise and the third sector to prosper.
    - (4) For residents to live responsibly and prosper in a safe, clean and green environment great for today and a sustainable future.
    - (5) To manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.
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## Financial

1. Cost of proposal: No Cost: No identified costs at this point
  2. Ongoing costs: Not Applicable: None identified at this point
  3. Budget head/performance centre: Planning
  4. Total current budget for this head: £3.6m
  5. Source of funding: Revenue budget 2022/23
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## Personnel

1. Number of staff (current and additional): N/A
  2. If from existing staff resources, number of staff hours: N/A
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## Legal

1. Legal Requirement: Statutory Requirement
  2. Call-in: Not Applicable: No Decision
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## Procurement

1. Summary of Procurement Implications: None at this point
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## Property

1. Summary of Property Implications: None at this point
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## Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications: None at this point
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### Customer Impact

1. Estimated number of users or customers (current and projected): N/A
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### Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: N/A

### 3. COMMENTARY

3.1 The Levelling Up White Paper was published by the government in February 2022. It set out ways in which the government proposes to reduce inequality primarily in the form of four primary objectives:

- boost productivity, pay, jobs and living standards by growing the private sector, especially in those places where they are lagging
- spread opportunities and improve public services, especially in those places where they are weakest
- restore a sense of community, local pride and belonging, especially in those places where they have been lost
- empower local leaders and communities, especially in those places lacking local agency

3.2 The pursuant 'Levelling Up and Regeneration Bill' was given its first reading in Parliament in May 2022 and aims to create a robust framework for levelling-up. The Bill includes a number of proposals to improve the planning system which were previously published in the Planning for the Future consultation in 2020 (see <https://www.gov.uk/government/consultations/planning-for-the-future> and also previous LBB officer report on this at: <https://cde.bromley.gov.uk/documents/s50083439/Planning%20For%20The%20Future%20Consultation.pdf>)

3.3 The new Bill aims to improve the planning process to give local communities more control over new development and includes powers to:

- deliver high quality design and beautiful places, and protect our heritage
- enable the right infrastructure to come forward where it is needed
- enhance local democracy and engagement
- foster better environmental outcomes
- allow neighbourhoods to shape their surroundings, as this is where the impact of planning is most immediately felt

3.4 The broad topic areas and proposals relevant to planning are summarised below:

#### Local Plans:

3.5 The draft Bill proposes the introduction of National Development Management Policies (NDMPs), which will set out national policies on issues that apply in most local authorities e.g. heritage protection and policies relating to the green belt, in order to both speed up the local plan process and to make local plans easier to navigate. NDMPs would not be able to be duplicated in the development plan. NDMPs are given the same weight as development plans so will need to be taken fully into account in decision making; where there is conflict between the development plan and NDMP, this must be resolved in favour of the NDMP. The Government have set out that NDMPs will be consulted on in future.

3.6 The draft Bill sets out that local planning authorities would be required to make all planning decisions in accordance with their development plan (and any national development management policies) unless material considerations strongly indicated otherwise. This places a higher bar on the use of material considerations and reduces the scope for adopted Local Plans to be undermined in an ad hoc manner. This strengthens the role of the Local Plan (albeit NDMPs could undermine effective local planning).

3.7 Local planning authorities will have a new power to prepare 'supplementary plans', where policies for specific sites or groups of sites need to be prepared quickly (e.g., in response to a new regeneration opportunity), or to set out design standards. These plans will replace the 'supplementary planning documents' which councils produce currently, but which do not carry the same weight.

- 3.8 Proposals which were set out in the Planning for the Future White Paper for all land to be placed in prescribed categories and linked to automatic 'in principle' permission for development in areas identified for development, are not being taken forward.
- 3.9 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 simpler 'neighbourhood priorities statement' which the local authority will be obliged to take into account when preparing its local plan.
- 3.10 The Bill also 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.
- 3.11 To incentivise plan production further and ensure that newly produced plans are not undermined, the intention is to remove the requirement for authorities to maintain a rolling five-year supply of deliverable land for housing, where their plan is up to date, i.e., adopted within the past five years. This will curb perceived 'speculative development' and 'planning by appeal', so long as plans are kept up to date.
- 3.12 There will be clear timetables for Local Plan production – with the expectation that they are produced within 30 months and updated at least every five years. During this period, there will be a requirement for two rounds of community engagement before plans are submitted for independent examination.

#### Infrastructure Levy:

- 3.13 The government wants to make sure that more of the money accrued by landowners and developers goes towards funding local infrastructure – affordable housing, schools, GP surgeries, and roads – that new development creates the need for. To do this, the Bill will replace the current system of developer contributions with a simple, mandatory, and locally determined Infrastructure Levy to replace the current Community Infrastructure Levy (CIL).
- 3.14 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 as with CIL.
- 3.15 This will allow developers to price in the value of contributions into the value of the land, allow liabilities to respond to market conditions and removes the need for obligations to be renegotiated if the gross development value is lower than expected; while allowing local authorities to share in the uplift if gross development values are higher than anticipated. The government is committed to the Levy securing at least as much affordable housing as developer contributions do now. Local Authorities will prepare infrastructure delivery strategies to set out a strategy for spending Levy proceeds.

#### Design, Heritage and the Environment:

- 3.16 So that locally informed and clear design standards are in place in all parts of the country, the Bill will require every local planning authority to produce a design code for its area. These codes will have full weight in making decisions on development, either through forming part of local plans or being prepared as a supplementary plan. Heritage protection will be increased through strengthened enforcement powers.

- 3.17 There will be a requirement to prepare ‘Environmental Outcome Reports’ for significant plans and projects. These will replace the existing EU-generated systems of Strategic Environmental Assessment (including Sustainability Appraisals) and Environmental Impact Assessment and introduce a clearer and simpler process where relevant plans and projects (including Nationally Significant Infrastructure Projects) are assessed against tangible environmental outcomes set by the government.
- 3.18 The government will also consult on a number of changes to the National Planning Policy Framework (NPPF) to improve environmental outcomes and protect our historic environment. This will include changes to make sure that the Environment Act’s reforms are embedded fully in plan-making and decisions, in particular the new duty to secure biodiversity net gain in association with development, and the preparation of Local Nature Recovery Strategies. The government also proposes to make sure that national policies support planning’s role in mitigating and adapting to climate change, and that they address the commitments in the British Energy Security Strategy (published April 2022 - <https://www.gov.uk/government/publications/british-energy-security-strategy/british-energy-security-strategy>). Existing Green Belt protections will remain, and the government will pursue options to “make the Green Belt even greener”.
- 3.19 Local Plans will also be required to contribute to the mitigation of, and adaption to, climate change.
- 3.20 The Bill also introduces a new statutory duty for local authorities to maintain an historic environment record for their area. A historic environment record is a system for storing and making available to the public information about various heritage and archaeological assets in the local area, which would include the local list. The Bill will also remove the compensation liability in relation to serving a Building Preservation Notice.

#### Regeneration:

- 3.21 The Bill proposes a number of measures to support land assembly and regeneration. It will make important changes to compulsory purchase powers to give local authorities clearer and more effective powers to assemble sites for regeneration and make better use of brownfield land. The Bill measures will speed up the delivery of projects where compulsory purchase is needed and clarify local authorities’ powers for using compulsory purchase, including providing for the ability for compulsory purchase orders to be conditionally confirmed, allowing for an expiry period of more than three years and increasing the flexibility on the date an acquiring authority becomes the legal owner of land.
- 3.22 To support high street and town centre regeneration, the Bill will make permanent existing temporary measures on pavement licensing. These measures streamline and make cheaper the process of applying for a license to put furniture on the highway. The Bill will also give local authorities an important new power to instigate high street rental auctions of selected vacant commercial properties in town centres and on high streets which have been vacant for more than one year. There will be a two-month notice period during which landlords can evidence a signed lease, and if none is presented, an authority will be able to serve a final rental auction notice, triggering a two-month auction period for bidders to come forward.

#### Market Reform:

- 3.23 The Bill will increase the transparency of contractual and other arrangements used to exercise control over land. The Government will have the power to collect and publish data on these arrangements to expose anti-competitive behaviour by developers and help local communities to better understand the likely path of development. The Government will also have the power

to collect additional real-time ownership, funding and transaction data, enabling a fuller understanding of who owns and controls land and property.

3.24 The Bill will also introduce new commencement notices which will be required when a scheme with planning permission starts on site, addressing perceptions of 'land banking' and slow build out by larger developers. In addition, by removing the requirement to seek Secretary of State confirmation before they can take effect, the Bill will also give more control to authorities to issue completion notices to developers to complete their project. It will also allow councils to apply a council tax premium of up to 100% on homes which have been empty for longer than one year (rather than two years as currently).

#### Digitisation:

3.25 The Bill includes a number of measures which will allow a transformation in the use of high-quality data and modern, digital services across the planning process, including powers to set common data standards and software requirements. It also provides for several technical changes to the processes of planning, to make them work more efficiently and effectively, whilst reducing the administrative burdens felt by local authorities, statutory consultees and other users of the system.

3.26 The government will continue to progress a wider digital delivery programme, including improvements to planning data and developing modern, data-driven planning software, so that handling and providing information on planning applications is faster and more efficient. The government are also working with the PropTech sector to develop tools so communities can engage with planning services through digital means alongside traditional forms of engagement.

#### Enforcement:

3.27 The Bill also includes a number of proposed improvements to planning enforcement, including:

- Extending the period for taking enforcement action to ten years in all cases;
- 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 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;
- 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);

#### Fees and resourcing:

3.28 To improve capacity in the local planning system, the government intend to increase planning fees for major and minor applications by 35% and 25% respectively, subject to consultation. However, they state that increasing fees must lead to a better service for applicants. To further boost performance and service quality in local planning authorities alongside this, the government will expand the existing planning performance framework to measure performance across a broader range of quantitative and qualitative measures. They will also support local authorities to build the skills they need, initially by working with sector experts to develop a planning skills strategy for local planning authorities.

#### Next steps and timeline:

3.29 Consultation will take place on how a number of important provisions could be taken forward. These include (but are not limited to):

- Technical consultations on the detail of the Infrastructure Levy and changes to compulsory purchase compensation.
- Proposals for changes to planning fees.
- A consultation on the new system of Environmental Outcomes Reports which will ensure a user-centred approach to the development of the core elements of the new system, such as the framing of environmental outcomes as well as the detailed operation of the new system.
- The vision for the new National Planning Policy Framework (NPPF), detailing what a new Framework could look like, and indicating, in broad terms, the types of National Development Management Policy (NDMP) that could accompany it. It is intended to also use this document to set out the government’s position on planning for housing, and seek views on this, as well as consulting on delivering the planning commitments set out in the British Energy Security Strategy.
- The proposed suite of NDMPs, as well as the revised NPPF.

3.30 In broad terms changes to planning procedures will begin to take place from 2024, once the Bill has Royal Assent and associated regulations and changes to national policy are in place. The government state that they recognise the importance of minimising disruption whilst transitioning to the new system, so that plans can and do continue to come forward in the meantime. They have committed to working with the planning sector to agree the details of this transition, beginning engagement following the publication of the Bill with more details to follow soon. However, the current situation in government could well lead to delays in the implementation of the Bill.

#### 4. FINANCIAL IMPLICATIONS

4.1 The total net budgeted cost in 2022/23 for delivery all planning services is £3.6m, including recharges and the cost of support services.

4.2 The scope of the reforms and changes set out in this paper are wide ranging and have potential significant financial implications for the Council. While there are proposals which could lead to increased costs to the Council, including the aspiration to boost capacity and service quality in the local planning system, the Government have also set out increases in major and minor application planning fees of 35% and 25%, respectively. The total budgeted income from these fees is currently £1.47m and this level of increase could generate additional income of c£0.4m. However, an enhanced planning performance framework would also be introduced alongside.

4.3 The full financial implications cannot be assessed at this early stage and will need assessment and further consideration when further details become available.

<b>Non-Applicable Headings:</b>	<b>IMPACT ON VULNERABLE ADULTS AND CHILDREN</b> <b>TRANSFORMATION/POLICY IMPLICATIONS</b> <b>PERSONNEL/LEGAL/PROCUREMENT/</b> <b>PROPERTY/CARBON REDUCTION/SOCIAL VALUE</b> <b>IMPLICATIONS</b> <b>CUSTOMER IMPACT</b> <b>WARD COUNCILLOR VIEWS</b>
Background Documents: (Access via Contact Officer)	<a href="https://bills.parliament.uk/bills/3155">https://bills.parliament.uk/bills/3155</a>



	<a href="https://www.gov.uk/government/publications/levelling-up-and-regeneration-further-information/levelling-up-and-regeneration-further-information">https://www.gov.uk/government/publications/levelling-up-and-regeneration-further-information/levelling-up-and-regeneration-further-information</a>
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