

# Levelling Up and Regeneration Bill

## Lords Second Reading Briefing

Scheduled for debate on 17<sup>th</sup> January 2023

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The Royal Town Planning Institute (RTPI) champions the power of planning to create sustainable, prosperous places and vibrant communities. As a professional body, we have over 27,000 members across the public and private sector and are responsible for setting formal standards for planning practice and education. As a learned society, we use our expertise and research to bring evidence and thought leadership to shape planning policies and thinking.

### Summary

Planners turn public and private investment into projects that deliver homes, jobs and services. It is an important foundation for community life, pride of place and voter confidence in our political system. Used to their full potential, planning services help the public to make and implement informed spatial choices.

However, **this Bill (and the regulatory documents supporting it) proposes fundamental changes to England's planning system that the RTPI argue should be amended to:**

#### Give communities a greater say through plan-making by:

1. Requiring minimum standards of public and parliamentary scrutiny over new National Development Management Policies;
2. Incentivise greater devolved accountability for planning by allowing some planning freedoms to innovate beyond National Development Management Policies;
3. Strengthen Spatial Development Strategy mechanisms, allowing all tiers of local government to align public services and share in the responsibilities for strategic planning;

#### Improve England's planning services

4. Reinstate permission for planning committees to meet virtually, furthering digital transformation in planning as during the pandemic;
5. Improve public confidence and standards of planning by requiring Chief Planning Officers within councils;

#### Drive local levelling up and environmental outcomes for communities:

6. Simplify the Infrastructure Levy framework to lower the costs of introduction and deter legal challengers;
7. Better align Environmental Outcomes Assessments with levelling up by requiring climate and health considerations.

### Giving communities a greater say through plan-making

**The Bill would give statutory weight to a new single list of national development management policies (NDMPs) that applies to all of England.** The suggested scope of the centralised NDMPs includes policies "already provided within the National Planning Policy Framework (NPPF)", new additions "to reflect national

policies” following the Bill’s passage and “selective new additions to close ‘gaps’ where existing national policy is silent”.

**The RTPI welcome proposals to strengthen plan-making and public participation in planning but we are concerned the Bill could undermine Government’s stated aim by reducing the public’s influence over planning decisions.** NDMPs, determined by the Secretary of State, could help to make local plans more accessible and easier to produce but sufficient safeguards are needed, otherwise councils may be expected to implement policies that were not designed with their area’s needs in mind.

**Proposals to change how policy is set are particularly important where areas have taken on devolved planning powers** – as in Greater Manchester, etc... – which could be prevented from taking innovative policy approaches by future NDMPs. Strategic planning in devolved areas may also be limited by their exclusion from Spatial Development Strategies, where the majority of devolution deals have not included duties to produce SDS. As currently written, the Bill undermines the potential economic and environmental benefits of regional-level cooperation think tanks including [Onward](#) and the [Institute for Government](#) identified are key opportunities for economic growth and embedding devolution.

The RTPI encourages peers to improve this legislation by:

### **Introducing powers to scrutinise National Development Management Policies**

**Support amendments to Clause 87 to insert a process for the Secretary of State to designate and review a national development management policy including minimum public consultation requirements and a process of parliamentary scrutiny based on processes set out in the Planning Act 2008 (as amended) for designating National Policy Statements.**

Local authorities are rightly required to consult on such policies when preparing local plans today. In future it is right that Secretaries of State be held to account by the public and parliament in a similar way. As with National Policy Statements, the RTPI ask that parliament be required to scrutinise NDMPs and that the public be allowed to consult on proposed changes to them.

The RTPI do not oppose the primacy given to NDMPs by the Bill in principle. But the unprecedented level of central control for planning they introduce means safeguards are needed to maintain local consent.

### **Incentivise devolved accountability with planning freedoms**

**Support amendments to Clause 86 to place limits on the primacy of national development management policies where a CCA has been handed planning, highways, environmental powers and at least one function of another public body under a devolution deal, in areas covered by a joint spatial development strategy and in Greater London.**

The Bill would introduce a single NDMP that applies in the same way across very different parts of England. Without a clear definition of their scope or limits, planning policy in areas with devolved responsibility like London could be challenged. This would diminish, rather than expand, devolution.

London has shown that development management policies can be an effective tool to stimulate growth, meet resident’s needs and pursue strategic energy, transport and housing priorities. These policies also allow communities to innovate and experiment with planning policy to find what works for them. For example, LB Croydon previously introduced an award-winning S.P.D to permit densification within defined limits on character, site layout and public amenities to meet the area’s housing needs.

NDMPs applied without flexibility or exemptions could undermine devo deal negotiations, excluding the public and local leaders from meaningful planning policy decisions. For this reason, the RTPI believe councils who pursue devolution should be rewarded with the ability to retain alternative development management policies.

## Strengthen requirements and access to new ‘Spatial Development Strategies’

**Support amendments to Schedule 7 allowing all tiers of local government covering a geographical area to participate in spatial development strategies (SDS), joining up the provision of homes and other local assets with the infrastructure and services needed to support them.**

The Bill would currently prevent County Councils from taking on formal responsibilities to prepare a Spatial Development Strategy covering their areas. As a result key public services like transport, waste and mineral management, flood risk prevention, public health and local nature recovery strategies are less likely to align well with housing and other types of local development.

The majority of Combined Authorities would also be excluded from preparing SDS in the Bill and by recent devolution deals in the North East, York and North Yorkshire, West Yorkshire, Cornwall and the East Midlands omitted duties to engage in strategic plan-making.

Without the ‘duty to cooperate’ or further detail on the alignment tests proposed in recent policy documents, SDS are the only remaining mechanism that local planning authorities can use to make spatial choices and take democratic decisions about allocations and assets across jurisdictions.

More can be done outside of London to incentivise development by supporting local areas to align plans for homes with new infrastructure (incl transport improvements) and public services that meet communities needs. That is why the RTPI support changes to strengthen this mechanism and believe it should be a core provision in all devolution deals.

## Improving England’s planning services

The RTPI welcome many provisions in the Bill to introduce and improve how planning services are delivered by councils. These include improvements to the enforcement of planning decisions, data transparency, compulsory purchase and digital transformation.

**However, new burdens are a perpetual concern for our members and for councils and are likely to inhibit take-up of new powers introduced by the Bill. We are also concerned that councils may be expected to absorb the costs of transition to a new system and producing ‘new style’ local plans (approx £600m)**

Planning services are already stretched because public sector spending on planning has already fallen by 43% since 2009. [RTPI research](#) has shown the ‘knock on’ effects that limited capacity has already had on the staffing and skills of local planning authorities. We understand that planning performance has also been impacted with less than half (49%) of planning applications decided within statutory time limits in 2021 – continuing a downwards trend since 2010 – and nearly 90% of planners reporting that their councils have an enforcement backlog.

To assist with these pressures we have proposed two simple, low-cost ways the RTPI believe that public engagement with planning services and recognition of their value should be improved by the Bill:

### Reinstate remote planning committees

**Support new clauses to enable planning committees to meet virtually.**

88% of RTPI members said remote meeting arrangements

The RTPI encourage peers to support the improvements outlined. To arrange a briefing please contact, Senior Public Affairs Officer, Joel Cohen: [joel.cohen@rtpi.org.uk](mailto:joel.cohen@rtpi.org.uk)

During the pandemic, the RTPI noted that remote meetings increased opportunities for planning committees to hear from a more diverse group of participants and views because they were more accessible for the public. If reinstated (with sufficient digital inclusion safeguards) we expect they would enable a more diverse range of people to perform the responsibilities of local councillors and influence planning decisions that affect them.

The Bill supports the digital transformation of planning services with regard to data collection and software use but stops short of reinstating permission for planning committees to meet virtually or remotely.

DLUHC has not yet responded to its 'Local authority remote meetings' consultation (closed in June 2021) but [a High Court ruling in 2021](#) confirmed the sunset of Coronavirus Act (S78) and that primary legislation is required to continue them permanently. The RTPI believe this opportunity to encourage public participation in planning shouldn't be missed.

worked “well” or “very well” during the pandemic. 90% would support continuing to hold at least some meetings remotely.

[RTPI Virtual meetings survey, 2021](#)

## Introduce statutory Chief Planning Officers

**Support new clauses to place a duty on local planning authorities to appoint a Chief Planning Officer to perform planning functions and require them to appoint sufficiently qualified persons to perform them with regard to guidance from the Secretary of State.**

The public and other agencies need confidence that qualified professionals working to the highest standards can be relied on act in the public interest. However, there is currently no prerequisite for public sector planning officials to hold any formal qualifications.

Scotland legislated to make sure there is a chief planner in every local authority in 2019 and chief placemakers were also recommended by the Building Better, Building Beautiful Commission's final report.

The RTPI suggest that outcomes would improve because of qualified planners' specialist expertise in creating places, skills to navigate political challenges and experience encouraging building partnerships across the public and private sector.

Only 23% of councils had a head of planning that reported directly to the Chief Executive

[RTPI's Chief Planning Officers Report, 2019](#)

## Driving local levelling up and environmental outcomes for communities

The RTPI support the aims of the Levelling Up White Paper, to spread opportunity more equally across the country. Our members regularly demonstrate that planners have a unique, strategic overview of their place: enabling residents and businesses to access public services and infrastructure that is crucial to housing, regeneration, health, transport and environmental protection and adaptation.

To maximise these opportunities, the RTPI call on peers to support other improvements to the Bill that are intended to improve the outcomes our planning system delivers for communities. These include:

### Infrastructure

The RTPI has argued that our planning system should better integrate plan-making and development with energy, transport and other infrastructure provision to make communities more connected and more sustainable. We have also warned that any new system for developer contributions must not be more complicated than the system(s) it replaces because the revenues are vital for new and existing communities to benefit from development.

The Bill introduces a framework for collecting developer contributions set at local rates - as we have recommended - instead of a single flat rate that could have lowered returns in wealthy areas and deterred developers in deprived ones.

The RTPI encourage peers to support the improvements outlined. To arrange a briefing please contact, Senior Public Affairs Officer, Joel Cohen: [joel.cohen@rtpi.org.uk](mailto:joel.cohen@rtpi.org.uk)

It is promising that Ministers have committed to introduce the new framework cautiously using a “test and learn” approach, though this measure’s impact will be limited if implementation might only be possible in the 2030s as suggested in the Commons Public Bill Committee. It is also positive that: Section 106 agreements will be retained on large sites; SME housebuilders will benefit from the removal of Section 106 negotiations from small sites; the Community Infrastructure Levy will be retained in London; and new infrastructure delivery strategies propose to connect developer contributions with the community’s needs.

Further consultation on the bill has been promised by the Department but several elements of the levy’s framework should be reconsidered during its immediate passage in parliament to stop the process becoming more complex, more bureaucratic and more dependent on difficult legal negotiation which would significantly delay development.

## Simplify the Infrastructure Levy (IL)

### **Support amendments to Schedule 11 replacing independent examination of IL charging schedules with simpler, direct negotiation between charging authorities and the Secretary of State.**

Where the Community Infrastructure Levy (CIL) has been introduced voluntarily by councils since 2008, the Bill introduces a similar, mandatory framework that many local authorities had previously felt would be unsuitable or unaffordable in their area. The RTPI await further detail to explain how IL regulations would improve on CIL’s approach and deliver its intended aim of delivering both economic viability and sufficient levels of affordable and social housing.

We understand the process of introducing and examining charging authority’s levy rates can be prohibitively expensive outside of London and the South East (where returns and land values are higher) under CIL. A significant contributor to this expense is the cost – met by councils - of independently examining proposed charging schedules (e.g. by the Planning Inspectorate).

Given the Secretary of State’s powers to intervene if the examination outcomes are unsuitable, this unnecessary step should be replaced by alternative mechanisms that set levy rates in direct negotiation between central and local government. Central adjudication may also deter lengthy and costly legal challenges to charging schedules as we’ve seen under S106 negotiations.

## Environmental and health outcomes

Planning plays a crucial role in the transition to a zero-carbon society, engaging communities and enabling environmentally friendly choices in everything from energy to transport. The RTPI has consistently argued that our planning system must provide a suitable framework to meet the UK’s climate and environmental commitments and the right mechanisms to check we are meeting net zero targets. The RTPI have supported the introduction of appropriate climate duties in the planning system and will continue to do so.

We also advocate for the built environment’s contribution to a healthy life expectancy. For example, the Quality of Life Foundation have suggested that poor-quality housing increases your risk of severe ill health by 25%, the estimated cost of poor housing to the NHS in England is £1.4bn per year and green spaces in Great Britain provide £16.5 billion in environmental, health and amenity value per year.

The replacement of EU-derived environmental assessments for plans and projects offers important opportunities for the UK to improve on the continent’s sometimes cumbersome approach. Ministers should fulfil their commitments for the new assessment regime to review alternative courses of action (so that the public can make informed spatial choices) and maintain current standards of public consultation. Opportunities must not be missed to:

## Better align Environmental Outcomes Reports with the Levelling Up Missions

### **Support amendments to Clause 138 to assess plans and projects against our climate change obligations and public health objectives critical to levelling up**

Environmental protections are defined in the Bill to include outcomes like cultural heritage and landscape but fail to account for climate outcomes (like those identified in the Environment Act) and improving human health. Both are consistent with modern definitions of sustainable development (e.g. as in the Brundtland definition) and would allow the public more and better information about how development will deliver against their community’s priorities.

The RTPI believe explicit reference in primary legislation will give the public and councils assurances of this Government’s commitment to a non-regression of environmental standards.

The RTPI encourage peers to support the improvements outlined. To arrange a briefing please contact, Senior Public Affairs Officer, Joel Cohen: [joel.cohen@rtpi.org.uk](mailto:joel.cohen@rtpi.org.uk)