

Planning and Transportation Working Group Meeting	
Meeting Date	6 th July 2022
Report Title	Report on the Levelling Up and Regeneration Bill
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Classification	Open
Recommendations	1. To note the report.

1 Purpose of Report and Executive Summary

- 1.1 This report provides a brief summary of the proposed measures in the Levelling Up and Regeneration Bill that will impact on how Swale Borough Council carries out its planning duties. There are measures that impact on the development management functions of the authority and on the way in which the local plan preparation process may change. Enforcement is also part of the consideration within the Bill. This Bill largely replaces the proposals to amend the planning system that were incorporated into the Planning Bill which has now been abandoned and only some of the proposals remain in the Levelling Up and Regeneration Bill. Members of the Working Group are asked to note the information contained in this report.

2 Background

- 2.1 The Levelling Up and Regeneration Bill (LURB) was published on 11 May 2022 and has already reached the Second Reading Stage in the Houses of Parliament. The aim of the Bill is to drive local growth, empower local leaders to regenerate their areas and ensure that everyone can share in the UK's success. The Bill also introduces a number of reforms to the planning system to, in the main replace those reforms which were proposed as part of the Planning Bill which has now been abandoned.

3. Proposals

- 3.1 The main reforms to the planning system relate to the replacement of the duty to cooperate, the introduction of a new Infrastructure Levy which will also fund affordable housing, the introduction of a re-engineered Neighbourhood Plans

system, the potential introduction of a 'Street Votes' system, the introduction of national development management policies, the need for areas to have a design code in place for the whole borough, reforms to the enforcement system, increased protection for heritage assets, changes to the Compulsory Purchase Order process, the repeal of the Duty to Cooperate and its replacement with an 'Alignment Test' and the replacement of the Environmental Impact Assessment and Strategic Environmental Assessment with a system of Environmental Outcomes Reports.

Infrastructure Levy

The introduction of the Infrastructure Levy is set to replace the current system of developer contributions which includes both Section 106 and the Community Infrastructure Levy. The focus of the new Infrastructure Levy is towards capturing the uplift in land value caused by granting planning permission. The Levy will be charged on the value of property when it is sold and will be applied above a minimum threshold. The rate will be set as a percentage of gross development value rather than based on floorspace as at present. Levy rates and the minimum threshold will be set locally, and the Council will be able to set a differential rate across the Borough. Unlike Community Infrastructure Levy the new Infrastructure Levy will fund affordable housing. It will also look to fund facilities and spaces that preserve or improve the natural environment and for the mitigation and adaptation to climate change. It will be mandatory for councils to charge the levy and Swale should expect to be the charging authority. There will be transitional arrangements to cover the change from S106 and CIL to the new levy although the details are not yet clear. S106 may be retained in a revised format to support the delivery of larger sites.

The Authority will need to produce a charging schedule which will set out the Authority's area Infrastructure Levy rates and other criteria which will be used to determine the amount of Levy that will be payable. The charging schedule will be consulted on and independently examined. It is also likely that the definition of what comprises development will be expanded to cover material changes of use to an existing building or part thereof so that the Levy can be charged on permitted development. Charities may be exempt from the need to pay the Levy.

Plan led system

The Duty to Cooperate will be repealed and replaced with a more flexible alignment test although there is no information on how this will work. Supplementary Planning Documents are to be replaced by Supplementary Plans. They will be independently examined and there is to limits on the scope of such documents and they are likely to carry more weight than SPDs.

It is not clear if the need to produce a Local Development Scheme will still exist and plans will be required to be produced within a statutory 30 month period. Soundness will remain a test. There is currently no information about any transitional arrangements.

The Bill includes an incentive for Local Authorities to continue to produce a local plan in a timely manner. The Bill is intending to remove the need for a five year supply of deliverable land for housing where a plan is up to date, ie adopted within the previous 5 years. This will require changes to the National Planning Policy Framework which will be consulted on.

Neighbourhood Plans

The Bill will introduce new details about what can be included in a Neighbourhood Plan. The Bill will also introduce a Neighbourhood Priority Statement in areas where the take up of Neighbourhood Plans is low. Such a statement will allow communities to identify their key priorities for their local area including their development preferences and is intended to provide a simpler and more accessible way for them to participate in neighbourhood planning.

Street Votes are a concept that aims to give residents more involvement in local development and the power to set their own development rules. Under the plans street votes to be known as street referendums, 20% of residents or 10 homeowners whichever is the higher, could ask their local council to hold a would have to vote in favour of the street vote and then the policy could be used to set parameters for development in the street.

Development Management Policies

Development management policies will in the main be contained in national guidance and legislation and will largely be removed from Local Plans. Legislation will be introduced to ensure that development decisions are made in accordance with Local Plan policies and the new National Development Management Policies unless material considerations strongly indicate otherwise. If there is any conflict between the two the National Development Management Policies will have primacy.

Design Codes

Every local authority will need to produce design requirements that will need to be met for planning permission to be granted. This can either be part of the Local Plan or in a new supplementary plan document. The whole areas level of design will not need to cover every aspect of design or very description of development .The Secretary of State will be able to direct a local planning authority to prepare, adopt or revised their local plan or supplementary plans to include the required area wide design element. Design codes will have full weight in planning decisions, and they

are expected to be in place once the necessary changes to policy, guidance and legislation have been made.

The National Model Design Code (NMDC) will be expected to sit behind local versions of design codes. The Office for Place will have a role in helping Local Planning Authorities and communities to deliver design codes

Enforcement Reforms

The Bill proposes that LPA enforcement powers are enhanced in respect of Listed Buildings. Additionally, there will be a single time limit take enforcement action of 10 years instead of the two limits of 4 and 10 years at present. A new Enforcement Warning Notice will be introduced to enable the Council to service an enforcement notice requiring the submission of a retrospective planning application within a specified period. Fines are to be increased where there is a failure to comply with a Breach of Condition Notice or a S215 Notice.

Fees for retrospective applications will be double the normal fee and Stop Notices will be increased to 56 days from 28 days at present. Applicants will also only be allowed one opportunity to obtain planning permission retrospectively instead of the current situation where there is no limit.

Environmental Outcomes

The Bill proposes a system of Environmental Outcome Reports (EORs) to replace the need for Strategic Environmental Assessments, Sustainability Appraisals and Environmental Impact Assessments the requirements for which all have their origins in European Law. The new system of EORs is intended to not reduce the protection afford to the environment and in particular to designated landscapes such as Green Belt, AONBs and high-risk flooding areas.

4.0 Alternative Options

4.1 This report is for noting. There are no alternative proposals.

5 Consultation Undertaken or Proposed

5.1 The Levelling Up and Regeneration Bill will be the subject of further public consultation as it proceeds through the various parliamentary processes towards

Royal Assent and becoming a Statute (Law). The Council is recommending to engage in this consultation process to ensure that its views are made known

6 Implications

As this is a report for noting and information and given the stage at which the Bill is at in the Parliamentary process it is not possible to predict with any certainty what the implications will be. It is however possible to say that the Planning System will be undergoing significant reforms which will have implications for how we produce our Local Plan and how we make planning decisions as a Council.

Issue	Implications
Corporate Plan	The anticipated changes to the planning system are aligned with the Councils declared ambitions involving the declaration of both a climate and ecological emergency.
Financial, Resource and Property	It is not possible to tell at this early stage what the financial, resource and property implications of the proposals currently contained in the Bill will have. This will be kept under constant review.
Legal, Statutory and Procurement	This report outlines some of the potential changes that may be made to the legislative framework within which the planning function of the Council operates.
Crime and Disorder	It is not possible to tell at this stage what the implications will be for Crime and Disorder but with an increased emphasis on design this should lessen the opportunity for Crime to occur.
Environment and Climate/Ecological Emergency	It is quite clear that there is the potential for some significant environmental implications arising from the proposals of the Bill. As the Bill progresses through the parliamentary stages these implications will become more apparent.
Health and Wellbeing	It is not possible to tell at this early stage what the health and wellbeing implications of the proposals currently contained in the Bill will have. This will be kept under constant review.
Safeguarding of Children, Young People and Vulnerable Adults	It is not possible to tell at this early stage what the safeguarding of children, young people and vulnerable adults implications of the proposals currently contained in the Bill will have. This will be kept under constant review.
Risk Management and Health and Safety	There are no risks associated with this report as this stage in the Bill's progress
Equality and Diversity	This is a report for information only at this stage. It is too early in the Bill's progress to identify any implications for equality and diversity. This will be kept under constant review as the Bill progresses through the parliamentary processes.

Privacy and Data Protection	There are currently no implications of this report for Privacy and Data protection measures.
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7 Appendices

7.1 There are no appendices

8 Background Papers

8.1 The Levelling Up and Regeneration Bill can be found [here](#).