

23 June 2022

## Planning Reform

### Purpose of report

For information.

### Summary

The Department for Levelling Up, Housing and Communities (DLUHC) has recently set out the direction of travel for planning reforms – some of which will be delivered through the Levelling Up and Regeneration Bill and the rest through secondary legislation or policy change.

This report summarises the housing and planning proposals of most relevance and significance to local government. It also provides the LGA's initial reaction to the proposals along with our key policy asks.

Simon Gallagher, the Director for Planning at DLUHC has been invited to talk with members about the current direction of travel of the planning reforms.

Is this report confidential? Yes  No

### Recommendations:

This item is for update and comment. Board members are asked to feedback on any key issues that need to be addressed as the Government takes forward the planning reforms proposed in and alongside the Levelling Up and Regeneration Bill.

### Actions:

As directed by the Board

**Contact officer:** Calum Davidson  
**Position:** Policy Adviser – Housing and Planning  
**Phone no:** 07385950496  
**Email:** calum.davidson@local.gov.uk

23 June 2022

## Planning Reforms

1. In May 2022, the Department for Levelling Up, Housing and Communities (DLUHC) introduced planning reforms via the Queen's Speech, in and alongside a new [Levelling Up and Regeneration Bill](#). The reforms which are outlined in [DLUHC's policy paper](#) will be introduced through primary and secondary legislation, and through non-legislative measures.
2. Our initial response to the Levelling Up and Regeneration Bill can be found [here](#). In particular, we welcomed the power to bring vacant properties back into use through the high street rental auction, however, we also emphasised the need to remove permitted development rights which prevents councils from reimagining high streets and town centres. The ability to set the Infrastructure Levy at local level was also welcomed. We published a briefing on the [Second Reading](#) of the Bill, which took place in June 2022. We will continue to brief parliamentarians as the Bill progresses through parliament. Councillor David Renard had the opportunity in September, alongside the LGA Chairman, Councillor James Jamieson, to brief over 20 MPs and peers at a parliamentary briefing session on housing and planning. We have also briefed MPs for parliamentary debates on [planning reform and housebuilding targets](#) and [motions related to planning](#) and submitted evidence to the Housing, Communities Local Government Committee for their [new inquiry into the future of the planning system](#). We also briefed EEHT's Lead Members on the planning reforms in May 2022.
3. The proposed reforms address a number of the concerns the LGA have raised in their [response](#) to the '[Planning for the Future](#)' White Paper and in discussions with government. In particular there is a greater focus on democratic input and community engagement; measures that intend to strengthen the weight of Local Plans and reduce speculative development as well as proposals to increase planning application fees. Most significantly the proposal for development 'zones', linked to an automatic permission, have been scrapped. These are all areas that the LGA has lobbied on.
4. There is much that we broadly welcome in the new proposals but there are still many changes and effective engagement with the sector on the detailed policy development will be vital. The accompanying skills and capacity strategy, as well as appropriate levels of funding will also be key to success.
5. A [consultation](#) was launched by DLUHC in June 2022 on compulsory purchase (compensation reforms), and we intend to submit a response.
6. We have good engagement mechanisms in place with DLUHC at both Chief Executive and senior practitioner level. We are also seeking to secure additional technical working

23 June 2022

groups on key elements of the Bill to ensure effective transition and implementation arrangements are in place.

7. The Director for Planning at DLUHC – Simon Gallagher – has agreed to attend this Board meeting on the 23 June. This will be an opportunity for Board members to directly feedback to DLUHC on the current direction of travel of the planning reforms. It will also help to reinforce the LGA’s continued ambition to work collaboratively with DLUHC to ensure that any reforms are implementable on the ground and work in the best interests of councils and communities.
8. This report summarises the housing and planning proposals of most relevance and significance to local government. It also provides the LGA’s initial reaction to the proposals along with our key policy asks.
9. The proposals are set out in this paper in a similar format that is used in [DLUHC’s policy paper](#). It includes five themes which captures legislative (in the Bill) and non-legislative measures (alongside the Bill):

#### *A genuinely plan-led system*

- 8.1 In the Bill: development plan and national development management policies; street votes; repeal of the duty to cooperate; gateway checks; and local plan commissioners.
- 8.2 Alongside the Bill: plan-making and community engagement; and removal of the requirement for a rolling five-year land supply.

#### *Delivering infrastructure*

- 8.3 In the Bill: Infrastructure Levy.
- 8.4 Alongside the bill: introducing the Levy through a ‘test and learn’ approach; and a faster build-out of developments.

#### *Creating beautiful places and improving environmental outcomes*

- 8.5 In the Bill: environmental outcome reports; design codes; and protecting the historic environment.
- 8.6 Alongside the Bill: biodiversity net gain; and active travel.

#### *Regeneration*

- 8.7 In the Bill: development corporations; high street rental auction; and compulsory purchase order.

#### *Wider improvements to planning procedures*

- 8.8 In the Bill: improving the effectiveness of planning enforcement.

23 June 2022

8.9 Alongside the Bill: planning skills strategy; and planning fees.

## **Proposed planning reforms**

### **A genuinely plan-led system**

#### **In the Bill**

##### *10. Development Plan and National Development Management Policies*

- 9.1 A new development plan system will be put in place at local level.
- 9.2 Local plans will be given more weight when making decisions on applications and there must be strong reasons to override the plan.
- 9.3 The same weight will be given to other parts of the development plan, including minerals and waste plans; supplementary local plans neighbourhood plans and spatial development strategies.
- 9.4 Policies on issues that apply in most areas (such as general heritage protection) will be set out nationally and contained in a suite of National Development Management Policies, which will have the same weight as the local development plan system.
- 9.5 Where there is a conflict with local policy, it is to be resolved in favour of the national policy.
- 9.6 The Bill will increase the accessibility of neighbourhood planning by allowing parish councils and neighbourhood forums to produce a simpler 'neighbourhood priorities statement'.

11. To deliver on our shared levelling up ambitions and ensure councils can deliver the right types of homes in the right places with appropriate infrastructure, a local, plan-led system is integral. Therefore, proposals that seek to simplify and standardise the Local Plan process and limit speculative development applications are welcome. We are pleased that further legal weight will be given to the local plan when making a determination on planning applications, which will further empower local leaders and communities to shape and take control of the area in which they live. However, these measures do not provide full legal force for a plan-led system and there continues to be a risk that a genuinely plan-made system is undermined. We would welcome further information on the circumstances when determination will not be made in favour of the Local Plan due to 'strong reasons to override the plan'.

12. We recognise that centralising policies that apply in most areas in the form of National Development Management Policies will speed up the production of plan-making at local level. However, we are concerned that setting policies at national level will leave councils unable to tailor such policies to local circumstances. Flexibility must be built into the system to enable councils to respond to local, complex and changing circumstances. We are even more concerned that a determination would be made in favour of the national policy, when there is conflict with the local development plan. This undermines a local, plan-led system and the Government's aspiration to empower local leaders and communities. We would urge the Government to reconsider this proposal and we want to

23 June 2022

work with the Government to ensure that nationally set policies are workable at local level.

13. The emphasis on neighbourhood plans within this Bill and providing a greater legal weight is encouraging. Making the neighbourhood planning process more accessible via the production of simpler 'neighbourhood priorities statement' is a welcome step. But we believe the Government can go further to enhance democratic input and ensure that more local people can have their say. The Government must consider and emphasise the complexities of community engagement. We would welcome guidance which explicitly covers how to ensure that the plan-making process can capture and reflect the views of a wider audience in local communities, beyond those that are already engaged.

*14. Street votes*

13.1 The proposed introduction of 'street vote' powers, would allow residents on a street to bring forward proposals to extend or redevelop their properties in line with their design preferences.

13.2 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.

15. It is vital that a local, plan-led planning system underpinned by community engagement remains in place. The Bill is light on detail at this stage, but we have concerns that the proposals on street votes could add another layer of complexity to the planning system. This risks undermining the ambition in the Levelling Up and Regeneration Bill to simplify and standardise the process for local plans, so that they are produced more quickly.

16. The introduction of street votes risks stifling the production and implementation of local plans, which will prevent the fast delivery of the affordable homes and the infrastructure that communities need. We want to work with the government to enhance opportunities for engagement and reach a wider audience within the process of developing local plans.

*17. Repeal of the duty to cooperate*

16.1 The 'duty to cooperate' will be repealed and replaced with a more flexible alignment test set out in national policy.

18. While we support the underlying principles set out in the duty to cooperate, we recognise that in practice it is has not been fit for purpose. It is good that the Government has gone down the route of replacing it, rather than abolishing it without a replacement. It is vital that the new flexible alignment test is a more effective mechanism for promoting constructive cooperation.

*19. Gateway checks*

18.1 The Government intends to introduce a series of 'Gateway' checks during plan production, to help spot and correct any problems at an early stage.

23 June 2022

20. We welcome the introduction of a measure that will help identify issues at an early stage of plan production. The Gateway checks must genuinely add value to local plans and must, in practice, be aligned to the Government's commitment to simplify and standardise plan-making. We would welcome further information on what the Gateway checks would entail.

*21. Local Plan Commissioners*

20.1 New Local Plan Commissioners may be deployed to support or ultimately take over plan-making if councils fail to meet their statutory duties.

20.2 The Government has stated that the aim is to increase the number of councils with up-to-date plans in place and enhance community engagement.

22. It is right that Local Plans should be kept up to date and underpinned by community engagement, as well streamlining the plan-making system to simplify the process for those involved. However, we are concerned about the proposal to deploy Local Plan Commissioners to take over plan-making in some cases. An approach that seeks to understand what the blockages are and seeks to resolve them, for example through a mutually agreed sector-led approach, will be more beneficial in the long-term than the imposition of a plan on an area. We would also welcome further information on the circumstances in which Commissioners would be deployed and their role. We would expect this measure to only be used as a last resort, when all other routes have been exhausted.

**Alongside the Bill**

*23. Plan-making and community engagement*

22.1 The regulations will be updated to set clear timetables for plan production – with the expectation that they are produced within 30 months and updated at least every five years.

22.2 During this period, there will be a requirement for two rounds of community engagement before plans are submitted for independent examination.

22.3 There will also be new guidance published on community engagement in planning, which will describe the different ways in which communities can get involved and highlight best practice, including the opportunities which digital technology offers.

24. Clearer guidance of the expectations for developing local plans will support the Government's ambition to standardise plan-making, which we welcome. We are also pleased that there will be a focus on community engagement through the publication of the new guidance and councils will have access to best practice.

25. However, we are concerned that the timetable set out will undermine the increased emphasis on community engagement as the timetable will restrict the ability of councils to undertake genuinely constructive public engagement in line with the new guidance. We would welcome a commitment by the Government to explore the resource

23 June 2022

implications on councils as a result of the new, rigid framework for local plan production and periodic review and provide sufficient new burdens funding as appropriate.

26. While it is welcome that the Government are urging communities to have more say over planning matters, the “Standard Method”, which uses a formula to identify the minimum number of homes expected to be planned for, is still used by the Government and councils are also expected to use it. For example, councils in the 20 largest cities required to plan for a 35 per cent increase over and above the number generated by the Standard Method. Algorithms and formulas can never be a substitute for local knowledge and decision-making by councils and communities who know their areas best. We would urge the Government to consider how the Standard Method is currently used and whether it fits with the Government’s messaging on involving communities in planning decisions.

*27. Removal of the requirement for a rolling five-year land supply*

26.1 The Government intends to remove the requirement for councils 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).

26.2 This change will be included in the National Planning Policy Framework, which will be consulted on.

28. We broadly welcome this announcement as it will curb speculative development and ‘planning by appeal’, as well as giving local plans more weight when making decisions on planning applications. We believe that this move will go some way in supporting the Government’s ambition to empower local leaders and communities to take control of and shape the area in which they live through a local, plan-led system.

29. However, if the Government is serious about ensuring that local plans are not undermined, then we would urge the Government to revoke permitted development rights which disenfranchises local leaders and communities by continuing to undermine a local, plan-led system.

## **Delivering infrastructure**

### **In the Bill**

*30. Infrastructure Levy*

29.1 The Infrastructure Levy will be a locally-set, mandatory charge levied on the final value of development and applied above a minimum threshold.

29.2 It will replace the existing system of the Community Infrastructure Levy (CIL) and Section 106 (S106) agreements (except on ‘larger sites’) which secures funding from developers to deliver infrastructure and on-site affordable housing.

23 June 2022

- 29.3 The rates will be set as a percentage of gross development value (GDV) rather than based on floorspace, as with CIL at present.
- 29.4 The Government intends to pilot the Levy via a 'test and learn' approach. The Bill sets out the framework for the new Levy, and the detailed design will be delivered through regulations following a consultation.
31. It is good to see that any new Infrastructure Levy will be non-negotiable and set at a local level. We will want to work with Government to ensure that it is a success and that it delivers more affordable housing and infrastructure contributions at a local authority level than the existing systems for developer contributions. It is vital that new occupants of homes and wider communities get the infrastructure they need, and that councils can access sufficient funding for this infrastructure in line with local plan ambitions.
32. We look forward to seeing more information on the Levy through the regulations. Specifically, we would welcome further information on the detail of how the new system would work including the 'Right to Require', as well as the definition of 'larger sites', 'rate setting' and the relationship between different tiers of authorities that will be in receipt of the Levy. The Government should also define 'infrastructure' in the context of the new system. With the partial abandonment of S106, we are concerned that the contributions in the current system that do not relate to the built environment such as supporting the local workforce, skills development, apprenticeships etc. will fall through the gaps when the new Levy is rolled out. We would welcome clarification on this issue.
33. We urge the government to reconsider the timing of the levy. Charging the levy at the point of the occupations helps the developers' cashflow but doesn't help local authorities ensure infrastructure first as a key pillar of place-making.
34. Under the Right to Require, in addition to tenure, size and type, councils must be able to insist that the on-site affordable homes meet recognised quality and spatial standards such as Nationally Described Space Standards (NDSS) or the Mayor of London's Housing Design Standards.
35. The Levy must be applied to all developments including minor developments and covering both infrastructure and affordable housing contributions. This includes the removal of the exemption for self and custom housebuilding – any exemptions should be set locally. This is because we are concerned that the cumulative impact of introducing an exemption will significantly reduce the funding available for much-needed infrastructure and affordable housing. Our view is that permitted development rights should be revoked because it undermines local plan-making and the quality standards of new homes, but if the Government continues with its permitted development rights policy, the Levy should be applied to a change of use scheme under permitted development rights.
36. Councils should have the power to borrow against the Levy and should not be constrained – as is currently the case with CIL – by regulations that stifle use of that power. For example, CIL regulation 60 states that borrowing is allowed on zero per cent of CIL receipts, in the absence of a direction from the Secretary of State setting a higher percentage. Such a direction has never been issued. Further, while the flexibility to borrow would be welcome, there should not be a national expectation that this will be the primary mechanism for funding the infrastructure that communities need. This is because



23 June 2022

the Levy's funding stream will fluctuate. It is unpredictable how much funding will be received and at what point and therefore borrowing comes with risk.

## **Alongside the Bill**

### *37. Introducing the Levy through a 'test and learn' approach*

35.1 This test and learn approach will be rolled out nationally over several years, allowing for careful monitoring and evaluation, in order to design the most effective system possible.

38. We welcome this approach to rolling out the Levy. The Government must provide clarification on the methodology for choosing councils to be involved. This should include a range of different councils in respect of geographical location, political set up and type of authority e.g two-tier and unitary. Without this clarification, we are concerned that the test and learn exercise will not provide an accurate reflection of the impact of the Levy on councils.

### *39. A faster build-out of developments*

37.1 The Government has committed to providing announcements in the future on how it intends to support a faster built-out of developments that have been granted planning permission but are not yet on-site.

37.2 This is not the first time this commitment has been made as the Planning for the Future White Paper committed to exploring options for faster build out.

40. It is disappointing that no tangible powers were brought forward in the Bill to enable councils to encourage developers to build-out. We know that if we are to meet the Government's ambitious housebuilding target of 300,000 new homes, it's crucial that councils work with developers to build the homes that the country needs at pace. Planning is not the barrier to housebuilding with nine in 10 applications being approved by councils since 2010. Therefore, we welcome the Government's intention to explore options to support a faster build out of schemes that have been granted planning permission.

41. However, we would urge the Government as a matter of urgency to empower councils to take decisive action on this issue by giving councils the powers and tools to incentivise developers to build out and reduce the time lag between permission being granted and homes being completed. This may include, for example the power to charge a Levy on developers that are withholding land by not building out within 12 months of planning permission being granted.

## **Creating beautiful places and improving environmental outcomes**

### **In the Bill**

#### *42. Environmental Outcome Reports*

23 June 2022

- 40.1 To underpin the principles of the [Environment Act \(2021\)](#), the Bill proposes to introduce a requirement to prepare 'Environmental Outcome Reports' when submitting new planning applications.
- 40.2 It will introduce a process where relevant plans and projects are assessed against tangible environmental outcomes set by Government.
- 40.3 The outcomes have not yet been set, but the Government has advised that in the interim the Environment Act will provide some of the framework.
- 40.4 A consultation will be launched on the details of the reports.
43. The planning system has a vital role to play in protecting and enhancing the environment. It is vital that the proposal to introduce a new approach to environmental assessment strengthens environmental protections whilst ensuring that councils can still deliver the new homes and supporting infrastructure that the country needs.
44. We want to work with the Government as the outcomes are developed and would welcome explicit confirmation that this new reporting mechanism will not result in trade-offs with building new infrastructure. It is also vital that councils are in a position to properly assess the impact of the development against the environmental outcomes framework by having access to the relevant skills and expertise. Further, we would expect the new framework to be aligned to the Government's principle of simplifying and standardising the planning system, and any additional responsibilities and resourcing requirements beyond the existing EU mandated framework, should be sufficiently covered by new burdens funding.
- 45. Design codes*
- 43.1 This includes the National Model Design Code and stronger national policy on the importance of good design.
- 43.2 The Bill will require councils to produce a design code for its area.
- 43.3 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.
46. We support the principle of local design codes, which will further empower communities to have input into the design and shape the area in which they live. To deliver this commitment, councils must have the necessary resources to upskill or hire new planning officers to undertake the transition process locally and then implement the new planning regime alongside developing a new design guide. According to Public Practice, to upskill and produce and deliver local Design Codes at scale [local planning authorities will need forward-funding](#). They also estimated that adopting a Design Code for an area of approximately 1000 homes will cost [£139,000](#).
47. But if the Government is serious about enhancing community engagement, there must be a greater and more explicit focus on the ability of councils to capture and reflect the views of communities in broad terms, rather than a minority in the community. Further, permitted development rights undermines the key principles of the design code policy: a democratically-led planning system that is shaped by communities and implementing the highest quality, design and safety standards in schemes. To support the design code

23 June 2022

policy to deliver its intended outcomes, we urge the Government to revoke permitted development rights.

#### *48. Protecting the historic environment*

46.1 The Bill will seek to strengthen the critical role the planning system plays in protecting the historic environment.

46.2 The Bill will give important categories of designated heritage assets the same statutory protection in the planning system as listed buildings and conservation areas.

46.3 The Bill will also put Historic Environment Records on a statutory basis, placing a new duty on councils to maintain one for their area.

49. Local government, as custodians of a significant percentage of the UK's historic buildings, monuments, parks and open spaces, have long recognised their value and importance in helping create vibrant, healthy communities; and in creating attractive destinations for domestic and international visitors. They also play an important role in the regeneration of our town centres and high streets, which councils across the country are leading on.

50. However, most heritage assets are not under public ownership. While the majority are well cared for, there are also a significant number that are experiencing degradation of the fabric due to the inability or unwillingness of current owners to invest in them. The proposals for new and simplified enforcement powers will help councils to take action to protect these key historic buildings and, working with communities, bring them back into good condition and sustainable use.

51. We welcome the extension of planning protections to cover historic environments like registered parks and battlefields and World Heritage Sites. However, archaeological sites must also receive protection, most of which are undesignated and managed through the planning process. Placing Historic Environment Records (HER) on a statutory footing will make a contribution towards this, and has been a long-standing ask of the LGA, but will be insufficient on their own without a resourced local authority service to maintain the HER and advise on impacts on the historic environment. These will need to be covered by new burdens funding.

52. We also welcome the commitment to providing legal status to the provisions with the current NPPF that underpin the impact of development on heritage, the commitment to increase planning fees and the general commitment to the current local authority led heritage protection system. However we note the proposals to replace Environmental Impact Assessments/Reports with 'Environmental Outcomes Reports', the promise to speed up local plans and the Nationally Significant Infrastructure Project process, the removal of Local Planning Authority oversight over Crown Land applications and the prospect of local development corporations, as possible areas where, if inappropriately designed, could weaken the role of democratically elected local authorities to manage change to the historic environment for their residents and businesses.

### **Alongside the Bill**

23 June 2022

*53. Biodiversity Net Gain*

51.1 The Government confirmed that BNG will be implemented through the planning system from late 2023 onwards.

51.2 One of the proposed changes in the revised National Planning Policy Framework will be the new duty in the Environment Act (2021) to secure BNG in association with development.

54. We support the principle of BNG and the broader ambitions of the 25 Year Environment Plan to be the first generation to leave our natural environment in a better state than we found it.

55. Our concerns relate to the practicality of implementing BNG and we would welcome further information on the issue of resourcing and supporting councils to access ecological expertise. The [announcement of £4 million](#) to support councils prepare for the go live date is welcome and this money is now with councils. We need clarity on new burdens funding, and we stand ready to work with the Department for Environment, Food and Rural Affairs (Defra) to ensure that the resource implications are fully understood. Following this, an effective package of capacity building support must be put place.

56. Given the short period of time to prepare for implementation, to support readiness, councils must have access to standard documents, advice and support that will allow them to develop policies that are clear to developers and avoid limited resources being diverted into legal challenges and appeals.

*57. Active Travel England*

55.1 Active Travel England – the government’s new adviser on sustainable transport – will also become a statutory consultee for key planning applications.

58. We would expect Active Travel England to have a proportionate response when undertaking its role as a statutory consultee, reflecting local circumstances, priorities and resources.

## **Regeneration**

### **In the Bill**

*59. Development Corporations*

57.1 This Bill will make provision for a new type of locally-led Urban Development Corporation, with the objective of regenerating its area and accountable to local authorities in the area rather than the Secretary of State.

57.2 The planning powers available to corporations will be updated so that they can become local planning authorities for the purpose of local plan-making, neighbourhood planning and development management.

23 June 2022

57.3 The Bill will amend the process for establishing locally-led New Town Development Corporations, remove the cap on the number of board members and remove the aggregate borrowing cap, subject to agreeing borrowing limits with HM Treasury on a case-by-case basis.

60. We support the principle of councils being able to set up locally-led urban development corporations for the purpose of supporting regeneration projects and also the principle of being directly accountable to councils, rather than the Secretary of State. It is good that the cap on the number of board members and remove the aggregate borrowing cap are to be removed. We have long been calling for the removal of the borrowing cap, which limits the scope of Development Corporations, creates uncertainty about investment beyond the cap and affects the delivery of Local Plans.

61. We would also welcome powers to enable the creation of zero carbon and nature-rich places; the power to use a CPO; and ensure there is clear guidance and policy support in place for councils looking to establish successful Development Corporations.

*62. High Street Rental Auction*

60.1 The Government will give councils a new power to instigate high street rental auctions of vacant commercial properties in town centres and on high streets which have been vacant for more than one year.

60.2 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.

63. Additional powers to deal with empty premises are broadly welcome. We would welcome further information on how the Government intends for this new power to be implemented by councils. We believe that there are lessons to be learnt on its implementation from the current CPO system. If the process is cumbersome and the power is expensive to use, there will be less instances of councils using High Street Rental Auctions in circumstances that warrant its use and the ability of councils to negotiate with landlords will be diminished. Therefore, we would expect this power to be simple, inexpensive and effective to use if required. However, if the Government is serious about empowering councils, they will revoke permitted development rights, which negatively impacts the ability of councils to shape their local areas and reimagine their high streets and town centres.

*64. Compulsory Purchase Order*

62.1 The Bill amends and clarifies the powers and procedures for using compulsory purchase.

62.2 The aim of the measure is to make it clear that local authorities can use this power to compulsorily purchase land for regeneration purposes, as well as improving the efficiency of the CPO process.

62.3 The Government intends to introduce a measure that reforms land compensation by ensuring that 'fair compensation' is paid for the value attributable to prospective planning permission ('hope value').

23 June 2022

- 62.4 The relevant planning assumptions in the Land Compensation Act 1961 will be made more realistic.
- 62.5 These changes will make the valuation of land in this context closer to a normal market transaction.
- 62.6 A consultation was launched on this measure on Monday 6 June.
65. The introduction of measures that will genuinely make the CPO process more efficient for councils is an encouraging step, as we have previously lobbied on the need to reduce the time taken to use a CPO.
66. It is good the Government has stated its intention to reform the hope value, which will reduce the likelihood that cost presents a barrier for councils to assemble the land as a last resort. We would welcome further information on this proposal including the definition of 'fair compensation'. We would like to see reform of the [Land Compensation Act \(1961\)](#) to clarify that for large scale land assembly purposes councils should be enabled to compulsorily purchase land at its existing use value. This proposal has parallels with the use of compulsory purchase powers in Europe (e.g. Netherlands). Reform along these lines would restore the credibility of using a CPO as a tool to encourage landowners to release their land voluntarily at an early stage.
67. However, if the Government is serious about enabling regeneration by making CPOs easier to navigate, further legislative reforms can be introduced to restore confidence in the sector that a CPO is an option that can realistically be used as a last resort.
68. This includes the ability to tackle sites which have had planning permission for a long time but which have not been built out, by introducing stronger compulsory purchase type powers where permissions have expired and development has not commenced. As well as incentivising developers to complete a timely build-out their scheme after planning permission has been granted, councils will be confident that they can act promptly and decisively to acquire land that is vacant to meet local needs.
69. The removal of the requirement for permission from the Secretary of State to proceed with a compulsory purchase order, would be a welcome step. By doing so, the time taken to use a CPO would be reduced and councils would be able to intervene at an earlier stage to acquire land. The default position should be that acquiring authorities can confirm their own compulsory purchase orders. As a backstop, the Secretary of State could retain the ability to use his/her recovery powers in certain circumstances.

## **Wider improvements to planning procedures**

### **In the Bill**

#### *70. Improving the effectiveness of planning enforcement*

- 68.1 The Government intends to introduce a variety of measures to ensure that planning enforcement works more effectively.
- 68.2 These new measures include 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



23 June 2022

applications; extending the time period for temporary stop notices from 28 to 56 days.

- 68.3 The Planning Inspectorate will have the power to dismiss certain appeals where the appellant causes undue delay.
- 68.4 The scope for appeals against enforcement notices will be tightened so that there is only one opportunity to obtain planning permission retrospectively.
65. We broadly welcome the introduction of additional tools and powers to achieve compliance and deal with those that breach planning provisions. The new enforcement measures will go some way to prevent planning breaches from occurring; further enable councils to take punitive action when breaches do occur; and streamline the enforcement process.

## **Alongside the Bill**

### *66. Planning Skills Strategy*

- 66.1 The Government is seeking to improve capacity in the planning system by supporting councils to build the skills they need, initially by working with sector experts to develop a planning skills strategy for councils.
67. It is a positive and welcome step that the Government has committed to improving capacity in the sector through skills development. But this measure must be progressed quickly. Councils have expressed concerns regarding their stretched capacity and the difficulty of accessing the relevant skills and expertise to implement national policies such as BNG. Councils will need the right the level of resource to carry out the meaningful community engagement critical to achieving good planning and will need to be properly resourced for any additional burdens due to any changes to the planning system going forward.
68. We would also welcome a focus on future-proofing the planning system by making planning a more attractive career path for the younger generation and supporting young people to find pathways into leadership roles in the sector.

### *69. Planning fees*

- 69.1 To improve capacity in the planning system, the Government has stated its intention to increase planning fees for major and minor applications by 35% and 25% respectively.
- 69.2 This is caveated in that increasing fees must lead to a better service for applicants.
- 69.3 To improve performance, the Government intends to expand the existing planning performance framework to measure performance across a broader range of measures.

23 June 2022

69.4 A consultation will be launched on this measure.

70. We welcome the increase in planning fees, as it has for a long time been our position that there is a need for a well-resourced planning system. This reform must be implemented quickly. This increase will build-capacity in the sector and support councils to enable the building of the affordable homes and infrastructure that the country needs. However, this increase on its own will not enough to comprehensively address the issue of resourcing in the planning sector; and Government should go further by allowing councils to set planning fees locally. We look forward to seeing more detail on the planning performance framework.

### **Implications for Wales**

71. We will continue to work with the Welsh LGA to share good practice and information.

### **Financial Implications**

72. There are no immediate financial implications

### **Next steps**

73. To publish our position on the LGA's website and update as further information on the reforms become available.
74. Continue to work with the sector – including councils and other membership organisations – to develop our asks and identify opportunities for joint-lobbying.
75. Continue to work with the LGA's public affairs team to brief parliamentarians during the passage of the Levelling Up and Regeneration Bill.
76. Continue to engage with DLUHC officials and Ministers to ensure that the concerns of councils are heard in government and to help influence the policy detail of the proposals.
77. Review opportunities to undertake a deeper dive into the reforms and further develop our asks by commissioning research.
78. Respond to consultations which arise as a result of the reforms – including compulsory purchase – and engage the sector via our Planning Sounding Board to ensure that our response reflects the views of our membership.