Report To:	**Planning Committee**
Date:	**6TH DECEMBER 2023**
Heading:	**LEVELLING UP AND REGENERATION ACT**
Portfolio Holder:	**NOT APPLICABLE**
Ward/s:	**ALL WARDS**
Key Decision:	**NO**
Subject to Call-In:	**NO**

Purpose of Report

To summarise the Levelling Up and Regeneration Act. Whilst the Act covers a range of topics, this report focuses on the changes which relate to planning.

Recommendation(s)

To note the content of the report.

Reasons for Recommendation(s)

For information in relation to potential changes to the planning system

Alternative Options Considered

None

Detailed Information

The government announced on 26 October that the Levelling Up and Regeneration Bill has now received royal assent and is now the Levelling Up and Regeneration Act (LURA).

The government have stated that the purpose of the laws brought in are to ‘’ to speed up the planning system, hold developers to account, cut bureaucracy, and encourage more councils to put in place plans to enable the building of new homes.’’

Significant implications for local planning authorities are set out in the presentation to the Planning Committee and Appendix 1 (as identified by ‘Planning Resource’ 27 October 2023) attached to this report.

This includes, amongst other items;

- a 30-month preparation timescale for new-style local plans,
- increases in planning application fees,
- a new infrastructure levy to replace section 106 planning obligations and the Community Infrastructure Levy (CIL),
- the requirement for area/district wide design codes and,
- the introduction of National Development Management Policies (NDMPs) to cover general planning policies that apply in most areas (e.g. Green Belt).

The Act makes provision for potentially significant changes to the planning system, although it should be noted that at this point bringing these into effect will require a raft of further consultations, detailed technical work and secondary legislation. It is therefore likely that changes to planning procedures will not begin to take place until 2024.

Implications

Corporate Plan:

Legal:

Legal issues relating to specific parts of the Act are set out in the report. As the report is for noting, there are no legal issues associated with the recommendation in the report.

Finance:

There are no direct financial implications arising as a result of this report.

Budget Area	Implication
General Fund – Revenue Budget	None
General Fund – Capital Programme	None
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

Risk:

Risk	Mitigation
No risk arises from the report.	

Human Resources:

There are no direct HR implications contained within this report.

Environmental/Sustainability

There are no environmental/sustainability implications from the report.

Equalities:

There are no diversity or equality implications from the report.

Other Implications:

None

Reason(s) for Urgency

Not applicable.

Reason(s) for Exemption

Not applicable.

Background Papers

- Levelling Up & Regeneration Act, available on Parliament's website

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Appendix 1

Levelling Up and Regeneration Act 2023: Implications for local planning authorities (Planning Resource 27 October 2023)

1. Local planning authorities will be required to have a design code in place covering their entire areas. The legislation will require “all local planning authorities to have a design code in place covering their entire area”.

The explanatory notes state: “The area-wide codes will act as a framework, for which subsequent detailed design codes can come forward, prepared for specific areas or sites and led either by the local planning authority, neighbourhood planning groups or by developers as part of planning applications. This will help ensure good design is considered at all spatial scales, down to development sites and individual plots.”

2. A new levy will replace section 106 planning obligations and the Community Infrastructure Levy. On “infrastructure”, the Bill will replace the current section 106 and the Community Infrastructure Levy (CIL) regimes with a new Infrastructure Levy.

The rates and thresholds of this new levy will, as with the existing CIL regime, be set in charging schedules “and set and raised by local planning authorities (rather than nationally), meaning that rates are tailored to local circumstances and deliver at least as much onsite affordable housing”.

The notes add: “All schedules will be subject to public examination.”

3. A new requirement will be placed on local authorities to prepare infrastructure delivery strategies. The Act also places “a new duty on local authorities to prepare infrastructure delivery strategies to outline how they intend to spend the levy”. This is to “make sure that infrastructure requirements and levy spending priorities are considered carefully”, the notes say.

4. More weight will be given to local plans, neighbourhood plans and spatial development strategies proposed by mayors or combined authorities. Local plans, neighbourhood plans and spatial development strategies proposed by mayors or combined authorities “will be given more weight when decisions are made on applications so that there must be strong reasons to override the plan, providing communities more certainty”.
Meanwhile, local plans, minerals and waste plans, supplementary plans and neighbourhood plans will all be required to “take account” of new local nature recovery strategies.

5. The scope of local plans will be limited to ‘locally specific’ matters, with ‘issues that apply in most areas’ to be covered by a new suite of national policies. The Act “requires each local planning authority to prepare one local plan, with the content limited to locally specific matters such as allocating land for development, detailing required infrastructure and setting out principles of good design”.

It adds: “General 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

(NDMPs), which will have the same weight as plans so that they are fully taken into account in decisions. Local plans will not be able to repeat these.

NDMPs will be subject to consultation in “all but exceptional circumstances”, but will not be subject to parliamentary approval.

6. Ministers will have to have regard to climate change when preparing NDMPs. The Act will require the drafting of policies that are to be designated as NDMPs to “have regard to the need to mitigate, and adapt to, climate change, taking into account the range of climate scenarios and risk relevant to the policies being developed."

7. The ‘duty to co-operate’ will be dropped, and time limits prescribed for different stages of plan preparation. The notes also say “several other changes to improve the process for preparing local plans: new powers will enable the introduction of ‘Gateway’ checks so that issues are identified earlier during plan preparation, and allow time periods to be prescribed for different parts of the plan preparation process, enabling delivery of a time-bound end-to-end process; digital powers in the Bill will allow use of more standardised and reusable data, and there will be a new requirement for local planning authorities to produce a consolidated policies map of the full development plan for their area, improving the clarity and transparency of plans; and the ‘duty to co-operate’ contained in existing legislation is being repealed”.

8. There will be a new power for planning authorities to quickly create ‘supplementary plans’ for some or all of their areas. 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 codes for a specific site, area or across their whole area”.

9. Groups of authorities will also be able to produce voluntary spatial development strategies on specific cross-boundary issues. “Groups of authorities” will also be allowed “to collaborate to produce a voluntary spatial development strategy, where they wish to provide strategic planning policies for issues that cut across their areas (echoing the powers conferred on some mayoral combined authorities already)”, the notes say.

10. The EU processes of environmental impact assessment and strategic environmental assessment will be replaced by ‘environmental outcomes reports’. “A new system of Environmental Outcomes Reports will replace the EU processes of Environmental Impact Assessment and Strategic Environmental Assessment whilst retaining the UK's obligations under the UN Aarhus and Espoo Conventions.”

This introduces an “outcomes-based approach that will allow the government to set clear and tangible environmental outcomes which a plan or project is assessed against”. This will “allow decision-makers and local communities to clearly see where a plan or project is meeting these outcomes and what steps are being taken to avoid and mitigate any harm to the environment. These outcomes will be set following consultation and parliamentary scrutiny but will, for the first time, allow the government to reflect its environmental priorities directly in the decision-making process.”

11. A ‘simpler to prepare’ alternative to neighbourhood plans will be introduced. The Bill introduces “a new neighbourhood planning tool called a ‘neighbourhood priorities statement’, providing communities with a simpler and more accessible way to set out their key priorities and preferences for their local areas. Local authorities will need to take these into account, where relevant, when preparing their local plans for the areas concerned, enabling more communities to better engage in the local plan-making process.”

12. A ‘street votes’ system will permit residents to propose development on their street and hold a vote on whether planning permission should be given. The Act includes provision for “street vote development orders”, replacing the placeholder clause in earlier versions of the bill, and clarifies how these orders will work in practice, by conferring “regulation-making powers relating to the preparation and making of an order, including provision for independent examination and a referendum”.

13. Decision-makers will face a new duty to act in line with the development plan and national policies. The Act imposes “a new duty on decision-makers to make planning decisions in accordance with the development plan and national development management policies unless material considerations strongly indicate otherwise”. The document says that this is to “increase certainty in planning decisions”.

14. A new route will be created to allow the Crown to apply directly to the secretary of state for determination of nationally important development. The Act will “speed up the process of dealing with applications for nationally important Crown developments in the planning system”, including through “a new process for nationally important and urgent developments, and a new route which allow the Crown to apply directly to the secretary of state for determination of nationally important development”.

15. ‘Loopholes’ preventing planning enforcement will be closed. The Act “amends and strengthens the powers and sanctions available to local planning authorities to deal with individuals who fail to abide by the rules and process of the planning system”.

This includes “facilitating enforcement action by closing existing loopholes which can be exploited to prolong unauthorised development, allowing more time for the investigation of breaches, introducing enforcement warning notices, making the enforcement timescales that currently apply more consistent, and increasing fines”.

16. Registered parks and gardens will get the same level of planning protection as listed buildings. The Act will “make changes so that designated heritage assets, such as registered parks and gardens, World Heritage Sites, protected wreck sites, and registered battlefields, enjoy the same statutory protection in the planning system as listed buildings and conservation areas”.

17. The compulsory purchase order system will be changed. The Act “streamlines and modernises Compulsory Purchase Orders (CPO) and grants the power to local authorities to use CPO for regeneration purposes”. These changes “would empower local decision-making and improve transparency regarding local authorities’ power to acquire brownfield land compulsorily for regeneration in their area”, the notes say.

The Act will allow ministers to disapply the “hope value” of land obtained via a compulsory purchase order - and see landowners compensated for just the existing use of their land - for schemes that include affordable housing, health or education provision.

18. Urban development corporations’ planning powers will be revised, and a new type of corporation introduced. Currently, there are four types of development corporation: “The New Town Development Corporation, the Urban Development Corporation, the Mayoral Development Corporation and the locally-led New Town Development Corporation”. The document says: “Each model reflects the time and circumstances when they were introduced, and thus have varying powers and remits.”

The Act “makes 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”. It also “updates the planning powers available to centrally and locally-led development corporations, so that they can become local planning authorities for the purposes of local plan-making, overseeing neighbourhood planning and development management. This is to bring them in line with the Mayoral Development Corporation model.” The Act also “amends the process for establishing locally-led New Town Development Corporations, [removes] the cap on the number of board members and [removes] the aggregate limits to borrowing”.

19. Planning authorities will get the power to instigate auctions to take leases on vacant high street properties. A new measure is included, to give “local authorities powers to instigate auctions to rent vacant commercial properties in town centres and on high streets, for leases from one to five years to attract new tenants”. The notes say these new powers “can be exercised at the discretion of local authorities, based on their local context and need, but only on properties which have been vacant for over 12 months”.

20. A council tax premium on second homes can be introduced. The Act introduces a “discretionary council tax premium on second homes and changes the qualifying period for use of the long term-empty homes premium”. The document says that “local authorities may levy a premium of up to an additional 100 per cent on council tax bills for second homes and for empty homes after one year (as opposed to two years which is the current requirement)”. The government will consult on exemptions to this.

21. A new route will be created for upper-tier councils to combine without the consent of lower-tier authorities in their areas. At present, “the available model for establishing a combined authority is primarily designed for urban areas”. To address this, “the Bill creates a new model for a ‘combined county authority’, which is made up of upper-tier local authorities only”.

The Act “also includes measures to enable local authorities to move into directly elected leadership governance models more quickly to support devolution deals”.

22. New measures intended to make land ownership more transparent will be introduced. The Act “includes measures that will facilitate a better understanding of who ultimately owns or controls land in England and Wales”, supporting a 2017 housing white paper commitment by “collecting and publishing data on contractual arrangements used by developers to control land, such as rights of pre-emption, options and conditional contracts”.

23. The secretary of state will gain new powers to control changes to street names. The Act grants a power to the secretary of state “to set out the process to secure consent on any proposed changes to a street’s name”. The notes say: “This will ensure all local authorities follow the same process for changing street names and that they cannot do without the consent of those who live on the street.”

24. Planning application fees will be raised by more than one-third. The government intends to increase planning fees for major and minor applications by 35 per cent and 25 per cent respectively. The fee increase will take effect on Wednesday 6 December.

25. The emphasis of the National Planning Policy Framework will shift to guiding plan-making. Policies in the current National Planning Policy Framework (NPPF) that are intended to guide decision-making will be stripped out to form the basis of the promised National Development Management Policies that will take precedence over local plans as the primary policy guide for decision-making.

26. Tools to force developers to complete schemes will be made easier for authorities to use. The Act will make it easier for planning authorities to issue completion notices to developers to require them to complete their projects. And it will introduce commencement notices which will be required when a scheme with planning permission starts on site, which it says will address "perceptions of 'land banking' and slow build-out by larger developers".

27. Benefit to the public purse will become a factor in authorities' land allocation decisions. Planning authorities will be able to partially base their land allocation decisions on the option price of sites offered to them by developers, under legislation promised by the Act to enable the piloting of "Community Land Auctions".

"Landowners will be able to submit their land into an allocation process as part of an emerging local plan, offering the local planning authority an option on the land at a price set by the landowner".

"The local authority will allocate land based on both planning considerations and the option price," it continues. "It will then auction the development rights onto a successful bidder once land is allocated in the adopted plan. The difference between the option price offered by landowners, and the price offered to develop allocated land, will be retained by local authorities for the benefit of local communities".

28. Powers to require developers to engage with communities pre-application will be made permanent. For decision-making, the Act will also enable pre-application engagement with communities to be required before a planning application is submitted, removing the sunset clause, making the powers that currently expire in 2025 permanent.

The companion document also promises new guidance on community engagement in planning, "including the opportunities which digital technology offers". But it adds that any new digital engagement tools "will sit alongside existing methods of engagement (such as site notices and neighbour letters)".

29. Councils will have the power to decline to determine applications from applicants who have been slow to implement previous permissions across their entire authority areas. Authorities will be able "to refuse to determine an application for planning permission in certain cases where there was a previous application relating to land within the authority's area and the development was not begun or has been carried out unreasonably slowly".

30. Provisions to allow councils to benefit financially from land allocations will be introduced. There is provision for the piloting of "community land auctions", which will allow landowners to "grant options over land…with a view to the land being allocated for development in the local plan".

The participating local planning authority will then have the power to "exercise or sell" the option, allowing it to capture "some of the increased value that would result from allocation for development".

The difference between the option price and the post-allocation price could subsequently be used by authorities to "support development of the area".

Authorities will be permitted to take into account the "financial benefits arising from options" when making decisions about the local plan.

31. Statutory consultees can charge for advice related to Nationally Significant Infrastructure Project applications. The secretary of state will be given the power to make regulations permitting "certain public authorities to charge fees for the provision of advice, information or other assistance in connection with applications for development consent orders".

This will also apply to changes to Development Consent Orders for NSIPs and "other prescribed matters to do with nationally significant infrastructure projects".

32. New duty on councils to grant sufficient permission for self- and custom-build housing and include pre-existing unmet demand for this housing when calculating their current level of demand. Local planning authorities must give sufficient permissions for self-build and custom housebuilding on serviced plots to meet the demand for such development in their area over a given period.

The government's intention is that planning permissions will only qualify towards meeting demand for self-build and custom housebuilding as set out in the 2015 Act if they are actually designed for this purpose.

33. The legislation makes provision for registration of short-term rental properties. The secretary of state will "make provision by regulations requiring or permitting the registration of specified 'short-term rental properties'".

34. The secretary of state can allow planning inspectors the power to conduct proceedings "wholly or partly remotely". This could apply to "any inquiry, hearing, examination, meeting or other proceedings…which relate to planning, development or the compulsory purchase of land".

35. The secretary of state can ask authorities to reimburse the government for local plan advice costs. The secretary of state can "require a local planning authority to reimburse the secretary of state for expenditure incurred in connection with appointing a person to provide observations or advice on a proposed local plan or to pay any fees and expenses of that person".