

Levelling-up and Regeneration Bill Landscape Institute policy briefing

Summary

- The Levelling-up and Regeneration Bill is the platform for the Government’s mission to reduce geographic inequalities across the UK.
- It incorporates some of the planning and placemaking reforms originally discussed in the 2020 Planning White Paper.
- Its primary reforms are:
 - an overhauled local planning system that will ‘emphasise community engagement and environmental protections’ and make local design codes mandatory;
 - new ‘Environmental Outcome Reports’ that will replace Environmental Impact Assessments (EIAs) and Strategic Environmental Assessments (SEAs) UK-wide;
 - a new Infrastructure Levy, based on final development value, that will replace Section 106 and Community Infrastructure Levy (CIL); and
 - giving designated heritage assets the same statutory protections as listed buildings and conservation areas.
- Alongside the Bill, the Government have announced a £4.8bn Levelling Up Fund, with £39m allocated for a Levelling Up Parks Fund.

Contents

Background	2
Overview for the landscape sector	3
Planning.....	4
Local plans.....	4
Development plan documents	5
Design codes	6
Enforcement	6
Infrastructure	7
Environmental Outcome Reports	8
Historic Environment	9
Useful links	9

Background

In February 2022, the UK Government published its Levelling Up white paper. The ambitious document sets out the government’s strategy to reduce regional inequalities across the UK and covers an enormous breadth of policy areas.¹

The Levelling Up and Regeneration Bill is the primary legislative mechanism that will make the white paper’s ambitions a reality. Michael Gove MP, the former Secretary of State for Levelling Up, Housing and Communities, first introduced the Bill to Parliament on 11 May 2022.

This policy briefing summarises the key elements of the Bill of relevance to landscape practitioners and the wider built and natural environment sectors.

¹ Landscape Institute (2022). *Landscape Institute comments on the Levelling Up White Paper*. [online] Available at: www.landscapeinstitute.org

Note: The Bill completed its second reading in the House of Commons on 8 June 2022 and is now subject to Committee amends.² Where relevant, this briefing summarises proposed amendments arising through this process.

The UK Government underwent a radical upheaval between 5 and 7 July 2022, with multiple ministers and government personnel stepping down, the prime minister dismissing Michael Gove from his role as levelling up secretary³, and ultimately, the prime minister himself announcing his resignation. Nevertheless, the Bill as proposed is still progressing through parliament. Though these disruptions may stall its progress, the measures outlined in this briefing remain accurate. The Landscape Institute will update this policy briefing as needed.

Overview for the landscape sector

The reforms of most interest to landscape practitioners will be those related to planning, where there are substantive reforms. This forms the bulk of the Bill, including changes to the Environmental Impact Assessment (EIA) and the new Infrastructure Levy.

In addition to planning reforms, the Bill is also the main legislative vehicle for making the government's Levelling Up agenda statutory. In practice, this means placing a duty on government to set long-term targets to close regional gaps in productivity, health, income, and opportunity, and to report annually on progress towards these targets. Landscape professionals may deliver schemes that achieve these targets.

The Bill also contains provisions on English devolution, including the potential to grant powers on issues such as skills and transport to local governments. This accompanies powers for local governments to make decisions on issues such as high-street regeneration, including increased powers for compulsory purchase and encouraging empty properties back into use. The Bill makes the outdoor seating permitted development (PD) right, first introduced as a temporary measure during the pandemic, permanent.

² UK Parliament (2022). *Levelling-up and Regeneration Bill - 2nd reading*. [online] Available at: <https://bills.parliament.uk/bills/3155/stages/16449>

³ BBC News (2022). *Michael Gove sacked after he urges PM to resign*. [online] Available at: <https://www.bbc.co.uk/news/uk-politics-62073049>

A few ancillary clauses concern matters such as the governance of RICS, pavement licenses, and vagrancy.

Overall, the Bill represents a growing awareness of the importance of placemaking, alongside an ambition to shift powers towards local areas that aspire to create better places. This will be positive for landscape professionals, particularly those working in 'left-behind' areas.⁴

Planning

While the Bill includes some of the planning reforms first outlined in the August 2020 planning white paper, it eschews many of the paper's bolder reforms (such as the proposals to pivot to a zonal planning system), focusing instead on measures that simplify the process of producing local plans and give more weight to them in decision-making.⁵

Alongside the Bill, the government published its response to a Select Committee inquiry on the Planning White Paper, listing those proposals it no longer intended to take forward.⁶

Local plans

The government will require each local planning authority to prepare a local plan. The Bill gives local plans more weight in decision-making, making it harder for the Planning Inspectorate to override them during independent examination without strong reasons.

⁴ High Streets Task Force (2021). *No Place Left Behind: The Commission into Prosperity and Community Placemaking*. [online] Available at: <https://www.highstreetstaskforce.org.uk/resources/details/?id=457d96d8-167e-4a04-90ff-d10a61226895>

⁵ Levelling-up and Regeneration Bill, pt. 11, sch. 7, s. 15C

⁶ UK Government (2022). *Government response to the Levelling Up, Housing and Communities Select Committee report on The Future of the Planning System in England*. [online] Available at: <https://www.gov.uk/government/publications/future-of-the-planning-system-in-england-government-response-to-the-select-committee-report/government-response-to-the-levelling-up-housing-and-communities-select-committee-report-on-the-future-of-the-planning-system-in-england>

Local planning authorities will need to prepare local plans within 30 months, including two rounds of community engagement and a series of ‘Gateway’ checks prior to examination. Authorities will need to update these plans at least every five years.

To curb ‘speculative development’ and ‘planning by appeal’, local authorities that have an up-to-date local plan will no longer need to demonstrate a rolling five-year supply of deliverable land for housing.⁷

Alongside the Bill, the government intends to consult on changes to the National Planning Policy Framework (NPPF). The government intends to publish an ‘NPPF prospectus’ in the summer.⁸

Development plan documents

As well as local plans, the Bill strengthens the role of other development plan documents (DPDs). The reasoning for this shift is to empower locally led policymaking on local issues, where priorities and needs might vary from authority to authority.

For more broadly applicable policies – including environmental protections for National Parks, Areas of Outstanding Natural Beauty (AONBs), and the Green Belt – a suite of National Development Management Policies (NDMPs) will exist. These will have the same weight as local plans and DPDs, giving central government a mechanism to set certain planning policies nationally.

That Green Belt retains its nationwide designation is notable. While the LI has called for a strategic review of Green Belt policy,⁹ the government has indicated that it ‘has no plans for a national review of the Green Belt’.¹⁰

⁷ CPRE (2018). *CPRE briefing – How ‘land promoters’ exploit legal loopholes at the expense of communities and the countryside*. [online] Available at: <https://www.cpre.org.uk/wp-content/uploads/2019/11/LandPromotersBriefing2018.pdf>

⁸ UK Government (2022). *Levelling Up and Regeneration: further information*. [online] Available at: <https://www.gov.uk/government/publications/levelling-up-and-regeneration-further-information/levelling-up-and-regeneration-further-information>

⁹ Landscape Institute.org (2018). *LI publishes new vision for Green Belt*. [online] Available at: <https://www.landscapeinstitute.org/news/li-new-vision-green-belt/>

¹⁰ UK Government (2022). *Government response to the Levelling Up, Housing and Communities Select Committee report on The Future of the Planning System in England*. [online] Available at: <https://www.gov.uk/government/publications/future-of-the-planning-system-in-england-government-response->

The scope of NDMPs attracted criticism during the Bill's second reading. MPs suggested that they could expand central government influence over local plans, effectively undermining the Bill's stated purpose. MPs have also asked DLUHC to introduce a mechanism by which local authorities can 'net off' the proportion of their land covered by protected areas and set housing targets that more realistically reflect local land availability.¹¹

Design codes

In January 2021, the government announced changes to the NPPF that will make beauty a strategic planning priority¹². To realise this ambition, a National Model Design Code (NDMC) – first published in July 2021 – sets out design parameters to help local authorities and communities produce design codes for their local area.

The Bill brings local design codes into law, introducing the requirement for local authorities to produce codes for every part of their area¹³. Councils will either include these codes in local plans or prepare them as supplementary plans, giving their local design codes full weight in development decisions.

Enforcement

The Bill strengthens local authorities' powers to enforce planning decisions in their area: increasing the timeframe for enforcement from four years to ten; increasing fines for certain breaches (including an uncapped fine for failure to comply with a Section 215 notice to properly maintain land); and doubling the fee for retrospective planning applications.¹⁴

Applicants will also have only one opportunity to obtain planning permission retrospectively, tightening the scope for appeals against enforcement notices; and the

[to-the-select-committee-report/government-response-to-the-levelling-up-housing-and-communities-select-committee-report-on-the-future-of-the-planning-system-in-england#response-22](#)

¹¹ UK Parliament (2022). *Levelling-up and Regeneration Bill Volume 715: debated on Wednesday 8 June 2022*.

[online] Available at: <https://hansard.parliament.uk/commons/2022-06-08/debates/B987D8A1-ABC0-4DB0-956C-DE7BD0FB064D/Levelling-UpAndRegenerationBill>

¹² UK Government (2021). *All new developments must meet local standards of beauty, quality and design under new rules*. [online] Available at: <https://www.gov.uk/government/news/all-new-developments-must-meet-local-standards-of-beauty-quality-and-design-under-new-rules>

¹³ Levelling-up and Regeneration Bill, s. 15F (1)

¹⁴ Levelling-up and Regeneration Bill, pt. 3, c. 5

Planning Inspectorate will have the power to dismiss appeals where the appellant causes undue delay.

The Bill also introduces more flexibility for councils to exercise lenience in enforcement. It introduces enforcement warning notices, which councils can issue prior to an enforcement notice if they feel the unauthorised development might reasonably receive retrospective permission. It extends the period for Temporary Stop Notices (TSNs) from 28 to 56 days and extends TSNs to cover changes to listed buildings.¹⁵ The Bill also enables temporary enforcement relief where necessary to lift operational constraints (as occurred with construction and delivery hours during the COVID-19 pandemic).¹⁶

Overall, these changes give resource-constrained local authorities more time and clout to respond to planning breaches; but they also introduce more time and flexibility for developers to voluntarily correct unauthorised development.

Infrastructure

The Bill introduces a new 'Infrastructure Levy' to replace:¹⁷

- Section 106 (S106) Agreements, also called 'planning obligations', which seek to mitigate or compensate for the potential effects of development proposals on local infrastructure.
- The Community Infrastructure Levy (CIL), which local authorities can impose on new developments to fund local infrastructure such as flood defences, green spaces, hospitals, leisure centres, schools, and transport schemes.

Instead of these charges, local planning authorities will be able to charge an Infrastructure Levy based on the final development value. Local authorities will need to prepare infrastructure delivery strategies for spending Levy proceeds.

The government intends to consult on the implementation of the Infrastructure Levy to ensure that delivers not just physical infrastructure, but also other types of

¹⁵ Levelling-up and Regeneration Bill, c. 3, s. 93

¹⁶ UK Government (2022). Levelling-up and Regeneration Bill – Explanatory notes. [online] Available at: <https://publications.parliament.uk/pa/bills/cbill/58-03/0006/en/220006en.pdf#page=19>

¹⁷ Levelling-up and Regeneration Bill, sch. 11, pt. 1

infrastructure that there is currently no duty on local authorities to provide. The LI will be encouraging policymakers to ensure this mechanism can deliver landscape and green infrastructure improvements.

During the second reading of the Bill, MPs criticised the lack of measures to address flood prevention and mitigation, including clarifying the role and responsibility of water companies within infrastructure provision, and requested that future revisions of the Bill account for this ¹⁸.

Environmental Outcome Reports

The Bill substantively changes the methods for assessing the potential environmental effects of plans and projects, replacing the existing EU systems of Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA) with 'Environmental Outcome Reports'. ¹⁹ This will mean that the UK Government, not the European Commission, will set environmental targets for plans and projects, including Nationally Significant Infrastructure Projects (NSIPs).

The Bill includes a non-regression clause, creating a duty on the Secretary of State to ensure that the new systems do not reduce the overall level of environmental protection. MPs have criticised of the absence of strong environmental legislation within the Bill, however, including the lack of any mention of net zero, and expressed concerns that the proposals will allow the government to weaken safeguards.²⁰

While details are currently sparse on the exact differences between the existing assessments and EORs, the government has committed to consulting on this further. The government has described wanting the new system to be less 'formulaic', with a focus on outcomes rather than simply mitigating risks.

¹⁸ UK Parliament (2022). *Levelling-up and Regeneration Bill Volume 715: debated on Wednesday 8 June 2022*. [online] Available at: <https://hansard.parliament.uk/commons/2022-06-08/debates/B987D8A1-ABC0-4DB0-956C-DE7BDOFB064D/Levelling-UpAndRegenerationBill>

¹⁹ Levelling-up and Regeneration Bill, pt. 5 (page 133)

²⁰ UK Parliament (2022). *Levelling-up and Regeneration Bill Volume 715: debated on Wednesday 8 June 2022*. [online] Available at: <https://hansard.parliament.uk/commons/2022-06-08/debates/B987D8A1-ABC0-4DB0-956C-DE7BDOFB064D/Levelling-UpAndRegenerationBill>

This sounds broadly positive for the landscape sector, though we will need further details – particularly to consider the impacts on landscape assessments that take place within the context of EIAs, including Landscape and Visual Impact Assessments (LVIAs).

Historic Environment

The Bill will give designated heritage assets such as registered parks and gardens, scheduled monuments, and world heritage sites the same statutory protections as listed buildings and conservation areas. It also introduces a statutory duty for local authorities to hold up-to-date Historic Environment Records. ²¹

Useful links

[Levelling Up and Regeneration: Further information \(www.gov.uk\)](https://www.gov.uk)

[Parliamentary Bills: Levelling Up and Regeneration Bill \(bills.parliament.uk\)](https://bills.parliament.uk)

[National Model Design National Model Design Code \(accessible version\) \(www.gov.uk\)](https://www.gov.uk)

²¹ Levelling-up and Regeneration Bill, pt. 10, cl. 185

About the Landscape Institute

The Landscape Institute (LI) is the chartered body for the landscape profession. We are an educational charity that promotes the art and science of landscape practice.

The LI's aim, through the work of our members, is to protect, conserve, and enhance the natural and built environment for the public benefit.

The LI provides a professional home for all landscape practitioners including landscape architects, landscape managers, landscape planners, landscape scientists, and urban designers.

About LI policy and research

The LI undertakes research, builds networks, and provides policy advice to local and national policymakers, regulators, and stakeholders. We seek to demonstrate how landscape and green infrastructure can deliver maximum benefits for society, the environment, and the economy.

The work of the LI policy team is overseen by the LI Policy and Communications Committee (PCC), one of three standing committees that report to the LI's Board of Trustees.

Contact

Ben Gosling, Communications Manager
policy@landscapeinstitute.org | 0330 808 2230