

Briefing for Lords Second Reading of the Levelling-Up and Regeneration Bill

A missed opportunity

The Better Planning Coalition (www.betterplanningcoalition.com) is campaigning to improve the Levelling Up and Regeneration Bill during its Lords stages and work towards a planning system fit for people, nature and the climate.

Our coalition of 33 organisations is concerned that the Government has not sufficiently considered changes proposed in the Commons. Scrutiny has instead focused on one or two politically sensitive issues, such as housing numbers.

We see the bill in its current form as a **real missed opportunity** to create a forward-looking planning system which considers the impact of development and ensures that we meet our responsibilities, such as net zero.

Ahead of Second Reading, we wanted to provide a briefing which sets out our concerns and details the issues we hope will be raised in the debate.

If you would like to discuss any of these issues or receive a more detailed briefing, please contact Owen Edward the Better Planning Coalition Coordinator via owen@betterplanningcoalition.com or **0207 981 2825**.

- **The planning system must tackle the climate crisis:** People living in the most deprived areas are often the most vulnerable to the threats of a changing climate. The planning system is an essential tool in the levelling up toolbox. But this bill fails to ensure that the planning system will address the joint challenges of environmental inequalities and climate change. The bill needs to provide consistent alignment of planning policy and development management with the existing legislative framework for tackling climate emissions, including the net zero duty, and providing resilience to climate impacts - such as flooding and heatwaves. The Climate Change Committee has said in a number of reports that we need a better contribution from the planning system, most recently in its 2022 progress report to Parliament. This underlined that the government should “Make clear the importance of ensuring that all developments consider how best to minimise lifetime emissions and adapt to climate change as part of the planning process”.

Recent DLUHC consultations on reforms to national planning policy do include some welcome proposals including to “make sure that protecting and improving the environment and tackling climate change are central considerations in planning” with 6 ways set out for how planning policies and decisions can do this. But without a firm legislative footing, policy can go backwards, or be ignored.

Despite an existing legal duty for Local Plans to consider climate change mitigation and adaptation (since 2008), which would be rolled forward in this bill, there is considerable inconsistency between local authorities in terms of policy making and decision making, with too few local plans containing robust policies on climate change – both in terms of mitigation and adaptation - and too many high carbon developments still being granted permission.

There is also an inconsistent approach from the Planning Inspectorate meaning some of those local authorities proposing strong policies to address climate change or refusing development for failing to be consistent with a net zero future have also been overturned.

Our amendment, tabled in the Commons and proposed again in the Lords, builds on the proposed climate duty for plan-makers, as set out in the bill. It does this by defining ‘mitigation of, and adaption to, climate change’ in line with the statutory climate framework; thereby confirming and clarifying the net-zero duty in plan making while also extending it to decision making.

Without this change, there is a real risk we continue to see plans, policies and decisions paying no more than lip-service to tackling climate change or continue to be challenged and overturned on appeal. This would deliver certainty for business and meet a key recommendation of Government-commissioned [Net Zero Review](#) by Chris Skidmore MP, published last week, to strengthen the role of climate considerations in the planning process.

- **The planning system must be democratic, at all levels, with genuine public engagement:** The proposed role of National Development Management Policies (NDMPs) is not currently set-out in enough detail. The coalition is concerned about the lack of legal safeguards for both public and parliamentary scrutiny of NDMPs. The creation of new national planning policies should require same level of scrutiny as currently for the creation of National Policy Statements (NPSs). The coalition will propose an amendment which uses Planning Act (2008) requirements for NPS creation to apply to NDMPs. NDMPs which have targets or measures within them must also be a “floor not a ceiling”. Always pushing for the most ambitious environmental and other targets to be used. Clarification and guidance must be provided to ensure local circumstances and characteristics can still be addressed in local policies.

- **The planning system must deliver more social housing:** We currently lose on average 22,000 social rent homes per year, while housing waiting lists sit at over 1 million. *The Government must ensure that any significant reform to the planning system builds more social rent housing* to provide communities with the genuinely affordable homes they need.

To do this, we will need to re-define the term ‘affordable housing’, for the purposes of the Infrastructure Levy, as housing which is to be let at a social rent and to restrict the definition of “social housing” in the Housing and Regeneration Act 2008 (which would otherwise include ‘affordable rent’ housing and low-cost home ownership).

It is also vital that Government tackles the issue of ‘hope value’ as a barrier to building social and truly affordable homes.

- **The planning system must deliver for heritage:** The Levelling up and Regeneration Bill contains a number of welcome actions on heritage which we support, including statutory historic environment records and regard to certain heritage assets in exercise of planning function. However, the planning system must also ensure that heritage is not at risk from overly permissive development rights.

Permitted development rights, in their current form, are a significant source of concern for the Better Planning Coalition, following a significant expansion of these rights in recent years. We are asking the Government to clarify the impact of these expanded rights on both the planning system and the built environment, with special regard to the impact of these rights on beauty, heritage and climate.

We believe the government should undertake a comprehensive review of permitted development rights, while also setting out how they will interact with new aspects of the planning system proposed in the Bill.

- **The planning system must deliver for biodiversity and nature:** The coalition has a number of concerns about biodiversity and nature. Chief among these is the fact that the Bill gives the Government extensive powers to change a range of environmental protections with limited scrutiny. Environmental Outcomes Reports (EOR) regulations, proposed in Part 5 of the Bill to replace the entire current system of environmental assessment, are subject only to the affirmative procedure.

This means that the Government could propose sweeping measures affecting the environment, with MPs having limited powers to oppose it (the last time a measure was successfully opposed through the affirmative procedure was in 1978).

One of our members, Wildlife and Countryside Link has produced a detailed briefing on all the biodiversity and nature issues and amendments the coalition is working on. **Please find a copy of this briefing attached as a separate document for your reference.**

- **The planning system must improve health and wellbeing:** The Government must ensure that the planning system increases access to nature, creates new opportunities to walk, cycle and wheel and puts vital services within walking distance of people’s homes.

We are supporting a new clause, tabled by Lord McColl of Dulwich, on health and wellbeing. The new clause addresses a significant gap in the Bill, which includes no targeted measures on levelling up missions 7 (health) and 8 (wellbeing).

Our physical environment can considerably affect the length, quality and happiness of our lives. This clause would ensure local authorities **take this into account when exercising their planning functions**. The clause specifically requires authorities to have regard to access to natural spaces, creating opportunities for everyday physical activity such as walking, wheeling and cycling, and the 20-minute neighbourhood principle. **Sustrans research found that 64% of planning officers cited ‘lack of robust planning guidance or regulation’ prevented them from ensuring facilities were within walking, wheeling or cycling distance.**

The levelling up agenda has been defined as ensuring that *“geography is not destiny”*. The new clause will ensure authorities are using the powerful levelling up tools at their disposal, to the benefit of the communities they represent.

- **The purpose of planning must be set out in law:** Planning is vital to our future but, unlike many other legal frameworks, it has no meaningful legal purpose which applies to the whole system. A statutory purpose for planning should be the foundation of levelling up because it signals a clear determination to refocus the system on the holistic goal of sustainable development.

This briefing is from the Better Planning Coalition:

