



## The Levelling Up and Regeneration Bill (LURB)

*This note is prepared as a commentary by CPRE Hertfordshire on the LURB, to assist our campaigning in the County. It is not a comprehensive critique of the Bill but concentrates on the main issues for Hertfordshire. Due to the wide scope of the Bill, different commentators have concentrated on different aspects and as is generally the case, detail is lacking in crucial areas. This note focusses on what we perceive to be the biggest weaknesses and dangers in draft legislation which will introduce further uncertainty and complication in the statutory planning system, to the detriment of the countryside.*

### Introduction

1. The Levelling Up and Regeneration Bill Second Reading took place on 8<sup>th</sup> June and is now moving to the committee stages. This is a major piece of legislation which encompasses a wide range of economic development, planning and environmental issues with significant potential implications for local and central government and local communities.
2. The Bill combines aspirations for economic and social development to correct the imbalances in the British economy between regions, with proposed changes to local governance, environmental regulation and the statutory town and country planning process. This is a huge agenda, and the situation is further complicated by the publication of the accompanying "Further Information" document which contains significant additional policy proposals.
3. The Bill makes radical proposals for change in the relationship between central and local government with regard to the responsibility for development planning, to local government's detriment. This is despite asserting that local communities and authorities will be more involved in plan making and decisions at a local level.
4. Extra levels of intervention are introduced with the stated aim of ensuring consistency of plan-making across the country, but there is no indication of how discrepancies between various institutional aims will be resolved. The remainder of this note identifies the main areas of concern to CPRE Hertfordshire as follows.
  - Protection of the countryside
  - Local Plan making
  - National Development Management Policies
  - Environmental reporting
  - Climate change and biodiversity
  - Affordable rural housing
  - CPRE Hertfordshire campaign issues

## **Protection of the countryside**

5. Protection of the countryside can have a key role in assisting the wider levelling-up agenda, by re-balancing development towards areas where it is needed, and controlling where it is needed less. The White Paper identified the advantages of directing development away from 'over-heated' areas towards those 'left behind'.
6. The Bill and supporting policy paper reiterate the Government's intention to protect Green Belts. The recently published "Levelling Up and Regeneration Bill Policy Paper: Further Information" re-emphasises the Government's support for protection of the Green Belt:  
  
"the increased weight given to plans and national policy by the Bill will give more assurance that areas of environmental importance – such as National Parks, Areas of Outstanding Natural Beauty, and areas at high risk of flooding – will be respected in decisions on planning applications and appeals. The same is true of Green Belt, which will continue to be safeguarded." (LURB Policy Paper, May 2022).
7. However, the Bill fails to provide the clarity sought by local planning authorities and communities for protection of the countryside. It is silent on the means to achieve effective controls when increasingly areas of highly valued countryside are under threat.
8. The benefits of open countryside have been demonstrated amply to all sections of the community during the pandemic, including many communities not previously attracted. It is crucial that both Local Plans and development management policies are strengthened to place protection of the countryside as a principal priority for both central and local government. The absence of such a priority is a clear omission in the Bill which should be rectified.

## **Local Plan making**

9. The Bill proposes a fundamental change in the relationship between central and local government in the preparation of the Local Plans which are the foundation of the statutory planning system. The introduction of National Development Management Policy (NDMP) (which is not defined in either the Bill or White Paper – see below) would elevate the status of national policy relative to locally adopted development plans which have taken precedence up until now.
10. To make Local Plans simpler and quicker to produce, most development management policy will be set out in NDMP which would have the same weight as Local Plans, but would take precedence if the latter conflicted with the NDMP. At the same time, Local Plans are to be given more weight when making decisions on development, together with neighbourhood plans which will have the same weight.
11. Inevitably, the Bill allows the Secretary of State to intervene in the Local Plan making process if councils are not progressing quickly enough. The Bill introduces Local Plan Commissioners as well as re-introducing time limits in an apparent move to speed up the Local Plans where planning authorities have failed to do so in accordance with government requirements.

12. No further information is provided on how such appointments would achieve the local knowledge and experience for good plan-making. It is unclear how the inevitable conflicts between the various levels of plan-making will be resolved.

### **National Development Management Policy (NDMP)**

13. It appears that NDMP will have statutory force and be based on the NPPF which will then be re-focused on plan making principles and be more significant than merely policy guidance. It could include strategic policies such as Green Belt and heritage issues and such policies would have the same weight as adopted Local Plans.
14. Whilst there may be some merit in NDMP which clarifies the protection of designated areas such as AONB, Green Belt and so on, the dangers of central decision-making against local concerns, especially on major infrastructure, are clearly apparent. They should not have primacy over local and neighbourhood development plans, as this amounts to a major removal of control and discretion from the local level and the process of such policy making is unclear.
15. Clause 83 (5C) as currently worded gives national development management policies primacy over development plans and neighbourhood plans, meaning that those plans could easily and rapidly be rendered out of date by changes to national policies. This would stifle local innovation on issues such as affordable housing, energy efficiency and nature conservation.
16. It would also undercut local democratic engagement in, and scrutiny of, the planning process and lead to significant legal delays where conflict between plans and national policies is contested. To remedy this, we recommend that the Bill should be amended to remove any suggestion that national should have automatic primacy over locally generated and adopted policies.
17. Similarly, neighbourhood development plans can only be checked for consistency with any national development policy that is in place at the time the plan is made. Subsequent national policy change should not override extant neighbourhood plans unless that is the explicit purpose of the change.
18. Each local planning authority will be required to have a design code that is established in the Local Plan or Supplementary Plans which will take over from Supplementary Planning Documents (SPDs). Generally, there will be greater emphasis on national policies and design guides, but the further resource implications are left unexplored.

### **Environmental reporting**

19. The Bill introduces Environmental Outcomes Reports which are likely to replace the present Environmental Impact Assessment (EIA) system with the intention of maintaining, if not increasing, present environmental protections. Again there are no details or draft regulations so it is impossible to tell if these are positive steps, but there should be no regression from existing environmental protections and it is crucial that national planning policies are themselves subject to environmental outcomes reporting.

20. It is essential that national development policies and national policy statements are subject to Environment Outcomes Reporting (EOR) requirements. If they are not, then there is clear potential for conflict between a plan or consent being consistent with national policy and it having acceptable environmental outcomes.
21. Clause 117 should therefore require an additional sub-section to explain that National Development Management Policies and national policy statements are classed as relevant policies which must comply with EOR regulations. Any amendments or reviews of these policies should be required to be accompanied by an environmental outcomes report.

### **Climate change and biodiversity**

22. A critical lack in the draft legislation is appropriate treatment of the two main challenges to development of all types; climate change and the loss of biodiversity, and it is deeply disappointing that climate action is absent from the Bill. Tackling climate change could be a tremendous opportunity for “levelling-up” legislation in terms of appropriate economic development and the re-balancing of development, both geographically and topically.
23. Recent CPRE research shows that most local plans are not setting strategic, measurable targets for delivering net-zero carbon, and homes and business premises are still being built that are car-dependent and will require costly retrofitting for net-zero. It is disappointing that the Government has not seen the positive contribution that the amelioration of climate change could make to regional development.
24. The maintenance of biodiversity is increasingly recognised as a social and economic benefit for its own sake and these should be connected to development outcomes. Many more direct linkages between these topics and environmental reporting should be key elements of this legislation.

### **Affordable rural housing**

25. We consider that genuinely affordable housing is one of the highest levelling up priorities for rural areas and the Bill does far too little to address this issue. The proposed new Infrastructure Levy, though a potentially positive step, gives no indication of how it will increase affordable housing supply or benefit lower value areas where affordable housing delivery is already minimal.
26. There is currently too much leeway for homes to be built without meeting affordable needs; and to address the problem of vacant and second homes, additional planning measures are needed because the Council Tax changes will not be sufficient. The Bill will not address the growth of short-term lets, which is a particular risk for popular rural tourism destinations where young people and key workers are being squeezed out.
27. We suggest new clauses to give more power to local authorities to manage the development of large sites for a more diverse mix of homes to meet local needs, as recommended by Sir Oliver Letwin’s 2018 review. Planning permission should also be required to change homes

from other tenures into short-term tenancies and holiday accommodation, and council tax should be increased for vacant and second homes.

## **CPRE Hertfordshire campaign issues**

### ***Protecting Hertfordshire's countryside***

28. Given the treatment of several planning related issues in the Bill, it is a very significant omission that protection of designated countryside is not addressed appropriately, either in terms of its intrinsic value, or with regard to the calculation of housing need. This is especially true for local authorities where the majority, if not all, of their non built-up area is designated as Green Belt or Area of Outstanding Natural Beauty (AONB), such as in Hertfordshire.
29. There are several mentions of the importance of maintaining the Green Belt in the Bill and supporting documents, but no specific proposals, which will mean continuing uncertainty for local communities and authorities threatened with inappropriate development of all kinds. This is hugely disappointing for areas with high and increasing development pressure, such as Hertfordshire, where controls could assist directly the “levelling-up” agenda by re-directing development to where it is most beneficial.
30. Existing legislative controls in the NPPF are overridden by arguments mainly related to the need to satisfy housing targets above all other considerations. This is leading to considerable local political concerns and the danger of bringing the planning system into disrepute where planning inspectors overturn local authority planning decisions, or insist on the inclusion of protected areas in Local Plan allocations for development.

### ***Housing need calculations***

31. Housing need for Local Plan preparation is calculated using a standard national method; a “one size fits all” approach for England which is entirely inappropriate, significantly out-of-date, and should be scrapped. A re-appraisal of housing need is in any case necessary in the light of changes to household formation projections, migration patterns, town centre regeneration, the conversion of commercial to residential and the reuse of previously developed land.
32. The LURB should include provisions to reassess the calculation of housing need to take account of demographic changes, to refocus housing provision to where it is needed most, and towards those sections of the community unable presently to access suitable accommodation. Residential development in the countryside generally overwhelmingly favours high income earners, especially in the south-east.

### ***Amendments to the NPPF***

33. CPRE Herts continues to call for minor amendments to the NPPF to clarify the protection of designated areas such as AONB and Green Belt which are popular and effective in ensuring that open countryside remains for the benefit of rural and urban dwellers alike. The LURB

provides an ideal opportunity to make these changes, in line with recent Ministerial statements, as well as the Bill itself, which would re-emphasise support for the Green Belt.

***Temporary moratorium on major planning permissions***

34. Aspirations to protect the Green Belt remain meaningless unless technical guidance, either through central or local government policy, spells out that protection means protection for designated land. Until then, we continue to call for a temporary moratorium on major planning decisions in the Green Belt and AONB.

***Land use strategies***

35. A huge opportunity for the Bill is lost by the omission of any consideration of national or regional land use strategies. As well as the determination of total housing need, land use strategies should address the requirements for specific types of housing, including genuinely affordable housing for rural and key workers.
36. Land use strategies should reassess the role and relationships between the competing uses of open land for agriculture, leisure, recreation, renewable energy generation, economic and social development, and the challenges of climate change and loss of biodiversity. These are critical topics with a direct correlation to the aims and objectives of levelling-up and they are largely ignored in the Bill.
37. The result is lack of clarity for local planning authorities and communities which, together with unpredictable and inconsistent decision making from the Planning Inspectorate, combine to create the perfect climate for highly damaging speculative planning applications.

CB. June 2022