

The Levelling Up and Regeneration Bill ('LURB')

On 16th June 2022 I attended a zoom meeting on the proposed Levelling Up and Regeneration Bill which was given by Steve Tilbury of Steve Tilbury Consulting.

Steve began by explaining that the planning system today was in a poor state, that local authorities struggled with their planning responsibilities, and local plan work was poorly resourced and that planning officers (and particularly local plan specialists) were in short supply. The existing planning system was seen as seriously wanting in respect of both quality and location of development.

The Planning White Paper of August 2020 was viewed by many as a developer's charter, was hugely unpopular, and had now been scrapped. The Levelling Up and Regeneration Bill (LURB) although not specifically a Planning Bill is to replace it and is expected to become law early in 2023. Although it may in some ways be seen as an improvement, it is uncertain to what extent it will improve local democracy in the planning system.

LURB proposes that:

- 1) Local Plans to be prepared in 2 ½ years (at present it can take 10 years to make a Local Plan and they need to be reviewed every 5 years)
- 2) A new Infrastructure Levy will replace CIL. LURB will also replace funding obtained through section 106 Agreements for all but the largest developments. Affordable housing will be funded from the new levy (although often in kind through on site provision).
- 3) LURB will introduce a mandatory infrastructure levy which will apply to the value of the finished development and which would not be collected until the development is sold. New infrastructure may have to be financed by borrowing against expected future receipts. Steve Tilbury suggests that the levy may prove effective but he did not expect it to result in a level of funding sufficient to address major shortfalls in long term investment.
- 4) LURB proposes that the requirement for a five year housing land supply will not apply if a Local Plan is less than 5 years old.
- 5) The duty to co-operate when preparing Local Plans will be abolished (between neighbouring authorities).
- 6) The window of opportunity for enforcement action by Local Authorities would increase however to 10 years (from the 4 it is currently)
- 7) Neighbourhood Plans are to be retained under LURB and Neighbourhood Priorities Statements would be introduced which may be a good option for communities who do not have the resources to go through the full neighbourhood plan process.

8) LURB proposes an entirely digitally based Local Plan making and planning application process.

9) A new duty will be placed on local planning authorities to give a higher level of regard to protecting a range of heritage assets, including historic parks and gardens, wrecks and monuments when making their plans and determining planning applications.

10) LURB aims to bring in district wide design codes (so planning applications can be judged against conformity as expressed within the design codes).

11) The LURB intends to replace the existing system of Environmental Impact Assessments and Environmental Statements with a simplified approach focusing on the outcomes of the development.

12) The LURB does not say anything about housing numbers as this was a matter of policy not law but the Government has separately confirmed that it would like to see 300,000 new homes built per annum.

13) Local Plans will be retained but the LURB introduces a new concept of 'national development management policies' (NDNP) which will apply to all local authorities and will lie alongside the more strategic policies of the National Planning Policy Framework (NPPF) – Local Plans will not be allowed to have their own versions of these policies. Steve Tilbury asked if this was just a benign policy to standardize policies across Local Plans and save time and effort, or whether the Government is giving itself power to incorporate policies and restrictions into Local Plans, which could not be easily overturned, thus avoiding the need for any time-consuming public consultation or local democratic intervention.

14) The benefits of Government made National Development Management Policies may help to ensure a planning system that decides a planning issue once, and implements with consistency across the whole country, but Steve Tilbury feared that it could also make central Government more powerful vs a vs Local Authorities. He suggested that the Government might be thinking of Local Plans as not much more than site allocation documents.

15) Summary and Effect on Local Democracy

Steve Tilbury felt that whilst the proposed new Infrastructure Levy would save time and effort in negotiations with developers, it would not provide the resources to meet infrastructure deficits. There was therefore a query on the extent to which the legislation enabled 'levelling up'. He also suggested that the calculation of the amount due and the keeping track of it under LURB, would be more complex than under the current arrangements for CIL or Section 106 agreements.

Steve Tilbury did, however, welcome the increase in the time for LA Enforcement issues to 10 years but believed that difficulties in enforcement were largely due to a lack of Local Authority resources.

Although he did have reservations about many of the proposals he welcomed the retention of Neighbourhood Plans under LURB and also the introduction of the new Neighbourhood Priorities Statements which might be a good option for communities who did not have the resources, or wish to go through the full Neighbourhood Plan process.

Steve Tilbury did however feel that the introduction of National Development Management Policies (NDMPs) under LURB could constitute a major change to the planning system. He believed this would give Central Government made policies legal primacy over Local Plans, and had the potential to allow the Secretary of State too much power in writing management policies, which would impinge directly on decision making at local level. He was also critical of the fact that under LURB proposals, local material considerations would now only be deemed relevant if they were 'strong' material considerations.

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