**Levelling-up and Regeneration Bill: reforms to national planning policy**

Published 22 December 2022

Closing date 2 March 2023

**CIfA RESPONSE – 20 Feb 2023**

1. **Do you agree that the three build out policy measures that we propose to introduce through policy will help incentivise developers to build out more quickly? Do you have any comments on the design of these policy measures?**

We support Government’s efforts to tackle the issue of slow build out. However, many of the reasons for this are economic rather than relating to the planning system, and changes to the planning system may not solve the problem. We therefore caution against the repetition of contrary concerns relating to LPA process speeds and discharge of conditions. Our experience shows that there is already a strong tendency for applications to be validated without necessary elements such as a thorough archaeological desk based assessment or Heritage Statement informed by the required Historic Environment Record information. Often a document titled ‘archaeological assessment’ or ‘Heritage Statement’ is submitted, but since the LPA is rushed to validate applications, care is often not taken to consider whether the document has the correct detail. Similarly, our members report that LPA pressure to sign off archaeological conditions before archaeological work specified by that condition is complete is common, particularly when addressing the post-excavation assessment and reporting stages of a project. Both of these pressures provide the potential for perverse incentives for developers to obfuscate.

1. **Do you agree with making changes to emphasise the role of beauty and placemaking in strategic policies and to further encourage well-designed and beautiful development?**

The historic environment is one key contributing factors to sense of place and uniqueness. Historic buildings, monuments, and features form a bone structure and provide a design language in many places that communities will recognise as an inherent component of a place’s beauty.

We have always encouraged planning decisions to take account of historic character and we support the use of design codes which will add new potential ways to consider these issues, alongside neighbourhood plans, and conservation area and other heritage designations.

We would, however, welcome clearer explicit linking of beauty and heritage in the NPPF and in supporting guidance to ensure that these concepts and policies can work symbiotically to encourage greater recognition of the historic environment in locally led conceptions of beauty, rather than confused siloisation.

We would also welcome a clear articulation in guidance supporting the NPPF about how beauty will be judged alongside significance-based judgements relating to heritage. For instance, heritage assets may often be beautiful *and* significant for their historical, archaeological, or spiritual importance, however, in some cases they may divide opinion on their aesthetics.

1. **Do you agree to the proposed changes to the title of Chapter 12, existing paragraphs 84a and 124c to include the word ‘beautiful’ when referring to ‘well-designed places’, to further encourage well-designed and beautiful development?**

As above, we would welcome clear articulation in supporting guidance that makes clear how beauty and good design relate to concepts relevant to the assessment of the significance of heritage assets. These issues overlap and are related, so care needs to be taken to ensure that decisions are taken with clear recognition of each approach.

1. **Do you agree that a specific reference to mansard roofs in relation to upward extensions in Chapter 11, paragraph 122e of the existing framework is helpful in encouraging LPAs to consider these as a means of increasing densification/creation of new homes? If no, how else might we achieve this objective?**

We note that mansard roofs are a very specific architectural form that may not be in keeping with the design of many forms of domestic architecture. We would expect that any reference to specific types of residential extension be couched with appropriate exclusions for heritage assets and not be subject to a blanket permitted development right. However, this level of detail would seem, to us, to be a more appropriate point to be taken up in local design codes, or alongside guidance on wider forms of upward extension in NPPG.

**40. Do you have any views on how planning policy could support climate change adaptation further, specifically through the use of nature-based solutions that provide multi-functional benefits ?**

We recommend the inclusion of a presumption in favour of the retention of existing buildings in the NPPF. This policy would acknowledge the importance of embodied carbon in all existing buildings and encourage applicants to consider retaining buildings which can be viably adapted or re-used. This includes unlisted buildings which contribute to historic character, including those on local lists, many of which are vulnerable to demolition under permitted development rights. We also note our support for reform of this particular PD right, which we see as antithetical to the need to take greater account of the embodied carbon in existing buildings.

1. **Do you agree with our proposed Paragraph 161 in the National Planning Policy Framework to give significant weight to proposals which allow the adaptation of existing buildings to improve their energy performance?**

We are broadly supportive of the need for historic buildings to adapt to ensure optimum energy performance, balancing impact on the significance of the building with positive outcomes. However, we would welcome greater clarity in the wording of the policy, and supporting guidance to help applicants effectively balance heritage concerns with energy performance. We note that where existing fabric is disturbed, opportunities may exist to require developers to undertake archaeological analysis of fabric, which creates the potential to offset the loss of significance caused by physical harm to the asset with significance gained through new knowledge about material, construction, etc.

**46 Do you agree with the proposed transitional arrangements for plans under the future system? If no, what alternative arrangements would you propose**

At present, we are concerned that proposed timescales for the production of local plans remains unrealistic and we are concerned that it will be the standard of information and analysis to support plan-making will be what suffers, not any kind of bureaucratic or political delay. We would welcome a government commitment to provide investment into things like Historic Environment Records to ensure that these newly statutory services are able to provide quicker and higher quality advice into plan-making processes. For example, development of archaeological sensitivity maps which could help to evidence site allocation and provide an indication at plan-making stage where significant archaeological work would likely be required could help to speed up plan preparation, while also increasing the quality of outcomes.

1. **Do you agree with the proposed transitional arrangements for supplementary planning documents? If no, what alternative arrangements would you propose?**

There are various reasons why local authorities may maintain SPD relating to the historic environment. We welcome attempts to avoid duplication with national policy and simply local planning regimes where this does not come at the cost of reasonable local approaches to managing the historic environment. We would welcome the commissioning of an audit of SPD as part of the transition to the new system.

1. **Do you agree with the suggested scope and principles for guiding National Development Management Policies?**

We broadly agree with the suggested scope and principle for guiding NDMPs. We particularly welcome the statutory status that they will have, which will provide additional clarity on the weight to be given to policies. However, we note that it will be in the detailed implementation of the policy where many issues could arise. We support the removal of duplication of policy, and we welcome the opportunity to promote greater consistency of approach where possible.

For example, examining the content of existing local plan policies for the historic environment (which has been mentioned several times in government proposals as one area which could be transferred to an NDMP) will reveal a number of local policies which do not duplicate NPPF policies, but are additional requirements, or specific mechanisms for delivering NPPF policies. We would expect there to be a sensible degree of discretion available to local authorities to retain policies which have positive effects locally where these is no similar national policy. This may require a relaxed interpretation of caveats that permit policies relating to ‘distinctly local issues’ to be retained in local plans. For example, historic environment policies which enable an LPA to require all development sites above a given size to undertake archaeological evaluation are common in some areas. This relates to known character and density of archaeological remains in these areas. We support these types of local policy which provide additional information to planners and increased certainty to developers in the development management process, even where these policies may not be appropriate to implement nationally.

We welcome the opportunity to make additions to policy to close gaps in existing national policy.

1. **What other principles, if any, do you believe should inform the scope of National Development Management Policies?**

NDMPs should be subject to at least the same scrutiny as NPPF policies. We support the use of a positive procedure such as that used for National Policy Statements as a model for this scrutiny.

We also believe that NDMPs should be subject to a principle of non-regression, whereby no existing LPA policy that exceeds national standards will be ‘levelled down’ by an imposed NDMP standard. Furthermore, local authorities should be able to, in future, use local discretion to increase standards if locally amenable.

1. **Do you agree that selective additions should be considered for proposals to complement existing national policies for guiding decisions?**

Yes. There will also be a range of opportunities to amend current policy in the light of experience gained since NPPF was published. For example, we would like to propose an amendment to paragraph 194 of the NPPF, to clarify the expected requirements for applicants to provide analysis of significance *and* impact when submitting planning application. This reflects common good practice, but a poor wording has caused problems with the production of guidance within the sector which interprets the existing wording in a narrower sense, creating an unhelpful situation where a developer could potentially withhold information from the local planning authority, creating an additional burden on decision-making.

We look forward to discussing this and other small changes to existing policy with officials in due course.

**53 What, if any, planning policies do you think could be included in a new framework to help achieve the twelve levelling up missions in the Levelling Up White Paper?**

We support the levelling-up missions and the recognition that planning plays an important role in driving outcomes. In particular we highlight the importance of planning in delivering on the mission to ‘*Restore a sense of community, local pride and belonging, especially in those places where they have been lost*’.

We note the strong connection between qualities such as local distinctiveness, historic character, and well cared for environments and a sense of local pride. The planning system helps to deliver these outcomes when the systems safeguards for the historic and natural environment, as well as design are taken into account in decision-making.

This means that the improvement of policies for the historic environment that serve to close loopholes in the process which undermine outcomes for place (such as the poorly worded paragraph 194 or the absence of mechanisms to identify footnote 68 sites, or the creep of potentially harmful permitted development rights) will be important to discuss in due course.

1. **Do you think that the government could go further in national policy, to increase development on brownfield land within city and town centres, with a view to facilitating gentle densification of our urban cores?**

We welcome the development of policies to encourage brownfield development in a sustainable way. We note that many brownfield sites are rich sites for historic and natural environment. Sustainable development of brownfield sites therefore means ensuring that appropriate assessment of sites is undertaken to ensure that impacts on the historic environment and biodiversity are properly understood. Usually this will mean archaeological and ecological evaluation where it is determined that there is a need to assess the survival and significance of known assets, or where there is deemed to be a high chance of the discovery hitherto undiscovered assets. Routes to ‘streamline’ consent for development on brownfield sites have in the past failed to provide adequate mechanisms for archaeological and ecological assessment, and this must be discouraged in any further national policy efforts to increase brownfield development.

1. **Are there any specific approaches or examples of best practice which you think we should consider to improve the way that national planning policy is presented and accessed?**

We are excited by the prospect of investment in developing new digital tools to improve access, presentation, and functionality of the planning system. For example, the use and acceptance of GIS files as part of planning applications might help to reduce the size of planning reports and applications and increase ‘readability’ as most of the data is visual, labelled and intuitively available. We would welcome the use accessible platforms for viewing GIS which means consultees don’t need to know how to use technical GIS software. This can make complex applications with multiple data sets with a spatial dimension all available so that stakeholders can see how the various data and proposals articulate across the full range of disciplines. This will promote a more integrated and balanced response as stakeholders will see how compromises might be required in one area in order to serve the needs of another – after all planning is typically an exercise in compromise.

We would also welcome government investment in the development of historic environment records to improve data functionality. For example, current research into the potential for ‘archaeological sensitivity maps’ which could inform plan making holds potential to unlock more and better data earlier in the process of plan making. The further adoption of new data from technologies such as Lidar processed using AI, also has the potential to improve the quality of records in many parts of the country.