

The Planning Bill – What are the plans for the future?



The Government's plans for the planning system were set out by Her Majesty the Queen, on Tuesday 11th May, in the Queen's Speech .

Whilst the details within the Queen's Speech were minimal, the Government's briefing notes that accompanied the Queen's Speech made it clear that the Planning Bill is set to implement some of the controversial proposals in the Government's Planning White Paper.

The briefing notes outline the Government's concerns that the current planning system does not provide enough opportunities to build new homes and this undersupply of housing, the Government states, has resulted in housing becoming increasingly expensive.

The Government wants to change local plans to "provide more certainty over the type, scale and design of development permitted on different categories of land". By allocating land as "growth areas", "renewal areas" and "protected areas", the Government is hoping to simplify and speed-up the process for delivering new housing and infrastructure. Those designations were used in the Planning White Paper and it remains to be seen if they are retained in the Planning Bill's passage to becoming an Act.

A new more predictable and more transparent levy

The current developer contribution systems of section 106 agreements and CIL are set to be replaced by "a new more predictable and more transparent levy".

However, the Government's briefing notes only talk about this levy with regards to affordable housing and infrastructure. No mention is made of the other types of obligations that are secured by section 106 agreements



such as the provision of on-site open space areas, and ecological enhancements. The Government's Planning White Paper provided no solutions on how these types of obligations will be secured. If these types of obligations will not be included in the new levy, it seems inevitable that more legislation would be required to deal with these issues by either planning conditions or specific agreements.

Even if planning conditions are used or new agreements entered into, this would still involve a certain amount of negotiation between developers and local authorities which the Government is trying to avoid by abolishing section 106 agreements. Previous attempts at simplifying the delivery of infrastructure by developers, such as when CIL was introduced, have only created a more complex system. Will the new Infrastructure Levy be the same ?

Assessing the environmental impact of development

The Government is also proposing to introduce simpler and faster procedures for assessing the environmental impacts of developments by "using post-Brexit freedoms". No further details are available yet on what those procedures are but the much delayed Environment Bill, which was also included in the Queen's Speech, indicates that the Government will be putting the environment at "the centre of policy making". Given the emphasis that the Government is placing on the environment in the Environment Bill, it remains to be seen how it will be possible to create a simpler and faster procedure for environmental impact assessments without adversely affecting the environment.

The Environment Bill is set to introduce legally-binding environmental targets and a new independent Office for Environmental Protection will be set up. The Government is putting forward amendments to the Environment Bill "to reduce the harm from storm overflows to our rivers, waterways and coastlines."

"Nutrient neutrality" and the effect of new developments on local water environments is already an issue in many parts of the country including the Solent region and Stodmarsh SPA/SAC/SSSI area in Kent.

Developers have already had to provide mitigation solutions for their developments in order to achieve nutrient neutrality such as conversion of agricultural land to uses that generate less of the harmful nutrients eg conversion to woodland.

Solutions are not straightforward and many developments are being delayed by nutrient issues. With the Government setting legally binding targets on sewage discharges from storm overflows , it seems clear that water discharge from developments will continue to be an issue of concern, on a number of fronts, in the future.

"Biodiversity net gain" is also being championed by the Government in the Environment Bill with changes being made in the planning system to ensure "new houses are not built at the expense of nature and delivering thriving natural spaces for communities".

If a developer cannot improve the biodiversity on their development site, then the developer will be required to offset the impact of the development by providing an offsite solution. The Government's Planning Bill briefing notes do not mention "biodiversity net gain" but a framework is set to be established "which focuses on positive outcomes, such as environmental opportunities and better designed places."

How this framework will work in practice remains to be seen, especially as the Government is veering away from using section 106 agreements which could be used to secure the provision and future maintenance of such biodiversity measures.



Conclusion

It remains to be seen how the Planning and Environment Bills will interact but there is potential for the aims of those Bills to conflict with one another. The Government's ambition for more new homes to be built seems to be the main driving force of the Planning Bill yet some aspects of the Environment Bill may make this harder to achieve.

It is difficult to assess what the precise impact of the planning reforms will be at present without further details. Nonetheless, the Government does seem to be continuing to plan for its vision of the future and is set on implementing the modernization the current planning system.



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