Planning and Infrastructure Bill: Written Evidence, April 2025

Contents

About HBF

- The Home Builders Federation (HBF) represents home builders in England and Wales. HBF's members build the majority of new homes built in England and Wales each year. Its membership includes national developers and hundreds of SME builders.

Introduction

- HBF welcomes the opportunity to submit written evidence to assist the Public Bill Committee in its scrutiny of the Planning and Infrastructure Bill.

- This submission outlines a series of recommendations, observations, and proposed amendments to the Bill, reflecting the priorities and concerns of the home building industry.
- A summary of the key points from our submission can be found below:
    - The Government should consider amending the wording of Clause 44 of the Bill so that it references the national default fee for planning applications. This would support the Government's intention of "*preventing large differences in fees between LPAs".*
    - We understand that the process by which Local Planning Authorities (LPAs) may set planning fees or charges will be set out in regulations. We urge the Government to provide early sight of both the proposed wording of the regulations and the intended level of the national default fee.
    - While we welcome the Government's commitment to continue monitoring the performance of LPAs via the Planning Performance Dashboard (and a separate but related review of statutory consultees) and quarterly planning statistics, and to hold underperforming authorities to account through the existing performance regime, similar assurances have been made in the past and should be strengthened through the Bill.
    - The home building industry welcomes the introduction of mandatory training for members of LPAs. However, we recommend that the Government also gives consideration to introducing a requirement for members to pass an examination upon completion of the training. This would help ensure a baseline level of competency and accountability across LPAs.
    - HBF supports the Government's intention to increase the efficiency and consistency of the planning system through the introduction of a national scheme of delegation.
    - Industry would welcome the inclusion of a new Clause to Part 2, Chapter 1, Planning Decisions to reassert the principles of the Water Industry Act 1991 in particular section 94 and the statutory duties under which water companies operate.
    - Spatial Development Strategies (SDS) should be prepared to cover a minimum period of twenty years, ensuring a long-term strategic vision for growth and infrastructure delivery. The Bill should also be amended to allow areas to be identified and designated in SDS that are integral to growth to ensure that the aims of the SDS can be achieved.
    - The Government should introduce policy safeguards to ensure that a significant proportion of each local authority's identified housing need - suggested at no less than 70% - is met within that authority's boundaries, wherever reasonably possible, subject to evidence on land availability and deliverability.
    - It is important that the Environmental Delivery Plans (EDP) identify a range of actions and parties to contribute to the plan of action to achieve recovery and enhancement.

- EDPs should not be made mandatory. Home builders should be allowed the option to find their own solutions to meeting the environmental obligations in question. Many have invested substantially already in solutions, and it is important that they can continue to use these solutions.
- EDPs will not be produced for every catchment affected currently by the nutrient neutrality restrictions and so it is a matter of concern to HBF that some catchments may not benefit from the Nature Restoration Fund approach, meaning that residential schemes may continue to be delayed.
- It is vital that LPAs are prevented from imposing any conditions or restrictions in relation to the environmental obligation/s addressed by the EDP to ensure that the Nature Restoration Fund can operate in the way intended.
- HBF is keen to understand under which circumstances developers will be permitted to pay the Nature Restoration Levy in instalments. Such a measure could be of great use to SME house builders whose cashflow constraints may make a full levy payment at the outset very challenging.

Part one: Infrastructure

- HBF welcomes the commitment of Government, Ofgem and the National Energy System Operator (NESO) to move from a 'first come, first served' approach towards a 'first ready, first connected' approach for connections to the grid.
- In recent years, the delivery of new homes in some areas of the country has been delayed due to concerns over grid capacity. In 2022, residential schemes of 25 or more homes were put on hold in three West London boroughs due to a lack of electrical capacity. The problem was attributed to the proliferation of new data centres in the Thames Valley and their requirements for new electricity connections.
- The issue has since spread more widely across the country and is causing challenges for developers of all sizes but particularly SMEs. Indeed, 80% of SME developers said these delays were a barrier to delivery[1].
- As such, we were pleased that the Government has stated that the Bill will confer time limited powers *"on the Secretary of State and Ofgem to enable prioritisation of the connections queue for three years from Royal Assent of the Bill. These powers will be available should the existing connections reform processes face significant delays or fail to deliver intended benefits, including alignment with strategic energy plans. They will allow the Secretary of State and Ofgem to directly amend, electricity licences (both terms and conditions of particular licences, and standard conditions of a particular licence type), documents maintained in accordance with the conditions of licences, agreements made in accordance with a document so maintained, and qualifying connection agreements. These amendments are for the purpose of improving the process for managing connections to the electricity transmission and distribution systems."*

[1] HBF/Close Brothers Property Finance/Travis Perkins, State of Play 2024-25

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Part two: Planning

Clause 44: Fees for planning applications etc

- There are many reasons for delays in the planning process, one of which is that Local Planning Authorities (LPAs) are under-resourced and understaffed and have been for many years. This is resulting in discrepancies, administrative errors, and additional delays in all aspects of the planning process.
- Indeed, recent HBF research, based on a Freedom of Information (FoI) exercise, found that 80% of councils operate below full staffing capacity and estimated a national shortage of over 2,200 planners in local authorities[2].
- HBF has long called for LPAs to be placed on a self-sustaining footing for the long-term and acknowledges the Government's efforts to implement a resolution through *Clause 44: Fees for planning applications etc* of the Planning and Infrastructure Bill.
- This clause is intended to enable LPAs to set their own planning fees or charges at a level up to, but not exceeding, cost recovery for planning applications for which a fee is payable.
- While the acknowledgement that the fees cannot exceed cost recovery is a welcome safeguard, it still leaves considerable scope for vast differences in fee scales across the country.
- As such, we were pleased to read the in the accompanying fact sheet to the Bill that it *"will be pursuing a fees model that allows for local variation from a national default fee – this approach gives LPAs greater flexibility to fund and deliver an effective service whilst preventing large differences in fees between LPAs".*
- However, the Bill as currently drafted, would allow for full local rate setting (capped at cost recovery levels) subject to MHCLG oversight.
- **To support the Government's intention of *"preventing large differences in fees between LPAs",* it could consider making reference to the national default fee in the text of the Bill.**
- **As such, HBF suggests the following change to the Bill:**

Clause 44, page 55, line 16, after "charge" insert ", having regard to the national default fee prescribed by the Secretary of State."

Certainty

- We understand that the process by which Local Planning Authorities (LPAs) may set planning fees or charges will be set out in regulations. These will outline the requirements that LPAs must meet to set planning fees or charges including the criteria to be applied when setting the fees or charges, procedures for consultation, publishing relevant information, notifying the relevant Secretary of State, and implementing a review mechanism.

[2]HBF, Planning on Empty

- **Given the significance of these measures and the potential financial impact they might have on SME developers, we strongly encourage the Government to publish the draft regulations at the earliest opportunity.**
- **In particular, we urge the Government to provide early sight of both the proposed wording of the regulations and the intended level of the national default fee.**
- **Doing so before the Bill receives Royal Assent would offer much-needed reassurance to developers, local authorities, and other stakeholders, allowing them to better prepare for implementation and avoid unnecessary uncertainty.**

Performance

- Given the likelihood that these measures will result in further fee increases for developers, it is essential that the Government closely monitors the performance of Local Planning Authorities (LPAs) to ensure that any additional costs are matched by tangible and measurable improvements.
- In particular, developers should see considerable gains in the speed and efficiency with which both LPAs and statutory consultees determine planning applications and discharge conditions.
- **While we welcome the Government's commitment—outlined in its background briefing—to continue monitoring the performance of LPAs via the Planning Performance Dashboard (and a separate but related review of statutory consultees) and quarterly planning statistics, and to hold underperforming authorities to account through the existing performance regime, similar assurances have been made in the past and should be strengthened.**
- **As such, HBF suggests the following amendment to the Bill:**

***Clause 44, page 57, line 19, at end insert -**

"(8) The Government shall, within six months of the introduction of cost recovery on planning applications fees—

(a) Monitor and analyse the performance of planning authorities and statutory consultees in adhering to statutory timescales for determining planning applications through the Planning Performance Dashboard and quarterly planning statistics.

(b) As part of its monitoring, provide guidance and support to local planning authorities (LPAs) that consistently fail to meet statutory timescales, including but not limited to, the provision of best practice examples and strategies for improvement.

(c) Publish an annual report analysing the performance of LPAs in meeting statutory timescales and detailing the action taken to deliver improvements.

Clause 45: Training for local planning authorities in England

- The home building industry welcomes the introduction of mandatory training for members of Local Planning Authorities (LPAs), recognising it as a positive step toward improving the consistency, efficiency, and quality of decision-making during the planning process.
- However, we note that Clause 45 of the Bill requires only that members obtain a certificate of completion. While mandatory participation is a meaningful start, the absence of a formal assessment or examination component raises concerns about the depth of understanding acquired through the training. Without a means to evaluate comprehension, it may be challenging to ensure that key planning principles and policy updates are properly internalised and applied in practice.
- **We therefore recommend that the Government give consideration to introducing a requirement for members to pass an examination upon completion of the training.**
- **This would help ensure a baseline level of competency and accountability across LPAs.**
- **Additionally, provisions should be made for refresher or supplementary training where there have been significant changes to national or local planning policy, guidance, or legislation. This would help maintain up-to-date knowledge and improve the overall robustness of planning decisions over time.**

Clause 46: Delegation of planning decisions in England

- HBF supports the Government's intention to increase the efficiency and consistency of the planning system through the introduction of a national scheme of delegation.
- While many planning committees make well-considered and balanced decisions, this is not universally the case. There is growing concern within the home building industry that the determination of applications by committee can at times feel arbitrary- a 'game of chance'- with outcomes influenced by local politics or inconsistent interpretations of policy.
- The need for reform in this area was recognised in the Competition and Markets Authority's (CMA) final report following the conclusion of its home building Market Study.
- The CMA suggested the Government could: *"Formally review the varied LPA schemes of delegation with a view to harmonising the complex set of rules and removing the use of Planning Committees for those applications which are broadly in-line with the local plan and/or which below an agreed threshold."*
- As such, the inclusion of *Clause 46: Delegation of planning decisions in England* in the Bill, has been positively received by the home building industry.
- The Government's earlier working paper identified four potential options for a national scheme of delegation:
    - Option 1 – Delegation where an application complies with development plan
    - Option 2 – Delegation as default with exceptions for departures from the development plan
    - Option 3 – Delegation as default with a prescriptive list of exceptions
    - Option 4 - A hybrid approach

- At present, it remains unclear which of these options the Government intends to adopt, as the Bill provides enabling powers for the Secretary of State to establish the scheme through secondary legislation.
- **Of the four approaches outlined, HBF believes that a hybrid model may offer the most practical and balanced solution. Such a model could establish a presumption in favour of officer-level decision-making where the principle of development has already been agreed, and the details align with prior approvals or policy. Planning committees would then only become involved in exceptional or clearly defined circumstances, criteria that should be subject to further consultation.**
- The question of size thresholds is particularly challenging. For example, a scheme of nine dwellings may benefit from the scrutiny of a committee (and may not be) whilst a scheme of 11 dwellings need not be scrutinised by a committee (but has to be). Similarly, just because a proposal constitutes EIA development does not mean that it should automatically be considered by a committee.
- There is also a case to be made - acknowledged by many in the industry - that outline applications on allocated sites and reserved matters submissions pursuant to outline consents should not be referred to committee, unless specifically requested by the applicant. While HBF recognises this view, it also acknowledges the counterargument: that in some cases, democratic oversight provides valuable legitimacy to decisions, particularly in politically sensitive or high-profile schemes. Member endorsement, alongside officer recommendation, can help build community confidence, especially where public scrutiny is likely to be high.
- **As part of any national scheme of delegation, HBF recommends that there should be a clear presumption that householder applications are only brought before committee in exceptional circumstances. This would ensure that resources are directed where they are most needed, while reducing unnecessary delays for applicants.**

Outstanding issues that should be addressed through the Bill: Foul water connections in development management

- Local planning authorities and/or water companies are increasingly questioning the ability of the water infrastructure network to cope with new housing development, even in instances where water companies themselves are confident of capacity.
- Consequently, more developments are falling subject to conditions that relate either to foul drainage or discharge of foul, contaminated and surface water.
- Hitherto, these were not matters that typically intruded into land-use planning development management decisions. Matters relating to water infrastructure were addressed under a separate, parallel statutory regime – the Water Industry Act 1991.
- The Barratt v Welsh Water supreme court judgment of 2009 had clarified the scope of the Water Industry Act 1991 (WIA 1991) and the role of the LPA. Decision takers could assume that this regime was operating effectively. Paragraph 201 of the National Planning Policy Framework (NPPF) reflected this position.

- However, this principle is being eroded increasingly, as water companies and local planning authorities raise objections to residential developments on the grounds of the inability of the infrastructure to cope.
- An appeal decision in Wealden on 7 March (Land at Old Orchard House, Appeal Ref: APP/C1435/W/24/3343709) is likely to strengthen the hand of local authorities who wish to find reasons to refuse or delay residential developments in England.
- HBF is aware of at least six residential schemes within Wealden District, totaling 819 dwellings including 189 affordable homes, that are delayed owing to the question over foul connections. Development has also been delayed in Oxford City, Cambridge, Welwyn Hatfield, Norfolk and Suffolk and South Staffordshire. There is potential for this issue to spread further.
- **As such, HBF would welcome the inclusion of a new Clause to Part 2, Chapter 1, Planning Decisions to reassert the principles of the Water Industry Act 1991 in particular section 94 and the statutory duties under which water companies operate. Decisions regarding the capacity of water infrastructure should not become considerations for development management decisions but are instead addressed through Water Management Development Plans.**

***New Clause XX page 62, line 17, insert –**

"In determining planning applications for residential development, local planning authorities must have due regard to the operation of the statutory water infrastructure regime under the Water Industry Act 1991".

Clause 47: Spatial development strategies

- This clause places a requirement on strategic planning authorities to prepare a document called a spatial development strategy.
- A spatial development strategy will form part of the development plan which local planning authorities (LPAs) must determine planning applications in accordance with, unless material considerations indicate otherwise.
- Local plans produced by LPAs will be required to be in general conformity with a spatial development strategy.
- While much of the detail on how Spatial Development Strategies (SDS) will operate is expected to be set out in subsequent regulations and/or policy guidance, there are several areas where further clarity would be welcomed.

Plan period

- **HBF considers that Spatial Development Strategies (SDS) should be prepared to cover a minimum period of twenty years, ensuring a long-term strategic vision for growth and infrastructure delivery.**

- However, to maintain their relevance and responsiveness to changing circumstances, SDS should be subject to a formal review - and, where necessary, revision - at least every five years.
- Regular updates are particularly important to ensure that SDS remain aligned with changes to the Standard Method for calculating housing need, as well as other key policy shifts, demographic trends, and economic developments.
- Embedding this review cycle in legislation or guidance would provide greater certainty for stakeholders and support the effective delivery of housing and infrastructure over time.
- **Consequently, we suggest that the Bill is amended as follows:**

Clause 47, page 65, line 38, at end insert –

"The spatial development strategy must cover a minimum period of twenty years from the date of its adoption, with provisions for review and, where appropriate, revision at least once every five years."

Allocations

- Section 12D(12) of the Bill proposes that Spatial Development Strategies (SDS) must not identify specific sites for development (as outlined in paragraph 507 of the Explanatory Notes). Instead, SDS may only identify broad locations or general areas that are considered suitable or have capacity for development or infrastructure.
- While we recognise the strategic nature of SDS, HBF questions the overall effectiveness of this restriction. Relying solely on subsequent local plans to allocate the specific land needed to deliver the objectives of the SDS may result in unnecessary delays, fragmentation in plan-making, and misalignment between strategic goals and local delivery.
- **We would recommend that the Bill is changed to allow areas to be identified and designated that are integral to growth to ensure that the aims of the SDS can be achieved. Supporting local plans must reflect these designations and broad areas of growth to be in general conformity with the SDS. Specific locations within these designations, or broad areas of growth, can then be allocated in supporting local plans.**
- **As such, HBF proposes the following amendment:**

Clause 47, page 67, line 3, leave out paragraph (b)

Housing market area

- It is important that the geography over which the strategic planning authority intends the SDS to operate reflects the true housing market geography.
- This is necessary to ensure that the needs of urban areas can be properly accounted for by the plan, and that there are no 'unmet' housing needs.

Distribution of the housing need

- New Section 12D(5) provides that the Spatial Development Strategy (SDS) may specify the amount or distribution of housing that the strategic authority considers to be of strategic importance (as referenced in paragraph 504 of the Explanatory Notes).
- **While this is a welcome provision, it will be essential for supporting policy or guidance to provide clear directions on how this power should be exercised in practice.**
- In particular, there must be clarity on how the SDS will ensure that the full housing requirement, calculated using the Standard Method, is planned for over the duration of the strategy. This includes not only establishing the overall housing need for the plan period but also clearly setting out how that need will be distributed across the SDS area.
- Where the SDS covers multiple local planning authorities, it will also be important to provide guidance on how housing need is to be fairly and transparently apportioned among those constituent authorities.
- It will also be important to ensure that the distribution of housing broadly reflects the number that each local authority is required to deliver, so long as this is feasible.
- For example, some cities may struggle to accommodate the number of homes required by the Standard Method owing to capacity constraints. In such cases, a managed redistribution across the wider housing market area would be necessary.
- Conversely, it may be necessary to ensure that housing numbers are not loaded onto certain local authorities, based on ill-founded notions about capacity and market demand. This could result in housing being directed away from locations where the need is greatest to locations where need and demand is much weaker. This could result in housing targets being missed.
- **HBF recommends that the Government introduces policy safeguards to ensure that a significant proportion of each local authority's identified housing need - suggested at no less than 70% - is met within that authority's boundaries, wherever reasonably possible, subject to evidence on land availability and deliverability.**

Part three: Development and nature recovery

- The Government's proposal has the potential to release many of the circa 100,000 homes (the Government's estimate of the number of homes affected) delayed by Natural England's advice on nutrient neutrality.
- The proposal-should be adapted to address other environmental obstacles identified by Natural England, such as water neutrality, which is delaying nearly 20,000 homes according to the assessment undertaken by the three local authorities subject to Natural England's restrictions and the increasing number of areas being identified where it is necessary to compensate for the effect of new residents on protected habitats through recreation. Indeed, given the effect of Natural England's multiple restrictions on home building in England, the Nature Restoration Fund should be deployed as a matter of urgency to help release the thousands of homes delayed.

- The provisions would enable the Secretary of State to instruct a public authority, like Natural England, to make a make a plan – called an Environmental Delivery Plan – to address a specified environmental problem – an 'environmental obligation'. The execution of this plan would be enabled by the collection of a levy from various parties to pay to execute the measures identified in the plan to restore the habitat or species.
- Only the Secretary of State can approve the plan and its supporting levy. This is an important safeguard to ensure that the proposals in the Environmental Delivery Plan are fair, equitable, and effective to enable the outcomes identified to be achieved.
- **The proposal is supported by the house building industry because it has the potential for contributions to be collected from an array of parties to fund actions that can bring about the recovery of the habitat or species in question faster. However, it is not only about speed, but the identification of a more effective programme of action to achieve the recovery of the habitat or species in question.**
- It is important to understand that the Government's proposal does represent a conceptual change in how the problem of nutrient neutrality (and potentially other obligations) is addressed. It represents the opportunity to move away from site specific mitigation, where individual residential developments must achieve neutrality, to a programme of funding whereby the cumulative effect of a series of conservation actions, funded by a levy from a collection of residential developments, would achieve much more than neutrality. It would, therefore, enable developments to contribute to recovery, and ultimately enhancement. At present, through neutrality, residential schemes are only ensuring no net harm. They are not contributing to improvement over the medium to longer term.
- **It is important that the Environmental Delivery Plans (EDP) identify a range of actions and parties to contribute to the plan of action to achieve recovery and enhancement. The aims of the EDP cannot be achieved if these are funded solely by home builders. This is a reason why the current approach – the mitigation approach - is ineffective in the long-term as a means of addressing the environmental problems identified.**
- By bringing together a collection of actions by different parties, such as the water companies, farmers and other activities in the development sector, then the conservation measures identified in the EDP to achieve recovery can happen much faster.

Clause 51: Nature restoration levy: charging schedules

- Clause 51(8) allows for the EDP, and the payment of the supporting levy, to be mandatory. We are opposed to the EDP being made mandatory. The Government has stated that an EDP might need to be mandatory when the collection of the levy is the only feasible means of achieving nature recovery.

- **While this might be the case, we are opposed to EDPs being made mandatory. Home builders should be allowed the option to find their own solutions to meeting the environmental obligations in question. Many have invested substantially already in solutions, and it is important that they can continue to use these solutions**.

Clause 55: Making of EDP by Secretary of State

- This clause refers to the need for the conservation measures set out in the EDP to amount to positive effects on the environmental obligation identified that are greater than the negative effects.
- **It is important that the effects of the actions identified are greater. However, it is the view of HBF that those actions should not be pitched as significantly greater in effect, otherwise the measures identified, and therefore the cost of the levy, could make the Nature Restoration Fund unattractive to applicants.**
- If the levy is too expensive, then applicants might opt to continue down the mitigation route, i.e. ensuring that the development proposed has no net harm, rather than contributing to a scheme that provides a net benefit. The aim, in part, should be to attract applicants to opt to pay the levy.
- The cost of the levy is an important consideration. The Government has recognised that if the cost of the levy is too expensive, not only might this discourage its take-up by applicants, but it would have an adverse effect on development viability, including diverting development value away from the supply of affordable homes.
- **EDPs will not be produced for every catchment affected currently by the nutrient neutrality restrictions. It is likely that the Government will prioritise certain areas where credit markets have failed to emerge. It is a matter of concern to HBF that some catchments may not benefit from the Nature Restoration Fund approach, meaning that residential schemes may continue to be delayed.**

Clause 57: Reporting on an EDP

- The provisions relating to reporting on the EDP are supported by HBF. However, we think reports are needed more regularly than just twice (at inception and midway through the programme).
- **Ideally, there should be an annual report explaining progress and how much longer it is expected to take before the environmental obligation is resolved.**
- In addition to the provisions outlined, the report should explain how long it is expected to resolve the environmental obligation identified (i.e. by what date) and the habitat restored to a favourable condition.

Clause 58: Amendment of an EDP

- We understand subsection (2) to mean that where a developer has committed already to pay the levy, and EDP cannot be amended subsequently so that it disapplies to that development, i.e. payment discharges the environmental obligation even if it is decided subsequently that the levy is to be suspended as a device to address the named environmental obligation. **We would welcome clarification.**
- Similarly, if an EDP is amended, and the cost of the levy increases, the applicant who has paid the levy already cannot be required subsequently to pay that higher levy cost. This is essential to ensure that the applicant understands in advance the costs associated with a development including the applicant's ability to meet other planning policy goals, including S106 planning obligations, and pay the land value expected by the landowner.

Clause 61: Commitment to pay the nature restoration levy

- Subsection (3)(a) sets out that payment of the levy results in the environmental impact of development on that feature being disregarded for the purposes of obligations under the Habitats Regulations or the Wildlife and Countryside Act 1981.
- Subsection (3)(b) makes clear that payment of the levy results in the developer being treated as having been granted a licence under regulation 55 of the Habitats Regulations, section 16 of the Wildlife and Countryside Act 1981 or section 10 of the Protection of Badgers Act 1992.
- This is important since it allows the applicant, once s/he has paid the levy to proceed to build and allow homes to be occupied without further impediment relating to the environmental obligation addressed by the EDP.
- However, we are concerned that local planning authorities (LPA) might still try to apply conditions, restrictions or limitations thereby compromising the effectiveness of the Nature Restoration Fund.
- **It is vital that LPAs are prevented from imposing any conditions or restrictions in relation to the environmental obligation/s addressed by the EDP to ensure that the Nature Restoration Fund can operate in the way intended.**
- **This would enable the Nature Restoration Fund to become an effective vehicle to raise revenue to achieve nature restoration faster and more comprehensively while also lifting the restrictions on house building.**

Clause 67: Collection of nature restoration levy

- This clause sets a requirement for nature restoration levy regulations to include provision relating to the levy's collection.
- It also stipulates further provisions such as that payments can be made in instalments, can be in a form other than money, or can be collected by a public body other than Natural England (for example by the local planning authority).
- **HBF is keen to understand under which circumstances developers will be permitted to pay the Nature Restoration Levy in instalments. Such a measure**

could be of great use to SME house builders cashflow constraints may make a full levy payment at the outset very challenging.