



RTPI

Royal Town Planning Institute

Levelling Up and Regeneration Bill

LORDS AMENDMENT: NDMP Scrutiny

Currently in the Bill

Part 3 Chapter 2 'Development Plans' in the Bill would:

- Give statutory weight to new national development management policies (NDMPs), applying to all of England (Clause 86, subsection 5a)
- Presume national policy priority over local plans where these conflict (Clause 86, subsection 5b)
- Give the Secretary of State unlimited discretion over (1) the content of NDMPs and (2) what policy consultation and scrutiny is considered appropriate (Clause 87)

Recently published consultation documents suggests [the scope of the centralised NDMPs](#) will include policies "already provided within the National Planning Policy Framework (NPPF)", new additions "to reflect national policies" following the Bill's passage and "selective new additions to close 'gaps' where existing national policy is silent". However, Ministerial explanations of how NDMPs will be used once introduced have been vague and contradictory - see [14th sitting](#) of the Commons Public Bill Committee.

For example, NDMPs as [described](#) would be strictly limited to common, existing planning considerations:

"[NDMPs] will carry forward the role that successive Governments have played since the 1940s in setting high-level national policy that influences plans and decisions. The sort of things that we envisage them covering are standard policies – for example, avoiding inappropriate development in a green belt and areas of significant risk of flooding or coastal erosion; protecting nationally important habitats and heritage, and assets such as listed buildings; and ensuring that access for pedestrians, cyclists and people with disabilities or reduced mobility is taken into account when assessing development proposals"

On other occasions they've been [described](#) as a broad – and sometimes emergency – powers without restrictions to be used as Government sees fit:

"we need to bear in mind the possibility that circumstances may occasionally arise in which the Government need to make urgent change ... I would like to give her an example that became apparent during the pandemic of when we had to act quickly. Hon. Members will recall, during the first part of the pandemic, the significant issue with food supply. One of the decisions that was therefore made at a national level was to disapply planning conditions relating to the hours during which supermarkets could be served by delivery vehicles. Because of the way supply chains were at that point, it was extremely important to get food through to the stores. In those circumstances, it may not be feasible to do everything that the amendment seeks to do, for reasons that I hope she understands."

The expected function of NDMPs (alongside and in conjunction with other policy documents and plans) also represents a significant level of departure from the status quo, strengthening the plan-making powers of central government at the expense of local jurisdictions. [Government has recently confirmed:](#)

"Our current intention is that National Development Management Policies, once introduced, would be set out in a separate document to the rest of the National Planning Policy Framework. The latter would be re-focused on principles for plan-making (i.e. the general approach to allocating land for development in plans and protecting areas of value) and would not carry the statutory weight conveyed by the Bill, although they would still be capable of acting as material considerations where relevant"

The RTPI encourage peers to support the improvements outlined. To arrange a briefing please contact, Senior Public Affairs Officer, Joel Cohen: joel.cohen@rtpi.org.uk



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RTPI Proposal

Introducing powers to scrutinise National Development Management Policies

Support amendments to Clause 87 to insert a process for the Secretary of State to designate and review a national development management policy including minimum public consultation requirements and a process of parliamentary scrutiny based on processes set out in the Planning Act 2008 (as amended) for designating National Policy Statements.

Local authorities are rightly required to consult on such policies when preparing local plans today. In future it is right that Secretaries of State be held to account by the public and parliament in a similar way. As with National Policy Statements, the RTPI ask that parliament be required to scrutinise NDMPs and that the public be allowed to consult on proposed changes to them.

The RTPI do not oppose the primacy given to NDMPs by the Bill in principle. But the unprecedented level of central control for planning they introduce means safeguards are needed to maintain local consent.

RTPI Rationale

- **It is historically unprecedented that central government should determine and apply mandatory planning policies to all of England.** Many of the policies suggested to 'become' NDMPs are currently outlined in local plans which require rigorous standards of public consultation and scrutiny (via examination) before adoption.
- **It is still unclear what national development management policies will include** (see evidence above) or what – if any – flexibility will be given to reflect the geographical, economic, and infrastructural differences between places in a single policy.
- **Without sufficient safeguards, councils may be expected to implement policies that were not designed with their area's needs in mind.** This could further weaken confidence in our planning system and the integrity of local plans.
- **National Policy Statements (introduced by [amendments to the Planning Act 2008](#)) demonstrate a model for public and parliamentary scrutiny** through both houses that the RTPI believe would provide sufficient safeguards.
- **The RTPI do not believe NDMPs, or their primacy, should be defeated in parliament** because we acknowledge that plan-making needs improvement:
 - NDMPs offer new opportunities to make progress nationally (e.g. on sustainability) where local authorities have thus far been limited by the policies of neighbouring authorities
 - Clarifying the status of national policy can help to build confidence in the planning process, especially for local councillors who currently can feel disenfranchised by regular changes to the NPPF
 - Local plans as currently drafted can be lengthy, inaccessible and duplicate NPPF guidance
 - Plan-making is costly and has been under-resourced: estimates we've received suggest the costs of producing a local plan (staff, evidence base, community consultation and inspection) amount to around £1 million per authority over four years.
 - A fundamental defeat in parliament would likely set the process of planning reform back significantly, leading to greater uncertainty, delays to plans and projects and fewer homes and infrastructure that communities need.
- **However, passing these reforms without improvement would undermine Government's stated aim by reducing local consent** to key aspects of planning policy, excluding communities from having a say in how applications are assessed.



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Draft wording

Clause 87, Page 95, line 9, leave out lines 9 to 16 and insert -

“(2) Before designating a policy as a national development management policy for the purposes of this Act the Secretary of State must carry out an appraisal of the sustainability of that policy.

(3) A policy may be designated as a national development management policy for the purposes of this Act only if the consultation and publicity requirements set out in clause 38ZB, and the parliamentary requirements set out in clause 38ZC, have been complied with in relation to it, and—

(a) the consideration period for the policy has expired without the House of Commons resolving during that period that the statement should not be proceeded with, or

(b) the policy has been approved by resolution of the House of Commons—

(i) after being laid before Parliament under section 38ZC, and

(ii) before the end of the consideration period.

(4) In subsection (3) “the consideration period”, in relation to a policy, means the period of 21 sitting days beginning with the first sitting day after the day on which the statement is laid before Parliament under section 38ZC, and here “sitting day” means a day on which the House of Commons sits.

(5) A policy may not be designated a national development management policy unless—

(a) it contains explanations of the reasons for the policy, and

(b) in particular, includes an explanation of how the policy set out takes account of Government policy relating to the mitigation of, and adaptation to, climate change.

(6) The Secretary of State must arrange for the publication of a national policy statement.

38ZB Consultation and publicity

(1) This section sets out the consultation and publicity requirements referred to in sections 38ZA(3) and 38ZD(7).

(2) The Secretary of State must carry out such consultation, and arrange for such publicity, as the Secretary of State thinks appropriate in relation to the proposal. This is subject to subsections (4) and (5).

(3) In this section “the proposal” means—

(a) the policy that the Secretary of State proposes to designate as a national development management policy for the purposes of this Act or

(b) (as the case may be) the proposed amendment (see section 38ZD).

(4) The Secretary of State must consult such persons, and such descriptions of persons, as may be prescribed.

(5) If the policy set out in the proposal identifies one or more locations as suitable (or potentially suitable) for a specified description of development, the Secretary of State must ensure that appropriate steps are taken to publicise the proposal.

(6) The Secretary of State must have regard to the responses to the consultation and publicity in deciding whether to proceed with the proposal.

38ZC Parliamentary requirements

(1) This section sets out the parliamentary requirements referred to in sections 38ZA(3) and 38ZD(7).

(2) The Secretary of State must lay the proposal before Parliament.

(3) In this section “the proposal” means—

(a) the policy that the Secretary of State proposes to designate as a national development management policy for the purposes of this Act or

(b) (as the case may be) the proposed amendment (see section 38ZD).



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- (4) Subsection (5) applies if, during the relevant period—
 - (a) either House of Parliament makes a resolution with regard to the proposal, or
 - (b) a committee of either House of Parliament makes recommendations with regard to the proposal.
- (5) The Secretary of State must lay before Parliament a statement setting out the Secretary of State's response to the resolution or recommendations.
- (6) The relevant period is the period specified by the Secretary of State in relation to the proposal.
- (7) The Secretary of State must specify the relevant period in relation to the proposal on or before the day on which the proposal is laid before Parliament under subsection (2).
- (8) After the end of the relevant period, but not before the Secretary of State complies with subsection (5) if it applies, the Secretary of State must lay the proposal before Parliament.”

38ZD Review of national development management policies

- (1) The Secretary of State must review a national development management policy whenever the Secretary of State thinks it appropriate to do so.
- (2) A review may relate to all or part of a national development management policy.
- (3) In deciding when to review a national development management policy the Secretary of State must consider whether—
 - (a) since the time when the policy was first published or (if later) last reviewed, there has been a significant change in any circumstances on the basis of which any of the policy set out in the statement was decided,
 - (b) the change was not anticipated at that time, and
 - (c) if the change had been anticipated at that time, any of the policy set out would have been materially different.
- (4) In deciding when to review part of a national development management policy (“the relevant part”) the Secretary of State must consider whether—
 - (a) since the time when the relevant part was first published or (if later) last reviewed, there has been a significant change in any circumstances on the basis of which any of the policy set out in the relevant part was decided,
 - (b) the change was not anticipated at that time, and
 - (c) if the change had been anticipated at that time, any of the policy set out in the relevant part would have been materially different.
- (5) After completing a review of all or part of a national development management policy the Secretary of State must do one of the following—
 - (a) amend the policy;
 - (b) withdraw the policy's designation as a national development management policy;
 - (c) leave the policy as it is.
- (6) Before amending a national development management policy the Secretary of State must carry out an appraisal of the sustainability of the policy set out in the proposed amendment.
- (7) The Secretary of State may amend a national development management policy only if the consultation and publicity requirements set out in section 38ZB, and the parliamentary requirements set out in section 38ZC, have been complied with in relation to the proposed amendment, and—
 - (a) the consideration period for the amendment has expired without the House of Commons resolving during that period that the amendment should not be proceeded with, or
 - (b) the amendment has been approved by resolution of the House of Commons—
 - (i) after being laid before Parliament under section 38ZA, and



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(ii) before the end of the consideration period.

(8) In subsection (7) “the consideration period”, in relation to an amendment, means the period of 21 sitting days beginning with the first sitting day after the day on which the amendment is laid before Parliament, and here “sitting day” means a day on which the House of Commons sits.

(9) If the Secretary of State amends a national development management policy, the Secretary of State must—

(a) arrange for the amendment, or the policy as amended, to be published, and

(b) lay the amendment, or the policy as amended, before Parliament.”

Explanatory statement: This amendment stipulates the process for the Secretary of State to designate and review a national development management policy including minimum public consultation requirements and a process of parliamentary scrutiny based on processes set out in the Planning Act 2008 (as amended) for designating National Policy Statements.