

Levelling Up and Regeneration Bill

LORDS AMENDMENT: Devolved exemptions to NDMPs

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)

The expected function of NDMPs (and an additional layer of statutory policymaking) 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”

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.”

RTPI Proposal

Incentivise devolved accountability with planning freedoms

Support amendments to Clause 86 to place limits on the primacy of national development management policies where a CCA has been handed planning, highways, environmental powers and at least one function of another public body under a devolution deal, in areas covered by a joint spatial development strategy and in Greater London.

The Bill would introduce a single NDMP that applies in the same way across very different parts of England. Without a clear definition of their scope or limits, planning policy in areas with devolved responsibility like London could be challenged. This would diminish, rather than expand, devolution.

London has shown that development management policies can be an effective tool to stimulate growth, meet resident's needs and pursue strategic energy, transport and housing priorities. These policies also allow communities to innovate and experiment with planning policy to find what works for them. For example, LB Croydon previously introduced an award-winning S.P.D to permit densification within defined limits on character, site layout and public amenities to meet the area's housing needs.

RTPI Rationale

- **The presumption in favour of National Development Management Policies would over-rule local plans where conflict occurs. Applied equally across the country NDMPs are hard to square with devolution** because they would require councils to implement policies that were not designed with their area's needs in mind.
- **Exemptions to the presumption in favour of national policy would enable areas to retain unique policies in their local plans. In effect: when conflict occurs area's material considerations would not need to be justified as strongly.** Their requirements to justify alternative policy be lesser, costing less and taking less time to reinforce the evidence base for their decisions.
- **Government has yet to indicate what – if any – flexibility will be given** to the reflect the geographical, economic, and infrastructural differences between places. As in the commons, a probing amendment is necessary to confirm what flexibility can be expected in the new policy documents published in the current NPPF consultation.
- **While the presumption in favour of NDMPs may lift standards in some parts of the country, the RTPI has concerns they might be lowered in others.**
- It is necessary because **uniformity may prevent areas from adopting ambitious policies, for example, on the environment, sustainability, rural provision, industrial strategy, tourist accommodation and others** that reflect an area's characteristics, needs and priorities.
- Describing the new devolution framework, Ministers have emphasised that powers should only be handed down in exchange for accountability. **Planning freedoms could be an attractive and significant incentive for areas to take on more devolved responsibilities if they were accompanied by exemptions.**

Draft wording

Clause 86, Page 94, line 30, at end insert—

“, subject to subsection (5D).

(5D) But any conflict must be resolved in favour of the development plan in an area if—

(a) if, in relation to it, regulations under section 16 of the Levelling-up and Regeneration Act 2023 have been made to provide for the town and country planning function and the highways function and any functions exercisable under the Environment Act 2021 of a county council or a district council that is exercisable in relation to an area which is within a county combined authority area to be exercisable by the CCA in relation to the CCA's area,



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- (b) if, in relation to it, regulations under section 17 of the Levelling-up and Regeneration Act 2023 have been made to provide for at least one function of another public body that is exercisable in relation to an area which is within a county combined authority area to be exercisable by the CCA in relation to the CCA's area,
- (c) it has a joint spatial development strategy, or
- (d) it is in Greater London.”

Explanatory statement

This amendment would place limits on the primary of national development management policies over the development plan where a Combined County Authority had been handed planning, highways, environmental powers and at least one function of another public body under a devolution deal, in areas covered by a joint spatial development strategy and in Greater London.