Department for Levelling Up,
Housing & Communities

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Dear Clive,

Thank you very much for your letter of 21 June, and for the constructive discussion with members of the Committee the previous week. I had offered to come back to you on the legal opinion produced for Rights: Community: Action, the key points from which were summarised helpfully in your letter. I am happy to address each of those points in turn:

The primacy of the development plan
An important aim of the legislation is to improve local democratic engagement in planning, so that communities have a stronger say over where development goes, what it looks like and the improvements they would like to see. My reforms to plan-making are a key part of this: they strengthen the role of the plan, so that departures from it would, in effect, require strong reasons (clause 83 inserts proposed new clause 38(5B) into the Planning and Compulsory Purchase Act 2004 (the "2004 Act")); it would no longer be enough for other considerations merely to 'indicate otherwise', as the current wording at section 38(6) of the 2004 Act provides for. This change means more certainty that the proposals in plans will be implemented as intended, and that the safeguards they contain will be respected, whether that is the Green Belt, flood protection or local design standards. This, in turn, should mean local authorities having to fight fewer appeals, and communities facing fewer unanticipated developments on their doorstep.

I understand the questions which have been asked about National Development Management Policies. These would sit alongside those in local, neighbourhood and other statutory plans prepared locally, with the Bill requiring that these national policies also be adhered to, unless there are other considerations which strongly indicate otherwise.

A key reason for this change is to enable the greater role for plans envisaged above. At present local plans take too much time to produce, they can be very long, and they are often hard to digest. There can, also, be a lot of overlap with policies in the National Planning Policy Framework. Many agree that it makes sense to set out policy on nationally-important matters, which apply across all or many authorities, at the national level: like standard policies for controlling development in the Green Belt, for protecting heritage assets, or for setting ambitious baseline standards for addressing climate change. Giving these policies statutory status will make sure that they carry appropriate weight and, crucially, allow locally-produced plans to focus on matters of local importance; making them more locally-relevant, and easier to produce and use.

The Bill does say that National Development Management Policies would have precedence in the event of conflict with plans; which is, I believe, a necessary safeguard in situations where plans have become very out of date, and important national policies on the environment and other

matters need to be reflected fully in decisions. I would, though, expect such conflicts to be limited in future; both because we are making it easier to produce plans and keep them up to date, and because of the clear distinction which the Bill provides for in the role of locally-produced policies vis-à-vis those of national importance.

Given the above, it is my strong view that the Bill will do much to strengthen the role of locally-produced plans, will not undermine their primacy as frameworks for local planning matters, and will make it easier for communities to engage and have confidence in them.

Consultation on National Development Management Policies
The Bill would place an obligation on me, or my successors, to undertake such consultation as is considered appropriate when producing or changing National Development Management Policies (clause 84 inserts proposed new section 38ZA of the 2004 Act). As I said when we met, I understand the interest there will be in these policies, and I will carry out full public consultation before they are introduced. Ahead of that, I will publish a 'prospectus' shortly, which will set out my initial thinking, and invite views, on the scope of National Development Management Policies and how they would relate to the rest of the National Planning Policy Framework.

Public participation in spatial development strategies and supplementary plans
Spatial Development Strategies are not new, having been established by the Greater London Authority Act 1999. The Bill would extend the ability to produce these to non-Mayoral authorities, on a voluntary basis, and enshrines the existing requirements for public engagement, including provisions regarding participation in an independent examination (proposed new sections 15AB and 15AC to the 2004 Act, to be inserted by Schedule 7 of the Bill).

Supplementary plans are a new form of plan which could be used to set out policies on design or for specific sites. A key objective behind them is to enhance opportunities for public involvement where authorities are creating policies on additional matters, as they will replace 'supplementary planning documents' that are subject to limited consultation and no public examination. The Bill requires the Secretary of State in making any regulations relating to their preparation to require them to be subject to public participation (Schedule 7 to the Bill inserts proposed new section 15CC(12) into the 2004 Act), while the proposed arrangements for independent examination mirror those for neighbourhood plans.

There are other aspects of the Bill – and of work which I am pursuing alongside it – which will further strengthen public engagement in planning. In particular, I see great benefits from our work to embed the use of modern digital technology and data standards, while I also intend to produce new guidance on best practice in community engagement, with input from experts in this field.

Urgent Crown Development
As the pandemic and other recent events have shown, there are occasions when the Government needs to act quickly in the national interest. Ministers already have the power to grant planning permission for urgent crown development under section 293A of the Town and Country Planning Act 1990. This route was introduced in 2006 when Crown land was brought within the planning system. The Bill reforms this power so that it can be used more effectively to consider very urgent development in response to national crises. Before granting permission, I, or a subsequent Secretary of State, would be under a duty to consult the local planning authority and any other person considered appropriate (new section 293C(2) to the Town and Country Planning Act 1990, inserted by clause 97). It seeks to strike a balance between a need for urgency and ensuring there is meaningful engagement with local areas; although by its very nature I would not envisage this power being used on a routine basis.

In view of the above, you will not be surprised to hear that I disagree with the characterisation in the Rights: Community: Action advice that this Bill centralises planning and erodes participation; because it does precisely the opposite. The Bill and our supporting work will make planning more accessible, more transparent, and will deliver better outcomes for the people it serves. I take these principles seriously, and this Bill will help to deliver them in practice, as well as in law.

Thank you again for your letter.

With every good wish,

RT HON MICHAEL GOVE MP

Secretary of State for Levelling Up, Housing and Communities and Minister for Intergovernmental Relations