

## Levelling-up and Regeneration Bill

<b>Lead department</b>	Department for Levelling Up, Housing and Communities
<b>Summary of proposal</b>	The Bill proposes to introduce a range of measures to reduce geographic inequalities in the UK by setting in place the legal frameworks to meet the Government's levelling up ambition.
<b>Submission type</b>	Impact assessment (IA) – 20 June 2022
<b>Legislation type</b>	Primary legislation
<b>Implementation date</b>	2024
<b>Policy stage</b>	Final
<b>RPC reference</b>	RPC-DLUHC-5179(2)
<b>Opinion type</b>	Formal
<b>Date of issue</b>	1 July 2022

### RPC opinion

<b>Rating<sup>1</sup></b>	<b>RPC opinion</b>
<b>Fit for purpose</b>	As originally submitted, the IA was not fit for purpose because the EANDCB and SaMBA needed strengthening. Following the RPC's initial review notice, the revised IA includes sufficient improvement in these areas. As a result, the RPC can now validate the EANDCB for part of the proposal, but further IA(s) will need to be produced for related secondary legislation.

### Business impact target assessment

	<b>Department assessment</b>	<b>RPC validated</b>
<b>Classification</b>	Qualifying provision	Qualifying regulatory provision
<b>Equivalent annual net direct cost to business (EANDCB)</b>	-£225.7 million (initial IA estimate) -£203.8 million (final IA estimate)	-£203.8 million (2019 prices, 2020 pv)
<b>Business impact target (BIT) score</b>	£1018.8 million	£1019.0 million
<b>Business net present value</b>	£1877.1 million	
<b>Overall net present value</b>	£1355.5 million	

<sup>1</sup> The RPC opinion rating is based only on the robustness of the EANDCB and quality of the SaMBA, as set out in the [Better Regulation Framework](#). RPC ratings are fit for purpose or not fit for purpose.

## RPC summary

Category	Quality <sup>2</sup>	RPC comments
EANDCB	<b>Green</b>	The assessment of impacts on business has been strengthened following the RPC's initial review. The EANDCB is now in line with scenario 1b of the RPC's primary legislation guidance <sup>3</sup> , which means the RPC is able to validate the EANDCB for part of the proposals at this stage, but it will be necessary for further IA(s) to be submitted for EANDCB validation of related secondary legislation.
Small and micro business assessment (SaMBA)	<b>Green</b>	The SaMBA is considered fit for purpose. The IA estimates the market share of SMB developers on which the proposals would have an impact, and considers whether they would be affected disproportionately. It justifies sufficiently why it would not be appropriate to exempt SMBs, and considers a range of mitigating actions.
Rationale and options	<b>Weak</b>	The IA provides a clear rationale for intervention, highlighting both market failures and broader inefficiency with the current planning system. However, the consideration of options is limited. While the IA discusses why a non-regulatory option is not feasible for some of the reforms, the merits of such options are not explored in detail.
Cost-benefit analysis	<b>Satisfactory</b>	The IA provides a sufficient discussion of the methodological approach and evidence base. It assesses the potential costs and benefits of the proposal on businesses and the public sector. The IA would benefit from a more comprehensive assessment of the potential risks and uncertainties for the key assumptions.
Wider impacts	<b>Weak</b>	The IA would benefit significantly from further discussion of trade, innovation, and distributional impacts, and it must provide a more comprehensive assessment of competition and distributional impacts.
Monitoring and evaluation plan	<b>Satisfactory</b>	The Department commits to review this policy and provides an indicative timeframe for evaluation. The monitoring and evaluation section sets out the proposed evaluation methods and the key success metrics.

<sup>2</sup> The RPC quality ratings are used to indicate the quality and robustness of the evidence used to support different analytical areas. Please find the definitions of the RPC quality ratings [here](#).

<sup>3</sup> <https://www.gov.uk/government/publications/rpc-case-histories-primary-legislation-ias-august-2019>

## Response to initial review

As originally submitted, the IA was not fit for purpose for because it had not assessed, in line with Better Regulation Framework requirements, all the impacts associated with the Bill. Furthermore, the IA had not provided sufficient justification for the classification of direct and indirect impacts on business, limiting the RPC's ability to assess the robustness of the EANDCB estimate. Additionally, the SaMBA did not indicate clearly the number of small and micro businesses (SMBs) affected by the proposal or considered the potential for mitigating them.

The IA now includes details of all measures covered in the Bill and clarified which of these are qualifying provisions under the Better Regulation Framework (section 5.2 of the IA). The IA's classification of direct and indirect impact has now been evidenced sufficiently, in line with RPC guidance. The SaMBA analysis has also been developed and now provides adequate assessment of impacts on SMBs, including consideration of potential mitigation methods. There are still some areas where the IA could be improved further; these are outlined below.

The amendments made by the Department in the revised IA has resulted in the EANDCB reducing from -£225.7 million to -£203.8 million (2019 prices, 2020 present value). As noted above, this is for part of the proposals at this stage. It will be necessary for further IA(s) to be submitted at for EANDCB validation of related secondary legislation

## Summary of proposal

The IA explains that the Levelling-up and Regeneration Bill is a key response to the challenge of 'levelling up' – to reduce geographic inequalities in the UK<sup>4</sup>. The Bill, as described in the IA, has three specific objectives: to set in place the legal frameworks for setting the Government's levelling-up missions - placing an obligation on the Government to report on their progress each year; to devolve power more efficiently, giving local leaders the powers they need to regenerate communities; and to give local communities more tools to bring about regeneration including through the planning system.

The IA explains that the measures in the Bill, which are regulatory provisions, can be broadly categorised into four main areas:

1. Improving plan making
2. Improving decision making
3. Improving incentives and infrastructure delivery
4. Supporting regeneration and delivery

A summary of the regulatory proposals that the Government are considering can be found in Annex A below.

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<sup>4</sup> The Levelling Up White Paper sets out in detail how the Government will spread opportunity more equally across the UK, available here: <https://www.gov.uk/government/publications/levelling-up-the-united-kingdom>

The IA estimates an EANDCB of -£233.8 million, with an NPSV of £1.6 billion over the ten-year appraisal period (2019 prices, 2024 present value). The main costs to business include familiarisation, administrative and training costs. The main benefits are efficiency savings to the public sector and increased certainty in planning decisions for business. The latter is expected to deliver significant savings with an EANDCB of -£264 million, while infrastructure planning and build out are two most costly to business. Table 2 in the IA summarises the quantified costs and benefits across the 19 regulatory provisions in the Bill. The IA assesses the impacts of the Bill that are implemented through primary legislation only. The IA explains that many of the measures in the Bill require secondary legislation, for which the RPC expects to see further IAs for EANDCB validation in scope of the Better Regulation framework.

## EANDCB

The RPC now considers the EANDCB to be fit for purpose. It is in line with scenario 1b of the RPC's primary legislation guidance<sup>5</sup>. The IA explains that there is too much uncertainty over the content of the secondary legislation, as such, the Department is unable to assess the full impact of the Bill robustly. The IA provides, therefore, a sufficient assessment of direct impacts on businesses arising from the primary legislation alone. Table 2 in the IA indicates whether the impacts of each measure would be felt through primary or secondary legislation. The RPC is able to validate an EANDCB for parts of the proposal – for the primary legislation. However, it will be necessary for the Department to submit further IA(s) to the RPC for related secondary legislation for EANDCB validation of the whole proposal.

### *Missing impacts*

As originally submitted, the IA covered measures related to regeneration and planning only, and excluded *de minimis* measures, as well as many relating to levelling up, change governance and local leadership frameworks. Table 1 of the IA now includes the full list of measures proposed in the Bill and clarifies which of these are qualifying regulatory provisions under the Better Regulation Framework. In addition, the IA now clarifies that the two *de minimis* measures (Crown Development and review of RICS) are not regulatory provisions and are, therefore, out of scope of the framework. While table 1 provides a helpful summary of all measures and their impacts, the Department should consider whether further analysis of the impacts of more of the non-regulatory provisions in the annexes would be useful, even though such measures do not contribute to the EANDCB.

The revised IA also differentiates between measures that the primary legislation itself will implement and those that will not have an impact until related secondary legislation is introduced, so that impacts can be scored in the appropriate BIT year (table 2). The IA now provides more detail on familiarisation costs to business. Following the RPC's initial review, the revised IA now correctly includes in the EANDCB estimate, familiarisation costs to landlords for the 'High Street Rental

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<sup>5</sup> <https://www.gov.uk/government/publications/rpc-case-histories-primary-legislation-ias-august-2019>

Auctions' measure. For the measures that require secondary legislation, the Department should consult key stakeholder to ensure that all direct business impacts are captured in the IA(s).

#### *Direct and indirect impacts*

The IA's discussion of direct and indirect impacts to business has now been strengthened following the RPC's initial review. The IA now provides sufficient evidence to support the classification of direct impacts by explaining whether impacts are first- or second-round impacts. For example, with the 'increased certainty in planning decisions' measure, the IA now steps through the first-order effects of the proposal to justify the direct benefits of the proposal. The IA has now correctly reclassified the 'reduction in determination times' as an indirect benefit as it requires behavioural change for local planning authorities to reduce the cost of holding capital to developers (annex 4). As a result, the estimated benefits to business have been reduced in the revised IA.

#### *Counterfactual*

The IA provides a sufficient explanation of the counterfactual position for each measure in the respective annexes, explaining the baseline for what would happen in the absence of each proposal. The methodology for establishing the counterfactual position appears reasonable and is supported by evidence. For example, the IA uses historic data to construct the counterfactual for the 'neighbourhood plans' measure. The IA would benefit from explaining whether the baseline should consider change that will occur over the appraisal period, such as potential changes to public sector funding, which would affect the ability for local planning authorities to deliver on the proposed changes.

Please see also comments in the 'cost-benefit analysis' section.

## **SaMBA**

The RPC now considers the SaMBA to be fit for purpose. The SaMBA establishes the number of SMBs on which the proposals would have an impact, and indicates the market share they represent. It also discusses the expected impact of the proposals on SMBs and considers whether they will be affected disproportionately. The IA explains why SMB exemption is not appropriate and considers mitigation actions. The IA notes that for measures that require secondary legislation, the Department will produce more-detailed SaMBAs to support the secondary legislation IA(s).

#### *Scope*

The IA explains that the proposal is expected to have an impact mainly on SMB developers that submit planning applications for residential and non-residential development. The IA explains that it cannot estimate the market share of SMB developers by the number of employees due to data limitations. However, the IA provides an alternative estimate of market share based on the number of site completions per year, which is the commonly adopted definition used in the

housebuilding industry. Based on this definition, of the developers that are impacted by the proposals, SMB developers have a 9-10 per cent market share. Details of the methodology used to estimate the market share of SMBs is explained in paragraph 253. The IA notes that the estimated market share is based on residential developments but expects a similar market share for non-residential developments. The Department would benefit from testing this assumption with industry stakeholders and providing evidence to support this assertion.

The SaMBA separately identifies the number of SMBs on which the pavement licensing measure would have an impact. The IA explains that this measure will have an impact on SMBs mainly in the food and beverage sector. It uses ONS data to estimate that 97 per cent of licensed restaurants and 98 per cent of unlicensed restaurants are considered to be SMBs. The SaMBA would be strengthened by explaining the proportion of SMBs that already have pavement licences, to ascertain the expected scale of impact of the proposal.

### *Exemption and mitigation*

The IA explains that most of the impacts from the Bill are expected to have a positive impact on SMB developers through increased certainty and easier access to information. The IA discusses the expected impacts on SMBs for each measure and considers whether SMBs would be affected disproportionately. For example, in relation to the increased certainty measure, the IA expects SMBs to benefit disproportionately from the proposal, with 56 per cent of the direct benefits for SMBs (paragraph 265).

The IA explains that no exemptions are proposed for SMBs as doing so would not achieve policy objectives and would prevent SMBs from benefiting from the proposed changes. The IA provides a good discussion on potential mitigation actions for each measure. For example, in relation to infrastructure levy, the IA considers reduced rates and exemptions to support SMB housebuilders. In addition, the Department intends to produce guidance to support the use of completion notices to support SMB builders for the build-out provision. The IA would benefit from testing these proposed mitigating actions with SMBs in scope to ensure they provide sufficient support.

## **Rationale and options**

### *Rationale*

The IA presents a sufficient rationale and explains that the Bill seeks to address failings in the current regulatory framework, which has led to various capital traps<sup>6</sup> and outlines four key market failures (equity considerations, negative externalities, asymmetric market power and imperfect information) that potentially worsen the capital traps described. The IA would benefit from providing more details on how the

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<sup>6</sup> Physical capital trap, intangible capital trap, social capital trap, institutional capital trap, financial capital trap and human capital trap.



individual measures relate to the policy's overall rationale and objectives, including how specific reforms will deliver the intended outcomes.

### *Options*

The RPC considers the consideration of options to be limited, with some areas of reforms only considering one option against the counterfactual option of 'do nothing'. The IA would benefit from presenting the full range of options considered across the measures and providing an explanation for any options that may have been discounted during policy development. The IA should also provide more robust evidence to support the preferred options and consider how the preferred options will interact with existing legislative and regulatory requirements. In addition, the IA does not discuss any potential non-regulatory options in detail. While the RPC accepts that, in most cases, non-regulatory options may not be fully effective, the IA must consider the impacts of any alternatives to regulation and if it could support the delivery of the policy objectives.

## **Cost-benefit analysis**

The RPC considers the assessment of cost-benefit analysis to be satisfactory. The cost-benefit analysis draws upon a range of evidence sources, including ONS data, DLUHC statistics and externally commissioned research. The IA would benefit from a section to discuss the robustness of the evidence base and potential evidence gaps. The IA makes use of sensitivity and scenario analysis to account for uncertainties in the assumptions. The central scenario in most cases appears to take an average of the low and high scenarios; the IA would be strengthened by explaining why this is an appropriate approach.

The IA would be strengthened by including a stronger discussion on key risks, uncertainties, and potential mitigation methods. For example, several of the key benefits of the proposals are contingent on local authorities taking specific actions with the powers that are available to them. The IA should consider the potential risk and unintended consequences of local authorities taking a different course of action.

The IA would benefit significantly from addressing and better evidencing the potential impacts on business and the public sector of the risk of increased complexity and inconsistency. This should address, in particular, impacts on businesses that work across multiple local geographies if local authorities take different courses of action. The potential for this to result in higher overall costs for the public sector, offsetting any efficiency savings, should also be discussed.

The IA should ensure that the key assumptions are supported by sufficient evidence. For example, in relation to the 'Increased Certainty in Planning' measure (annex 4), the IA assumes that the total number of planning applications in both the counterfactual and policy option remains constant over the ten-years appraisal period. The IA should provide stronger evidence to support the assumption that the total number of planning applications, in both the counterfactual and policy option, remains constant over the appraisal period. Similarly, for the 'Compulsory Rental Auctions' measure (annex 16), the IA assumes several assumptions about rental

agreements and auction commissions which should be supported by evidence. The IA should also consider how the proposal may affect insurance providers and investors.

## Wider impacts

The RPC consider the assessment of wider impacts to be weak. The IA includes a brief section covering the potential trade and innovation impacts of the policy; however, it does not discuss these in much detail. The IA must provide a more comprehensive assessment of these impacts and potential distribution and competition impacts across the supply chain, such as local planning authorities, the planning inspectorate, landlords, developers and tenants.

The IA should consider how the proposed measures may interact with each other and existing market regulation and the risk of potential misalignments. Furthermore, while the IA considers briefly the wider impacts for a few of the measures, it has not evaluated them consistently for all of them. The IA would benefit from providing a more-comprehensive assessment of the wider impacts across the individual measures proposed.

The IA should also include a more-detailed assessment of potential impacts on the public sector, including implications for local planning authorities' resourcing and ability to deliver on other projects, the potential impact on council tax, and cost of pass-through to consumers. In particular, the IA should consider further the impact of the proposals on tenants and whether the proposed package of reforms may increase rent for commercial and residential tenants due to increased regulatory costs to business.

## Monitoring and evaluation plan

The RPC considers the monitoring and evaluation plan to be satisfactory. The Department commits to undertake a review of this policy and sets out an indicative timeframe for evaluation. The IA sets out that the Department will monitor progress of the reforms using a combination of: metrics already gathered by the Department; new metrics being created; and robust proxy measures. The Department is planning to commission an evaluation scoping study for the planning reforms before commissioning a full evaluation.

The IA sets out the key metrics that will be monitored to assess policy effectiveness. The Department should consider how stakeholder views will be collected and factored into these success metrics. The IA should also consider how potential unintended consequences will be monitored and factored into the evaluation.

In addition, the IA should also discuss the potential interlinkages between the measures and how the progress of each proposal will be measured. The Department should ensure that it assesses the collective impact of all of these reforms and the individual impacts associated with each measure where possible. This will enable the Department to assess better whether individual elements of the reforms require amending or removal at the post-implementation review stage.



## **Regulatory Policy Committee**

For further information, please contact [regulatoryenquiries@rpc.gov.uk](mailto:regulatoryenquiries@rpc.gov.uk). Follow us on Twitter [@RPC\\_Gov\\_UK](https://twitter.com/RPC_Gov_UK), [LinkedIn](#) or consult our website [www.gov.uk/rpc](http://www.gov.uk/rpc). To keep informed and hear our views on live regulatory issues, subscribe to our [blog](#).

## Annex A

<b>Proposed measures</b>		<b>Primary/secondary legislation</b>	<b>Summary of proposal</b>
1. Improve plan-making	1) Local plans	Primary/refinement through secondary	To amend legislation on procedural requirements for preparation of local plans, covering 11 reforms.
	2) Strategic plans and alignment policy	Primary/refinement through secondary	Revise Spatial Development Strategy powers and relevant Mayoral Combined Authorities and make the same powers available for other authorities on a voluntary basis.
	3) Neighbourhood planning	Primary/refinement through secondary	Introduce a new simpler neighbourhood planning tool ("Neighbourhood Priorities Statement").
2. Improve decision-making	4) Increased certainty in planning decisions	Primary	Reform section 38(6) of the Planning and Compulsory Purchase Act 2004 to ensure that planning applications are determined in accordance with the development plan and national development management policies.
	5) Development management process improvements	Primary/refinement through secondary	Introduce a package of reforms at secondary legislation to speed up and streamline the end-to-end planning applications process
	6) Crown development	Primary and secondary	Reform the process for nationally important Crown

			development through authorities being able to submit a planning application directly to the Secretary of State
	7) Planning enforcement	Primary	Strengthen the retrospective planning application process to help prevent abuse and strengthen enforcement powers more generally.
	8) Digital	Secondary	Introduce four new overarching digital powers to support the digital planning reform objectives.
3. Improve incentives infrastructure and quality	9) Design standards	Primary	To mandate that all LPAs produce a design code at the spatial scale of their entire authority area.
	10) Heritage	Primary and secondary	To improve the conservation and enhancement of the historic environment through the planning system.
	11) Infrastructure planning	Primary	Introduce a statutory requirement for prescribed bodies to engage in plan-making, if asked to.
	12) Infrastructure Levy (non-taxation impacts) <sup>7</sup>	Primary/refinement through secondary	Merge Community Infrastructure Levy and S106 developer contributions into an Infrastructure Levy.
	13) Environmental outcomes reports	Primary/refinement through secondary	Introduce targeted reforms across the lifecycle of the assessment process to create a more

<sup>7</sup> In line with HMT Green Book guidance, Government's increased revenues from levies and taxation are not taken into account in NPV calculations, and therefore potential increased revenues have not been monetised below.

			streamlined and effective system.
4. Support regeneration and delivery	14) Compulsory purchase orders	Primary and secondary	To amend Government's CPO process guidance and improve the CPO process through legislative change.
	15) High street rental auctions	Primary/refinement through secondary	To give all Local Authorities the power to run Compulsory Rental Auctions (CRAs).
	16) Development corporations	Primary and secondary	To amend the legislative framework(s) to equalise powers and remits for all Development Corporations and introduce a locally led Urban Development Corporation model.
	17) Build-out	Primary and secondary	Development Commencement Notices will require developers to provide comprehensive information about planned build out.
	18) Pavement licencing	Primary and secondary	A deregulatory measure to make temporary pavement licence provisions permanent.
	19) Relief from enforcement of planning conditions	Primary/refinement through secondary	Introduce a general statutory constraint on local planning authorities and the SoS.