Annexes to the Levelling Up and Regeneration Bill Impact Assessment

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Annex 1: Statement of Impacts - Local Plans

Problem under consideration and rationale for intervention

England has a plan-led development system. Local plans (plans) are the key documents through which land is allocated for homes, businesses, green spaces, social infrastructure, and other uses. When they exist, they give certainty to developers and the local community, through a process of democratic engagement and participation. However, in many parts of England the current rules, regulations and complexities have meant that many plans are not as up to date as they ideally should be.

We can identify the following inadequacies in the current local plan system:

1. **Coverage of plans, the number of up-to-date plans in place**. At present, only c.40% of England's Local Planning Authorities (authorities) have a plan <five years old. 8% of England's authorities have never adopted a post-2004 Act plan. [1]
2. **Speed or the time taken to prepare and get an up-to-date plan through examination and adoption**. At present, the end-to-end inception-to-adoption process takes on average seven[2], dragging over multiple Local Government political electoral cycles, which can delay plan preparation.
3. **Democratic legitimacy**. The public has a low level of understanding and confidence in the current plan system and there is a relatively low level of positive community engagement in the plan preparation process. YouGov polling found that 69% of people have never engaged in local plan production, rising to 80% for 16–34-year-olds.
4. **Analogue**. Plans are paper-based documents found online, difficult to locate with limited data, which affects their usability and accessibility.

In combination, these result in community frustration and uncertainty for developers (especially for small and micro businesses) and overall system inefficiency. Given that a plan is required to have primacy over the NPPF, which limits the amount of speculative development, failure to get one in place can lead to negative outcomes for communities.

Rationale and evidence to justify the level of analysis used in the IA

(proportionality approach)

Where possible we used evidence to inform our analysis. However, the specifics of the policy detail will only become clear at the point secondary legislation and guidance are produced. The primary powers being taken in the Levelling Up and Regeneration Bill are necessary to establish the legal framework in which the future planning system will operate. While the Government is clear about the outcomes it would like to see

[1] Local Plan adoption information is based on based on information gathered informally from local authority websites by the Department's Local Plans team

[2] Average number of years between adoption of local plans prepared under the Planning and Compulsory Purchase Act 2004, based on information gathered informally from local authority websites by the Department's Local Plans team

from these changes, in terms of greater efficiency, improved certainty for developments and greater community and acceptance of development, the specifics of how the system will operate is not yet known. This will be developed through detailed policy work and engagement with stakeholders and will be set out in future secondary legislation and future guidance. Where required, it will then be subject to more detailed impact analysis.

At this stage we therefore use a set of assumptions to illustrate potential impact and how the reforms might operate, rather than direct evidence relating to a detailed system of operation. We have used ranges where there is uncertainty to show the possible spectrum of outcomes. Our proportionality approach is discussed in more detail throughout the monetised costs and benefits section.

Description of options considered

The options we identify were informed by the White Paper: Planning for the Future (August 2020) and by engaging with key stakeholders, which resulted in the identification of two options:

Option 0) Do nothing

Under this option, we would expect the coverage of local plans to remain low and the process to develop a local plan to remain unchanged (e.g., the same evidence requirements). This would not satisfy the policy objective to simplify and streamline plan making as how plans should be made is set out in an existing legislative framework.

Option 1) Amend legislation on procedural requirements for preparation of local plans, covering 11 reforms:

- Introduction of a statutory timetable of 30 months for the preparation of plans.
- Introduction of standard data sets to evidence plan's policy content, designed to speed up plan preparation by preventing authorities from spending disproportionate amounts of time and resources on constantly updating their evidence base.
- Introduction of three Gateway Checks to provide quality check on emerging plans before they are submitted for examination. These will ensure any procedural problems are resolved before the plan enters examination, which will enable an Inspector to conduct the examination of the plan within the six months.
- To speed up the preparation and adoption of plans, at the examination of the plan, an Inspector will be able to make binding changes to the plan, which the authority will have to accept.
- In exceptional cases, if the Inspector identifies significant problems with the plan, they will be able to stop the examination and direct the plan into a review process, so that the local planning authority can 'fix' the plan within a 12-month

time period, preventing the plan from returning to the local plan examination cycle.

- Replace the Local Development Schemes and Authority Monitoring Reports, changing the current requirements to produce these documents to a requirement to regularly make available key standardised data on plan production timetables and implementation.
- The duty to cooperate has led to some notable plan failures, particularly in relation to housing distribution. As a legal duty, as opposed to a policy, if the Duty to Cooperate is not met by the Local Planning Authority, then an emerging plan cannot proceed. This means that fewer plans are passed than would otherwise be the case. Since the duty to cooperate introduction in 2011, 18 plans have failed on the basis of non-compliance with it. The Government's intention is to abolish the duty and replace it with an "alignment policy" that will sit as a policy within the revised National Planning Policy Framework (NPPF). Further details on the duty to cooperate, its abolition and proposed replacement are set out in annex 2.
- As a policy rather than a legal requirement, the replacement to the duty to cooperate will not be set in the Bill. However, its perceived inadequacies do demonstrate the failures of one of the current mechanisms of cross boundary strategic planning. Likewise, it is hoped that the greater use of spatial development strategies (SDS) will, in part act as a replacement for the Duty to Cooperate by ensuring greater planning policy alignment between neighbouring Local Planning Authorities. Full details on spatial development strategies are set out in annex 2.
- Retain Joint Plans prepared by neighbouring local authorities and broaden powers for the preparation of spatial development strategies, to allow all authorities to prepare them.
- Introduce Supplementary Plans, which will replace the current system of Supplementary Planning Documents (SPDs). In future Local Planning Authorities will be able to prepare Supplementary Plans, the geographical scope of Supplementary Plans will be limited to a site (or group of sites), except where they relate solely to design requirements, in which case they could be produced at any scale. Supplementary Plans will subject to light-touch examination carried out by a suitable qualified person appointed by the authority.
- Transitional arrangements will be put in place, to maintain the momentum of plan preparation as they move from the present to the new-style local plan system.

Our analysis of measures to move away from an 'analog' based system to one where local plans are digitised to help improve the process of identifying development sites are set out in the digital annex (annex 8) of this Impact Assessment.

Policy Option 1 is the preferred option given key elements of the system we wish to reform are set out in legislation, meaning the policy objectives, and intended effects of the potential planning reforms could not otherwise be achieved. These changes will help speed up the preparation and future review of local plans, so that we can achieve a genuinely plan-led development process across England, because Local Planning Authorities will have up-to-date plans in place. No other options were considered.

Policy Objective

The Government wants to speed up, streamline and standardise the production of plans and simplify their content. The new-style plans will set out sites and areas where development should be focused and what form this should take, identifying areas that should be conserved and enhanced. We will retain and strengthen the legal requirement for local authorities to have up to date plans in place and prescribe a more explicit, staged process for producing them, including key activities that authorities will be required to undertake as well as maximum timeframes for different parts of the process. This will make the process more consistent and efficient, setting out more clearly key expectations from Government about what authorities should focus on when preparing their plans.

Our changes will make local plans clearer, more accessible, consistent, interactive and less document based. By integrating changes to plans with the digital reforms contained in the Bill, the reforms will lead to digital and interactive maps, making it easier for communities to understand developments in their areas and for businesses to plan, thereby supporting the Government's levelling up agenda.

Under the reformed system, all Local Planning Authorities will be required to produce a local plan to a defined mandatory timetable as set out in secondary legislation. In order to avoid a situation where the Planning Inspectorate are required to resource an unsustainable number of examinations at the same time, local authorities will be required to start work on their local plans at different stages described as waves. The number of waves initially identified is two, but the final number will be determined in due course in consultation with various parties including the Planning Inspectorate.

Summary and preferred option with description of implementation plan

The reforms to the local plan process identified in **Option 1** will be implemented through legislation and result in more national prescription of what plans may contain through a combination of legislation and policy.

The process of making plans will be reformed so it is simpler, faster, and plans are more visual and easier to engage with. To ensure public engagement is at the heart of plan making, our proposals include two rounds of community engagement. A new 30-month timeline will be required for plans, ensuring that they are in place in good time, and the existing requirements for reams of evidence will be replaced by a streamlined and more digital approach.

Monetised and non-monetised costs and benefits of each option *(including administrative burden)*

Over the 10-year appraisal period each local authority will need to produce a new style plan and to update it every five years. Compared to the counterfactual this means that more areas will have such plans in place and on average they will be updated more frequently. What this means for each Local Authority will depend on whether, in the counterfactual, they would otherwise have developed a plan and how often they updated it. It is expected that there will be a reduction in the cost of producing the new style plans due to the new evidence requirements which are likely to be less burdensome, and therefore those authorities who would otherwise have an updated their plan will benefit from a saving. However, over the ten-year appraisal period the savings attributed to the reduced evidence requirement for new style local plans will be outweighed by the cost of producing plans more frequently.

The Planning Inspectorate will also have additional resource requirements since more plans will have to go through examination. This has not been monetised because examination costs are paid to the Planning Inspectorate by local planning authorities and, as such, are included in our local plan preparation cost estimates. There will also be one-off familiarisation costs associated with planning staff in Local Planning Authorities understanding the new legislation.

The **monetised** costs/benefits are:

1. Cost of producing a new style plan incurred by authorities who did not previously have an up-to-date plan but are now required to have one.
2. Cost saving for authorities as there is expected to be a reduction in the cost of the plan making process due to the new evidence requirements.
3. One-off familiarisation costs associated with staff at authorities understanding the new legislation.

Having the new style up-to-date plans in place, in combination with changes in planning legislation, such as giving more weight to adopted plans so that decisions must be made in line with the plan unless there are strong reasons to do otherwise, is expected to reduce the number of appeals coming forward. The potential benefits to business, local authorities and the planning inspectorate arising from a reduction in the number of appeals are included in the ‘Increased certainty in planning decisions’ section of the Impact Assessment (Annex 4).

Costs/benefits associated with updating local plans

Costs and savings to local authorities of new plan making system

To produce the profile of local plans updated each year in the counterfactual and policy option we made several assumptions including:

- Drawing on Local Development Schemes, which is a document each Local Planning Authority must prepare, setting out the authority's timetables and whether they are realistic, reflecting intelligence about known plan problems at examination and known delays.
- The average time taken from initial publication of the plan for its six-week public consultation period to the final stage of the plan preparation process, its adoption by the local authority (based on 2019 figures, gathered through internal monitoring[3] of the dates at which authorities launch local plan consultations and on information published by the Planning Inspectorate on when local plan examinations start and finish).
- While it is not yet clear exactly how many 'waves' will be used, we used the current most likely policy option which is 2 waves, six months apart.
- Authorities update their plans five years from initial adoption, for example those who adopt a new plan in 2026 will start again in 2031.
- We used historical data gathered through internal monitoring of the dates at which authorities review, update and adopt local plans to estimate how many plans would be updated per year if the reforms to plans were not implemented. Over the last 10 years the average is 31 plans per year and this figure has remained consistent, so we used this as our counterfactual profile.

The profile below shows the number of plans which start updating per year in the policy option and counterfactual. We assume all plans meet the 30-month time requirement for plan production and adopted 30 months after production commences. In line with our indicative plans for transitional arrangements, we expect two bulge years for local planning authorities starting to prepare new style local plans. Firstly in 2024 when the new system comes into force and authorities do not have an up-to-date plan in place. Secondly in 2028, where authorities have met the deadline set by Government in 2020 to get a plan in place by the end of 2023 and would not need to start the preparation of a new style local plan until their old plan is five years old.

3 https://www.gov.uk/government/publications/local-plan-monitoring-progress

Table A1.1: Number of local plans which start updating per year

Appraisal year	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**Total**
	2024	**2025**	**2026**	**2027**	**2028**	**2029**	**2030**	**2031**	**2032**	**2033**	
Counterfactual	31	31	31	31	31	31	31	31	31	31	**310**
Policy option 1	139	29	14	14	74	30	1	101	80	19	**501**

We assume the full cost occurs in the first year of plan production. While this is a simplification as costs are also likely to be incurred beyond the first year, it is a reasonable assumption to make given that discussions with policy experts revealed that the costs are front loaded. This assumption also ensures the policy option and counterfactual are directly comparable.

We compare the total cost of plan production in the counterfactual with the policy option. The cost of producing a plan varies quite widely. Internal research, which sampled three authorities and gathered information on their plan making costs, found the cost of producing a plan ranged from £1.40m - £4.19m, with the average falling at £2.63m. We use this range in our analysis, with our central estimate £2.63m (2019 prices).

We expect the cost of the plan making process to reduce after implementation of the reforms, for example because the evidence base in future, required for new style plans will be more focussed. The new evidence requirements which will be set out in secondary legislation and the exact details of this have not yet been decided. To illustrate the benefits, we assume the cost of the plan making process reduces by 10%-20% (central estimate 15%). This assumption has been sense tested by policy experts within the department, including those with direct professional experience of plan production. Because the detail of plan-making requirements will be delivered through secondary legislation, which will be drafted following extensive user research and engagement with the sector, it is difficult to predict with any more certainty the costs and savings. However, we will revisit this assumption at the secondary legislation stage when the information requirements have been confirmed and set out with more certain impacts in the regulatory IA that accompanies the secondary legislation.

To estimate the costs and benefits, we compare the total spend on plan production in the policy option relative to the counterfactual. The difference between the spend is separated into partial savings for some authorities, and costs for others as explained in the text below. Table A1.2 below shows the costs and cost savings for authorities in each appraisal year as a result of the proposed local plan reforms.

Table A1.2: Discounted costs and benefits associated with local plan production, £m (2019 price)

Appraisal year	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**Total**
	2024	**2025**	**2026**	**2027**	**2028**	**2029**	**2030**	**2031**	**2032**	**2033**	
Difference comprised of:											
Costs – to those who do not update in counterfactual											
Low	121.3	0.0	0.0	0.0	42.1	0.0	0.0	61.8	41.8	0.0	266.9
Central	242.3	0.0	0.0	0.0	84.1	0.0	0.0	123.5	83.5	0.0	533.4
High	407.4	0.0	0.0	0.0	141.3	0.0	0.0	207.5	140.4	0.0	896.5
Cost savings – to those who update in counterfactual											
Low	-8.7	-10.6	-25.9	-25.1	-7.6	-8.3	-34.5	-6.8	-6.6	-16.3	-150.3
Central	-12.3	-16.2	-47.1	-4.5	-10.7	-12.2	-64.7	-9.6	-9.3	-28.8	-256.4
High	-13.0	-19.8	-72.0	-69.6	-11.3	-14.1	-102.6	-10.2	-9.9	-42.7	-356.2

Taking the first two years of the appraisal period as an example we explain how the costs and cost savings are separated. In year one, 139 authorities start producing a plan, 31 of these would have updated in the counterfactual. Therefore 31 authorities receive a saving of £395,000 [$£2.63m \times 0.15$ which aggregates to a total saving of £12.3m in year 1 as shown in table A1.2. The remaining 108 incur a cost of £2.24m each (the new cost of producing a local plan) [$£2.63m \times (1 - 0.15)$] which aggregates to a total cost of £242.3m in year 1 also shown in table A1.2 Looking at year 2, all 29 authorities who update in that year receive a partial saving due to an expected reduction in the cost of plan production, and two no longer produce a plan at all so save the full £2.63m.

Familiarisation costs to local authorities

There will be costs incurred by planning staff in local authorities who need to understand the new local plans process. The Department commissioned a survey conducted by the Planning Advisory Service which indicates that, on average, the number of planning staff in each local authority is 38 persons. We assume 50% (i.e.19 planning staff) would need to familiarise themselves with the new style local plan system based on the view of colleagues with experience working in local planning authorities. These changes are significant, and we assume staff will need 2.5 days to understand the new process, based on discussions internally with planning experts. To calculate the familiarisation cost we use the median hourly wage for 'Town Planning Officers' from the 2020 Annual Survey of Hours and Earnings[4] and deflate it into 2019 prices, which gives £17.14. As suggested in the DLUHC Appraisal Guide[5], we uprate this by 30% to account for overheads which gives £22.28 and multiply this by 7.4 working hours in a day to find the daily cost of familiarisation per member of staff (£164.88). There are 345[6] local planning authorities, and assuming 19 staff in each authority needs to familiarise with the new requirements, gives 6,555 staff in total. The total familiarisation cost is £2.7m which occurs in the first year of the appraisal period (6,555*164.8*2.5).

[4] https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/regionbyoccupation4digitsoc2010ashetable15

[5] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/576427/161129_Appraisal_Guidance.pdf

[6] Including country councils

Monetised costs/benefits summary table

	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total
Cost savings from simplified plan making (e.g., reduced evidence requirements)											
LA cost savings:											
Low	8.7	10.6	25.9	25.1	7.6	8.3	34.5	6.8	6.6	16.3	150.3
Central	12.3	16.2	47.1	4.5	10.7	12.2	64.7	9.6	9.3	28.8	256.4
High	13.0	19.8	72.0	69.6	11.3	14.1	102.6	10.2	9.9	42.7	356.2
Costs of producing plans more regularly											
LA costs:											
Low	121.3	0.0	0.0	0.0	42.0	0.0	0.0	61.8	41.8	0.0	266.9
Central	242.3	0.0	0.0	0.0	84.1	0.0	0.0	123.5	83.5	0.0	533.4
High	407.4	0.0	0.0	0.0	141.3	0.0	0.0	207.5	140.4	0.0	896.5
Familiarisation costs	2.7	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	2.7
Summary											
Overall costs	245	0.0	0.0	0.0	84.1	0.0	0.0	123.5	83.5	0.0	536.1
Overall benefits	12.3	16.2	47.1	4.5	10.7	12.2	64.7	9.6	9.3	28.8	256.4
Net Present Social Value (NPSV)											**-279.7**

Table A1.3: Discounted monetised costs and cost savings, £m (2019 prices)

Non–monetised costs

Broader costs to local authorities and third parties in the preparation of local plans

It was not proportionate to monetise the full extent of the costs incurred by authorities and third parties in the preparation of local plans. However, we might expect there to be additional (indirect) costs to authorities as a result of working to a much faster time scale. For example, authorities might need to employ further staff or consultancy inputs to turn around consultation exercises more quickly and to pull the plan together.

Additional resource costs to the Planning Inspectorate

The new local plans process will require earlier engagement with PINS and the volume of plans being produced will result in further pressure on their services at examination. It is expected that PINS will need to recruit additional inspectors and support staff to manage the process. This is a result of more examinations happening at the same time. The Department is working with PINS to understand the cost pressures of this and other elements of the planning reform programme.

Non-monetised benefits

Contractors/consultants

Typically, a significant proportion of the plan making process is contracted out to consultants, especially the studies and evidence base. New contracts are usually put out to tender each plan cycle. The reforms will result in more plans being updated over the 10-year appraisal period. The increased number of plans will mean consultants are likely to indirectly benefit from the reforms via increased earnings and therefore increased profit. However, some of this benefit will be offset if the evidence requirements are reduced, meaning that per plan there will be less work for consultants but more plans in aggregate. We were unable to monetise this benefit due to a lack of information on the proportion of the cost of producing a local plan which is contracted to the private sector, and no clear policy decision on the detail associated with the evidence requirements.

How having up-to-date local plans impact on speculative development

An up-to-date local plan provides the planning policy framework for a local authority area, so that development of the area is genuinely plan led. It provides the starting point for decision makers in the authority when considering an application for development within the planning policy framework provided by the plan. It is often suggested, anecdotally, that an authority without an up-to-date plan in place is more likely to have to deal with speculative development applications being submitted by developers and therefore incurring additional costs if they turn these down, because developers then subsequently submit appeals. While it is difficult to quantify this, we do know that appeal cases are dismissed more than they are allowed, as a general trend, and the principle remains that it is better for an authority to have an up-to-date local plan in place than not (so its policies and proposals are clear). Therefore, we are unable to monetise the benefit of having an up-to-date local plan in place but can make the non-monetised statement that having an up-to-date local plan in place suggests that an authority has robust and effective systems of local governance in place and therefore can manage the development process in their area effectively.

Certainty for developers

Having new style up-to-date plans in place, in combination with changes in planning legislation - such as giving more weight to adopted plans so that decisions must be made in line with the plan unless there are strong reasons to do otherwise – is a

contributing factor that will help to realise a number of monetised certainty benefits to business that are set out in Annex 4 (Increasing certainty in planning decisions). These benefits include a reduction in the cost of preparing planning applications for developers (direct impact), a reduction in refusals such as those that lead to appeal (direct impact) and a reduction in the time taken for LPAs to determine planning applications leading to a reduction in the cost of holding capital for developers (indirect impact). We have not included these monetised certainty benefits in this section to avoid double counting the impacts. Further detail of these impacts of increased certainty can be found in Annex 4.

Beyond the above certainty benefits, the increased adoption of local plans is also likely to reduce uncertainty for developers who under current arrangements lack clarity on when plans will come forward and how long they will take to produce. We were unable to monetise this impact due to a lack of information on the financial impacts of local plan delays.

Housing supply implications

Regression analysis carried out internally suggests that those local authorities with up-to-date local plans have higher levels of new housing supply (as a proportion of existing housing stock) compared to authorities with an out-of-date local plan, or no plan at all. This appears to be true even after controlling for important aspects of local market conditions that are known to affect housing supply (median house price changes, transactions as a proportion of dwelling stock and region). The analysis suggests that on average, authorities without an up-to-date Local Plan would have 14% higher housing supply if their housing supply (as a proportion of existing housing stock) were as much as those with an up-to-date plan.

Regression methodology

Ordinary least squares regression was used to compare housing supply related measures between authorities which had an up-to-date plan for the majority of the time period assessed with those that did not. The housing supply related measures (the dependent variable) were homes granted planning permission, housing starts, new build completions and net additions. To take into account of local authority size, all were measured as a proportion of existing housing stock. The time period that the housing supply related measures were compared over was 2017-18 to 2019-20.

Control variables used in the regression were: median house price change, housing transactions as a proportion of dwelling stock and dummy variables were entered for the English regions. The analysis found statistically significant positive associations with having an up-to-date local plan on housing starts, new build completions and net additions as a proportion of dwelling stock. The coefficients of the four-housing supply related measures were averaged together and used to estimate the extent that housing supply as a proportion of existing stock is higher in authorities with an up-to-date local plan. All four coefficients were used in the calculation, including homes granted planning permission, which had a positive coefficient but was not statistically significant, to avoid biasing the result upwards through only selecting those with the strongest relationships.

A key caveat with the analysis is that it does not prove causation. The results do not capture a variety of other local authority drivers of housing supply, such as a more well-resourced planning department, or a more favourable attitude towards development, which may be correlated with having an up-to-date local plan. Nevertheless, the analysis points to the possibility of increased Local Plan coverage helping deliver more homes, even though it is unlikely having an up-to-date local plan would result in increased housing supply by as much as 14%.

Alongside the changes to the content and process for producing local plans, we intend to reform section 38(6) of the Planning and Compulsory Purchase Act 2004 to strengthen the development plan (including local plans) in the decision-making process. This may further strengthen the link between local plans and housing supply.

Time savings

Earlier engagement with the Planning Inspectorate will mean that poor plans are identified at an earlier stage. This will result in time savings to authorities who would otherwise continue with the plan production and later run into problems at examination where the plan would need to be altered or found unsound by the Inspector.

Community engagement

Another key benefit of the local plan reform is that there will be better community engagement so it is easier for communities to influence which areas are developed and which are not, and to have confidence that those plans can be relied upon in guiding subsequent applications. This should result in more housing meeting the preferences for both the local community and the new residents.

Direct costs and benefits to business calculations

There are no direct impacts on business that have been monetised in this section. We have not attempted to monetise the expected impacts of greater certainty to businesses arising from the local plan reforms in this section, but in Annex 4 we have monetised the benefits of increased certainty that is delivered to planning processes through the Bill assuming increased local plan coverage. We have not included these monetised certainty benefits in this section to avoid double counting the impacts.

Risks and assumptions

The analytical risks and assumptions are:

We assume that all 309 authorities prepare an up-to-date local plan. This excludes county councils who produce minerals and waste plans only. However, we include the costs of updating their plan five years from adoption.

Some plans may run into delays and be adopted later than the estimated dates. While plans will be mandatory by law, in the past some authorities have not been compliant.

We assume full uptake for the purpose of this assessment as we are unable to predict the rate of non-compliance. However, if we have overestimated the number of plans being updated per year, there is a risk that we have also overestimated the costs.

In the absence of more detailed information about the capacity and capability of local authorities to meet the new local plan requirements, we assumed in the policy option that all local authorities that will be affected by the new requirement to update their local plan more often will incur the full costs. In reality, there may be some local authorities who already have the staff in place to produce local plans more frequently and this assumption may therefore be an overestimate of the total costs to local authorities. The Department has ongoing work to identify the capability and capacity constraints on local planning authorities to inform the roll-out of the planning reform programme as a whole.

The policy delivery risks are:

1. In the period between the new Bill being introduced to Parliament and its provisions coming into force, there is a medium risk that some authorities may delay progressing their local plans to examination, claiming uncertainty about how valid these plans once adopted would be, their 'material weight' post the introduction of new style plans with the commencement of the local plan legislation contained in the Bill. Revised guidance (Transitional arrangements) issued by the department will address this issue and encourage authorities, not to hesitate, but to proceed with the preparation of their emerging local plans to Examination.
2. Authorities may prevaricate on making decisions on whether to accept recommendations or engage in further rounds of consultation on proposed changes to their emerging plan following the receipt of the Inspector's report in the existing system. Authorities may prefer and wait to receive an Inspector's report in the new style planning system which will be binding. Again, leading to the delay in the preparation, examination, adoption, and implementation of local plans.

We believe there is a medium risk that authorities will not continue to prepare up-to-date plans as they transition between the existing plans system and the new style plans system. If an authority did so, there would be a negative impact upon them in terms of a loss of transparency and accountability to the local community they serve, whose best interests are served by having an up-to-date plan in place. The Transitional arrangements we are putting in place as illustrated will provide a risks mitigation strategy for the two risks identified.

Impact on small and micro businesses

Impact on small and micro businesses

There are no direct impacts on SMBs that have been monetised from this measure. However, having up-to-date local plans in place will benefit all developers, including small or micro scale developers and planning consultancies.

1. The increased certainty from a higher proportion of LPAs having an up-to-date local plan is partly captured in Annex 4. A separate small and micro business assessment has been carried out in Annex 4 to capture this.

2. Having an up to date local plan provides small and micro scale developers with clarity, providing the planning policy framework so that they can bring forward developments (to enter the development market), because they will have more confidence that if they bring forward an appropriate development on sites identified, for example in Site Allocations set out in the plan, their proposed development should be granted planning permission and their application for development should move through the development management process smoothly.

3. As for the impact on small or micro scale planning consultancies, this sector of the planning consultancy industry mostly works at a local level, providing consultancy services to small or micro developers assisting them to secure planning permission from authorities for their clients. So, in principle the benefits as illustrated which could accrue to small or micro scale developers would accrue to small and micro scale planning consultants who work with them. But at this moment in time, it is difficult to provide any evidence which could underpin this hypothesis.

Mitigating the impact on small and micro businesses

We do not expect any disproportionate burden on SMBs or as a result of local plan reform. SMBs would be treated like any other business or body like an NGO, agency or community group, they would be able to comment and participate in public consultation exercises which the local planning authority organises when drafting their local plan. As a result, we do not expect there to be any exemptions or mitigations for SMBs.

Wider impacts

As part of a wider package of reforms to the planning system, these procedural changes to the preparation of plans will enable more rapid (introduction of a 30-month local plan timetable) preparation, which will make the planning system quicker, facilitating development.

Authorities will continue to monitor in real time using digitised platforms and report on the effectiveness of their plans, as well as on the progress they are making to prepare up-to-date plans. This approach will ensure transparency and the local community will be able to hold their Authorities to account.

The reforms to the local plans system illustrated in this Impact Assessment, will not have any adverse economic, social, or environmental impacts, because plans will continue to be subject to Examination by an independent Inspector who will assess

the plan, the examination in public will remain in place as an independent public forum which is open, to scrutinise the emerging plan and fix it either through Inspector's binding changes or by the Inspector directing the plan into a review process.

Also, Transitional arrangements as illustrated will be put in place which will provide a risk mitigation strategy as the planning system moves from the old to the new style local plans system. Where authorities are not subject to transitional arrangements, they should begin new style plans in 'waves' to ensure the system does not become overwhelmed when the new system comes into force.

A summary of the potential trade implications of measure

None, National planning policy addresses economic impact issues and sustainable patterns of economic growth and employment. National planning policy will continue to inform the preparation of local plans and the development management process.

Monitoring and Evaluation

DLUHC already has in place arrangements for the systematic collection and monitoring of local plan information, which is supplemented by real time data from the Planning Inspectorate on the submission, examination, and adoption of local plans. This will allow us monitor and evaluate the implementation of the local plans reforms. to inform Ministers, other Government Departments, agencies and Parliament on the preparation and effectiveness of local, strategic and neighbourhood plans across England. We will draw on this data and monitoring to evaluate the implementation of the new style local plans system and assess them against the objectives stated above. The data will also contribute to the evidence base for the holistic evaluation of the planning elements of the Bill which is expected to commence in Summer 2023 and continue to 2030 and beyond.

Annex 2: Statement of Impacts - Strategic Plans and Alignment Policy

Problem under consideration and rationale for intervention

Effective town planning requires a coordinated approach between local authorities and for local planning authorities to work together across a geography that better reflects daily life and transcends administrative boundaries.

This can include setting housing requirements and agreeing the distribution of housing across an established housing market area and planning for infrastructure and transport networks across a recognised travel-to-work area. It can range from the alignment of plans between multiple authorities to the production of joint plans that cover multiple authorities.

The Government recognises the benefits of authorities planning for housing, transport, and the environment together and recognises the growing calls for a greater level of strategic planning within England.

The Localism Act 2011 abolished regional spatial strategies (RSS) which acted as strategic plans for the regions of England. The exception was London, where the Mayor has retained the power to produce a spatial development strategy (SDS), which has broadly been seen as a useful plan at this spatial scale, with each newly elected mayor choosing to commence work on a new London Plan shortly after entering office. Since 2011 the power to produce an SDS has been extended through devolution deals to three Mayoral Combined Authorities (Greater Manchester, Liverpool City Region and West of England), with the intention to give the equivalent power to West Yorkshire.

In other parts of the country, there have been attempts to produce joint local plans which mimic the role of an SDS. West of England tried this and failed at examination, and this has caused other authorities attempting a similar approach to slow down or re-consider their approach. This includes groups of authorities such as South Essex, South-West Hertfordshire, and Oxfordshire. Other areas, such as Leicestershire, have produced non-statutory strategic plans, but such plans carry limited weight in decision making.

To help fulfil the role of strategic planning, the Localism Act 2011 introduced the duty to cooperate on local planning authorities when producing their local plans. It places a legal duty on them to engage constructively, actively and on an ongoing basis with neighbouring authorities and other prescribed bodies on cross-boundary issues including, but not limited to, housing need and infrastructure.

As a legal duty this operates as a pass/fail test on local plans and is one of the first things that a planning inspector will consider during examination. Nothing can be done during the examination to correct shortcomings with meeting the duty and the

inspector has no discretion to recommend measures that might address any shortcoming and "fix" a local plan in respect of the duty. Finding that a local plan has failed to meet the duty to cooperate is in effect a showstopper for the examination and the further progress of a local plan. In effect, the plan has failed and work on plan production must start again, which slows down the rate at which new plans can be adopted.

The duty has had a mixed reception and it has led to some notable local plan failures. These have typically centred on local planning authorities failing to adequately address unmet housing needs or meet the needs of neighbouring authorities and have tended to be in areas of high housing demand.

Furthermore, because the duty concerns cross-boundary co-operation between neighbouring local planning authorities, failure to meet the duty by one authority can potentially have a regional "domino effect" with several local planning authorities failing to meet the duty and subsequently failing local plan examination.

Problem under consideration

1. Failures of the duty to cooperate

This duty has led to some notable local plan failures, particularly in relation to housing distribution. As a legal duty, as opposed to a policy duty, if the duty to cooperate is not met by a local planning authority, then an emerging local plan cannot proceed. This means that fewer local plans are passed than would otherwise be the case. Since the duty's introduction in 2011, 18 local plans have failed it.[7]

2. Strategic planning through the local plans system

To overcome some of the limitations of the duty to cooperate, some authorities have attempted more detailed cross-boundary planning in the form of joint strategic plans.

Joint strategic plans operate under the same legislation as individual local plans. As such, authorities are attempting to produce high-level strategic plans using a system designed for more detailed local plans. This is responsible for many of the failures of joint strategic plans to date.

Authorities have produced joint strategic plans that have attempted to mimic the role of SDSs in setting out broad locations for growth without formally allocating sites. For instance, the West of England Joint Spatial Plan identified several "strategic development locations" for large scale development, to be formally brought forward as

[7] Data from the Planning Inspectorate.

allocations through local authorities' local plans. However, as the strategic plan was, in legal terms, a local plan it was subject to the same legal and policy requirements. The plan failed at examination, with inspectors questioning the evidence base for the identified locations.

3. Poor cooperation and absence of effective strategic planning in areas where its most needed

The duty to cooperate is widely perceived to have failed to provide an effective mechanism for cooperation between local authorities. However, the difficulties of producing strategic plans through the local plans system, as detailed above, have seen very few strategic plans come forward.

The expansion of SDS power to several MCAs will increase strategic planning coverage throughout England. However, it remains that many parts of the country, where cooperation over cross-boundary issues and effective strategic planning is most needed, still lack effective mechanisms for doing so. This includes several of England's largest urban areas and areas of high housing demand with heavy policy constraints on the use of land.

4. Increasing levels of detail in SDSs

The one SDS plan that has been produced and successively reviewed and updated is the London Plan. It is intended to only deal with matters of strategic importance to London. However, this has not been strictly adhered to, and increasingly the London Plan has included detailed development management policies on a range of issues that are not usually considered to be strategic in nature.

This increases the length and detail of the plan and the amount of time taken to produce it. It also means that the London Plan encroaches on aspects of policy which could be dealt with either at the local plan level or at national level. This creates overlap between several types of plans and makes plans longer than they need to be, increasing the complexity of the planning system for businesses and the public.

Description of options considered
Option 0) Do nothing

Doing nothing would not deliver the government's decision to reform and leave local authorities reliant on the inadequate duty to cooperate for facilitating alignment with other authorities. Authorities outside of areas with SDS powers would continue to rely on the local plans system to produce strategic plans.

Option 1) Abolish the duty to cooperate and replace with a policy test (non-legislative option)

The duty to cooperate will be abolished and replaced with a policy test to address strategic cross-boundary issues. The issues relevant to alignment will subject to consultation but are expected to be like those in scope for SDSs.

As a policy test rather than a legal requirement, inspectors and LPAs will be able to address any shortcomings during plan preparation or examination. This gives more flexibility to authorities during plan production, in contrast to the binary pass/fail approach of the duty to cooperate.

However, the policy alone is unlikely to be a viable mechanism for supporting strategic cross-boundary cooperation in many parts of the country, particularly in more populous areas, city-regions, and areas of high housing demand. In areas such as these, urban areas span multiple authorities, housing need is greater and infrastructure requirements more complex. In these instances, resolving cross-boundary issues may require more dedicated consideration beyond the requirements of a local plan.

Option 2) Prescribe strategic plan making powers for the whole country (in addition to option 1)
Whilst offering a good degree of consistency, there are parts of the country where a strategic plan would be less necessary and/or where there is already good alignment or joint plan making across local authority boundaries. Therefore, this option was considered unnecessary.

Option 3) Revise SDS powers/scope for London and relevant Mayoral Combined Authorities (in addition to option 1)
Retaining SDS powers just for the areas that currently have those powers, along with the capability to apply those powers to any appropriate further Mayoral Combined Authorities will maintain the existing extent of spatial development strategies whilst giving some areas the option of taking on such powers.

The scope of the SDS will be more tightly defined to ensure that they deal with purely strategic matters and preserve the prime role for local planning authorities to determine the policies and site allocations for their area, in accordance with national policy.

Option 4) Revise SDS powers/scope for London and relevant Mayoral Combined Authorities and make the same powers available for other authorities on a voluntary basis (in addition to option 1). - Preferred option
As a development of Option 3, this option would enable all parts of the country to produce a spatial development strategy, where authorities felt this to be useful to manage medium to long term development and infrastructure needs. It would not force production of an SDS on areas where one would be of less benefit. It recognises the difficult and failed attempts that several groups of authorities have had over the past several years to create a form of strategic plan making.

Expanding the power to produce a SDS will allow local planning authorities to expand the institutional capacity of local authorities, strengthening local decision making. Producing a strategic plan across multiple authorities allows for greater clarity of planning policies across an area by avoiding duplication. For example, the London Plan provides a single source of housing requirements for authorities in the city, providing greater clarity for investors and developers. This is turn can often help speed-up local plan making, ensuring that the benefits of new local plans are felt more quickly.

Policy objective

Through informal stakeholder engagement, we understand that there is broad support for relatively light touch strategic plans as long as these do not encroach on the role of local plans to set local designations and allocations and where appropriate, local policy.

Summary and preferred option with description of implementation plan

Areas that already have the power to produce an SDS, namely Greater London, Greater Manchester, Liverpool City Region and West of England (and in future West Yorkshire) will continue to do so. The power to produce an SDS will be available to other Mayoral Combined Authorities on a case-by-case basis.

However, we will define the scope of an SDS more tightly, such that it focuses on an overall spatial strategy, the broad allocation of housing and potentially other development needs and the identification of broad areas for development and infrastructure requirements. We will further prevent an SDS from duplicating policy that is better placed at either local plan level or the NPPF.

An enabling power will be provided for other planning authorities to produce an SDS, within the same scope. These SDSs will be entirely voluntary, where it is felt by those authorities feel that they would benefit from such a plan.

Current procedures for developing, consulting, and adopting SDSs, for example, the process for examination, the role of the Secretary of State in making directions and proposing modifications etc will remain in place. Therefore, the SDS regime will in most part remain as it currently operates.

Strategic plans will be published in a digital format and will form part of a wider digital plan map for the local area.

The duty-to-co-operate will be abolished and replaced with a policy test to ensure alignment between local plans and with infrastructure providers on issues such as housing, strategic infrastructure proposals and with other relevant plans or strategies

such as government growth strategies. This alignment policy will be subject to consultation and set out in a revised NPPF and not in legislation.

Implementation Plan

The required legislative changes would be enacted through the Bill. The policy to replace the duty to cooperate would be set through the revised NPPF. Further detail will be set out in the forthcoming NPPF prospectus which will be published in summer 2022 ahead of a draft NPPF being published in 2023.

Monetised and non-monetised costs and benefits of each option (including administrative burden)

Monetised costs

Familiarisation costs

The replacement for the duty to cooperate will sit within a revised NPPF. Familiarisation costs for it will form part of wider familiarisation costs with that and have therefore not been assessed as part of this impact assessment. Given that they are voluntary a familiarisation cost for strategic plans has not been assessed.

Costs of producing strategic plans

Authorities that already have SDS powers will continue to produce them in a do-nothing scenario. For other authorities, producing an SDS will be voluntary, and we are not seeking to make it a requirement for local authorities to produce one. There are therefore no direct impacts on authorities, as adoption is at authority discretion.

However, for local authorities who choose to produce a spatial development strategy we have estimated the cost of producing a strategic plan. This is not included in the overall net present value calculation. Whilst we do not hold data on the mean cost of producing a strategic plan, we estimate the external cost of producing a strategic plan to be £0.5m-£2.5m (central £1.5m) per strategic plan in both the counterfactual and the policy option.8 In addition, there are also internal staff costs associated with strategic plan production. For the purpose of this impact assessment, we assume five full time staff in LPAs/MCAs will be involved in the production of the strategic plan. We expect the production of a typical strategic plan to involve two assistant planners, one senior planner, one principal planner and a planning manager.

To estimate the typical wages of these staff, we used recent adverts published by a representative sample of local authorities, which were £28.9k for assistant planners, £37.3k for senior planners, £42.6k for principal planners and £57.5k for planning managers. These salaries were then deflated into 2019 prices and uprated by 30% to account for overheads. We estimate the time taken to produce a strategic plan is 2-4

[8] Figures based on engagement with authorities who have produced or are producing a spatial development strategy.

years (central three years). For the purpose of this impact assessment, we assume all staff costs are incurred in the year the strategic plan is commenced. Combining the internal costs (i.e., staff costs) and external costs leads to an estimated mean cost of producing a strategic plan of £0.7m-£2.7m (central £1.7m).

Monetised benefits

We do not have sufficient evidence to monetise the benefits of these changes. This is because only one spatial development strategy has been produced and this is for London, which is a unique case and not readily comparable. Our reforms are focused on the expansion of an existing model of planning that will only be exercised as an optional power. Several non-monetised benefits have been identified which are set out separately.

Non-monetised costs

There is likely to be a cost to the Planning Inspectorate in examining additional plans. There is also likely to be a cost to DLUHC arising from the Secretary of State making any necessary directions to modify an SDS. It was not deemed proportionate to monetise the additional costs of examining strategic plans and the Secretary of State's role due to its very small-time requirement.

Non-monetised benefits

Supporting getting plans in place

Replacing the duty to cooperate will mean fewer plans failing at a late stage, supporting the objective to get plans in place within a 30-month timeframe and helping get more local plans in place.

Speed up strategic plan making

Setting more development management policy nationally and clearly stipulating the content of spatial development strategies, will give strategic plans a clearer focus and reduce their length which will speed up their production.

Reducing failure at examination

Having an SDS in place will further assist local authorities in demonstrating that they have met the criteria of the alignment policy, reducing the likelihood that an inspector will find shortcomings in their alignment output. LPAs that have failed the duty to cooperate have generally been those that have failed to demonstrate evidence of engagement on strategic matters and an adopted SDS would help demonstrate that this has taken place. SDSs will demonstrate that housing distribution has been agreed, including meeting of unmet need between neighbouring authorities, which is likely to be one of the key tests of the alignment policy.

Supporting strategic cases

By setting out an overarching strategy over a longer time period than local plans and identifying and planning for infrastructure over the medium-long term, SDSs will help LPAs and mayoralties demonstrate that they have a clear, long-standing strategy for

their area's growth and development with strong political support. This will assist in bids to central government and Treasury Green Book appraisals. For example:

- The Housing Infrastructure Fund required applications to demonstrate that proposals took a "strategic approach with strong local leadership and joint working to achieve higher levels of housing growth in the local area."
- The prospectus for the Planning Delivery Fund (2017) stated that Government wanted to support "greater collaboration between local planning authorities (and) a more strategic approach to planning for housing and infrastructure."
- In the Industrial Strategy White Paper (2017) Government stated that it wanted to support "greater collaboration between councils, a more strategic approach to planning housing and infrastructure, more innovation and high-quality design in new homes and creating the right conditions for new private investment."

Direct costs and benefits to business calculations

The monetised costs and benefits arising from this measure only affect local authorities and mayoral combined authorities. Since these are public sector organisations, these costs and benefits have not been scored in the EANCB calculation.

Impact on small and micro businesses

We do not expect there to be any direct impact on small and micro businesses from the changes to strategic plans. The impacts of these measures will only directly be felt by local authorities, mayoral combined authorities and the Planning Inspectorate which are all public sector organisations.

Wider impacts

The reforms to the local plans system illustrated in this impact assessment will not have any adverse economic, social, or environmental impacts, because strategic plans will continue to be subject to examination in public at which an independent panel of inspectors appointed by the Secretary of State will assess the SDS.

Also, transitional arrangements will be put in place which will provide a risks mitigation strategy as the planning system moves from the old to the reformed planning system.

A summary of the potential trade implications of measure

None. National planning policy addresses economic impact issues and sustainable patterns of economic growth and employment.

Monitoring and Evaluation

DLUHC already has in place arrangements for the systematic collection and monitoring of local plan information, which is supplemented by data from the Planning Inspectorate on the submission, examination, and adoption of local plans.

Annex 3: Statement of Impacts - Neighbourhood Plans

Background

Neighbourhood planning was introduced through the 2011 Localism Act and gives communities in England direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area. The neighbourhood planning regime offers communities two types of tools to plan for development in their area: neighbourhood development plans (NDPs) and neighbourhood development orders (NDOs). There is no requirement to undertake neighbourhood planning, but the Government strongly encourages participation and provides financial support to communities who wish to do so.

NDPs can be used to set the framework for development in defined neighbourhood areas and sets out policies and spatial development allocations. Once a plan is 'made' (brought into force), it forms part of the development plan for the local area (alongside the higher tier local and strategic plans) and is the basis for decisions on planning applications in the neighbourhood area.

NDOs are a type of development order that can be prepared by neighbourhood planning groups, which grant planning permission for specific development (e.g., a housing scheme or a change of use of existing buildings) in a defined part or a specific site, within a neighbourhood area.

If communities want to participate in neighbourhood planning, there must be a legally designated group in place. In parished areas, the parish or town council is the designated neighbourhood planning group. In unparished areas, community organisations can apply to be the designated neighbourhood planning group. They must meet certain membership conditions set out in law and the application is determined by the local planning authority.

Having the ability to influence development within their area in this way has, in many instances, resulted in communities embracing new development, either through support for a proposed scheme or allocating sites for housing themselves within their plan.

Since the introduction of neighbourhood planning in 2012, over 2,800 neighbourhood planning groups have started the process, in areas that cover over 14 million people. Over 1,200 neighbourhood plans are currently in force[9]. Many responses to the Planning White Paper consultation indicated that neighbourhood planning can foster local community engagement in the planning system. The proposals look to extend

[9] https://www.lgcplus.com/politics/devolution-and-economic-growth/pilots-encourage-deprived-areas-to-create-neighbourhood-plans-13-01-2022/

the reach of neighbourhood planning and give more communities a greater say in the planning system.

Problem under consideration and rationale for intervention

Neighbourhood planning activity is uneven across the country with 55% of groups located in the South and East of England. In addition, there is low uptake in urban (usually unparished) areas and higher uptake in parished areas. Low uptake symbolises existence and perpetuation of a social capital trap. This has been highlighted in research we commissioned, conducted by the University of Reading[10]. The research found that communities in urban and deprived areas often face additional barriers which makes it more difficult for them to progress a neighbourhood plan, including a lack of an established governance structure. A report published in 2018 by Neighbourhood Planners London found that urban and deprived communities also struggle with finding skilled volunteers to navigate the neighbourhood planning process[11]. This means that many communities find it difficult to progress their plans or choose not to prepare plans in the first place. Many communities therefore miss out on the opportunity provided by neighbourhood planning to influence development in their area. This further compounds the social capital trap in which these communities find themselves. This in turn can result in a human capital trap, reducing the potential for human capital accumulation. As outlined in Annex 1, communities and neighbourhood planning groups also currently have very low engagement in the local plan process, which would provide them with an alternative way to influence development in their local area were they to be more engaged.

If we retain the system in its current form, we will continue to see an uneven pattern of neighbourhood planning activity across the country, with limited engagement by communities in the local plan process. Government intervention is necessary to address this by making neighbourhood planning simpler, more accessible to all communities and by providing additional tools to help communities resolve the issues around the social and human capital traps in which they find themselves.

Description of options considered

Option 0) Do nothing

Doing nothing would not deliver the government's decision to reform and level up opportunities across the UK. Uptake of neighbourhood planning would continue to be uneven across the country and many communities would miss out on the opportunity to shape development in their local area. Doing nothing would continue the social and human capital traps that affect these areas.

Option 1) Reform the neighbourhood planning regime

10 https://www.gov.uk/government/publications/independent-research-on-the-impacts-of-neighbourhood-planning

11 https://www.trustforlondon.org.uk/publications/neighbourhood-planning-london-investigating-potential-areas-experiencing-high-levels-deprivation/

Introduce a new simpler neighbourhood planning tool ("Neighbourhood Priorities Statement") to enable more communities to better engage in the plan-making process and shape development in their local area, while retaining and modifying the existing system of NDPs and orders to complement wider reforms to the planning system, including around plan content, digitisation, and design quality. Providing communities with the tools to aid in the addressing of these market failures.

There was not a non-regulatory option other than do nothing, as the neighbourhood planning regime already exists in the legislation.

Policy objective

The Government wants to put communities at the heart of the planning process and improve the level and quality of community engagement in plan-making. The Government intends to reform the neighbourhood planning system, to enable more communities to participate in neighbourhood planning and give communities a stronger voice in the local plan process. These reforms are also intended to support the Government's levelling up agenda and address market failures that have affected communities in accessing and engaging with neighbourhood planning.

Summary and preferred option with description of implementation plan

Reform the neighbourhood planning regime

The preferred option will introduce a new neighbourhood planning tool called a Neighbourhood Priorities Statement (NPS). This will allow communities to identify their key priorities for their local area, including their development preferences, and will provide a simpler and more accessible way for them to participate in neighbourhood planning. NPSs will be used as a formal input to the local plan process and the local planning authority will be required to consider them as part of local plan preparation. We expect NPSs will appeal to all communities, but particularly communities in urban and deprived areas, who have historically been in social capital traps, limiting their ability to engage with neighbourhood planning. As well as communities in areas with a new local plan underway. We therefore expect that NPSs will increase the number of communities that participate in neighbourhood planning. Neighbourhood planning groups that choose to prepare an NPS would retain the option to prepare an NDP, NDO or design code.

While NDPs and NDOs will be retained, this option will make some limited modifications or enhancements to these tools to ensure they operate effectively in the reformed planning system. These include amending the set of legislative requirements that all NDPs and NDOs must meet before they can come into force (known as the 'basic conditions'), changes to the content of NDPs and enabling neighbourhood plans to form part of a wider digital development plan map.

These changes will be introduced through legislation within the Bill.

Take-up of Neighbourhood Priorities Statements

As NPSs will provide neighbourhood planning groups with a new way to formally input into the local plan process, it is expected that they will most likely be produced when there is a local plan in production.

To estimate the overall uptake of NPSs, we have estimated the number that will be prepared per local planning authority (LPA) area. We do not hold any historical data that provides a basis for this estimate because NPSs are a new tool. Instead, we have made some modelling assumptions based on an estimate of the uptake of NPSs among different types of neighbourhood planning groups, which are set out in Table A3.1 (Inactive neighbourhood plan groups, Active neighbourhood plan groups, Groups with 'Made' neighbourhood plans and newly designated neighbourhood plan groups). We have adopted ranges to reflect a range of different scenarios for uptake. Our estimated uptake of NPSs is a range of 3.3-6.8 per authority (central 5.0).[12]

Table A3.1: Estimated number of neighbourhood planning groups that produce an NPS

Group Classification	Uptake scenario	Number of Groups per classification	% Uptake under reforms under a low, central, and high uptake scenario	Estimate total of NPS in each uptake scenario
Number of inactive groups[13] (historical)	Low	1,025	10%	102.5
	Central		20%	205.0
	High		30%	307.5
Number of active groups[14] (historical)	Low	709	40%	283.6
	Central		50%	354.5
	High		60%	425.4
Made Neighbourhood Plan (historical)	Low	1,057	30%	317.1
	Central		40%	422.8
	High		50%	528.5
Number of Newly Designated Groups[15]	Low	582	60%	349.4
	Central	873	70%	611.4
	High	1,165	80%	931.7

In order to generate a figure for new designation applications, we first needed to calculate the number of groups who have never previously engaged with neighbourhood planning since its inception in 2011. This figure was based on the total number of electoral wards in the England (7,026) minus the number of groups who have engaged with neighbourhood planning historically (3,063). (7,026 - 3,063 = 3,963 potential, historically, unengaged groups and forums).

[13] Inactive Neighbourhood Plan Groups are defined as groups who have engaged in Neighbourhood Planning but have not progressed with the production of their plan post 2016.

[14] Active Neighbourhood Plan Groups are defined as groups who are currently engaged with Neighbourhood Planning (2017 – Present (2021))

[15] Newly designated groups are based on the 10%-20% uptake (central 15%) of eligible groups, who historically have not engaged with Neighbourhood planning.

To estimate the range of estimates of uptake per LPA, the corresponding totals of each category were added together and then divided by the total number of eligible LPAs (321) to provide us with the range of 3.3-6.8 (central 5.0) NPSs per LPA. This is set out in Table A3.2 below.

Table A3.2: Estimated uptake of NPSs per LPA

	Number of neighbourhood planning groups that produce a Priorities Statement	Uptake per LPA (total uptake/321)
Low	1,053	3.3
Central	1,239	5.0
High	2,122	6.8

As we have assumed that neighbourhood planning groups will seek to produce an NPS before the end of stage one of local plan production, the projections for the uptake of NPSs, detailed in Table A3.3 has been produced in line with Table A1.1: *Number of local plans which start updating per year*.

Table A3.3: Estimated number of Priorities Statements being commenced in the counterfactual and policy option

	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total
Counterfactual	0	0	0	0	0	0	0	0	0	0	0
Policy option (Low)	456	95	46	46	243	98	3	331	262	62	1,643
Policy option (Medium)	690	144	70	70	367	149	5	501	397	94	2,487
Policy option (High)	950	198	96	96	506	205	7	690	547	130	3,423

The estimated total number of NPSs in Table A3.3 is higher than the total in A3.2 as Table A3.3 also includes NPSs that are subsequently updated by groups so that they can influence Local Plans that are being updated when they are reviewed after 5 years.

Monetised Costs

Cost to LPAs from NPSs

We expect a modest increase in costs for local authorities due to an increase in the volume of designation applications from groups seeking to prepare an NPS. We estimate each designation application takes an officer 2-3 hours to process and that the number of additional applications per authority will be 1.8-3.6 (central 2.7) on

average. This is calculated by dividing the number of newly designated groups in table A3.1 by the number of LPAs[16]. We also assume a continuation of designations coming forward in line with the numbers of priorities statements in Table A3.3. Multiplying the number of additional designation applications by the uptake of local plans in Table A1.1 leads to an estimate of 0.9k-1.9k (central 1.4k) new designations over the appraisal period. Again, we use the median hourly wage of £22.28 for 'Town Planning Officers' accounting for overheads and deflating to 2019 prices. The overall discounted costs to LPAs from an increase in designations is estimated to be £35.9k-£107.8k (central £67.4k).

We also expect authorities will incur additional setup and processing costs, e.g., internal processes to assess draft NPSs against the legislative requirements and publishing the statements online. We expect this will take 1-2 hours of officer time in setup costs and then 1-2 hours in processing costs for each NPS submitted to the local authority. Assuming an hourly wage of £22.28 and multiplying the additional hours spent by LPAs on additional set up and processing leads to an estimated discounted additional cost of £63.9k-£266.2k (central £145.1k).

Take-up of Neighbourhood Development Plans

We estimate that the number of new NDPs being commenced under the reformed system every year will remain constant as we expect demand to prepare an NDP to remain steady. However, we expect to see an increase in the number of existing NDPs that are updated. This is because some groups may want to optimise their plans (e.g., by allocating extra development sites) in response to the changes within the Bill that will increase the weight of the development plan (including any neighbourhood plans) has in decisions on planning applications. The take up of NDPs in the counterfactual is based on the average number of neighbourhood plan designations from 2015 to 2019. We do not hold data that can be used to estimate the likely increase in the number of neighbourhood plans being updated in the policy option. In the absence of this data, we have made a modelling assumption that there will be a 25%-75% (central 50%) increase in take-up in the policy option relative to the counterfactual. We are confident that the reforms will result in an increase in the uptake of neighbourhood planning, however we have assumed a range here due to the uncertainty of what this will be in practice. In the first year of the appraisal (2024), we assume that the number of neighbourhood plans being commenced in the policy option is the same as that in the counterfactual. This is because we assume a time lag of one year between the reforms to neighbourhood plans and the expected increase in uptake. Our estimate of total commencement of new and updated NDPs is detailed in Table A3.4.

The uptake of neighbourhood plans in both options is presented in Table A3.4.

[16] This range was calculated by dividing the number of newly designated groups 582 to 1,165 (central 873) by the number of LPAs

Table A3.4: Estimated number of neighbourhood plans being commenced in the counterfactual and policy option

	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total
Counterfactual	185	185	185	185	185	185	185	185	185	185	1,850
Policy option (Low)	185	185	231	231	231	231	231	231	231	231	2,218
Policy option (Medium)	185	185	278	278	278	278	278	278	278	278	2,594
Policy option (High)	185	185	324	324	324	324	324	324	324	324	2,962

New burdens to Local Planning Authorities associated with neighbourhood plans

We assume that the mean new burdens to LPAs associated with the production of neighbourhood plans is £20k per neighbourhood plan, as this is the financial support LPAs can currently claim from the Government to cover costs associated with performing their statutory functions in the process including appointing an independent examiner and organising the referendum. Most burdens to LPAs are from the point where the neighbourhood plan reaches examination and referendum. The proportion of the estimated uptake of neighbourhood plans in Table A3.4 that will make it to examination and referendum is uncertain. Based on the number of existing neighbourhood plans that have made it to this stage[17] we make a modelling assumption that 20%-40% (central 30%) of the neighbourhood plans commenced make it to examination and referendum, and therefore represent a new burden to the LPA. This cost per neighbourhood plan to LPAs is multiplied by the estimated higher uptake of neighbourhood plans in Table A3.4 adjusting for those that make it to examination and referendum.

Table A3.5: Discounted estimated cost to Local Planning Authorities associated with neighbourhood plans, £m (2019 prices)

	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total
Low	0.0	0.0	0.2	0.2	0.2	0.2	0.1	0.1	0.1	0.1	1.2
Central	0.0	0.0	0.5	0.5	0.5	0.5	0.5	0.4	0.4	0.4	3.7
High	0.0	0.0	1.0	1.0	1.0	0.9	0.9	0.9	0.8	0.8	7.4

[17] https://neighbourhoodplanning.org/toolkits-and-guidance/key-neighbourhood-planning-data/

Familiarisation costs to LPAs

Planning officers in LPAs will need to familiarise themselves with the legislative changes, in particular, the procedural requirements for NPSs. We estimate that each officer will take on average 2-4 hours to familiarise themselves with the changes. We assume that three officers per LPA will be required to familiarise themselves with the new legislation and that there are 321 LPAs who are required to undertake neighbourhood planning statutory functions. This covers all local planning authorities except for the 24 county councils since these planning bodies are not responsible for neighbourhood planning. The two urban development corporations in London, Old Oak & Park Royal development corporation and London Legacy development corporation, are included.

To calculate the familiarisation cost we use the median hourly wage for 'Town Planning Officers' from the 2020 Annual Survey of Hours and Earnings[18] and deflate it into 2019 prices, which gives £17.14. We uprate this by 30% to account for non-labour costs which gives £22.28. We assume familiarisation costs are incurred in the first year (2024) of the appraisal period. In total, the familiarisation costs for the neighbourhood plans measures are estimated to be £42.9k-£85.8k (central £64.4k).

Monetised and non-monetised costs and benefits of each option (including administrative burden)

Given that neighbourhood plans are not a statutory requirement but one that is optional any costs or benefits that are incurred and detailed are indirect.

Monetised Benefits

We have not monetised any benefits of the changes to neighbourhood planning. Many of the benefits concerning neighbourhood planning are around greater community involvement in the planning process which it has not been possible to place a monetary value on.

The reforms to neighbourhood planning may lead to further site allocations which could lead to additional housing supply. Due to the significant uncertainty associated with any potential increase in housing supply, this benefit has not been monetised.

Priorities statements are unable to allocate sites, therefore no additional sites are expected to come forward from these changes. Rather, the introduction of priorities statements is designed to give neighbourhood groups a greater say in where development takes place in their area. It has not been possible to monetise this benefit of greater community involvement.

Priorities statements are not policy documents and as such, carry no weight in planning decisions, such as applications. There is no formal requirement for

[18] https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/regionbyoccupation4digitsoc2010ashetable15

developers to familiarise themselves with this document when preparing an application. Due to significant uncertainty of developers considering this document, this benefit has not been monetised.

Non-monetised Costs

The Planning Inspectorate: Planning inspectors will need to understand new legislation and how Priorities Statements will be considered at the Gateway Test and examination stages of the Local Plan process.

Local Planning Authorities and The Planning Inspectorate: The changes may result in a potential modest increase in the number of sitting days at local plan examination and resources required by the Planning Inspectorate and the Local Authority to consider Priorities Statements as part of the Gateway Test and examination stages of the Local Plan process.

Local Planning Authorities. Digitisation: The monetised costs of digitation of local plans and other associated plans; including neighbourhood plans has not been monetised at this stage. But will be analysed in a separate impact assessment at the secondary legislation stage.

Neighbourhood Planning Groups:

Costs to neighbourhood planning groups have not been monetised within this impact assessment as we are providing groups with a permissive power with no exhortation or requirement to use NPSs.

Non-monetised Benefits

Developers: The introduction of NPSs may provide developers with a greater understanding of what kinds of, and in some cases, what locations, development would be supported by that community. This may give developers greater certainty and confidence that when proposals are in line with an NPS, they would be supported by the community. This is an indirect benefit as developers would have to change their behaviour regarding which sites they apply for and the detail of their applications to benefit from it.

There may also be an increase in sites allocated in neighbourhood plans because of these reforms. An increase in site allocations has the potential to lead to an increase in housing supply, which would represent a benefit to landowners from an increase in land values. It has not been possible to monetise this benefit.

Communities: NPSs are a tool designed to increase community engagement in plan-making. NPSs are simpler and quicker to prepare than NDPs and we therefore expect they will appeal to all communities, particularly, in urban and deprived areas where there are additional barriers to preparing an NDP. This will in turn increase their participation in neighbourhood planning and provide them with an opportunity to have a greater influence over the local plan for their area.

Direct costs and benefits to business calculations

The measure primarily affects local authorities and neighbourhood plan groups. Since these are not businesses, we have not monetised the direct costs and benefit to business.

Rationale and evidence to justify the level of analysis used in the IA (proportionality approach)

Aspects of neighbourhood planning are monitored by government; others are directly linked to government. Therefore, where possible, historic data has been used to provide an understanding of how these reforms will impact the future of neighbourhood planning.

Risks and assumptions

In the analysis we have made several key assumptions:

- There is some uncertainty around the number of neighbourhood planning groups which start production of neighbourhood plans in both the counterfactual and policy option. To estimate uptake in the counterfactual, we use historic data on neighbourhood designations. In the policy option, we assume an uplift of 25%-75% (central 50%) on the counterfactual uptake. We expect the uptake to increase significantly relative to the counterfactual. The wide range adopted reflects the significant degree of uncertainty in this assumption.
- There is also uncertainty around the uptake of Priorities Statements. We estimate an average number of priorities statements per LPA based on historical data on the number of inactive groups, number of active groups, made neighbourhood plans as well as the number of newly designated groups. From these, in the absence of evidence, we make modelling assumptions on the percentage uptake for each of these groups. This leads to a range of 3.3-6.8 Priorities Statement per LPA (central 5.0).
- We do not hold data on the proportion of the estimated uptake of neighbourhood plans that will make it to examination and referendum, nonetheless we expect the majority to reach these stages. In the absence of this evidence, we make a modelling assumption that 20%-40% (central 30%) of the neighbourhood plans commenced make it to examination and referendum, and therefore represent a new burden to the LPA.
- We estimate that the time taken for LPA staff to familiarise with the new legislation ranges from 2-4 hours. There are 321 LPAs that will be required to familiarise, and we assume three officers per LPA will familiarise.

Impact on small and micro businesses

There is no direct impact on small and micro businesses. The parties involved in preparing a neighbourhood plan or priorities statement are the relevant local planning authority, and parish or town council, or community group. The indirect impacts mentioned above do not disproportionately impact on small and micro businesses. Where community groups seek to procure support to develop neighbourhood plans or

priorities statements, these may be small or micro planning consultancies. However, we know that consultancies have offered their services pro bono for neighbourhood planning, so there may not be an income benefit.

Wider impacts

As part of a wider package of reforms to the planning system, these additions and changes to the current process will enable more communities to engage with the planning system.

The introduction of NPSs illustrated in this Impact Assessment will not have any adverse economic, social, or environmental impacts, because they feed-in to local plans or precede neighbourhood plans whose impacts will continue to be subject to independent scrutiny.

These reforms to neighbourhood plans will aid the government's levelling up agenda by enabling communities to better engage with the wider planning system.
Transitional arrangements will be put in place which will provide a risk mitigation strategy as the planning system moves to a new system.

A summary of the potential trade implications of measure

There are no trade implications of this measure. National planning policy addresses economic impact issues and sustainable patterns of economic growth and employment.

Monitoring and Evaluation

The Department for Levelling Up, Housing and Communities already has in place arrangements for the systematic collection and monitoring of neighbourhood plan information. We intend to update these arrangements to enable us to monitor the uptake of NPSs. We will be looking to understand the volume and rate of uptake of NPSs across the country. We will be specifically focusing on whether communities in underrepresented (urban and deprived areas) have engaged in the neighbourhood planning through neighbourhood priorities statements. We may also wish to explore how many of these NPSs have led to the production of a ‘full’ neighbourhood plan. This information will inform the evaluation scoping study as set out in the main IA document. The scoping study will inform the design of the planned impact and process evaluations by: suggesting appropriate methodologies to address the research questions for the process evaluation, the impact evaluation and the value for money evaluation; making recommendations regarding the feasibility of robustly evaluating the questions; reviewing the suitability and feasibility of metrics for the full evaluation and identify ways to fill any data gaps thus ensuring the evidence base is as complete as possible. This will enable the development of feasible, costed options for the evaluation.

Annex 4: Statement of Impacts - Increased certainty in planning decisions

Problem under consideration and rationale for intervention

Planning applications and the associated decision-making process are the part of the planning system that most people are familiar with. Decisions on planning applications are governed by section 38(6) of the Planning and Compulsory Purchase Act 2004. This requires planning applications to be determined in accordance with the development plan (such as the Local Plan or Neighbourhood Plan for that area) unless 'material considerations' indicate otherwise. A material consideration can be any factor that relates to the development and use of land. S38(6) gives primacy to the development plan but allows for decisions to be made where other material considerations point in a different direction. This is a formula that enables changed circumstances or unforeseen issues to be considered.

However, s38(6) does not require strong grounds to come to a decision that conflicts with the development plan. This is of concern because the plan, with its spatial strategy, development allocations and protected areas, is an important basis for both public and private investment. Its production is intensive and involves much evidence-gathering and community involvement. If decisions on planning applications contradict the plan, for example where proposed development is refused despite compliance with relevant policy or where development is permitted in locations contrary to the plan, this can erode the confidence placed in it by the community and developers and reduce certainty in the planning system. This uncertainty can affect investment decisions, deter smaller developers, and lead to unnecessary planning appeals.

This situation contrasts with the position in most other countries, where plans are intended to provide a stronger basis for decisions. It is desirable to maintain some flexibility in the decision-making framework to address unanticipated opportunities and events, because plans cannot anticipate all circumstances and may sometimes become out-of-date[19], but there is a case for strengthening the role that plans play in our planning process to bring greater certainty.

Two changes are proposed. The first is to change the law so that decisions should be made in accordance with the development plan unless there are *strong* reasons to do otherwise.

The second is to bring national development management policy, which will sit alongside a revised National Planning Policy Framework (NPPF), into the decision-making formula as well, so that decisions must accord with the development plan and national development management policies, unless there are strong reasons to do otherwise. At the present time, there is no statutory requirement for development to comply with national planning policy; such policy simply forms one of the 'material considerations' that a local planning authority should consider, having first assessed

[19] The reforms for local plans should substantially reduce the number of out-of-date local plans

compliance with the development plan. This change will allow general policy considerations, of the sort which apply universally (such as protection for historic buildings) to be set out nationally and be given appropriate weight, avoiding the need for them to be repeated in individual local plans and so helping to streamline their content. It will also provide a set of 'backstop' policies to assess schemes against where the development plan is out of date and no longer reflects national policy.

Description of options considered

Section 38(6)

Option 0) Do nothing: If we choose to do nothing and maintain the status quo for section 38(6), we can expect the current level of uncertainty about the value of having an up-to-date plan to continue, which has a wider impact on confidence in the planning process. For example, plan policies can be overridden where there is insufficient land supply in place, something which can cause considerable concern in the areas affected.

Doing nothing would also mean that national policy would continue to be only a 'material consideration', and this would limit the ability to streamline development plans (which, currently, often repeat these national policies given their lack of statutory weight). It would also mean that important aspects of national planning policy such as climate change and design would not carry the status which they should have.

Option 1) Section 38(6) reform

We intend to 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 unless material considerations strongly indicate otherwise. This will strengthen the development plan in the decision-making process and help maintain public and business confidence in the plan, while also giving commensurate weight to national development management policy. Our wider reforms to the content of development plans will mean there is little duplication between the policies in the development plan and those set out nationally, so the change to s38(6) will ensure that the importance of different aspects of the policy framework for making planning decisions is recognised. We also intend, through the national development management policies, to remove the requirement for plans to maintain a rolling five-year supply of land (something which has, hitherto, been a common reason for plans to be overridden, even where they are up to date). We will change this so that the five-year supply requirement applies only where the local plan is more than five years old, and so at the point where it should be updated in any event.

Given the role of 38(6) in the decision-making process there are no other practical alternative options to introduce these proposals.

Policy objective

The primary objective of these reforms is to provide for greater certainty to landowners, applicants, and communities that:

- Planning applications that accord with the plan's proposals and national development management policy will be granted permission unless material considerations strongly indicate otherwise.
- Planning applications that do not accord with the plan and national development management policy will be refused unless there are strong reasons to do otherwise (something which will, for example, ensure a greater degree of assurance that areas identified for protection will remain protected, provided the plan is up to date).

Summary and preferred option with description of implementation plan

To increase certainty in decision-making, we intend to revise section 38(6) to create a requirement to determine applications in accordance with the development plan and national development management policies, unless there are material considerations that provide a strong basis for doing otherwise.

This will require changes in primary legislation. We will, in addition, create a new suite of national development management policies through a review of the National Planning Policy Framework.

Monetised and non-monetised costs and benefits of each option

The preferred option is expected to provide savings (in terms of cost and time) for schemes that accord with the development plan, and equally avoid wasted costs in developing proposals which do not comply with the plan. The development plan could include not only development allocations and local policies, but also design codes, brought forward as a supplementary plan or as part of the main local plan. In addition, national development management policies will provide for a clear and consistent set of generic policies, saving applicants the need to interpret various local policies.

Under these proposals, it is not expected that development proposals which comply with local and national policy would be subject to additional costs compared to the situation now. Schemes which are non-compliant may be required to incur additional costs to bring proposals in line with policy but will do so in the context of a more certain set of 'rules' which need to be complied with.

Likewise, no additional administrative burdens are anticipated for local planning authorities because of these reforms, beyond initial familiarisation costs, and it is expected that there would be administrative cost savings (e.g., time), particularly where planning authorities are subject to fewer non-policy compliant applications.

Crucially, the preferred option is an adjustment to a well-known decision-making formula and does not place any additional burden on the decision-making or plan-making process, through additional evidence and information requirements. Instead, those requirements will be clearer for all participants in the process as there will be more certainty about the policies to be complied with.

Monetised costs and benefits

There are several routes through which this change is expected to have an impact. Below is a summary of the different monetised costs and benefits that are covered in this section:

1. Reduction in refused planning applications that would be followed by a resubmitted scheme in the counterfactual.
2. Reduction in refused planning applications that would not be followed by a resubmitted scheme in the counterfactual.
3. Reduction in refused planning applications that would lead to appeal in the counterfactual.
4. Reduction in refused planning applications where no application would be submitted in the policy option (which would have been refused in the counterfactual).
5. Time savings to local authorities in determining planning applications.
6. Reduction in the cost of preparing planning applications.
7. Reduction in the cost of holding capital to developers (due to a reduction in determination times).
8. Reduction in the cost of holding capital for applications held up by appeals
9. Familiarisation costs.

Monetised benefits

<u>Reduction in refused planning applications</u>

One of the main monetised benefits from the reforms to s38(6) is that there is expected to be a reduction in planning applications that are refused. There are two main reasons:

1. There is expected to be a reduction in the number of planning applications that are submitted that are not in accordance with the development plan. In the counterfactual, most applications that are rejected are determined to be unacceptable on the grounds of not being in accordance with the development plan: the planning authority will find something unsatisfactory about the scheme which means that it will not be in accordance with the requirements of the policies; or the application of the policies may not be entirely clear; or policies may pull in different directions; or the local planning authority will interpret the policies in a negative way. Streamlined plans, and the new set of national development management policies, will create a clearer set of rules for decision-making, and

this combined with a stronger presumption in favour of the policy framework will mean that developers are less likely to submit applications that are contrary to the Development Plan (i.e., non-compliant) and there will be less ground for dispute between developers and the planning authority.

2. Currently planning applications may sometimes be refused by the local planning authority, even if in accordance with the local plan's policies. This category accounts for a small but important minority of refusals. Local planning authorities will in future be under a statutory duty to grant planning permission for schemes that accord with the plan and national policy unless there are strong reasons to do otherwise. This will significantly reduce the number of such refusals.

Development of land and property requires a judgement on the level of risk that a developer is willing to accept that their proposals will be successful. This is firstly in obtaining the necessary regulatory approvals, such as planning permission, and that the development is commercially viable. This decision is first considered when assessing whether to purchase land or property (either unconditionally or subject to planning permission). A developer will typically undertake or commission a planning appraisal as part of their due diligence prior to purchasing an asset or agreeing an option. This planning appraisal will often assess what the adopted planning policy position for the site is, necessitating a review of the Development Plan and other material considerations. This helps establish potential development parameters that are in line with adopted planning policy or sense-checks on whether a developer's initial proposals are appropriate. Strengthening the Development Plan means that there will be fewer developers willing to take a risk on purchasing land in locations where development may not be supported. In the counterfactual, a developer may have been more willing to purchase a site that may not be given permission if decisions were made in line with the Development Plan, in view of the chance that 'other material considerations' may be sufficient to override the plan.

As outlined above, a developer will typically either acquire land or buildings unconditionally or purchase an "option" agreement which sets a future fee payable on the meeting certain conditions. A common condition is that land or buildings are sold "subject to planning" i.e., that planning permission is granted. This highlights the importance of getting planning permission.

Assuming that the developer is satisfied about their prospects of gaining planning permission they will proceed with preparing a planning application. The requirements for a planning application differ depending on the use, location, and scale but developers (or their appointed planning consultant) will review the Council's Validation Criteria Checklist to understand what documentation will be required to support determination. This will be supplemented by reviewing a Local Authority's planning policy documents to understand, where relevant, their expectations from these documents. For example, the Local Plan may set expectations on what content is required from an Energy Statement or an Affordable Housing Strategy.

Any planning application will require a robust assessment of how the proposals will meet adopted planning policies and address any relevant material considerations. This will typically be covered within a Planning Statement (or similar) which sets out the relevant policies and seeks to justify how the proposals address them. The clearer the policies are for assessing the application against, and the more faith that can be placed in those policies being upheld and not outweighed by other material considerations, then the easier it will be to assemble this material, tailor it to the policy requirements and judge whether the scheme is likely to be acceptable.

To estimate the reduction in refusals arising from the policy, first a figure for how many major and minor residential decisions are made each year is obtained using published statistics from DLUHC. Given that there are robust data collection and quality assurance processes for official planning statistics, we have high confidence in the accuracy and credibility of the data used in the calculations. Assuming that the number of applications received would follow trends observed in recent years, a three-year average (from 18/19, 19/20, 20/21) is taken to obtain an estimate of the number of decisions per year. This results in an estimate of 6,893 major residential decisions, 51,230 minor residential decisions, 1,822 major commercial decisions and 7,149 minor commercial decisions per annum[20]. As defined in the DLUHC planning application statistics, commercial applications comprise of 'Office, research and development, light industry', 'General industry, storage and warehousing' and 'Retail and services'. It has not been possible to estimate the impacts on 'All other' major/minor applications due to the significant uncertainty regarding the impacts on this group of applications and the limited data granularity in terms of development types within this category. This is discussed further in the section on non-monetised benefits. We also have data on major and minor residential/commercial applications that are granted and rejected and take the average over the last three years of available data.

[20] Tables P120A and P120B: https://www.gov.uk/government/statistical-data-sets/live-tables-on-planning-application-statistics

Table A4.1: Minor and major residential/commercial applications granted/refused per year

	Minor residential applications	Major residential applications	Minor commercial applications	Major commercial applications
Granted	37,536	5,641	6,443	1,716
Refused	13,694	1,252	706	106
Total	51,230	6,893	7,149	1,822

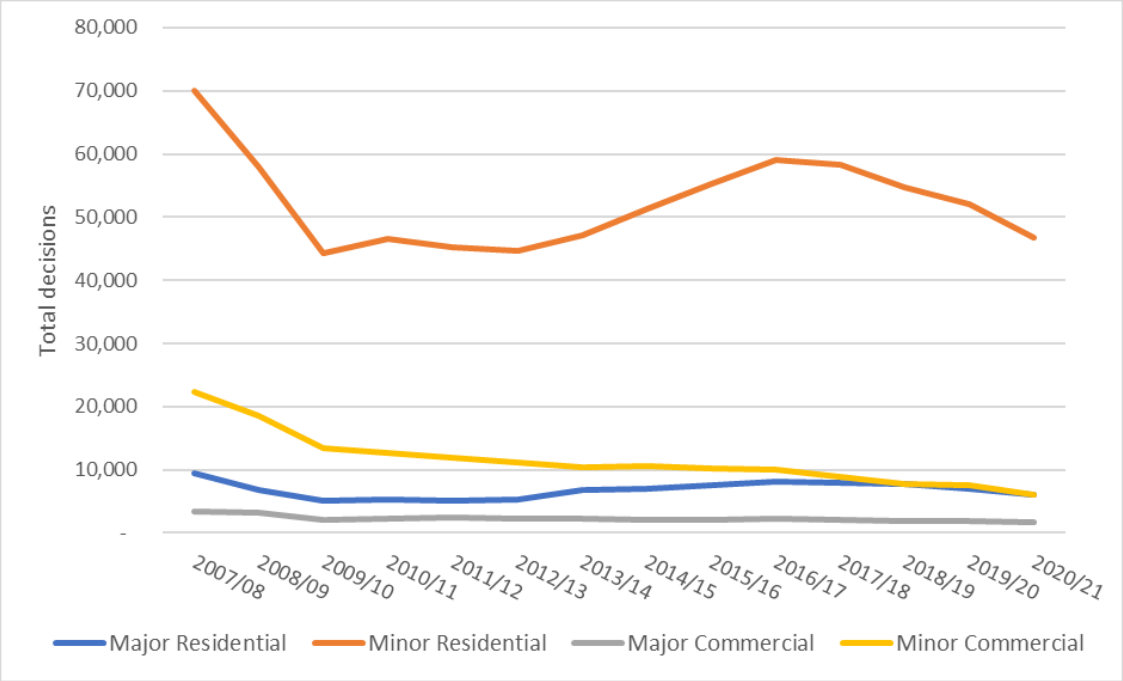
The table below presents the definitions of minor and major development type[21]:

	Residential development	Commercial development
Minor development	Where the number of dwelling/houses to be provided is between one and nine inclusive on a site having an area of less than one hectare. Where the number of dwelling/houses to be provided is not known, a site area of less than 0.5 hectares should be used as the definition of a minor development.	Where the floor space to be created is less than 1,000 square metres or where the site area is less than one hectare.
Major development	Where the number of dwelling/houses to be provided is 10 or more: or the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the number of dwelling/ houses to be provided is 10 or more.	The provision of a building or buildings where the floor space to be created by the development is 1000 square metres or more: or development carried out on a site having an area of one hectare or more.

[21] https://www.gov.uk/government/publications/district-planning-matters-return-ps1-and-ps2/ps1-and-ps2-district-planning-matters-return-guidance-notes

We assume the total number of planning applications in both the counterfactual and policy option remains constant over the appraisal period. While this measure may reduce overall applications by reducing the number of applications amended and resubmitted, the future number of applications received will also be impacted both positively and negatively by other measures and wider economic conditions. Using historical data on planning decisions[22], there isn't a clear trend for the number of planning applications as seen in Graph A4.1 below. Therefore, for the purpose of this analysis we assume the number of decisions remains constant over the appraisal period.

Graph A4.1: Total residential and commercial decisions per financial year



The next step is to disaggregate the refusals into the following three categories:

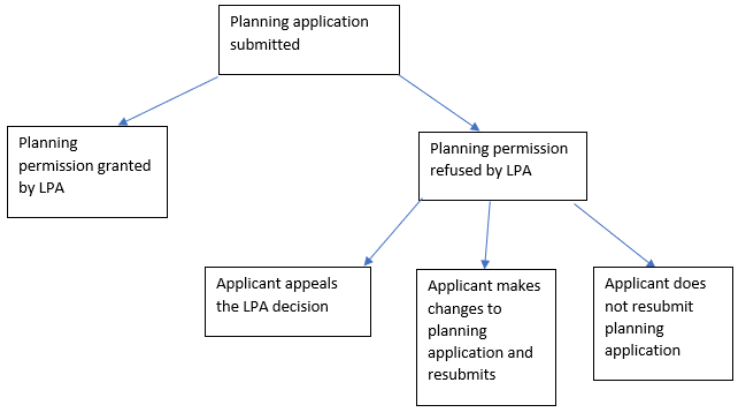
1. appeals for major/minor applications as a proportion of total major/minor refusals (an unsuccessful applicant may appeal to the Planning Inspectorate which will look at the application afresh on behalf of the Secretary of State, taking the same policies and other material considerations into account);
2. proportion of major/minor refused applications that resubmit; and
3. proportion of major/minor refused applications that don't resubmit.

These are the first order effects following a refusal. The first order effects are summarised in the flow chart below. There will also be second order effects that are not within the scope of this analysis. For example, if a planning application is refused by the Local Planning Authority, and subsequently an appeal is made to the Planning Inspectorate, then it is possible for the developer to submit another planning

[22] https://www.gov.uk/government/statistical-data-sets/live-tables-on-planning-application-statistics

application should the appeal be unsuccessful. The second order effects are omitted from the chart below.

Diagram A4.1: First order effects following a rejected planning application in the counterfactual



To analyse the impact of the policy option on those applications that would have appealed after being refused, first appeals for major/minor application as a proportion of total major/minor refusals in the counterfactual must be estimated. The appeals data for major/minor application is taken from published data from the Planning Inspectorate on s78 planning appeals[23]; assuming recent trends continue, the number of appeals expected is calculated as the average of 18/19, 19/20 and 20/21. The data for total major and minor refusals is taken from DLUHC statistics on planning applications; similarly, assuming recent trends continue, the estimated number of total major and minor refusals expected is calculated as the average of 18/19, 19/20 and 20/21[24]. Appeals accounted for an estimated of 57% of major residential application refusals, 40% of minor residential application refusals, 72% of major commercial application refusals, and 77% of minor commercial application refusals.

We do not hold any data on the other two categories: the proportion of refused applications that resubmit and the proportion of refused applications that don't resubmit. On the one hand, we expect resubmission because the developer would have already incurred sunk costs associated with submitting the planning application, and there may be scope to adjust the proposal to address the grounds for refusal. On the other hand, we expect a proportion of the refused applications to not resubmit an application for various reasons, for example they may choose to sell their plot of land. There is no evidence to suggest which course of action would be more likely, therefore

[23] Table 2.3 s78 planning appeals – received by development type https://www.gov.uk/government/statistics/planning-inspectorate-statistics

[24] Table P120A and Table P120B: https://www.gov.uk/government/statistical-data-sets/live-tables-on-planning-application-statistics

it is assumed that the probability of a refused application being followed by resubmission is equal to the probability of a refused application not being followed by resubmission. This leads to the following breakdown for major/minor applications following refusal in Table A4.2.

Table A4.2: Estimated distribution of refused planning applications

	Estimated percentage of refusals – residential	Estimated percentage of refusals – commercial
Major applications		
Appeals for major applications as a proportion of total major refusals	57%	72%
Proportion of major refused applications that are followed by the resubmission of a planning application	22%	14%
Proportion of major refused applications that are not followed by the resubmission of a planning application	22%	14%
Minor applications		
Appeals for minor applications as a proportion of total minor refusals	40%	77%
Proportion of minor refused applications that are followed by the resubmission of a planning application	30%	12%
Proportion of minor refused applications that are not followed by the resubmission of a planning application	30%	12%

Applying the percentages in Table A4.2 to the number of rejected planning applications in Table A4.1 results in estimates of the number of major/minor residential/commercial refusals in the counterfactual. This is shown in Table A4.3 below.

Table A4.3: Major/minor residential/commercial rejections per annum in the counterfactual

	Number per annum - residential	Number per annum - commercial
Major refusals (per annum) – counterfactual		
Refusals that go to appeal	712	76
Refusals followed by the re-submission of a planning application	270	15
Refusals that are not followed by the resubmission of a planning application	270	15
Minor refusals (per annum) – counterfactual		
Refusals that go to appeal	5,490	542
Refusals that are followed by the resubmission of a planning application	4,102	82
Refusals that are not followed by the resubmission of a planning application	4,102	82

The next step is to estimate the percentage reduction in refusals in the policy option compared to the counterfactual. We do not have data to inform this assumption, therefore scenario analysis has been conducted to estimate the impact. In the policy option, the reduction in refusals will arise from two factors. First, there will be a reduction in refusals because a proportion of would-be applicants will be deterred from submitting 'non-compliant' planning applications in the policy option (where they did in the counterfactual) owing both to the greater clarity of policy and the stronger weight given to it. Secondly, the greater clarity of policy and the increased weight given to it will drive an overall improvement in the quality of planning applications and thus a reduction in refusals that result in the outcomes described in Table A4.2.

We assume a split of 50:50 between the percentage refused for which a planning application would not be submitted in the policy option and the percentage refused for which a planning application would still be submitted in the policy option. We assume a 40%-60% (central 50%) reduction in refusals for major residential applications. For

minor residential applications, policy experts consider that there will be a significant lesser impact on the reduction in refusals (as such sites are less likely to benefit from a definitive allocation in plans), so we assume a 20%-30% (central 25%) reduction in refusals. These assumptions have been sense tested by officials with considerable experience of planning practice with senior roles across organisations in the public and private sector. These assumptions are summarised in Table A4.4 below:

Table A4.4: Percentage reduction in refusals for major/minor applications (both residential and commercial)

	Low	Central	High
(I) Percentage reduction in refusals – major applications	40%	50%	60%
a) Proportion of (I) refused in counterfactual but where no application would be submitted in policy option	50%		
b) Proportion of (I) refused in counterfactual and no longer refused in policy option	50%		
(II) Percentage reduction in refusals – minor applications	20%	25%	30%
a) Proportion of (II) refused in counterfactual but where no application would be submitted in policy option	50%		
b) Proportion of (II) refused in counterfactual and no longer refused in policy option	50%		

Applying the percentages in Table A4.4 to the number of refusals per annum in the counterfactual leads to estimate of the reduction in major and minor residential/commercial refusals per annum between the counterfactual and the policy option. This is summarised in Table A4.5 below:

Table A4.5: Reduction in major/minor planning application refusals between the counterfactual and the policy option (per annum)

	Low	Central	High
Reduction in major residential refusals			
a) Refusals in counterfactual where no planning application would be submitted in policy option	250	313	376
…of which involve a reduction in appeals	*142*	*178*	*214*
…of which are followed by resubmission	*54*	*68*	*81*
…of which are not followed by resubmission	*54*	*68*	*81*
b) Refusals in the counterfactual and no longer refused in policy option			
Refusals that go to appeal (excluding instances where no application would have been submitted in policy option)	142	178	214
Refusals followed by the resubmission of a planning application	54	68	81
Refusals not followed by the resubmission of a planning application	54	68	81
Total	501	626	751
Reduction in minor residential refusals			
a) Refusals in counterfactual where no planning application would be submitted in policy option	1,369	1,712	2,054
…of which involve a reduction in appeals	*549*	*686*	*824*
…of which are followed by resubmission	*410*	*513*	*615*
…of which are not followed by resubmission	*410*	*513*	*615*
b) Refusals in the counterfactual and no longer refused in policy option			

Refusals that go to appeal (excluding those that do not submit application in policy option)	549	686	824
Refusals followed by the resubmission of a planning application	410	513	615
Refusals not followed by the resubmission of a planning application	410	513	615
Total	2,739	3,424	4,108
Reduction in major commercial refusals			
a) Refusals in counterfactual where no planning application would be submitted in policy option	21	27	32
…of which involve a reduction in appeals	*15*	*19*	*23*
…of which are followed by resubmission	*3*	*4*	*5*
…of which are not followed by resubmission	*3*	*4*	*5*
b) Refusals in the counterfactual and no longer refused in policy option			
Refusals that go to appeal (excluding instances where no application would have been submitted in policy option)	15	19	23
Refusals followed by the resubmission of a planning application	3	4	5
Refusals not followed by the resubmission of a planning application	3	4	5
Total	42	53	64
Reduction in minor commercial refusals			
a) Refusals in counterfactual where no planning application would be submitted in policy option	71	88	106
…of which involve a reduction in appeals	*54*	*68*	*81*
…of which are followed by resubmission	*8*	*10*	*12*

…of which are not followed by resubmission	*8*	*10*	*12*
b) Refusals in the counterfactual and no longer refused in policy option			
Refusals that go to appeal (excluding those that do not submit application in policy option)	54	68	81
Refusals followed by the resubmission of a planning application	8	10	12
Refusals not followed by the resubmission of a planning application	8	10	12
Total	141	177	212

The above analysis estimates the change in the number of planning applications that are refused. The next section considers what that means for the cost savings incurred by applicants and local authorities.

1. **Reduction in refused applications that would be followed by a resubmitted scheme in the counterfactual**

There are benefits to developers from the reduction in applications that would have been refused in the counterfactual and would have subsequently resubmitted an application. These savings can be estimated for major/minor residential/commercial projects separately. The savings to developers are the cost of resubmission which otherwise would have been necessary in the absence of this legislative change.

These savings from reduced resubmitted applications include both those applications that were refused in the counterfactual but where no application would be submitted in the policy option and applications that were refused in the counterfactual but re-submitted and no longer refused in the policy option. In the case of a resubmission in the counterfactual, the developer would seek to adjust the scheme to make it acceptable the local planning authority.

The cost saving accruing from a reduction in refused applications that would be followed by resubmission in the counterfactual is a direct benefit to business. The new legislation, which improves clarity of information, is immediate and unavoidable as applications must be determined in accordance with the new legislation which developers must now follow when submitting a planning application. Applicants are expected to directly take advantage of the greater clarity as a result of these changes. Therefore, this benefit is directly distributed to the developers. This approach is consistent with the approach taken in the 2019 Impact Assessment 'Extension of the permission in principle consent regime: introduction of applications process'[25] where the benefit "avoided costs associated with planning refusals" is classified as a direct benefit to business.

The proportion of the cost of a resubmission relative to the original cost of a completely new application depends on the extent to which changes to the original application are required. We do not hold data on the cost of resubmission; therefore, we have made a modelling assumption that the average cost of resubmission is 10%-30% (central 20%) of the cost of preparing and submitting the original planning application. This assumption, which reflects the amount of information that is likely to be required compared to a new application, has been sense tested by officials with considerable experience of planning, with senior roles across organisations in the public and private sector. It is expected that the cost of resubmission is significantly lower than that of the original application as often the developer will only be required to change certain

[25] https://www.legislation.gov.uk/ukia/2019/123/pdfs/ukia_20190123_en.pdf

aspects of the planning application that were responsible for the refusal in the first place.

The cost saving to developers associated with resubmitting planning applications has been estimated using data from an exercise conducted by DCLG in 2009 seeking to identify the typical financial costs associated with the preparation and submission of a planning application[26]. These are the most recent and robust estimates available. The average costs from this study have been used in this analysis. The categories in the report do not directly correspond to the categories in the planning application statistics, and therefore these costs should be considered illustrative. To calculate the cost of preparing and submitting a planning application we assume all costs are incurred by the developer up to the point of post determination[27]. The values used from this study presented in 2009 prices - have been uprated to 2019 prices using ONS data[28].

The cost of submitting an application for major residential developments is estimated to be £111.7k per application and £23.0k per application for minor residential developments. For the estimate for major residential developments, we use the category for 'Major development' for approximately 100 dwellings from the 2009 report. The 2009 report does not explicitly identify costs for 'Minor residential development', therefore the average of two comparable categories - 'Small housing development (10-15 dwellings) and 'Single house construction or conversion' – is used as a proxy.

The cost of submitting an application is estimated to be £24.0k and £12.1k per application for major and minor commercial developments, respectively. For major commercial developments we use the category for 'Major development for retail development of approximately 2,500sq m' from the 2009 report. For minor commercial developments, an average of the two relevant categories - 'Typical warehouse development (under 1,000 sq. m) and 'Applications by SMEs concerning the establishment of premises' – was used. The average of these two categories provides our best estimate considering the range of development that would be classed as minor commercial development when processed by the local planning authorities. These were deemed to be the closest matching categories to major/minor commercial developments.

To estimate the costs of resubmission, the assumption that resubmission accounts for 10%-30% of submission costs is applied to the estimates of submission costs for each development type. This results in an estimated cost of resubmission of £11.2k-£33.5k (central £22.3k) per application for major residential developments and £2.3k-£6.9k (central £4.6k) per application for minor residential developments. For commercial developments, applying the same assumptions, the estimated cost of resubmission

[26] DCLG, "Benchmarking the costs to applicants of submitting a planning application", July 2009. Source: http:/www.communities.gov.uk/documents/planningandbuilding/pdf/benchmarkingcostsapplication.pdf

[27] These include initial scheme development, preparation of planning application, submission of planning application and post submission work including determination

[28] Table 6a: https://www.ons.gov.uk/economy/inflationandpriceindices/datasets/consumerpriceinflation

for major commercial developments is £2.4k-£7.2k (central £4.8k) per application and £1.2k-£3.6k (central £2.4k) per application for minor commercial developments.

Multiplying these per application costs by the number of refusals that would have resubmitted a planning application that are avoided (see Table A4.5) results in the estimated total cost savings from a reduction in rejected applications that resubmit as set out in Table A4.6. As explained above, the reduction in refusals that would have resubmitted a planning application in Table A4.6 includes both those applications that were refused in the counterfactual but where no application would be submitted in the policy option and applications that were refused in the counterfactual but re-submitted and no longer refused in the policy option. For example, for major residential, in the central scenario there are an estimated 136 rejections in total (68+68) that are followed by resubmitted schemes that are avoided in Year 1, which is then multiplied by the cost of a resubmission (£22.3k in the central scenario) to get an estimate of £3.0m in 2024.

Table A4.6: Discounted savings from a reduction in refused applications that are followed by resubmitted schemes, £m (2019 prices, 2024 present values)

	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total
Major residential											
Low	1.2	1.2	1.1	1.1	1.1	1.0	1.0	0.9	0.9	0.9	10.4
Central	3.0	2.9	2.8	2.7	2.6	2.5	2.5	2.4	2.3	2.2	26.0
High	5.4	5.2	5.1	4.9	4.7	4.6	4.4	4.3	4.1	4.0	46.8
Minor residential											
Low	1.9	1.8	1.8	1.7	1.6	1.6	1.5	1.5	1.4	1.4	16.2
Central	4.7	4.6	4.4	4.3	4.1	4.0	3.8	3.7	3.6	3.5	40.6
High	8.5	8.2	7.9	7.7	7.4	7.1	6.9	6.7	6.4	6.2	73.0
Major commercial											
Low	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.12
Central	0.04	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.31
High	0.06	0.06	0.06	0.06	0.06	0.05	0.05	0.05	0.05	0.05	0.56
Minor commercial											
Low	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.01	0.17
Central	0.05	0.05	0.05	0.04	0.04	0.04	0.04	0.04	0.04	0.04	0.43
High	0.09	0.09	0.08	0.08	0.08	0.08	0.07	0.07	0.07	0.07	0.77
Total											
Low	3.1	3.0	2.9	2.8	2.7	2.6	2.5	2.5	2.4	2.3	26.9
Central	7.8	7.6	7.3	7.0	6.8	6.6	6.4	6.1	5.9	5.7	67.3
High	14.1	13.6	13.1	12.7	12.3	11.8	11.4	11.1	10.7	10.3	121.1

2. Reduction in refused applications that would not be followed by a resubmitted scheme in the counterfactual

There are also benefits from a reduction in rejected applications that are not followed by resubmitted planning applications in the counterfactual. This is because the original application would no longer be refused in the policy option (as they will be compliant with the development plan and national development management policy in the policy option). There is therefore a benefit from a reduction in nugatory applications that would have previously been rejected in the counterfactual (e.g., for not being policy compliant). For the applicants that do not resubmit a planning application in the counterfactual there is a sunk cost associated with preparing and submitting the planning application which is subsequently refused. Here the benefits are more significant compared to those resubmitted as the cost saving per development is the cost of the original submission as opposed to a resubmission.

The cost saving accruing from a reduction in refused applications that are not resubmitted in the counterfactual is a direct benefit to business. The new legislation, which improves clarity of information, is immediate and unavoidable as applications must be determined in accordance with the new legislation which developers must now follow when submitting a planning application. Applicants are expected to directly take advantage of the greater clarity as a result of these changes. Therefore, this benefit is directly distributed to the developers. This approach is consistent with the approach taken in the 2019 Impact Assessment 'Extension of the permission in principle consent regime: introduction of applications process'[29] where the benefit "avoided costs associated with planning refusals" is classified as a direct benefit to business.

The 2009 Benchmarking report is used to estimate the costs to developers associated with preparing and submitting a planning application. The costs for major residential developments are estimated to be £111.7k per application and for minor residential developments £23.0k per application[30]. For commercial applications, the costs are estimated to be £24.0k and £12.1k per application for major and minor commercial developments respectively[31]. Multiplying the reduction in refusals that don't resubmit a planning application in Table A4.5 by these estimated average costs per application results in the savings set out in Table A4.7.

[29] https://www.legislation.gov.uk/ukia/2019/123/pdfs/ukia_20190123_en.pdf

[30] For major residential developments we use the category in the 2009 report of 'Major development' for approximately 100 dwellings. For minor residential developments, we take the average of the categories 'Small housing development (10-15 dwellings) and 'Single house construction or conversion' as a proxy.

[31] For major commercial developments we use the category in the 2009 report of 'Major development' for retail development of approximately 2,500sq m'. For minor commercial developments, we take an average of the categories 'Typical warehouse development (under 1,000 sq m) and 'Applications by SMEs concerning the establishment of premises'. The average of these two categories provides our best estimate considering the range of development that would be classed as minor commercial development when processed by the local planning authorities. These were deemed to be the closest matching categories to major/minor commercial developments.

Table A4.7: Discounted savings from a reduction in rejected applications that are not followed by resubmission, £m (2019 prices,2024 present values)

	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total
Major residential											
Low	6.0	5.8	5.6	5.4	5.3	5.1	4.9	4.7	4.6	4.4	52.0
Central	7.5	7.3	7.0	6.8	6.6	6.4	6.1	5.9	5.7	5.5	64.9
High	9.1	8.7	8.5	8.2	7.9	7.6	7.4	7.1	6.9	6.6	77.9
Minor residential											
Low	9.4	9.1	8.8	8.5	8.2	7.9	7.7	7.4	7.2	6.9	81.1
Central	11.8	11.4	11.0	10.6	10.3	9.9	9.6	9.3	8.9	8.6	101.4
High	14.1	13.7	13.2	12.8	12.3	11.9	11.5	11.1	10.7	10.4	121.7
Major commercial											
Low	0.07	0.07	0.07	0.06	0.06	0.06	0.06	0.06	0.05	0.05	0.6
Central	0.09	0.09	0.08	0.08	0.08	0.08	0.07	0.07	0.07	0.07	0.8
High	0.11	0.10	0.10	0.10	0.09	0.09	0.09	0.08	0.08	0.08	0.9
Minor commercial											
Low	0.10	0.10	0.09	0.09	0.09	0.08	0.08	0.08	0.08	0.07	0.9
Central	0.12	0.12	0.12	0.11	0.11	0.10	0.10	0.10	0.09	0.09	1.1
High	0.15	0.14	0.14	0.13	0.13	0.13	0.12	0.12	0.11	0.11	1.3
Total											
Low	15.6	15.1	14.6	14.1	13.6	13.2	12.7	12.3	11.9	11.5	134.6
Central	19.5	18.9	18.2	17.6	17.0	16.5	15.9	15.4	14.8	14.3	168.2
High	23.4	22.7	21.9	21.1	20.4	19.7	19.1	18.4	17.8	17.2	201.8

3. Reduction in refused planning applications that lead to appeal in the counterfactual

A reduction in refusals would also entail a reduction in refused planning applications that go to appeal. The cost saving accruing from a reduction in refused applications that lead to appeal in the counterfactual is a direct benefit to business. The new legislation, which improves clarity of information, is immediate and unavoidable as applications must be determined in accordance with the new legislation which developers must now follow when submitting a planning application. Applicants are expected to directly take advantage of the greater clarity as a result of these changes. Therefore, this benefit is directly distributed to the developers. This approach is consistent with the approach taken in the 2019 Impact Assessment 'Extension of the permission in principle consent regime: introduction of applications process'[32] where the benefit "avoided costs associated with planning refusals" is classified as a direct benefit to business.

The appeal process is costly to the Planning Inspectorate, the local planning authority, and the appellant. To estimate the costs from a reduction in rejected applications that lead to appeal, it is first necessary to estimate the breakdown of the reduction in appeals set out in Table A4.5. Using Planning Inspectorate Appeals Data[33], we estimate the proportion of appeals that are written representations, hearings, and inquiries for both major/minor residential appeals and major/minor commercial appeals, which is summarised in Table A4.8.

Table A4.8: Breakdown of appeal types by type of project (rounded)

	Proportion
Major residential appeals	
Written representation	64%
Hearings	20%
Inquiries	16%
Minor residential appeals	
Written representation	98%
Hearings	2%
Inquiries	0%
Major commercial appeals	

[32] https://www.legislation.gov.uk/ukia/2019/123/pdfs/ukia_20190123_en.pdf

[33] https://www.gov.uk/government/publications/planning-inspectorate-appeals-database

Written representation	64%
Hearings	17%
Inquiries	19%
Minor commercial appeals	
Written representation	96%
Hearings	4%
Inquiries	0%

Applying the percentages in Table A4.8 to the estimated reduction in appeals in Table A4.5 allows us to estimate the reduction in appeals by type of appeal for major/minor residential/commercial projects. The reduction in appeals in Table A4.9 includes both those from applications that were refused in the counterfactual (and went to appeal) but where no application would be submitted in the policy option and from applications that were refused in the counterfactual (and went to appeal) and are no longer refused in the policy option. These are summarised in Table A4.9 below:

Table A4.9: Reduction in appeals by type of project and type of appeal per annum (rounded)

	Low	Central	High
Reduction in major residential appeals			
Written representation	183	228	274
Hearings	57	71	85
Inquiries	46	57	69
Reduction in minor residential appeals			
Written representation	1,073	1,342	1,610
Hearings	24	30	36
Inquiries	1	1	1
Reduction in major commercial appeals			
Written representation	19	24	29
Hearings	5	6	8

Inquiries	6	7	9
Reduction in minor commercial appeals			
Written representation	104	131	157
Hearings	4	5	6
Inquiries	0	0	0

The next step to estimate the cost savings is to estimate the cost per case for the Planning Inspectorate, councils, and appellants by appeal type.

Although there is no fee for submitting an appeal, the appellant faces costs in preparing the appeal, the costs of expert witnesses and potentially legal representation (if a hearing or inquiry is held), and also incurs costs in the form of holding capital for land that is not being developed given that the appeal process can take considerable time to resolve[34]. We do not hold detailed evidence on the cost of appeals to appellants, but we have ascertained a range of costs by discussion with an experienced Inspector with extensive private sector experience who has also obtained information from other practitioners. This has provided the basis for illustrative assumptions to reflect the potential cost savings from a reduction in appeals. These assumptions have been sense tested internally with staff who have practical experience of the planning process at a senior level, and the ranges adopted reflect the degree of uncertainty. The most significant costs to appellants will arise from inquiries, which we estimate to be in the region of £200k-£400k (central £300k). We estimate the typical cost of a written representation is £6.6k-£12.1k (central £9.3k) to appellants[35] and the cost of hearings to appellants is estimated to be £20k-£100k (central £60k).

The main costs from appeals to the Planning Inspectorate are from the Inspector's time in considering the appeal. We take the mean unit cost from the last three years of data obtained from the Planning Inspectorate.

Local planning authorities also incur costs in preparing for an appeal as well as any costs associated with bringing in expert witnesses and legal representation. In the absence of further evidence on this, we have uprated the estimates produced in the

[34] In this analysis, the cost of holding capital for applications held up by appeals is considered separately to the cost of the appeals themselves.

[35] We estimate this range based on an estimated weighted average between written representations for minor and major appeals using Planning Inspectorate appeals data. For minor appeals we estimate the cost of a written representation to be £5k to £10k (central £7.5k). For major appeals we estimate the cost to be £20k to £30k (central £25k). The range of £6.6k-£12.1k reflects the fact that a high proportion of written representations are for minor projects.

2012 Impact Assessment for the National Planning Policy Framework (NPPF)[36] to 2019 prices.

Our best estimate of the appeal cost per case by type of appeal is summarised in Table A4.10 below.

Table A4.10: Appeal cost per case, by type of appeal, rounded (2019 prices)

Proportion of each type[37]							
Written representation	93%		Hearing	5%		Inquiries	2%
Planning Inspectorate	£1.6k		Planning Inspectorate	£7.3k		Planning Inspectorate	£26.5k
Council	£0.9k		Council	£1.2k		Council	£3.7k
Appellant	£6.6k-£12.1k (central £9.3k)		Appellant	£20k-£100k (central £60k)		Appellant	£200k-£400k (central £300k)

Multiplying the appeal cost per case in Table A4.10 by the reduction in appeals in Table A4.9 leads to the following estimated cost savings from a reduction in appeals as summarised in Table A4.11.

Table A4.11: Cost savings from a reduction in appeals for residential and commercial projects, £m (2019 prices)

	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total
Cost savings to the Planning Inspectorate											
Low	4.3	4.1	4.0	3.8	3.7	3.6	3.5	3.3	3.2	3.1	36.6
Central	5.3	5.1	5.0	4.8	4.6	4.5	4.3	4.2	4.0	3.9	45.8
High	6.4	6.2	6.0	5.8	5.6	5.4	5.2	5.0	4.8	4.7	54.9
Cost savings to LPAs											
Low	1.6	1.5	1.5	1.4	1.4	1.3	1.3	1.2	1.2	1.2	13.5
Central	2.0	1.9	1.8	1.8	1.7	1.6	1.6	1.5	1.5	1.4	16.9

[36] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/11804/2172846.pdf

[37] Calculated using the average from the last three full years of Planning Inspectorate data, 18/19, 19/20 and 20/21

High	2.4	2.3	2.2	2.1	2.0	2.0	1.9	1.8	1.8	1.7	20.2
Cost savings to appellants											
Low	21.3	20.6	19.9	19.2	18.6	17.9	17.3	16.7	16.2	15.6	183.4
Central	42.4	41.0	39.6	38.2	37.0	35.7	34.5	33.3	32.2	31.1	365.0
High	69.8	67.5	65.2	63.0	60.8	58.8	56.8	54.9	53.0	51.2	601.0

4. **Reduction in rejected applications where no application would be submitted in the policy option (but which would have been submitted and refused in the counterfactual)**

There is expected to be a significant reduction in applications that are not in accordance with the development plan leading to further savings for developers who will spend less resource on applications that have a reduced prospect of being accepted (as they do not comply with the plan). The estimated cost saving per initial application is assumed to be the same as that used to estimate the cost saving for applicants that don't resubmit a planning application in the policy option. The main benefit for applicants that no longer submit an application in the policy option (where it would be refused in the counterfactual) is the cost of preparing and submitting the original planning application that will no longer be submitted. The reduction in appeals following refused applications in the counterfactual for this category (that no longer occur in the policy option) has been monetised in the relevant section for the estimated reduction in appeals. There are also benefits from the refused applications in the counterfactual that are re-submitted but which do not come forward in the policy option. These benefits have been monetised separately in the respective section on reduction in refusals that lead to resubmission.

The cost saving accruing from a reduction in refused applications where no application would be submitted in the policy option (which would have been submitted in the counterfactual) is a direct benefit to business. The new legislation, which improves clarity of information, is immediate and unavoidable as applications must be determined in accordance with the new legislation which developers must now follow when submitting a planning application. Applicants are expected to directly take advantage of the greater clarity as a result of these changes, in this case by not submitting a planning application that is highly likely to be rejected. Therefore, this benefit is directly distributed to the developers. This approach is consistent with the approach taken in the 2019 Impact Assessment 'Extension of the permission in principle consent regime: introduction of applications process' where the benefit "avoided costs associated with planning refusals" is classified as a direct benefit to business.

For ease of reference, the estimated cost of preparing and submitting a planning application (costs incurred by the developer up to the point of determination) in 2019 prices for major residential applications is £111.7k per application and £23.0k per application for minor residential applications. The cost for major commercial application is estimated to be £24.0k per application and £12.1k per application for minor commercial applications[38].

Multiplying the savings per development by the reduction in applications that no longer submit a planning application in the policy option (as set out in Table A4.5) leads to the estimated total savings in Table A4.12 below.

Table A4.12: Discounted savings from a reduction in applications that no longer submit a planning application in the policy option, £m (2019 prices)

	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total
Major residential											
Low	28.0	27.0	26.1	25.2	24.4	23.6	22.8	22.0	21.2	20.5	240.8
Central	35.0	33.8	32.6	31.5	30.5	29.4	28.4	27.5	26.6	25.7	301.0
High	42.0	40.5	39.2	37.9	36.6	35.3	34.1	33.0	31.9	30.8	361.2
Minor residential											
Low	31.5	30.4	29.4	28.4	27.4	26.5	25.6	24.7	23.9	23.1	270.9
Central	39.3	38.0	36.7	35.5	34.3	33.1	32.0	30.9	29.9	28.9	338.6
High	47.2	45.6	44.1	42.6	41.1	39.7	38.4	37.1	35.8	34.6	406.3
Major commercial											
Low	0.5	0.5	0.5	0.5	0.4	0.4	0.4	0.4	0.4	0.4	4.4
Central	0.6	0.6	0.6	0.6	0.6	0.5	0.5	0.5	0.5	0.5	5.5
High	0.8	0.7	0.7	0.7	0.7	0.6	0.6	0.6	0.6	0.6	6.6
Minor commercial											
Low	0.9	0.8	0.8	0.8	0.7	0.7	0.7	0.7	0.6	0.6	7.4
Central	1.1	1.0	1.0	1.0	0.9	0.9	0.9	0.8	0.8	0.8	9.2
High	1.3	1.2	1.2	1.2	1.1	1.1	1.0	1.0	1.0	0.9	11.0

[38] This is based on figures from DCLG "Benchmarking the costs to applicants of submitting a planning application", July 2009. Source: http:/www.communities.gov.uk/documents/planningandbuilding/pdf/benchmarkingcostsapplication.pdf

Total											
Low	60.8	58.8	56.8	54.8	53.0	51.2	49.5	47.8	46.2	44.6	523.4
Central	76.0	73.4	71.0	68.6	66.2	64.0	61.8	59.7	57.7	55.8	654.3
High	91.2	88.1	85.1	82.3	79.5	76.8	74.2	71.7	69.3	66.9	785.1

5. Time savings to local authorities in determining planning applications

Improving certainty about the requirements for applications will reduce the time taken for local planning authorities to determine planning applications, as the policies which apply will be clearer and have greater weight when set against any other material considerations which might apply. The reason for the anticipated reduction in handling times is that the decision-making framework set by strengthened s38(6), and national development management policies will provide a clearer framework for decision-making with less room for dispute and uncertainty. Complementing this, our proposed changes to the planning system to streamline Local Plans will lead to a high percentage of Local Authorities having an up-to-date Local Plan, which will be strengthened through our changes to Section 38(6). This is explained in further detail within Annex 1. This means that we expect there to be an increase in planning applications that are submitted in accordance with the development plan and national development management policies in the first place and fewer will be held up in the planning office while amendments are made.

To estimate this, we first estimate the staff time taken for local planning authorities to determine planning applications in the counterfactual. A report by RSM[39], commissioned by DLUHC, estimates the average time spent by local planning authority staff on determination of minor application to be 17.3 hours, and the average time spent on major applications to be 76.3 hours. Due to a limited sample size, we have not been able to distinguish between commercial and residential applications, and therefore for the purpose of this analysis we apply these estimates for both types of application.

We do not hold evidence of the likely impact of these reforms on the time taken for Local Authority staff to determine planning applications, although we expect there to be a reasonable reduction. In the absence of data to inform this, we have made scenario-based modelling assumptions to give an indication of the potential time savings to Local Authorities of a reduction in determination times. We expect major residential and commercial projects (i.e., those most likely to be subject to an allocation in the Local Plan and which experience longer determination periods) will benefit from a greater reduction in determination times due to the changes to s38(6).

[39] Delays and barriers experienced in the planning applications process, RSM (2022)

There are factors that limit the opportunity for significant handling time reductions, notably the time required for notification and public consultation. To illustrate the potential scale of impacts, we assume a reduction in determination times of 10%-15% (central 12.5%) for major projects. For minor projects, we expect the reduction in determination times to be lower, and we therefore adopt a modelling assumption of a 2.5%-7.5% (central 5%) reduction in determination times. For the purpose of this analysis, we assume the estimated reduction in determination times feeds through into reductions in the time taken by Local Authority staff to determine applications. These assumptions include ranges to reflect the uncertainty and have been sense tested by officials with considerable experience of planning practice with senior roles across organisations in the public and private sector.

We estimate the time savings to Local Authorities by multiplying the estimated reduction in the staff time (in hours) taken to determine a planning application (for major and minor applications) by the associated hourly wage of a town planner accounting for 30% overheads (£22.28 in 2019 prices), for each planning application submitted over the appraisal period[40].

Table A4.13: Discounted time savings to Local Authorities in determining planning applications, £m (2019 prices)

	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total
Major residential											
Low	1.2	1.1	1.1	1.1	1.0	1.0	1.0	0.9	0.9	0.9	10.1
Central	1.5	1.4	1.4	1.3	1.3	1.2	1.2	1.2	1.1	1.1	12.6
High	1.8	1.7	1.6	1.6	1.5	1.5	1.4	1.4	1.3	1.3	15.1
Minor residential											
Low	0.5	0.5	0.5	0.4	0.4	0.4	0.4	0.4	0.4	0.4	4.2
Central	1.0	1.0	0.9	0.9	0.9	0.8	0.8	0.8	0.7	0.7	8.5
High	1.5	1.4	1.4	1.3	1.3	1.2	1.2	1.2	1.1	1.1	12.7
Major commercial											
Low	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.2	0.2	0.2	2.7
Central	0.4	0.4	0.4	0.3	0.3	0.3	0.3	0.3	0.3	0.3	3.3

[40] We use DLUHC planning application data (Tables P120A and P120B) to estimate a three-year average of planning application decisions from 18/19, 19/20 and 20/21. The number of planning applications coming forward is assumed to stay constant over the appraisal period in both the counterfactual and policy option.

High	0.5	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.5	4.0
Minor commercial											
Low	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.6
Central	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	1.2
High	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	1.8
Total											
Low	2.0	2.0	1.9	1.8	1.8	1.7	1.7	1.6	1.6	1.5	17.6
Central	3.0	2.9	2.8	2.7	2.6	2.5	2.4	2.3	2.3	2.2	25.6
High	3.9	3.8	3.6	3.5	3.4	3.3	3.2	3.1	3.0	2.9	33.7

6. Reduction in the cost of preparing planning applications

One of the main cost savings to arise from this measure for developers is that there will be a reduction in the cost of preparing planning applications for both major and minor residential and commercial developments. Developers currently incur significant costs in preparing planning applications. A developer will have to produce documents that form a planning application. They will need to ensure their proposal meets commercial, legal, and regulatory requirements (including planning). Where necessary, it will be important to ensure that stakeholder engagement is organised, including with the public. This will all need to be collated into a planning application which presents a robust justification for the proposals. This is then submitted to the Local Authority.

Greater clarity in the system combined with more streamlined information requirements will result in savings in the cost of preparing planning applications. The proposed changes to Section 38(6) will create greater clarity as generic development management policies, which are regularly duplicated within Local Plans and vary from authority to authority, will instead be included within a single national source. The changes also support clearer planning policy by streamlining of Local Plans which should in future not be inconsistent with or (in substance) repeat any national development management policies. This will create a less complex system with fewer requirements for applicants to understand. Overall, it will be clear to applicants what documents they need to review to understand what development management policy applies for their proposals. This in turn will help applicants be clear on what is acceptable in policy terms and improve the planning process.

Where applications come forward which do not relate to specific allocations of land for development, applicants will have more certainty about the policies that apply, reducing the costs involved in applying for permission.

Where development plans are out of date, there will be more certainty than in the current system on the national policies which apply, including the circumstances in which development is likely to be allowed. Again, this will reduce the cost of preparing and justifying a planning application.

The reductions in the cost of preparing planning applications is considered to be a direct benefit to business. This is because the improved clarity of information and more streamlined evidence requirements directly reduces the costs to developers of preparing planning applications that would otherwise exist in the counterfactual. The benefits are both immediate and unavoidable to developers and are thus distributed directly to them. We do not hold data on the likely reduction in the cost of preparing planning applications in the policy option compared to the counterfactual. There is, however, likely to be a significant reduction in the costs associated with preparing planning applications in the new system for the reasons described above. In the absence of this evidence, we have made a modelling assumption that there is a 5%-15% (central 10%) reduction in the cost of preparing both minor and major residential/commercial applications to illustrate the likely range of possibilities. This assumption, which reflects more streamlined information requirements and greater clarity as discussed above, has been sense tested by officials with considerable experience of planning practice with senior roles across organisations in the public and private sector. This reduction was then applied to estimates of the cost of preparing planning applications for minor and major residential/commercial projects.

The best data available to the department on the cost of preparing planning applications is from the 2009 report, Benchmarking the cost of preparing a planning application. In the counterfactual, the estimated cost of preparing a planning application per major residential project is £32.4k and £12.8k for minor residential projects. For major commercial projects the cost of preparing a planning application is estimated to be £12.1k, whereas for minor commercial projects the cost is estimated to be £8.8k. These estimates have been calculated by uprating the estimates from the 2009 benchmarking report (in 2009 prices) to 2019 prices. As mentioned previously for major residential developments we use the category of ‘Major development’ for approximately 100 dwellings. For minor residential developments, we take the average of the categories ‘Small housing development (10-15 dwellings) and ‘Single house construction or conversion’ as a proxy. For major commercial developments we use the category of ‘Major development’ for retail development of approximately 2,500sq m’. For minor commercial developments, we take an average of the categories ‘Typical warehouse development (under 1,000sq m) and ‘Applications by SMEs concerning the establishment of premises. The average of these two categories provides our best estimate considering the range of development that would be classed as minor commercial development when processed by the local planning authorities. These

were deemed to be the closest matching categories to major/minor commercial developments.

Applying the 5%-15% (central 10%) reduction in the cost of preparing a planning application leads to an estimated saving of £1.6k-£4.9k (central £3.2k) per major residential application, and a saving of £0.6k-£1.9k (central £1.3k) per minor residential application. The reduction in the cost of preparing a major commercial application is estimated to be £0.6k-£1.8k (central £1.2k) and £0.4k-£1.3k (central £0.9k) per minor commercial application.

Multiplying the reduction in the cost of preparing planning applications by the estimated number of planning applications coming forward[41] as set out in Table A4.1, leads to an estimate of the total savings to developers over the ten-year appraisal period.

[41] We use DLUHC planning application data (Tables P120A and P120B) to estimate a three-year average of planning application decisions from 18/19, 19/20 and 20/21. The number of planning applications coming forward is assumed to stay constant over the appraisal period in both the counterfactual and policy option.

Table A4.14: Discounted reduction in the cost of preparing planning applications for minor and major residential/commercial applications, £m (2019 prices)

	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total
Major residential											
Low	11.2	10.8	10.4	10.1	9.7	9.4	9.1	8.8	8.5	8.2	96.1
Central	22.3	21.6	20.9	20.1	19.5	18.8	18.2	17.6	17.0	16.4	192.3
High	33.5	32.4	31.3	30.2	29.2	28.2	27.3	26.3	25.4	24.6	288.4
Minor residential											
Low	32.8	31.7	30.6	29.6	28.6	27.6	26.7	25.8	24.9	24.1	282.6
Central	65.7	63.4	61.3	59.2	57.2	55.3	53.4	51.6	49.9	48.2	565.1
High	98.5	95.2	91.9	88.8	85.8	82.9	80.1	77.4	74.8	72.3	847.7
Major commercial											
Low	1.1	1.1	1.0	1.0	1.0	0.9	0.9	0.9	0.8	0.8	9.5
Central	2.2	2.1	2.1	2.0	1.9	1.9	1.8	1.7	1.7	1.6	19.0
High	3.3	3.2	3.1	3.0	2.9	2.8	2.7	2.6	2.5	2.4	28.5
Minor commercial											
Low	3.1	3.0	2.9	2.8	2.7	2.6	2.6	2.5	2.4	2.3	27.0
Central	6.3	6.1	5.9	5.7	5.5	5.3	5.1	4.9	4.8	4.6	54.1
High	9.4	9.1	8.8	8.5	8.2	7.9	7.7	7.4	7.2	6.9	81.1
Total											

Low	48.2	46.6	45.0	43.5	42.0	40.6	39.2	37.9	36.6	35.4	415.2
Central	96.5	93.2	90.1	87.0	84.1	81.2	78.5	75.8	73.3	70.8	830.5
High	144.7	139.8	135.1	130.5	126.1	121.9	117.7	113.8	109.9	106.2	1,245.7

7. Reduction in the cost of holding capital to developers (due to a reduction in determination times)

A reduction in the time taken for local planning authorities to determine planning applications will also lead to cost savings to developers from a reduction in the cost of holding capital. Applicants face financing and opportunity costs in holding onto land and other assets whilst their applications are being determined by the authority. The costs of holding capital are related to both the quantity and value of land. Developers will reduce these costs if they can commence and complete development more quickly due to reduced determination times by authorities. This is considered an indirect benefit to business as it is contingent on the reduction in determination times by local planning authorities. The reduction in determination times requires behavioural change from authorities to result in a reduction in the cost of holding capital to developers. The benefits will only be realised when there is a reduction in local planning authority determination times and so the impact is not immediate.

To estimate this, we firstly required an estimate of the time taken for local planning authorities to determine planning applications in the counterfactual (i.e., the actual determination time rather than the staff time taken to determine applications estimated above). We do not collect this data; therefore, we have estimated the time taken for minor and major residential applications from two sources. As a lower bound estimate, we have used data on the determination times from authorities. However, this data is only for applications subject to the statutory timeframe (of 8 weeks for minor, and 13 weeks for major). This is a lower bound estimate as applications subject to bespoke performance agreements that involve a deadline negotiated with the applicant likely take longer. Using this dataset, the mean time estimated for minor residential application is 10.0 weeks[42], in contrast to 16.7 weeks for major residential applications. The other source of data is from a report by RSM commissioned by DLUHC[43] which estimates the median weeks taken to determine a planning application. This data is collected by interviewing a sample of developers for projects. The median weeks to determine a major application is estimated to be 27.9 and 14.3 for minor applications. Although this study refers to all major/minor projects as opposed to residential,

[42] In estimating this, for the purpose of this IA, we assume that applications that take less than 8 weeks to be determined take on average 7 weeks and applications that take more than 52 weeks take 75 weeks

[43] Delays and barriers experienced in the planning applications process, RSM (2022)

statistics from DLUHC show that the average time for determination for all major/minor applications is like that for major/minor residential applications respectively. We therefore use this to construct an upper estimate. This leads us to a range of 10.0-14.3 weeks (central 12.2 weeks) for minor residential projects and a range of 16.7-27.9 weeks (central 22.3) weeks for major residential projects. For commercial applications, we use the same upper bound as for residential, with the lower bounds being estimated at 8.8 weeks and 12.2 weeks for minor and major commercial applications respectively. As above, the lower bounds for commercial applications are also estimated using data on determination times from authorities. We apply the same assumptions for the reduction in determination times above to estimate the reduced planning application determination time that developers will benefit from[44].

To estimate this cost saving, it was necessary to estimate the average cost of holding capital per day for major/minor residential and commercial projects. This follows a methodology proposed by Ball (2010)[45] for calculating the cost of purchasing the amount of land typically required for building residential or industrial premises – and financing this acquisition. In principle, this is based on the cost of borrowing to finance the required quantity of land. At the time of the study by Ball in 2010, the interest rate used in the calculation was the Bank of England (BoE) base rate plus 2% (7%). An equivalent calculation today using long-term OBR forecasts of the base rate provides an average rate of 3.3% over 10 years.

For residential development, we estimate the cost of land for dwellings using data obtained from Glenigan, DLUHC planning application statistics[46] and the VOA land value data[47]. We divide the cost of land for dwellings by the number of major/minor applications granted (3-year average from 18/19, 19/20 and 20/21) to get the cost of land per application granted. Applying the forecast Bank of England base rate plus 2% to the estimated cost of land per application granted provides the interest cost per annum for each application granted for major and minor projects. Dividing the interest cost per annum for each application granted by 365 provides the cost per day. A similar calculation is carried out for commercial development except we use instead VOA

[44] For major applications we assumed a 10%-15% (central 12.5%) reduction in determination times, and for minor applications we assumed a 2.5%-7.5% (central 5.0%) reduction.

[45] National Housing and Planning Advisory Unit (2010), *Housing Supply and Planning Controls: the impact of planning control processing times on housing supply in* England, http://www.communities.gov.uk/documents/507390/pdf/1436960.pdf. Figures have been updated using latest available data on land values from the Valuation Office Agency and reflect current development sizes.

[46] https://www.gov.uk/government/statistical-data-sets/live-tables-on-planning-application-statistics

[47] We use Glenigan data to estimate the average number of dwellings for major and minor residential projects as well as the number of permissions granted annually (for more information on Glenigan planning permission data see: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1019850/Planning_Application_Statistics_April_to_June_2021_Statistical_Release.pdf) . Combining this with the applications granted data from DLUHC allows us to estimate the proportion of units granted annually that are from major and minor developments. The VOA data is used to estimate a weighted average of the land value per dwelling.

industrial land values per hectare, VOA business floorspace data and a weighted average site area for commercial applications[48].

We estimate the average costs to developers per day from holding capital for major residential projects to be £452 and £13 for minor residential projects over the ten-year appraisal period, although these costs vary depending on the year due to variation in the forecast base rate. The estimated cost of holding capital for major commercial projects is £99 per day and £14 per day for minor commercial projects, both of these are also averages over the ten-year appraisal period. Multiplying the estimated costs of holding capital per day by the estimated reduction in time taken for an LPA to determine planning applications (by development type) and the number of planning applications coming forward (again by development type) allows us to estimate the total cost savings to developers from holding capital as set out in Table A4.15.

Table A4.15: Discounted cost savings to developers from holding capital (due to a reduction in determination times), £m (2019 prices)

	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total
Major residential											
Low	25.5	26.0	27.6	29.1	30.5	31.7	32.8	33.8	34.7	35.5	307.2
Central	42.6	43.3	46.1	48.6	50.8	52.9	54.8	56.4	57.9	59.3	512.7
High	63.9	65.0	69.1	72.9	76.3	79.4	82.2	84.7	87.0	89.0	769.6
Minor residential											
Low	0.8	0.9	0.9	1.0	1.0	1.0	1.1	1.1	1.1	1.2	10.2
Central	2.1	2.1	2.2	2.3	2.4	2.5	2.6	2.7	2.8	2.9	24.7
High	3.6	3.7	3.9	4.1	4.3	4.5	4.7	4.8	4.9	5.0	43.6
Major commercial											
Low	1.1	1.1	1.2	1.2	1.3	1.3	1.4	1.4	1.5	1.5	13.0
Central	2.2	2.3	2.4	2.5	2.6	2.8	2.9	2.9	3.0	3.1	26.7
High	3.7	3.8	4.0	4.2	4.4	4.6	4.8	4.9	5.0	5.2	44.6
Minor commercial											

[48] We estimate the average commercial land value by hectare in England by weighting VOA industrial land values by LA by VOA business floorspace data (Table FS4.1: Industrial sector – rateable value per metre squared by administrative area, data to 31 March 2020, see: https://www.gov.uk/government/statistics/non-domestic-rating-stock-of-properties-2020). We use data from Glenigan to estimate the median site area for minor and major commercial applications. We estimate that major commercial projects have a median site area of 1.1 hectares and minor commercial projects have a site area of 0.15 hectares.

Low	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	1.3
Central	0.3	0.3	0.3	0.3	0.3	0.3	0.4	0.4	0.4	0.4	3.3
High	0.5	0.5	0.5	0.6	0.6	0.6	0.7	0.7	0.7	0.7	6.1
Total											
Low	27.5	28.0	29.8	31.4	32.9	34.2	35.4	36.5	37.5	38.3	331.6
Central	47.1	48.0	51.0	53.7	56.3	58.5	60.6	62.5	64.1	65.6	567.4
High	71.7	73.0	77.6	81.8	85.7	89.1	92.3	95.1	97.6	99.9	863.9

8. Reduction in the cost of holding capital for applications held up by appeals

In addition to the reduction in the cost of holding capital from the estimated reduction in determination times, there is also expected to be cost savings from holding capital due to the likely reduction in planning appeals where planning applications are held up. This cost saving is classified as a direct benefit to business because the saving arises directly from the reduction of appeals which is a direct impact on business. The reform will improve clarity of information to developers and will streamline the planning process, increasing the likelihood of applications being approved when in line with the development plan. This is both immediate and unavoidable as applications must be determined in accordance with the new legislation which developers must now follow when submitting a planning application. Applicants are expected to directly take advantage of the greater clarity as a result of these changes. The reform will therefore lead to a reduction in appeals and any costs savings from holding capital due to the reduction in appeals will also directly benefit developers.

We apply the same assumptions on the costs to developers per day from holding capital for major and minor residential projects (average of £452 and £13 over ten years respectively) as well as major and minor commercial projects (average of £99 and £14 over ten years respectively).

To estimate these savings for appeals, it is necessary to estimate how long appeals take on average. We use data from the Planning Inspectorate to estimate the median appeal times for the three different appeal types. According to the Planning Inspectorate database[49] for the years 18/19, 19/20 and 20/21, the median length of written representations is 98 days, hearings is 138 days and inquiries is 220 days. This is estimated by calculating the number of days between start date and decision date in the appeals database.

[49] https://www.gov.uk/government/publications/planning-inspectorate-appeals-database

We again use the estimated reduction in appeals set out in Table A4.9 along with the median time taken per appeal and the cost of holding capital per day to estimate the cost savings to developers from holding capital due to a reduction in appeals as set out in Table A4.16.

Table A4.16: Discounted cost savings to developers from holding capital (due to a reduction in appeals), £m (2019 prices)

	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total
Major residential											
Low	11.3	11.5	12.2	12.9	13.5	14.1	14.6	15.0	15.4	15.8	136.3
Central	14.1	14.4	15.3	16.1	16.9	16.7	18.2	18.7	19.2	19.7	170.3
High	17.0	17.3	18.4	19.4	20.3	21.1	21.8	22.5	23.1	23.6	204.4
Minor residential											
Low	1.0	1.0	1.1	1.2	1.2	1.3	1.3	1.4	1.4	1.4	12.3
Central	1.3	1.3	1.4	1.5	1.5	1.6	1.6	1.7	1.7	1.8	15.4
High	1.5	1.6	1.7	1.7	1.8	1.9	2.0	2.0	2.1	2.1	18.5
Major commercial											
Low	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.4	0.4	0.4	3.2
Central	0.3	0.3	0.4	0.4	0.4	0.4	0.4	0.4	0.5	0.5	4.1
High	0.4	0.4	0.4	0.5	0.5	0.5	0.5	0.5	0.6	0.6	4.9
Minor commercial											
Low	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	1.2
Central	0.1	0.1	0.1	0.1	0.2	0.2	0.2	0.2	0.2	0.2	1.5
High	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	1.8
Total											
Low	12.7	12.9	13.7	14.5	15.2	15.8	16.3	16.8	17.3	17.7	153.0

Central	15.9	16.2	17.2	18.1	19.0	19.7	20.4	21.1	21.6	22.1	191.3
High	19.1	19.4	20.6	21.7	22.8	23.7	24.5	25.3	25.9	26.5	229.6

Monetised costs

1. **Familiarisation costs**

Familiarisation costs as a result of the changes made to section 38(6) will fall to Local Planning Authorities, the Planning Inspectorate and private sector planners. These costs are categorised as direct costs because understanding how legislation impacts decision making is an unavoidable requirement when working in planning. Further familiarisation is an immediate requirement taking place after the proposed changes are enacted.

a) Staff in local planning authorities will be required to familiarise themselves with these changes. Data from the Royal Town Planning Institute (RTPI), who are the professional body for town planners across the public and private sector, – suggests that there are 9,200 planners employed at least partially in local authorities in England[50]. We estimate it will take one day for each individual planner to train and/or familiarise and assume that all local authority town planners will need to familiarise themselves because their various professional roles, whether policy or development management, will all require adequate knowledge of the new system. One day is based on a typical one-day planning course, or more gradual learning and assimilation over a longer period. We assume 7.4 hours per working day and use the median hourly wage for 'Town Planning Officers' from the 2020 Annual Survey of Hours and Earnings[51] and deflate it into 2019 prices, which gives £17.14. We uprate this by 30% to account for overheads which gives £22.28. We assume familiarisation costs are incurred in the first year (2024) of the appraisal period. This calculation leads to an estimate of £1.5m for local planning authority familiarisation costs.
b) Planning Inspectors working for the Planning Inspectorate will also be required to familiarise themselves with these changes. The Planning Inspectorate estimate that in 2024 there will be 444 planning inspectors that would be required to familiarise themselves with these changes. Of the 444 inspectors in 2024, 166 are estimated to be Band 1 Inspectors, 183 are estimated to be Band 2 Inspectors and 96 are estimated to be Band 3 Inspectors. We expect it would take inspectors on average 2 days to familiarise themselves. Assuming 7.4 hours in a workday, we estimate it would therefore take 14.8 hours per

[50] https://www.rtpi.org.uk/media/5889/theplanningprofessionin2019.pdf

[51] https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/regionbyoccupation4digitsoc2010ashetable15

inspector to familiarise. We first estimate the day rates for planning inspectors of the three different bands using typical salaries obtained from the Planning Inspectorate[52]. We then convert these day rates into hourly salaries by dividing the day rates by 7.4 hours. The hourly salaries are then deflated into 2019 prices and uplifted by 30% to account for overheads, which results in an estimated hourly wage of £37.11 per hour for Band 1 Inspectors, £45.78 for Band 2 Inspectors and £55.75 for Band 3 Inspectors. Multiplying the number of planning inspectors by the time taken to familiarise and the average hourly wage results in an estimated cost of £293.7k for planning inspectors to familiarise themselves.

c) Planners in the private sector will also be required to familiarise themselves with these changes. This includes planning consultants or planning managers directly employed by applicants. These individuals help navigate the planning system on behalf of their clients or employers, and it is therefore important that these employees understand the changes immediately after they are enacted. If planners ignore the changes, they would be failing in their duty as a planning consultant to advise clients or their employers on planning related issues. As a result, familiarisation costs to planners in the private sector is a direct impact on business as the change to the guidance is both immediate and unavoidable. According to Annual Population Survey (ONS), there are an estimated 21.3k planners in England. According to the RTPI, it is estimated that 44% of planners work in the private sector[53], which suggests that there are around 9.4k planners working in the private sector in England. We expect that all planners in the private sector would be required to familiarise themselves with these changes. We estimate it would take one day for planners in the private sector to familiarise themselves with the changes, which equates to 7.4 hours. To calculate the familiarisation cost for the private sector, we use the median hourly wage for 'Management consultants and business analysts' from the 2020 Annual Survey of Hours and Earnings[54] and deflate it into 2019 prices, which gives £20.29. We uprate this by 30% to account for overheads which gives £26.38. We do not hold data on the hourly wage specifically for planners in the private sector. Therefore, this is the best data we have available to provide an estimate of hourly wages for planners in the private sector. Multiplying the number of planners in the private sector by the time taken to familiarise and the average hourly wage results in an estimated familiarisation cost to planners in the private sector of £1.8m in 2024.

[52] In calculating the day rates, we assume there are 211 workdays in a year

[53] https://www.rtpi.org.uk/media/5889/theplanningprofessionin2019.pdf

[54] https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/regionbyoccupation4digitsoc2010ashetable15

Summary of monetised costs and benefits

Table A4.17 below provides a summary of the monetised costs and benefits from this measure.

Table A4.17: Summary of discounted costs and benefits, £m (2019 prices)

	Business impact	Direct impact on business	Low	Central	High
Benefits					
Reduction in refused applications that would be followed by a resubmitted scheme in the counterfactual	Yes	Yes	26.9	67.3	121.1
Reduction in refused applications that would not be followed by a resubmitted scheme in the counterfactual	Yes	Yes	134.6	168.2	201.8
Reduction in refused applications that lead to appeal in the counterfactual (to the planning inspectorate)	No	No	36.6	45.8	54.9
Reduction in refused applications that lead to appeal in the counterfactual (to local authorities)	No	No	13.5	16.9	20.2
Reduction in refused applications that lead to appeal in the counterfactual (to appellants)	Yes	Yes	183.4	365.0	601.0
Reduction in refused applications where no application would be submitted in the policy option (but which would have been submitted and refused in the counterfactual)	Yes	Yes	523.4	654.3	785.1

Time savings to local authorities in determining planning applications	No	No	17.6	25.6	33.7
Reduction in the cost of preparing planning applications	Yes	Yes	415.2	830.5	1245.7
Reduction in cost of holding capital to developers (due to a reduction in determination times)	Yes	No	331.6	567.4	863.9
Reduction in cost of holding capital for applications held up by appeals	Yes	Yes	153.0	191.3	229.6
Total benefits			**1,835.9**	**2,932.2**	**4,157.1**
Costs					
Familiarisation costs to Local Planning Authorities	No	No	1.5	1.5	1.5
Familiarisation costs to the Planning Inspectorate	No	No	0.3	0.3	0.3
Familiarisation costs to planners in the private sector	Yes	Yes	1.8	1.8	1.8
Total costs			**3.6**	**3.6**	**3.6**

Note: numbers might not sum due to rounding

Non-monetised benefits

These reforms will lead to greater certainty in the planning system. A further benefit is that they will make it easier to bring windfall sites[55] forward where these are in conformity with the plan and national development management policy as the rules applying to different locations will be clearer. This might lead to an increase in housing delivery. However, they could deter other windfall sites which are not fully policy-compliant from coming forward. It has not therefore been possible to estimate the scale of any impact here.

[55] These are defined within the National Planning Policy Framework (2021) as "sites not specifically identified in the Development Plan": https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005759/NPPF_July_2021.pdf

Given the significant uncertainty of the impacts, we have not monetised the benefits of increased certainty for the category of planning applications 'All other minor/major developments. This category includes a very wide range of development types[56] and the planning application statistics do not provide a breakdown of these development types within this category, for example by use class. The impacts of these reforms, for example on the reduction in refusals and the reduction in the cost of preparing planning applications, are likely to differ significantly depending on the type of development, and therefore it has not been possible to robustly monetise these impacts and even if we could, we do not know the prevalence of the different types of development. For example, there are differences between an application for purpose-built student accommodation (PBSA) (Use Class: Sui Generis) and a similar scaled dwelling houses (Use Class C3) use, the latter being monetised and the former falling within the "all other minor/major developments" category.

Though they seem similar, there are differences in practice: Dwelling houses are more likely to be promoted as allocations within a Local Plan, creating greater certainty for the principle of development compared to PBSA, because of a national policy requirement that Local Authorities identify and plan for housing requirement. This requirement does not exist for PBSA so it is rarer to promote a site within Local Plans. In addition, PBSA will often have very specific planning policy requirements for an application to address when justifying the principle of development. These might include producing a "student need case" that confirms there is demand for this use in the area or to secure formal support from a higher education institution[57]. These create additional burdens and costs compared to a similar scaled dwelling house application.

The commercial drivers behind delivering PBSA are also very different to dwelling houses. Contractual deadlines to complete and open PBSA development are often tightly linked to the start of an academic year when students will have an expectation that their accommodation will be available. This might influence the cost required to more quickly prepare a site for development, including discharging any planning conditions, compared to a dwelling house development.

Additionally, we have limited data on the cost of preparing and submitting planning applications for these development types given the very wide variety of development types included.

Non-monetised costs

There are some land promotion firms whose business model takes advantage of the relative ambiguity provided by the current system, as they specialise in securing planning permission for development on unallocated land at appeal to the Planning Inspectorate. They do so by seeking to demonstrate that there are material

[56] 'All other' applications includes the following use classes: C1 (hotels), C2 (residential institutions), C4 (houses in multiple occupations for three to six residents, E (gymnasiums, indoor recreations not involving motorised vehicles or firearms), F1 (non-residential institutions) and Sui generis.

[57] See Policy H12 of the Manchester Core Strategy, for example.

considerations which support a determination being made against the provisions of the development plan.

It means that some development that might have been approved on unallocated sites under the current system may no longer be approved after our proposed changes to Section 38(6) which raise the bar for when material considerations may outweigh the Development Plan. This creates a natural incentive to Local Authorities to produce an up-to-date Local Plan which would further restrict the opportunity for developers who want to deliver schemes on unallocated land, in particular on greenfield sites or in areas where there are policy protections such as the Green Belt. However, it has not been possible to quantify or monetise the potential scale of this impact.

Direct costs and benefits to business calculations

Direct benefits to business are estimated to be £2,276.6m over the 10-year appraisal period in the central scenario. Table A4.18 summarises the direct costs and benefits to business over the appraisal period.

Table A4.18: Discounted direct costs and benefits to business, £m (2019 prices)

	Low	Central	High
Direct benefits to business			
Reduction in refused applications that would be followed by a resubmitted scheme in the counterfactual	26.9	67.3	121.1
Reduction in refused applications that would not be followed by a resubmitted scheme in the counterfactual	134.6	168.2	201.8
Reduction in refused applications that lead to appeal in the counterfactual (to appellants)	183.4	365.0	601.0
Reduction in refused applications where no application would be submitted in the policy option (but which would have been submitted and refused in the counterfactual)	523.4	654.3	785.1
Reduction in the cost of preparing planning applications	415.2	830.5	1,245.7
Reduction in cost of holding capital for applications held up by appeals	153.0	191.3	229.6
Total direct benefits to business	**1,436.5**	**2,276.6**	**3,184.4**
Direct costs to business			
Familiarisation costs to planners in the private sector	1.8	1.8	1.8
Total direct costs to business	**1.8**	**1.8**	**1.8**

Note: numbers might not sum due to rounding

Risks and assumptions

The overarching assumption is that the greater weight given to the development plan and national development management policies, and the greater clarity in the policy framework, will result in:

- Better quality planning applications that comply with policy
- More consistent planning authority decisions in line with the development plan and national policy; therefore:
- Fewer refusals of permission and fewer planning appeals.

There are risks that our proposed benefits may not materialise in the way (or to the extent) that we anticipate, some of which are set out below. These might influence the extent that we can expect a reduction in refused planning applications, a reduction in the cost of preparing planning applications and a reduction in determination times. The monetised benefits proposed will be partly dependent on securing the intended increase in coverage of up-to-date Local Plans, which are the key locally-produced policy documents in the system and therefore central to providing the intended degree of certainty to applicants and others, alongside the new framework of national planning policies.

The proposed changes will also rely on users of the planning system fully engaging with our proposed changes and for their impact on their professional duties to be understood. We can have a strong level of confidence that planning professionals will seek to understand the impact of our changes. However, not all planning applications are submitted with the benefit of professional planning input, especially ones which are very small such as those submitted by householders. For more substantial developments, applicants may occasionally choose to disregard the advice of their planning consultants. For example, a consultant may recommend not to purchase a site due to the risk of conflict with the Development Plan, however the Applicant may still choose to proceed anyway. This might be based on an inaccurate assessment of planning risk versus financial reward.

Individual decision-makers may also adopt differing interpretations of when there are “strong material considerations” which mean that it may be possible to justify a departure from the Development Plan, although overall the new legal and policy framework should tilt the balance more decisively in favour of compliance with the plan and National Development Management Policies, for the reasons set out earlier in this annex.

In this analysis we have had to make some assumptions about the immediate response of users of the planning system to the legislation. There is a risk that both local planning authorities and applicants will take time to adjust to the new, more rules-based system, and may seek to test it, potentially leading to more refusals in the short term. In this eventuality, costs savings will take longer to achieve, but it is anticipated that behaviours will shift as time goes on. Where possible we will continue to test these

assumptions as the subsequent policy is developed and build up an evidence base as we go forward.

In addition to these overarching assumptions, there is a significant degree of uncertainty in the analysis due to the limited evidence available to the department for certain modelling assumptions. Ranges are adopted where appropriate to reflect these uncertainties. Where we do not hold data or evidence, modelling assumptions are informed by judgements made by those with significant industry experience. The policy officials who have inputted into this analysis have considerable experience of planning practice with senior roles across organisations in the public and private sector. These individuals are Chartered Town Planners having secured full accreditation by the Royal Town Planning Institute (RTPI).

The key analytical assumptions in this analysis are:

- For the purpose of this analysis, we assume the total number of planning applications in both the counterfactual and policy option remains constant over the appraisal period. While it is likely that this measure may reduce overall applications by reducing the number of applications amended and resubmitted, the future number of applications received will also be impacted both positively and negatively by wider economic conditions and by other measures. Therefore, given the significant uncertainty, the analysis assumes that the status quo continues and there is no change in the number of planning applications received throughout the appraisal period.
- The percentage reduction in refusals for both minor and major applications. We don't hold data on this; therefore, we have made a modelling assumption of 40%-60% (central 50%) reduction for major applications and 20%-30% (central 25%) reduction for minor applications.
- The split between the proportion of the percentage reduction in refusals that are refused in the counterfactual which would not come forward as an application in the policy option and the proportion of the percentage reduction in refusals that refused in the counterfactual and refused in the policy option.
- We do not hold data on the cost of resubmission of a planning application; therefore, we have made a modelling assumption that the average cost of resubmission is 10%-30% (central 20%) of the cost of preparing the original planning application, which reflects the amount of information that is likely to be required compared to a new application.
- We do not hold detailed evidence on the cost of appeals to appellants, but we have ascertained a range of costs by discussion with an experienced Inspector with extensive private sector experience who has also obtained information from other practitioners. This has provided the basis for illustrative assumptions to reflect the potential cost savings from a reduction in appeals. These assumptions have been sense tested internally, and the ranges adopted reflect the degree of uncertainty.

- We estimate a reduction in determination times of 10%-15% (central 12.5%) for major projects. For minor projects, we expect the reduction in determination times to be lower, and we therefore adopt a modelling assumption of a 2.5%-7.5% (central 5%) reduction in determination times.
- We do not hold evidence on the likely reduction in the cost of preparing planning applications in the policy option compared to the counterfactual. There is, however, likely to be a significant reduction in the costs associated with preparing planning applications in the new system. In the absence of this evidence, we have made a modelling assumption that there is a 5%-15% (central 10%) reduction in the cost of preparing both minor and major residential/commercial applications.
- We estimate the average costs to developers per day from holding capital for major residential projects to be £452 and £13 for minor residential projects over the ten-year appraisal period, although these costs vary depending on the year due to variation in the forecast base rate. For major and minor commercial projects, we estimate the average cost of holding capital per day over the ten-year appraisal period to be £99 and £14 respectively.

Impact on small and micro businesses

The reform of section 38(6) of the PCPA to include national development management policy and to give increased weight to both local and national policy will make the system simpler for small and micro businesses: they will not need to navigate extensive local policies, and where their development proposals accord with the plan and national policy, permission should be granted in a timely manner, reducing uncertainty and delay, and benefiting business planning. For these reasons, small and micro businesses are not exempted from these changes because they are likely to benefit from the proposals.

Using DLUHC planning application statistics and taking an average over three years from 18/19 to 20/21, we estimate 51,230 planning applications per year for minor residential and 7,149 per year for minor commercial. We also estimate 6,893 applications per year for major residential and 1,822 for major commercial, as well as 51,845 'All other minor' and 4,572 'All other major' applications[58]. Obtaining data on the developer and the number of businesses undertaking these applications is more difficult. ONS data suggests that in England there are 39,340 developers of which 38,075 (97%) are 'micro' businesses (defined as having fewer than 9 employees) and 1,200 (3%) 'small' businesses (defined as having 10-49 employees)[59]. There are only 65 developers that can be classed as medium or large businesses. Not all these businesses would be putting in planning applications each year or be the main

[58] 'All other' applications includes the following use classes: C1 (hotels), C2 (residential institutions), C4 (houses in multiple occupations for three to six residents, E (gymnasiums, indoor recreations not involving motorised vehicles or firearms), F1 (non-residential institutions) and Sui generis.

[59] https://www.nomisweb.co.uk/ ONS data on number of enterprises by employment size band. Developers defined by the Standard Industrial Classification (Revised 2007) 41110: 'Development of building projects'. 2021 data.

developer of a site as they may be sub-contractors or consultants. Where there are impacts on sub-contractors or consultants, these are indirect in most instances[60]. These estimates can therefore be considered an upper range for the number of small and micro businesses affected.

The latest planning data from DLUHC shows that for residential developments, small sites make up 89% of applications (where we class a small site as 1-9 units). For non-residential developments, minor applications which are also likely to be small sites make up 91% of applications[61]. Therefore, a high proportion of all planning applications (major/minor developments) are for small sites. Analysis of data from Glenigan suggests that small builders build out many smaller sites for residential dwellings, and therefore small builders are more likely to put in planning applications that are classified as minor residential[62], and we would expect a similar pattern for non-residential developments. However, as noted above, we have limited evidence on who the developers are for 'minor' and 'major' applications, meaning we are unable to robustly attribute the proportion of the benefits of these changes to small and micro businesses as defined by the Better Regulation Framework. Nonetheless, it is expected that small and micro businesses in both the residential and non-residential/commercial sector will benefit from the reform to decision-making because the clearer, more certain planning system will assist with their investment decisions.

Whilst we are unable to estimate the market share of SMB developers according to the definition using the number of employees set out in the Better Regulation Framework, for the residential sector it is possible to provide an estimated market share based on the number of completions per year, which is the commonly adopted definition used in the housebuilding industry. An alternative way to estimate the market share of SMBs is to make some simplifying assumptions on applications by SMBs for residential developments. For example, given that small developers tend to build out small sites, we could assume for simplicity that applications for sites 9 units and below are just by SMBs. Combining these two ways of estimating market share, our best estimate of the market share for small and micro developers that will be impacted by measures is around 9%-10%. This estimate of the market share for SMBs is subject to significant uncertainty but is our best estimate considering the evidence available. Further detail in estimating the market share of SMBs is explained below:

- For the 9% estimate, analysis of recent planning application data from Glenigan suggests that in the financial year 20/21, small sites (1-9 units) covered 79% of permissioned residential sites, but only 9% of permissioned residential units. For this estimate we assume an equal dropout rate across developer size, meaning we assume a unit permissioned on a small site is as likely as one on a large site to result in construction rather than that

[60] Other than where we estimate familiarisation costs for planners in the private sector which is a direct impact

[61] Here we define a small site as "where the floorspace to be created is less than 1,000 square metres or where the site area is less than one hectare'.

[62] In the case of residential 1-9 units

permission lapsing. A key caveat with this approach is that not all small sites will be developed by SMBs. However, some sites above 9 units may also be developed by SMBs which are not captured in this estimate.

- For the 10% estimate, the Home Builders Federation estimates that around 10% of homes delivered are by small developers[63] although as mentioned previously the definitions used here do not align with the definitions for small and micro businesses used by the Better Regulation Framework[64].

The above range has been estimated for residential developments. We expect the market share for non-residential developments (e.g., commercial applications) to be similar as for residential development, although we do not have data to estimate the market share separately for non-residential developments. Therefore, the market share estimates for non-residential developments are subject to more uncertainty.

We expect small and microbusinesses to disproportionately benefit from these changes. To illustrate this, we estimate that of the £2,276.6m direct benefit to business, £1,266.2m of the benefits from this measure will be for minor residential/commercial development. Using the same simplifying assumption above where we assume that minor applications are just submitted by SMBs, we can estimate that 56% of the direct benefits are for SMBs. Since this estimate is higher than the estimated market share for SMBs (9%-10%), we can therefore conclude that SMBs disproportionately benefit from this measure. When considering all benefits from this measure (direct and indirect), 46% of the benefits are estimated to be for minor developments (and therefore for SMBs using the same simplifying assumption). Whilst we haven't been able to estimate the familiarisation costs to SMBs from this measure due to limited data availability, the estimated benefits to SMBs far outweigh any familiarisation costs to SMBs. Having regard to the RPC guidance for Small and Micro Business Assessment, there would therefore be no proportionate burdens on small and micro businesses, and therefore mitigation will not be required.

Wider impacts

These proposals need to be considered in the context of the wider reforms to plan-making, which should bring about an increase in the speed of plan adoption as well as the total number of up-to-date plans that are in place. Adopted local plans, where they are in place, only provide for around 190,000 homes per year[1] across England (as of March 2021), which is much lower than is needed nationally. Requiring plans to be in place and to a shorter timescale will enable more homes to be delivered through the local plan process. The sites allocated for development in those local plans will benefit from the strengthened duty to grant planning permission under s38(6) because development proposals that accord with the plan and national

[63] https://www.hbf.co.uk/documents/10553/HBF_Report_-State_of_Play_Final.pdf HBF define small companies as those building 1-100 homes as explained in https://www.hbf.co.uk/documents/6879/HBF_SME_Report_2017_Web.pdf

[64] The Better Regulation Framework defines small business as 10-49 employees and micro-business as less than 10 employees.

development management policy will be granted permission unless there are strong reasons not to do so.

The reforms to s38(6) will have the potential to affect a behaviour change in applicants, local planning authorities and the community. It is assumed likely that they will encourage developers to submit better quality schemes which comply with the community's adopted plan and with national policy; will encourage local planning authorities to grant permission for such schemes; and will discourage authorities from refusing them. Furthermore, they may encourage more people to engage with the local plan-making process at all stages, because of the strengthened duty in favour of the plan and national development management policy. As indicated above, these assumptions will be tested and assessed through monitoring and evaluation.

The increased certainty which the changes to s38(6) will bring will also generate wider benefits for the built and natural environment, there will be greater assurance that areas, sites, and buildings which benefit from policy protection under the development plan or through national development management policy will continue to be protected, and that where enhancements are proposed by the plan or national policy, they will be realised. Moreover, the more certain planning and policy framework governing locations for development and protection, and the criteria that any development should meet, will assist with infrastructure planning and investment.

A summary of the potential trade implications of measure
Not applicable

Monitoring and Evaluation
The Department for Levelling Up, Housing and Communities, already has in place arrangements for recording, collecting, and monitoring decisions made against planning applications via local planning authority PS1/PS2 returns. This data is expected to form part of the counterfactual evidence base for the evaluation as well as informing the holistic evaluation.

Under the proposed local plan-making and digital reforms, we expect that allocated sites will be easier to identify and track through the planning system, providing for a greater understanding of the impacts on these reforms moving forward.

Annex 5: Statement of Impacts - Development Management Process Improvements

Problem under consideration and rationale for intervention

Development Management is the system where applications for planning permission and other consents under the Town and Country Planning Act 1990 are processed. While it is well-established, dealing with around 400,000 planning applications a year (426,763 in year ending December 2021[65]), the development management framework requires some modernisation to help provide for a process which is faster, simpler, more accessible, and more certain for all users. In particular, amendments to the end-to-end planning applications process have potential to increase engagement, remove unnecessary delays, and improve decision-taking.

Within the process there is a need for greater clarity, certainty, and proportionality for applicants as well as around the requirements for publicity, consultation, and determination on planning applications, (decisions frequently taking longer than the statutory deadlines or requiring an extension of time). This process can also be inaccessible, confusing, and outdated for many users[66], Council websites host planning application information, however, the information tends to be presented in such a way that it is difficult for the public to understand and engage with, especially householders.

Without intervention the system will not improve exacerbating existing equity issues. Lack of accessibility to planning information results in lack of transparency which hinders meaningful community engagement in the system and effective decision-making.

To speed up and streamline the end-to-end planning applications process, it will be necessary to introduce holistic reform that addresses issues from the pre-application stage, through to the submission and validation, consultation, determination, and post-decision stages. This will be principally delivered through changes to detailed planning regulations using powers already available under the Town and Country Planning Act 1990, combined with additional resources for local planning authorities through higher planning fees. An impact assessment for this strategy will be published alongside these new regulations.

However, the Bill takes forward three specific measures where primary legislation is required to improve the development management framework:

[65] Source: Live tables on planning application statistics, Table 124A: district planning authorities - planning decisions by development type and local planning authority (yearly) https://www.gov.uk/government/statistical-data-sets/live-tables-on-planning-application-statistics

[66] RTPI and Grayling Engage, Future of Engagement December 2020 https://www.rtpi.org.uk/media/7258/the-future-of-engagement.pdf indicated that that just under half (49%) of those surveyed said that the ability to respond digitally would make them more likely to get involved in the planning process

Information requirements for planning applications

The Government wants to apply a more consistent, streamlined and digitally enabled approach to the way planning applications are made, which is proportionate to the scale and nature of the development proposed, to ensure faster and better decision making. To do this, the Government wants to create a new, more streamlined framework for information requirements for planning applications that will, over time, reduce and standardise the amount of key information required as part of applications.

Alongside our digital powers (set out in Annex 8), we are amending the enabling powers in the Town and Country Planning Act 1990 to regulate the form and manner of information submitted on planning applications. This will enable the Secretary of State through regulations to modernise the national information requirements for different types of applications.

Minor variations in planning permission

Amending a planning permission is a common and critical part of the development process, especially for substantive development which takes time to implement. Often such development is subject to changes of scheme design to reflect changing circumstances which require minor changes to the planning permission. The Government wants to ensure the planning system is flexible, responsive, and proportionate to these changes of circumstances: requiring a new application for minor changes would lead to delays to development.

At present, there are routes available to make minor material amendments and non-material amendments to a planning permission under Sections 73 and 96A of the TCPA 1990 respectively. However, the existing framework for varying planning permissions is often seen as confusing, burdensome, and overly restrictive by applicants and local planning authorities. Recent case law (such as *Finney vs Welsh Ministers*) has exacerbated these issues, adding further confusion and uncertainty to the process and what is permissible under the current routes for amending permissions. Reform in this area has been long-desired across the sector and this new mechanism will allow changes to be made to existing permissions so long as they do not result in a development that is substantially different. This is anticipated to result in benefits to both applicants and local authorities, in terms of speed, simplicity and cost.

Pre-application consultation

It is widely acknowledged that meaningful and early engagement with local communities and statutory consultees can have many benefits, including the potential to identify and address problems early in the applications process which can help speed up decision-making. This approach has been championed through the NPPF and is a well-established part of the process for major development which can be potentially complex or contentious. The existing powers under s61W of the Town and

Country Planning Act 1990 which allow Secretary of State to require mandatory pre-application with communities, and specified persons as prescribed by regulation, expires on 15 December 2025. Currently only applications for onshore wind turbines have been subject to mandatory pre-application consultation.

The Government wants to ensure that communities and other stakeholders could have meaningful and early engagement in the planning application process so are proposing to remove the sunset clause set out in the Localism Act 2011, making this regulation-making power permanent.

Rationale and evidence to justify the level of analysis used in the IA (proportionality approach)

We would expect these measures to have a minimal impact on business. Our proposal to greater regulate information requirements should, over time, have a positive effect on business by reducing the cost burden on all applicants preparing applications, improve validation of these applications so that the right information is provided at the start of the process (front-loading), and streamline the time taken for LPAs and, where necessary, statutory consultees to assess this information, however given this will be a long-term aspiration which is achieved only through further reform we are not able to assess the full impacts at this time, but will carry out further work to establish this when detailed proposals in secondary legislation are put forward.

Introduction of a new mechanism to seek variations to planning permissions will help address the complex and often costly nature of the existing legislative framework for making such changes. However, recent case law has limited the scope of alterations that can be made under section 73, reinforcing its use to remove or vary planning conditions only (as originally intended), and not to allow for changes to the operative part of a permission. This impact assessment will illustrate issues experienced under the existing framework for varying permissions (i.e., under sections 73 and 96A) and explore how the new mechanism will overcome them.

Description of options considered

<u>End to End Development Management Process</u>

Option 0) Do nothing: Based on information from the industry, and feedback from the White Paper consultation, the planning applications process can be too complex and can be unpredictable – with inconsistent decisions being made by the local planning authority and the Planning Inspectorate, which can drive up costs, delay planning decisions, discourage new development from coming forward and undermine confidence in the system. Recent caselaw has clarified the scope of the existing framework for amending planning permissions, in doing so, this has limited and/or complicated the options available to permission holders to make simple and necessary variations to extant permissions. These problems will persist if we do nothing.

Option 1) Package of reforms: To speed up and streamline the end-to-end planning applications process, it will be necessary to introduce holistic reform that addresses

issues from the pre-application stage, through to the submission and validation, consultation, determination, and post-decision stages. This includes problems with accessibility, certainty, transparency, and proportionality which provides for a confusing system. The planning application process is set out through regulations, so non-regulatory measures will not deliver the systematic change required. A package of measures which aim to identify and tackle issues experienced throughout the end-to-end process at present, will allow us to address this. To start, as part of the Bill we can introduce new enabling powers for information requirements, a new mechanism to amend planning permission to allow for any non-substantial changes to existing planning permissions and making existing regulation-making powers mandating pre-application engagement permanent. Through further secondary legislation and policy changes, we will provide for a simpler, faster, and more proportionate process with clearer expectations for applicants and communities.

Policy objective

The objective of these reforms is to provide for a system which is faster, simpler, and fairer for all end users. In doing so, this should ensure that more applications for high quality development come forward and that these are processed at a faster speed, with reduced burdens on applicants and local planning authorities, and greater certainty for and engagement with communities.

Summary and preferred option with description of implementation plan

To achieve the policy objectives, the preferred package of reforms in this Bill will include:

- Greater powers to regulate information requirements for planning applications, so that we can, through secondary legislation, introduce a standardised approach to information requirements and ensure these are clearer and more proportionate; and
- introduce a new process for making changes to existing planning permissions, to address recent case law judgements and make the system easier to use and follow.
- Making permanent our existing powers to regulate mandatory pre-application consultation with communities and statutory consultees, this will allow us to set requirement through secondary legislation later, which should help promote engagement on applications and speed up the process, by identifying issues early on.
- These measures will form part of a wider reform package, to be delivered through regulations, backed up by revised policy and guidance. We will carry out further assessment on these measures at the appropriate time.

Monetised and non-monetised costs and benefits of each option (including administrative burden)

Information requirements for planning applications: For local planning authorities, the information requirements powers should, in time, enable greater standardisation and use of digital tools to reduce validation disputes, and therefore processing of applications quicker and monitoring of performance more efficient. Although there will be transitional costs associated with adjusting to new information requirements it is not possible to determine this impact at this stage given that these are changes to be carried out, and assessed, in subsequent regulation.

Minor variations in planning permission: A new process for amending planning permissions post-decision, should address issues highlighted in recent case law, by allowing changes to be made to existing permissions so long as they do not result in a development that is substantially different. This includes changes to the descriptor, red line boundary, plans and drawings, as well as planning conditions. We expect that this will provide for a dedicated mechanism and a clearer process for amendments to a planning permission which will be:

Less time-consuming for both applicants and local planning authorities

- Issue: At present, there is scope for debate about the most appropriate mechanism for making changes to existing permissions, considering relevant caselaw. This can include where changes are sought to the descriptor of development or the approved plans. This adds complexity and often results in the need for consultancy and legal advice, as well as discussions between the applicant and local planning authority. This can impact then on the timescales for site delivery.
- Solution: The new mechanism provides for a clear route specifically for the purposes of making these types of amendments, removing ambiguity from the process.

A consistent approach for amending development

- Issues: Local planning authorities can take different approaches to the use of existing routes to vary planning permissions. This can reduce certainty in the process and, as noted, lead to time spent seeking advice and negotiation between parties.
- Solution: The new mechanism, supported by accompanying guidance, will introduce greater clarity about the appropriate uses of the different routes to varying planning permissions, and improve consistency across the sector.

Provide for a single route to make changes to existing permissions

- Issue: There are examples of planning permission that have required extensive applications under sections 73 and 96A to accommodate changes to the scheme. Often, because of recent caselaw, this has been a necessity as certain

changes cannot be made under certain routes (e.g., the descriptor of development cannot be amended by an application under section 73). This has resulted in multiple applications to secure a change, creating complex planning histories that hinder transparency, and a system that isn't as streamlined as it could be.

- Solution: The new mechanism will streamline the process for varying planning permissions allowing multiple changes to be made under one single route.

More proportionate costs for applicants and local planning authorities.

- Issue: To navigate the current convoluted process for varying planning permissions often requires a need for consultancy and legal advice. This adds to costs to applicants. In addition, due to the existing constraints of the system, the boundaries of what is possible is often pushed, and the process can become disproportionately resource-intensive for local planning authorities which is not reflected in the application fees they receive.
- Solution: The new mechanism will be simpler for applicants to understand and use and will be accompanied by a more proportionate fee for local planning authorities.

Under certain circumstances, we would also anticipate that the scope of the new power would allow for changes to be made to existing planning permissions which otherwise would have required the submission of a new planning application. This will result in time and cost savings for applicants.

Making permanent regulation-making powers for pre-application consultation with communities and statutory consultees: Pre-application consultation is well-regarded as best practice and is a common feature of the process on larger scale schemes. We will through secondary legislation, seek to take powers to mandate pre-application consultation further, at which point we will be able to assess the impacts to applicants and business more fully.

Given this is already a common feature of many of the larger scale planning applications we believe impacts will be limited. For local planning authorities, the existing powers require views of communities and statutory consultees to be considered as part of the application.

Direct costs and benefits to business calculations

It is not possible to monetise the overall costs and benefits to business from these proposals at this stage, on the basis that any substantive process changes will be brought into force through secondary legislation.

Information requirements for planning applications: It is thought the package of proposals will benefit small businesses given that it will enable information requirements to be streamlined and introduce greater use of digital platforms for applicants to use. This, over time, will reduce validation disputes, and the level of

accompanying information required when submitting applications will benefit SMEs by reducing burdens. There may be some familiarisation costs for businesses, but these will be assessed as part of subsequent secondary legislation.

Minor variations in varying planning permissions: The proposals to reform the process for varying planning permissions, in the Bill, is intended to introduce clarity to the existing amendments framework in response to recent case law. In doing so they should result in direct benefits such as substantive financial and/or time savings for applicants in addition to process improvements. We expect the changes to provide for a more understandable and transparent framework for amending permissions, which will make changes easier and reduced costs incurred through consultancy and legal fees.

Making permanent regulation-making powers for pre-application consultation with communities and statutory consultees: There is no central depository, or collected statistics, of pre-application consultation costs. Currently pre-application consultation is discretionary, other than for onshore wind turbine development, so very little data exists. We expect that in most cases, developments of a large-scale pre-application consultation already takes place already, so costs would be minimal. Further impact assessment will be carried out when exercising powers to regulate mandatory pre-application consultation.

Risks and assumptions

The Development Management powers being taken forward through the Bill, except varying of permissions, are enabling powers which will enable further secondary legislation to come forward and better regulate matters for information requirements. The following benefits and impacts therefore will need to be assessed further when the detail of these secondary powers is considered.

Impact on small and micro businesses

The package of reforms, once subsequent secondary legislation is brought into force, should benefit small businesses, in the longer term, primarily through greater use standardised information requirements and digital platforms for applicants, resulting in a reduced, more proportionate requirements for information to accompany planning applications which should result in quicker determination timeframes. This will save both the time and cost involved with submitting a planning application. We expect that powers taken to vary permissions will result in a process which is cheaper and less time-consuming for applicants providing for a single route to make changes to existing permissions and reducing the need for consultancy and legal advice to navigate the current options for doing so. However comprehensive data is not available and further work will be carried out. Of the 426,723 applications decided in year ending December 2021, 359,241 (84%) were for ‘minor’ or

'householder' development[67], this indicates that the majority of applications in the system are for smaller scale developments. There may be some familiarisation costs associated for small and micro sized businesses, and these will be assessed as part of subsequent secondary legislation.

Wider impacts (consider the impacts of your proposals)

In the longer term, simpler, more streamlined, and digitally accessible planning applications process should have the effect of encouraging more applications to come forward, as the framework will provide greater clarity and certainty about the requirements for applications and the speed and quality of the determination process, respectively.

A summary of the potential trade implications of measure

Not applicable.

Monitoring and Evaluation

The impacts of proposals will not be fully apparent until secondary legislation, which we are enabling, has been brought into effect. Greater standardisation and digitisation of planning data should facilitate improved monitoring and evaluation, both at a national and local level in the longer term. The digital planning reforms will also facilitate improved monitoring and inform evaluations, both at a national and local level. More comprehensive monitoring and evaluation of the new variation of permissions route will need to be undertaken to fully assess the impacts and savings.

[67] Source: Live tables on planning application statistics, Table 124A: district planning authorities - planning decisions by development type and local planning authority (yearly)
https://www.gov.uk/government/statistical-data-sets/live-tables-on-planning-application-statistics

Annex 6: Statement of Impacts - Crown Developments

Policy under consideration and rationale for intervention

Crown Land is defined in S293 of the Town and Country Planning Act 1990 (TCPA) as land which there is a Crown interest or a Duchy interest. Crown interest includes land belonging to a government department or held in trust for Her Majesty for the purposes of a government department.

There is a special route to planning permission where there is an urgent need for the Crown to undertake a development of national importance. This special 'urgency' route is set out in section 293A of the TCPA. This was introduced in 2006 when Crown development became subject to planning permission following the Planning and Compulsory Purchase Act 2004.

If invoked, this special route to planning permission allows the 'appropriate authority' to make a planning application directly to the Secretary of State (SoS) rather than to the local planning authority. The procedure to be followed under this route is like that of an application that has been called-in by the Secretary of State under S77(1) of the TCPA.

Since its introduction in 2006, this route has never been used. Government Departments are instead opting to submit planning applications to the relevant local planning authority, or more recently, pursue the Special Development Order (SDO) route to securing permission for the most urgent types of development (such as temporary border facilities). This is because the current process for securing a decision takes too long for urgent developments.

This results in an inefficient system which does not allow the Government to make quick decisions for specific developments needed urgently to address issues of national importance, such as a pandemic or humanitarian crisis. The current planning system can lack certainty and can be slow in dealing with applications for development, which is not needed urgently, but is still of national importance.

Description of options considered

Option 0) Do nothing – the current route set out in section 293A of the TCPA is not sufficient to deal with applications for Crown Land, including nationally important programmed work which requires certainty on timescales for decisions, and development which is of urgent and of national importance. This is shown by the fact no applications have been taken through this route since its introduction in 2006. This has led to delays in securing permission for developments to respond to emerging national issues or programmed Government development of national importance – these delays will continue if no reforms are made, leading to uncertainty in the system and is likely to result in economic and social impacts.

Option 1) Reformed process for nationally important Crown development – a more certain route to securing a planning decision for key programmed Crown Development to support the delivery of the Government's capital investment

programmes. This will involve appropriate authorities being able to submit a planning application directly to the Secretary of State, where (if nationally important) the application will follow a similar process to applications submitted directly to the Secretary of State under section 62A of the Town and Country Planning Act. This will involve consideration of local policies and community views on the proposal within a more certain timeframe (10-16 weeks).

The current system which covers urgent and nationally important development is set out in primary legislation, and there is no current framework for non-urgent but nationally important development, which is why a non-legislative route would not be able to address existing issues.

Policy objective

The objective of these reforms is to ensure planning permission can be granted in a timely and proportionate way for the delivery of nationally important Crown development. The reformed process for nationally important Crown Development we want to create a process which provides greater certainty in securing a planning decision within a timely manner, than conventional planning routes, whilst maintaining consultation with local communities and consideration of locally set policies.

Summary and preferred option with description of implementation plan

Take powers in the Bill to reform the process for dealing with applications for Crown Land through the planning system.

Monetised and non-monetised costs and benefits of each option (including administrative burden)

These new routes to permission will only directly benefit the Crown (rather than business or third sector organisations.) As such, we expect it only to be used on a limited basis.

The key benefits for Crown bodies are that the reformed Crown route should mean there is less risk of delay from local planning decisions which can increase cost of programmed projects for Government.

However, it is difficult to quantify and monetise these benefits given the expected limited use of the routes and wider potential forms of development which could be covered.

We expect there should be limited administrative costs associated with these options. The Planning Inspectorate may see a small number of additional planning applications submitted each year, but the Crown applicant would still need to pay a planning fee to help recover the Inspectorate’s costs.

Risks and assumptions
Given the lack of any take up of the current Urgent Crown Land route, the key assumption is that the reform will lead to the greater use of these Crown development route to secure planning permission, albeit on a limited basis.

Impact on small and micro businesses
The new route to permission will only directly benefit the Crown and have no direct impact on small and micro businesses.

Wider impacts
There will be circumstances where Crown development delivered through this route may help support wider society, however given how sparingly the power is expected to be utilised then a qualitative analysis is not available.

A summary of the potential trade implications of measure
There are no direct trade implications from these reforms.

Public sector impacts
There will be circumstances where development delivered through these routes may help support wider society, and therefore delivery of public sector services, however given how sparingly these powers are expected to be utilised then a qualitative analysis is not available.

Monitoring and Evaluation
We propose to monitor the effectiveness of these routes once they are implemented; as the applications are to the Secretary of State, the Casework Team, located in the Department for Levelling Up, Housing and Communities, already has in place arrangements for the systematic collection of data on the number of applications and timescales for decisions as part of its normal casework management data framework.

Annex 7: Statement of Impacts - Planning Enforcement

Problem under consideration and rationale for intervention

Effective enforcement is important to tackle breaches of planning control which would otherwise have an unacceptable impact on the amenity of an area. Local planning authorities already have a wide range of powers, with strong penalties for non-compliance, to tackle unauthorised development. Enforcement is at local authorities' discretion, and it is for them to decide how and when they use those powers.

According to research undertaken by the Planning Advisory Service in 2019, planning enforcement activity is too often seen as the neglected function of local planning services. The national average is for 8% of planning officers within a department to be enforcement specialists[68]. However, it is crucially important: local communities want new development to meet required design and environmental standards, and robust enforcement action to be taken if planning rules are breached.

Development which has not been given proper consideration through the planning process can result in negative externalities. For example, it can lead to poorly designed buildings or unsuitable uses appearing in residential areas resulting in poor quality environments for local residents and long term can lead to cycles of decline and subsequent underinvestment.

We expect everyone to play by the rules and use the proper planning processes. In particular, people should apply for planning permission in advance of undertaking development rather than relying on retrospective applications to regularise matters after the event. We are therefore, giving local planning authorities powers to take a harder line on those that have blatantly undertaken unauthorised development. Such intentional unauthorised development undermines the community's sense of fair play and creates pressures on local planning authorities.

The options set out relate to enforcement of breaches of planning control i.e., where planning permission is required but has not been sought or where there has been a breach of the permission granted. However, it is important that local planning authorities also have effective enforcement powers to tackle unauthorised works to, and neglect of, listed buildings under the listed building consent regime and further measures in this respect are set out below.

Rationale and evidence to justify the level of analysis used in the IA

The enforcement changes predominantly increase the penalties for existing planning breaches. Therefore, the level of analysis conducted for this impact assessment is kept at a proportionate level to the information that is known to us regarding the use of the enforcement mechanisms and the costs to both public sector organisations and businesses. The costs to business resulting from this measure would only apply in

[68] Pas resource survey 2019 (slide 26): https://local.gov.uk/pas/our-work/gdpr-data-and-surveys/survey-planning-departments-2019

cases where development is unauthorised; therefore, the costs to business are avoidable and hence have not been assessed.

Description of options considered

Option 0) Do nothing - Local planning authorities have a wide range of enforcement powers they can use to tackle unauthorised development. Used effectively these powers are sufficient to tackle most unauthorised development in a timely manner. However, there are some gaps in current powers which mean that some people who have carried out unauthorised development, who are determined to do so, can still abuse the system to benefit from the unauthorised development. Doing nothing would allow this to continue having a detrimental impact on those adversely affected by the unauthorised development and undermining public confidence in the planning system.

Option 1) Strengthen the retrospective planning application process to help prevent abuse - One of the main issues raised with the department in correspondence and stakeholder engagement is about abuse of the retrospective planning application process. Retrospective applications are there primarily to allow those who have made a genuine mistake and undertaken development without the necessary planning permission, the opportunity to rectify the situation. However, they can also be used by people deliberately undertaking unauthorised development in the knowledge that they can apply for permission afterwards. This undermines the community's sense of fair play and leads to the perception that because the development has already happened permission will be granted.

Option 1 would introduce measures to strengthen the retrospective planning application process to ensure that local authorities are better able to address intentional unauthorised development. This is not our preferred option as we consider that there is scope to go further to strengthen enforcement powers (see option 2). The measures proposed under this option are:

- **To further limit the opportunities to obtain planning permission after unauthorised development has happened**

  The Localism Act 2011 introduced measures to limit the opportunities to obtain planning permission after unauthorised development has taken place. Under these powers:

  a) local authorities can decline to determine a retrospective planning application if an enforcement notice has already been issued in relation to the development; and
  b) if a retrospective planning application has been made and an enforcement notice issued before the expiry of the time limit for deciding on the application, the applicant is not able to appeal the notice on 'ground a)' i.e., that planning permission ought to be granted.

  However, we have since been made aware, that in the case of b) above, it may not always be expedient for a local planning authority to serve an enforcement notice within the specified time. For example, if the local authority

had invited the retrospective application, it may not then want to issue an enforcement notice before it had decided the application as this may be seen to prejudge the application. In such cases, if the application was subsequently found to be unacceptable, there would remain two opportunities to obtain permission – by appealing both the refusal (or non-determination) of the retrospective application and the enforcement notice on ground a). This measure would extend the time in which an enforcement notice must be served to up to two years after an unsuccessful appeal against refusal (or non-determination) of a retrospective application. This would give fuller effect to the principle that there should be only one opportunity to obtain planning permission after unauthorised development has taken place.

- **To introduce enforcement warning notices**
  If unauthorised development is potentially acceptable or might be made so by the imposition of conditions, a local planning authority may wish to invite a retrospective planning application so it can consider the matter fully. In many cases, this informal approach may be the quickest and most effective way to resolve the problem. However, inviting an application does not currently constitute taking enforcement action under the legislation (which is important in the context of the statutory time limits for taking enforcement action). There is a risk therefore, where the development has been in existence for some time, that should it subsequently be found to be unacceptable, the opportunity to take enforcement action may have been lost because the statutory time limits for taking enforcement action have passed. It can also be perceived by those that are adversely affected by the unauthorised development as the local authority ignoring their concerns and siding with the developer.

  Formalising the process for local planning authorities to invite retrospective planning applications by introducing enforcement warning notices (which would count as taking enforcement action) would reduce the current risk of missing the statutory time limits. It would also be a visible means for local authorities to demonstrate to those affected by the unauthorised development and the wider community that they have listened to concerns and acted.

Option 2) In addition to Option 1, strengthen enforcement powers more generally - This is our preferred option. In addition to the proposals set out under option 1, we could go further to strengthen local authorities' planning enforcement powers more generally. These further measures are:

- **To increase the time limit for taking enforcement action from four to 10 years**
  The statutory time limits for taking enforcement action are:
  - four years (from the date of substantial completion) for a breach of planning control consisting of building or other operations carried out without planning permission.

- four years (from the date of the breach) for a breach comprising change of use to a single dwelling house; and
- ten years (from the date of the breach) for any other breach of planning control.

We are aware of concerns that the four-year timeframe can be too short especially where local authority resources are stretched and therefore, there is a risk that breaches of planning control can be inadvertently missed. The different enforcement time limits can also cause frustration for communities, who may not understand or agree that some breaches have a shorter enforcement timeframe than others.

Increasing the four-year time limit to 10 years would provide greater flexibilities for local planning authorities, consistency across all breaches of planning control and demonstrate to the public that the government takes planning breaches seriously and is taking tangible steps to address concerns.

- **To increase the moratorium period imposed by temporary stop notices from 28 to 56 days**
  Temporary stop notices allow local planning authorities to act quickly to stop unauthorised development. They require that an activity which is a breach of planning control should stop immediately and remain in effect for a maximum of 28 days (local authorities may decide on a shorter period). The purpose of such notices is to allow the local planning authority time to decide what, if any, further enforcement action might be required, for example, service of an enforcement notice.

  In response to a public consultation in 2018, concerns were raised that 28 days is insufficient time for local authorities to reach a decision on whether to take further enforcement action (including gathering evidence) and take the relevant steps to do so where this is considered necessary. The response to that consultation indicated that the then government were minded extending the time.

  Increasing the effective period for a temporary stop notice to a maximum of 56 days would strike a balance between giving local authorities enough time to fully consider whether further enforcement action is required and unduly delaying development where there is subsequently found to be no breach of planning control. Compensation may be payable by the local planning authority if the alleged unauthorised development is subsequently found to have permission, to be lawful or if the authority withdraws the notice.

- **Increase fines for non-compliance with breach of condition notices**
  The reforms have a particular focus on achieving high standards of design and environmental performance. These outcomes are often delivered through planning

conditions, and it is important therefore, that local planning authorities have the right tools to enforce these outcomes. Breach of condition notices offer a light touch way of enforcing planning conditions but the fine for non-compliance with a breach of condition notice is currently set only at level four (up to £2,500).

This level of fine is relatively low compared to many other enforcement related offences, for example, non-compliance with enforcement notices and stop notices, which are set at level five (unlimited fine). Concerns have been raised (by the National Association of Planning Enforcement (NAPE) and others) that the current fine for non-compliance with a breach of condition notice does not act as a sufficient deterrent and that the alternative - serving an enforcement notice – could delay remediation of the unauthorised development by 12+ months. Increasing this fine to level five (unlimited) would act as a greater deterrent and bring failure to comply with breach of condition notices into line with other key enforcement offences.

- **To increase fines for failure to comply with a notice under section 215 of the Town and Country Planning Act 1990 (TCPA 1990)**
  Section 215 of the TCPA 1990 provides local planning authorities with the power, in certain circumstances, to take steps requiring land to be cleaned up when its condition adversely affects the amenity of the area. These notices set out the steps that need to be taken, and the time within which they must be carried out. Notices under section 215 have been used effectively in a range of circumstances including derelict buildings (including in relation to listed buildings), vacant industrial sites, town centre street frontages, and semi-complete development, as well as in respect of rundown residential properties and overgrown gardens.

  The current fine for non-compliance with a section 215 notice is level three (up to £1,000). An additional daily fine of up to £100 per day (one tenth of the level three fine) is payable for a further offence of failure to comply following a first conviction.

  The impact of unsightly and derelict land is one that is frequently raised in correspondence and there are concerns that the current level of fine is not a sufficient deterrent particularly with uncooperative landowners. Increasing the fine to level five (unlimited) and setting the additional daily fine at the greater of one tenth of £5,000 or the level 4 fine would act as a greater deterrent and bring failure to comply with section 215 notices into line with other key enforcement offences.

- **To give the Planning Inspectorate power to dismiss appeals on enforcement notices and lawful development certificates where the appellant has caused undue delay**
  For appeals against refusal (or non-determination) of a planning application, if it appears to the inspector dealing with the appeal that the appellant is responsible for undue delay in progress of the appeal, they have the power to issue a notice to the appellant requiring steps to expedite matters to be taken within a specific

period. Where the appellant fails to take those steps within the time specified in the notice, the inspector has the power to dismiss the appeal. This is a useful power to ensure that the appeals process runs efficiently and that in case of appeals relating to retrospective planning applications, appellants are not able to abuse the system to keep the unauthorised development in place for as long as possible.

At present there is no corresponding provision in respect of appeals on enforcement notices and lawful development certificates. However, undue delays in these types of appeal can give rise to the same issues and there should be a consistent approach. Giving inspectors this power will help to reduce the length of time unauthorised development is allowed to continue and reduce the impact on those affected.

Given the existing enforcement regime is set out in primary and secondary legislation, there was no non-regulatory option considered other than 'do nothing'.

Policy objective

The policy objective is to ensure that local planning authorities have the enforcement powers and sanctions they need to ensure that planning rules are upheld and by doing so, to increase public confidence in the planning system.

Summary and preferred option with description of implementation plan

The government is keen to ensure that local planning authorities have the tools that they need to carry out effective enforcement action, particularly in relation to blatant unauthorised development. While many of the concerns raised relate to the retrospective planning application process, we consider there is a need to strengthen enforcement powers more generally. The preferred option, therefore, is Option 2. The measures require primary legislation and will be taken forward in the Planning Bill.

Monetised and non-monetised costs and benefits of each option (including administrative burden)

There will be some additional cost to business who do not comply with planning legislation. However, the additional cost to business is avoidable if the business complies with planning requirements in the first instance; therefore, the analysis assumes that business complies with planning requirements and any costs are therefore indirect.

There will be familiarisation costs incurred by planning staff at local authorities who need to understand the new enforcement fines and process. The department commissioned a survey conducted by the Planning Advisory Service which indicates that on average the number of planning staff in each local authority is 38 persons, with 8% of planning officers within a department being enforcement specialists on average[69]. We assume that only those employees that are enforcement specialists will

[69] Pas resource survey 2019 (slide 26): https://local.gov.uk/pas/our-work/gdpr-data-and-surveys/survey-planning-departments-2019

need to understand the new legislation, equating to 3 employees per LPA on average. We assume staff will need on average 0.3 to 0.5 working days, with a central assumption of 0.4 working days, to understand the new process, this assumption was agreed internally by planning experts. We assume that all the 345 LPAs will require familiarisation with the new enforcement system as the changes to the enforcement will be applied across England. To calculate the familiarisation cost we use the median hourly wage for 'Town Planning Officers' from the 2020 Annual Survey of Hours and Earnings and deflate it into 2019 prices, which gives £17.14. We uprate this by 30% to account for non-labour costs which gives £22.28 and multiply this by 7.4 working hours in a day to find the daily cost of familiarisation per member of staff (£164.89). These figures have a degree of uncertainty and therefore a range is presented.

Table 7.1 Total discounted real familiarisation cost to LPAs of the enforcement reforms (£ 2019, PV 2024)

Year	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total
Low	£0.05	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.05
Central	£0.07	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.07
High	£0.09	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.09

- **Further limit opportunities to obtain planning permission after unauthorised development has happened.**

This proposal will limit the number of appeals of enforcement notices on ground a – that planning permission ought to be granted. Appeals of the enforcement notice on other grounds will still be allowed. This will result in administrative savings to local authorities by limiting the potential number of appeals to retrospective planning decisions. Limiting the opportunities to appeal for retrospective planning permission may also result in increased confidence in the local planning authority and the planning enforcement system as it demonstrates a clear end to the appeals process. There may be additional deterrent effect from limiting the opportunities for retrospective planning permissions encouraging businesses to seek planning permission before beginning development. Due to difficulty in monetising this deterrent effect, it is not monetised.

- **Introduce enforcement warning notices**

This formalises the process by which local authorities can invite retrospective planning applications and reduces the risk to local authorities of missing the timescales for enforcement action. It will be at local authorities' discretion whether and when to use this new power and they will only do so if they think the benefits to the public outweigh the costs of doing so.

There will be some additional administrative costs to the local authorities by introducing the enforcement warning notices, although additional costs are likely to be relatively small as local authorities are already doing this on an informal basis. The

introduction of enforcement warning notices may result in increased confidence in the local planning authority and the planning enforcement system. It is a visual means for local authorities to demonstrate that they have listened to the concerns of those affected by the unauthorised development and acted. A small number of businesses, who have committed planning breaches and would have fallen outside of the enforcement window period may face additional enforcement action. However, these costs have not been monetised as it assumed that businesses will comply with planning requirements and therefore avoid any additional costs.

- **Increase the existing time limit for taking enforcement action from four to 10 years**

Increasing the time limit on taking enforcement action will enable the local authority to find and enforce more planning breaches. Enforcement is at the discretion of local planning authorities, and they will only act where they consider the benefits to the public outweigh the costs of doing so.

The increase to the time period for taking enforcement may increase administrative costs for local authorities. This will be dependent on the number of additional enforcement actions resulting from the increase in time limits. As this is not yet known this is unmonetised. Businesses may also face higher costs from non-compliance with planning requirements due to the increased window for enforcement action. Again, this will be dependent on the volume of enforcement actions that occur from the increase in the time period for action. There may also be a deterrent effect from the increased time period for enforcement action discouraging future non-compliance with planning legislation. This deterrent effect has not been monetised

- **Increase the 28-day moratorium period imposed by temporary stop notices to 56 days**

Enforcement is at the discretion of local planning authorities, and they will only exercise their powers to issue temporary stop notices where they consider the benefits to the public outweigh the costs. This measure will increase the maximum period a temporary stop notice can be in effect to 56 days, local authorities can stipulate a shorter period where they consider that is more appropriate.

Increasing the temporary stop notices moratorium period will negatively impact businesses that received a temporary stop notice for developments that are subsequently found to have permission or to be lawful, or where the LPA withdraws the notice. In these circumstances, the LPA may incur costs from having to pay compensation for any loss or damage directly attributable to the prohibition in the temporary stop notice, and compensation payable in these circumstances is likely to be increased compared to Do Nothing due to the increased moratorium period. However, this impact has not been monetised due to a lack of information about the compensation payable and uncertainty about the number of temporary notices that could be eligible for compensation (given that the analysis assumes that all businesses will comply with planning requirements in the first instance). Between 2010/11 and

2020/21, there were on average 232 temporary stop notices served annually[70]. The number of temporary stop notices has declined consistently since 2017/18. Given the relatively small numbers of temporary stop notices, the cost to local authorities of paying compensation in these circumstances is likely to be quite small. Table 7.2 uses ONS statistics to show the annual volume of temporary stop notices over time. These are the most accurate and credible data available.

Table 7.2 Number of temporary stop notices served in England per annum, 2015/16 to 2020/21

Year	Temporary stop notices served
2015/16	265
2016/17	207
2017/18	249
2018/19	228
2019/20	205
2020/21	200

- **Increase fines for non-compliance with breach of condition notices**

Enforcement is at the discretion of local planning authorities, and they will only exercise their powers to issue breach of condition notices where they consider the benefits to the public outweigh the costs.

The offender may incur higher fines, given that Magistrates can now levy higher penalties for offenders who fail to comply with Breach of Condition Notices. No additional requirements or burdens are being placed on either businesses or public sector organisations. The increase in the maximum possible from a level four (up to £2,500) to a level five (unlimited fine) will cause businesses to be at risk of higher fines if they do not comply with the planning requirements. It is not possible to estimate the increase fines as this will be determined by the court system using the general sentencing guidelines and be proportionate to the offence committed. As shown in Table 7.3, prior to 2020/21 there were on average 744 breach of conditions served in England[71]. Table 7.3 uses the same ONS data source as Table 7.2.

It is likely that a higher maximum fine would encourage offenders to remedy their breaches of condition before entering the court system. There could also be a reduced

[70] Live tables on planning application statistics (Table 127): https://www.gov.uk/government/statistical-data-sets/live-tables-on-planning-application-statistics

[71] Live tables on planning application statistics (Table 127): https://www.gov.uk/government/statistical-data-sets/live-tables-on-planning-application-statistics

number of cases where there has been a failure to comply with Breach of Condition Notice. Therefore, there could be administrative savings to local planning authorities. The key benefit is the deterrent effect of increased fines. This benefit has not been monetised.

Table 7.3 Number of breach of condition notices served in England per annum, 2015/16 to 2020/21

Year	Breach of condition notices served
2015/16	805
2016/17	699
2017/18	759
2018/19	703
2019/20	754
2020/21	566

- **Increase fines for failure to comply with a notice under section 215 of the Town and Country Planning Act 1990 (TCPA 1990)**

Enforcement is at the discretion of local planning authorities, and they will only exercise their powers to issue section 215 notices where they consider the benefits to the public outweigh the costs.

The offender would incur a higher fine for failure to comply with a notice served under the Section 215 of the Town and Country Planning Act 1990. The increase in the maximum possible from a level four (up to £2,500) to a level five (unlimited fine) with the additional per day fine will cause businesses to be at risk of higher fines. This is likely to incentivise businesses to comply with the notice issued and improve the condition of land or buildings that were deemed to be harmful to the area before the fine is issued. An additional key benefit is the deterrent effect of the increased potential fine of non-compliance with a notice issued. This may deter some businesses from allowing land or buildings to reach such a condition that it adversely affects the amenity of the area. This benefit has not been monetised.

- **Allow the Planning Inspectorate to take account of undue delays in appeals in respect of enforcement notices and lawful development certificates**

The primary impact to business is that if businesses cause unnecessary delays to the planning appeal process, their appeal may be dismissed. This may include business failing to ensure access to a site visit which has been agreed. The impact of this

measure is avoidable depending on the actions of businesses in the appeals process. We do not anticipate this power to used frequently as cases of undue delay are rare.

Direct costs and benefits to business calculations

Businesses will face increased costs for non-compliance with planning legislation. However, these additional costs are avoidable if the businesses comply with planning requirements. The cost to businesses has not been monetised in this IA for this reason.

Risks and assumptions

This analysis assumes that businesses will comply with planning requirements and so no additional costs are incurred. However, some businesses may be risk tolerant and therefore willing to breach planning requirements.

There is significant uncertainty regarding the costs and benefits to local authorities resulting from the proposals. Several impacts have not been monetised due to lack of data available to inform analysis. Only familiarisation costs to local authorities have been monetised; however, these costs have been produced making some assumptions about the number of staff required to be familiar with the changes and the amount of time it would take to become familiar with the changes which are relatively uncertain.

Impact on small and micro businesses

The proposals will apply to anyone undertaking unauthorised development, including small and micro businesses.

Anecdotal evidence suggests that most unauthorised development is minor in nature and undertaken by householders and small-scale developers who are unfamiliar with the planning system. If they have made a genuine mistake and want to rectify it, it is likely that only the enforcement warning notice measure will impact on them i.e. they will be required to submit a planning application. As this is what they would have had to do if they had followed proper process in the first place, there would be no additional impact arising from these measures and no need for exemptions or mitigation.

We review our planning guidance and work with local authorities to ensure that the planning system is as clear as possible for all, including small and micro businesses to reduce the chances of them undertaking unauthorised development.

However, where a small or micro business has intentionally undertaken unauthorised development, they could have avoided any impact by going through the proper planning process and therefore, exemptions or mitigations would not be appropriate.

Wider impacts

Giving local planning authorities stronger enforcement powers will enable them to tackle unauthorised development more effectively. This will give the public greater confidence in the planning system and may encourage them to engage more with planning matters in their area.

A summary of the potential trade implications of measure

There are no potential trade implications from these measures.

Monitoring and Evaluation

The impact of these measures will be monitored and evaluated through continuing engagement with key stakeholders such as the National Association of Planning Enforcement and through direct contact from MPs, local planning authorities and members of public with the Department.

Annex 8: Statement of Impacts - Digital

Problem under consideration and rationale for intervention

The planning system is based on 20th-century technology, reliant on documents not data, and this significantly reduces the speed and quality of decision making. Planning services are 'online but not digital' and move PDF documents around the system, requiring data to be rekeyed and revalidated multiple times. Little use is made of interactive digital services and tools. There is not a backbone of high-quality machine-readable open data underpinning planning officer decisions, digital services, and value add products.

The government wants to shift the focus of the planning system from producing documents to producing openly available data. The opportunities through creating a backbone of open planning data will enable the development of modern digital software, which allows the public to better understand, and engage with the planning system and removes burdensome administrative activity from planning officers.

Local authorities can digitise elements of their plan-making and development management processes, which some have started to do. However, there currently is no prescribed method for this. If the government does not intervene through setting nationally prescribed data standards, we run the risk of having over 300 different local authorities producing planning data that continues to be in different formats.

The current structural issues and market failings of the current planning system which these measures seek to address are as follows:

- Structural systemic failings. The planning system has failed to adopt innovation to modernise planning processes. Many local authorities use legacy IT systems which are expensive, outdated and lock away data that holds value well beyond the planning system in PDF documents. Local authorities and other stakeholders are having to manually re-enter planning information into different parts of the process. This has resulted in a poor user experience for officers themselves (e.g., burdened with administrative tasks), as well as affecting applicants (e.g., not knowing what information is required in their application) and local communities (e.g., understanding the potential benefits proposed developments can have on them in their local area).
- Current software is a long way from the data-first, modular, user-centred standard we have come to expect in both government and the wider digital economy.
- Collective action problem in local government. Local authorities face considerable barriers to enabling reform and there is a consequent collective action problem. Local authorities do not hold the capabilities or resources to drive the reforms themselves, and market behaviour has indicated there are no incentives for existing software providers to modernise their products due to the control they have in the market. This has resulted in an inefficient, slow and unproductive planning system that lacks a modern user experience, has led to

low levels of citizen engagement and therefore local communities are more reluctant to not accept developments in their local areas.

We are taking a market-led delivery approach for planning software and services. Our interventions will create an authoritative source of data and ensure modern planning software is standards-based. This will enable the market to create innovative market offerings to local authorities, and in turn enable communities to have a better understanding across the planning process. The government recognises the need to ensure local authorities are well equipped and supported to successfully deliver the planning reforms. To ensure local authorities are supported to deliver the reforms, we will continue to run pathfinders and pilot projects to test and iterate the standards, tools, guidance, and templates needed by local authorities to adhere to the new legislative requirements.

Rationale and evidence to justify the level of analysis used in the IA *(proportionality approach)*

The scope of the digital powers taken will be further defined through secondary legislation, once new national policies and as a result, the data standards required for the reformed planning system have been defined. Therefore, the level of analysis conducted for this Impact Assessment is kept at a proportionate level to the information that is known to us. The analysis presented is based on similar open data programmes that have taken place across government in recent years, such as TfL's real time open data approach.

Description of options considered

Option 0) Do nothing - take no new powers

Doing nothing would entail taking no new powers in relation to the digital reforms. Under this option, we would continue to encourage local authorities to modernise their working practises and use of modern planning software. There would be limited to no support on offer (e.g., funding) to work with local authorities to support them to transition to a data-driven planning system.

Whilst digital delivery is not reliant on legislation, evidence shows that it is much more likely to succeed and have a greater effect where there are centrally prescribed standards and guidance (as a result of taking legislation) which have been co-created and tested first before implementation of the reforms.

Under this option, one example where current barriers to participation and re-use of planning information being left unaddressed is local plans. Local plan maps will continue to be hard to understand and use. Underlying information will not be accessible, standardised or machine readable, resulting in the PropTech sector continuing to struggle to extract and use the data. This will result in the planning system continuing to be hard to understand, and the quality and speed of decision making remaining largely the same.

Option 1) Widespread adoption (preferred) - 5 new overarching digital powers
To support the digital planning reform objectives, the government is proposing to take five overarching digital powers as set out below in relation to the planning system.

To set data standards to apply to the data produced and held by planning authorities - “the data standards power”.

To require local authorities to publish or provide planning data digitally and in accordance with the data standards - “the publication power”.

To require data arising from participants (including statutory consultees) in the planning system to be provided digitally to planning authorities or the Secretary of State unless it would be unreasonable to expect a particular participant to do so - “the provision power”.

To approve the software which planning authorities may procure for the purposes of the planning system “the approved planning data software power”.

To clarify that in making planning data available which includes copyright material for prescribed purposes, a planning authority or user does not infringe on that copyright - “the copyright infringement protection power”.

Option 2) Maximum - Take powers to run centralised planning services for LPAs
The government would nationalise the current private sector market and create and centralise the software used for planning matters. Centralised software would be created to submit and case-manage planning applications, and a centralised service would be mandated for use for all local planning authorities to develop their new style local plans.

This option would not provide value for money and involves high risk in delivering planning software needed by local authorities in-house. There is also an existing market of software providers who work with local authorities, so we would be disrupting a market that can deliver modern, standards-based software.

Policy objective
The policy objective is to create a more efficient, faster, accessible, and modern planning system. Through creating a planning system that is underpinned by a backbone of open planning data, we will be able to: unlock private sector innovation, help better engage local communities in the planning system and improve planning officers' working practises so they can focus on strategic planning matters.

Summary and preferred option with description of implementation plan
“Data processing clause” - the data standards power

This power is designed to ensure data is held consistently throughout the planning system, to ensure it can be easily reused for other purposes by third parties. This will benefit the private market, so that it can be re-used by the property technology sector

to allow for better communication of the impact of planning decisions and proposals. Local authorities will also benefit from using standards-based software, ensuring they are not having to rekey important data into different parts of the system.

Secondary legislation will be used to set out what data standards are to be applied to specific planning information. Local authorities will be supported to create standardised data by DLUHC co-creating the necessary guidance, tools and templates with local authorities to help them create high quality, trustworthy standardised data. Planning authorities will be required to adhere to the standards in line with wider transitional arrangements across the Bill (e.g., local plans transitional arrangements).

"Certain planning data made publicly available clause" – the publication power

This power is designed to ensure that the data held and created under the data standards power, is openly available and published for use by parties other than the planning authority and the Secretary of State. It is expected that the combination of the data standards and publication powers will result in information being provided in a consistent and more visual manner to the public by planning authorities. This will allow the public to understand planning more easily without the need to interpret documents written for and by planning professionals as well as allowing innovative development of digital software and tools. There will be exceptions to not publish protected information.

Secondary legislation will be used to set out what standardised planning data will need to be openly published by planning authorities.

"Provision of data clause" - the provision power

This power is designed to ensure that local authorities are not overwhelmed by submissions in formats incompatible with the data standards, resulting in excessive manual re-entry of data to comply with the requirements under the data processing and publication powers.

Subordinate legislation will be used to set out where information provided to planning authorities will need to be done in a prescribed format.

"Approved planning data software clause"

This power is designed to ensure the sector responds to the needs of the digital planning system by providing software compatible with the requirements under the standards and publication powers, whilst supporting participants to be able to participate digitally.

"Copyright infringement protection clause"

This power is designed to help clarify that in making planning data available which includes copyright material for prescribed purposes, a planning authority or user does not infringe on that copyright. Specific circumstances in which a person can use

copyright material without infringing on copyright is limited to the development, upgrading, modifying, maintaining or technical support of planning data software.

Monetised and non-monetised costs and benefits of each option (including administrative burden)

We are unable to monetise the costs and benefits of the options as the scope of the data that we wish to standardise is currently not yet known. This will be calculated when we further define our powers through secondary legislation.

However, we can generalise non-monetised benefits which are known at this stage based on similar approaches taken in other open data transformation programmes.

Option 0) do nothing – take no new powers

We will see no new benefits. This option was discounted as it would not lead to the modernisation of the planning system with the current market failures and structural issues remaining unaddressed. Therefore, this option does not deliver against the government's policy objective.

Option 1) widespread adoption (5 new digital powers) - preferred option

<u>Indirect benefits derived through open data</u>

- Based on similar programmes of work across government, where an open data approach has been taken, we can expect the below benefits to be delivered through taking these powers. These benefits will be accrued indirectly, through the outcomes of the digital and wider measures being taken in the Bill. Secondary legislation that will be brought forward will improve accessibility to trustworthy open data, which the public and private sector can benefit from by changing their working practises – examples of which are provided below. Reduced time spent collecting, finding, and requesting access to data across the public (e.g., central government) and private sectors (e.g., PropTech companies).
- Positive externalities (spill overs that positively affect those not directly involved in these processes) - for example, standardised data provides the opportunity for the private sector to grow and profit from developing innovative tools and services more easily.
- Better policy decisions and outcomes due to, for example improved access to information and a reduction in asymmetrical information. For example, SME property developers will be able to access trustworthy and openly published planning data, and not be at a disadvantage to large-scale developers who currently either commission a company to assess sites for them or have the human resource to conduct this themselves.
- Improved response times for applicants due to faster processing of planning applications.

Process improvements directly derived through modern planning software by local authorities

The programme has undertaken estimates of the time savings, in line with the DDaT Benefits Framework, which is based on 3 local authorities using modern, digital planning software. Through the adoption of modern, digital planning software the following time saving benefits can be achieved:

- Based on existing evidence from 3 authorities, each planning authority makes an average time saving reduction of:
- 20.25% in the validation process, as a result of reductions in invalid applications
- 15% in the processing of applications post validation.

This is a conservative estimate of average time savings, reflecting that some authorities will adopt the Reducing Invalid Planning Applications (RIPA) and Back-Office Planning System (BOPS) software's and others alternative software.

In addition, each council involved saves an average of £4,250 in terms of lower annual licence fees, as a result of employing RIPA and BOPS.

The time saving efficiencies will allow planning resources in local planning authorities to be diverted to value-add activities, such as assisting large, multi-site applications through the planning system.

DLUHC will be increasing the evidence base collected from local authorities to 36 (around 10% of all local authorities) local authorities in 2022-23. This will help to build the evidence base on the exact costs and emerging benefits associated with Digital Planning. This will act as an important, early test of VFM and will allow programme adjustments if necessary. DLUHC will continue to monitor the evidence base as more local authorities adopt digital planning software over the years.

Option 2) Maximum – take new powers to run centralised planning services for LPAs

We are unable to monetise the costs due to currently not knowing the scope of the data standards needed for the reformed system. There will be significant upfront investment and risk in this option, through needing to develop planning services from scratch and intervene in a market that already providing planning services, although in need of modernisation. Therefore, due to the scale of investment required and risks involved, this option has been discounted.

Direct costs and benefits to business calculations

The monetised costs arising from these measures only affect planning authorities. These are public sector organisations. Therefore, there are no direct costs to business calculations. Referenced below are benefits which we can expect to businesses.

Risks and assumptions

There is a risk that LPAs may not have the capabilities required to deliver the digital reforms. This will be mitigated through DLUHC developing the standards, tools and guidance needed by LPAs to produce high quality planning data. Through pathfinder and piloting activities, the reforms are being tested and iterated with LPAs to ensure they are deliverable ahead of the implementation phase. DLUHC will provide LPAs with the necessary support to enable them to deliver the digital reforms.

Impact on small and micro businesses

Based on our extensive market engagement, we expect that the digital powers will have a positive impact on small and micro businesses. With planning information currently locked away in PDFs and documents, it is difficult for all users of the planning system to use this information for planning related matters. A lack of access to raw data is limiting both digital innovation and creating significant information asymmetries. SME property developers are put at a disadvantage as a result, as they do not hold the same resource as large-scale developers who are able to either commission a company to assess sites for them or have the human resource to conduct this themselves. Therefore, these powers will help small and micro businesses access standardised, open planning data which can be used to make better informed investment decisions. Their resources will no longer be spent on buying data or collecting it themselves, with planning authorities required to openly publish relevant planning data.

An in-depth analysis of the impact on small and micro businesses can be undertaken once the scope of data standardisation has been established and will be conducted in subsequent Impact Assessments.

Wider impacts

The digital powers aim to make the planning system more efficient, faster, and accessible for all its users. Therefore, there will be a wide array of positive impacts through our planned interventions. The full impacts will be known once the scope of data standardisation has been established, but some impacts to different user groups of the planning system will be:

Citizens: Will be able to access interactive digital plans on their smartphones, rather than downloading a PDF document. They will benefit from having a better understanding of how land will be used in their local communities through using innovative services developed by the private sector, through having access to the underlying local plans data.

Property developers: new digital local plans will provide better protection for SME developers investments. They will be able to use digital services to easily identify sites and have better access to land constraint data to make investment decisions more swiftly.

Planning officers: Will benefit from having access to high quality, machine-readable data, and modern planning software. This will ensure that authorities have efficient

processes and the data needed to quickly make accurate site assessments and planning decisions.

Housing and planning market: Planning data is likely to create a network of benefits beyond the planning system, with home buying & selling and financial services also being positively impacted. For example, key information involved in a home sale is currently trapped in paper files and PDF documents, requiring conveyancers to manually gather information about a property from a diverse range of sources that are not yet digitised.

Digital innovators: Access to a backbone of standardised planning data will fuel the creation of innovative digital tools and services by the private sector. For example, the PropTech sector will be able to create services that better engage communities with the planning system, provide tools that allow planners to work more efficiently and benefit property developers to make better informed investment decisions.

A summary of the potential trade implications of measure

Our digital powers do not exclude international businesses from providing planning services for LPAs to procure. The innovative development of tools and services created by U.K. companies, which is enabled through these powers could be sold to oversea markets, benefitting U.K. companies and other countries. There are no other trade implications of the digital powers.

Monitoring and Evaluation

Past digital work has seen the following process be adopted and will continue to be the preferred method to monitor and evaluate work.

We will develop an evaluation framework which will outline the responsibilities and timeline regarding the implementation of the collection of monitoring data and evaluation. The audience of the evaluation will be mainly national and local policy makers who will be able to use the findings as the basis for reusing the outputs. The audience and their main questions will be considered when finalising evaluation questions. We expect this to be focused on the extent to which envisaged outcomes (e.g., time and motion recordings on validation of planning applications by planning officers to evidence time savings) are being delivered and the wider impact of these changes resulting in positive effects to local authorities and the private sector (e.g., open data leading to innovative development of tools and services by the private sector).

A baseline will be established, and ongoing monitoring will be undertaken at agreed regular intervals. All monitoring information will be presented in an easy to access and structured way. This will enable, if needed, a process and impact evaluation to take place towards the end of a phase of work/project. This will be undertaken by an external supplier (for impartiality). The main areas of focus may be: what worked well; what did not; what should be improved for next time and were the objectives met?

Annex 9: Statement of Impacts - Design Standards

Problem under consideration and rationale for intervention

The Building Better, Building Beautiful Commission (BBBBC) set out a comprehensive case highlighting the poor quality of development in England over recent decades. This is framed in a context of uncertainty in the planning system about the design standards for new developments which often are expected to apply.

The latest independent audit of housing schemes of 142 developments across England (Place Alliance, 2020) found that new housing design is still overwhelmingly 'mediocre' or 'poor', and many schemes should have been refused planning permission.

There is also a lack of public trust in the planning system delivering quality homes. Research by Grosvenor in 2019 shows that, on large developments, only 2% of people trust developers and only 7% trust Local Authorities, indicating that most neighbourhoods have little confidence that either private developers or local councils will uphold the quality of what is proposed for development, through to what is built.

The Bill will prioritise and emphasise design quality by ensuring clear and predictable design standards are set using design codes prepared in collaboration with local communities: making these mandatory for authorities to produce and giving them increased legal weight in the planning process. This is important for breaking the cycles of traps as set out in the Levelling Up White Paper. In particular, the social capital trap which leads to social decline and can worsen the concentration of deprivation.

A key aim of planning reform is to support the wider levelling up agenda by building better homes and greener and beautiful places. Therefore, good design is not simply achieved through design codes but is something that the totality of the measures identified for the new system will achieve, with a wider renewed focus on building beautiful places, supported by the work of the Office for Place.

Rationale and evidence to justify the level of analysis used in the IA (proportionality approach)

Our analysis makes the best use of the evidence available. Where the detail is still unknown, we used modelling assumptions to illustrate the costs/benefits. Ranges are used where there is uncertainty to show the possible spectrum of outcomes.

Description of options considered

Option 0) Do nothing / non-regulatory option - This option will not introduce a legal requirement for local planning authorities to produce codes and therefore reduces the certainty of their production and coverage across authority areas, compared with option 1. This option also provides limited certainty and consistency for developers and applicants in the system.

For this option, the use of local design codes and production by local planning authorities, prepared with greater community involvement, would be encouraged through policies set out in the National Planning Policy Framework (NPPF) and supporting guidance including the National Model Design Code (NMDC). As part of the Levelling Up and Regeneration Bill it is proposed that the NPPF will have increased weight in decision making in the new planning system.

Government supported a programme of design code testing projects in 14 local authority areas during 2021/22 to trial the use of the NMDC locally and draw out learning that can be disseminated more widely amongst local authorities. During 2022/23 government will provide funding and support for a further 25 local authorities and neighbourhood planning groups to develop exemplar local design codes and best practice that others can draw upon in the creation of their own local design codes and guides.

Government is also establishing an Office for Place which will play a leading role in supporting local authorities to develop the capacity and capabilities they will need to prepare local design codes.

Option 1) Mandate that all LPAs produce a design code at the spatial scale of their entire authority area, which will be given increased weight as part of the development plan (preferred option).

We will continue to support the testing and trialling of design codes with local authorities across the country, as set out in the 'do nothing' approach above.

In addition, local planning authorities will be required through legislation to produce a design code at the spatial scale of their entire authority area. In the reformed planning system, local planning authorities will be able to adopt local design codes either as part of their local plan or as supplementary plans to give them additional weight in decision making (at present most of the design codes produced locally are presented as guidance, which means they have less significance in decision-making than is being proposed in the new approach).

Policy objective

Through reforms to the planning system, we want to expand on the recommendations of the Building Better, Building Beautiful Commission to prioritise and emphasise design quality in the new planning system. Requiring local authorities to produce design codes, with input from their communities, will help set clear, predictable, and locally popular design standards in local plans.

Clarity about local design standards will help to create certainty for developers and applicants about the types of schemes that are more likely to be granted planning permission. Ultimately this should lead to the development of better designed and more beautiful homes and places across the country.

Summary and preferred option with description of implementation plan

The preferred option is to legislate through the Bill that all local planning authorities are required to produce a design code for the entire local authority area. In the reformed planning system, local planning authorities will be able to adopt their design codes as part of their local plan or as supplementary plans. Supplementary plans will form part of the development plan and will therefore have the weight of the local plan in the new system, giving design codes more weight in decision making.

This change builds on the revised NPPF (July 2021), which already sets a policy expectation that local planning authorities produce local design codes and guides. The National Model Design Code (NMDC), also published in July 2021, provides guidance to help local planning authorities and communities produce their own design codes that will set clear standards for the design of new development and clarity for developers about what they are expected to deliver. Both the NPPF and NMDC emphasise that design codes need to be prepared locally and be based on genuine community involvement, so that communities have a genuine say in the design of new homes and neighbourhoods.

We anticipate that the preparation of local design codes will scale up further by the time the Bill is enacted, partly enabled by the support that government is providing to local authorities to test and trial the National Model Design Code and preparation of design codes locally, and partly due to the work of the Office for Place. Neighbourhood plan design codes will also play a role in developing detailed design codes at the neighbourhood scale across the country.

The ongoing role of the Office for Place in promoting and championing design codes will also be important in supporting the wider roll out of design codes nationally.

Monetised and non-monetised costs and benefits of each option (including administrative burden)

The new legislation will require all local planning authorities to produce a design code covering the entire local authority area. Over the 10-year appraisal period each local planning authority will need to produce a design code. This will mean that local planning authorities who do not currently produce design codes at the authority wide scale will incur an extra cost in preparing design codes.

There will also be costs associated with supporting planning staff and council members to familiarise themselves with the new requirements and undertake relevant training.

Widespread use of local design codes will enable communities to influence the design ambitions in their area and provide increased certainty about the design standards that proposed schemes are expected to meet.

This may result in increased support for new development by communities and faster decision-making by local planning authorities, where proposed development schemes meet these design standards, and may lead to fewer rejected planning applications, saving time and costs in the planning and development process.

And whilst it is expected that the use of design codes by local authorities will lead to increased costs for developers and, at the margin, the loss of viability of some schemes, it is anticipated that this may be partly offset by increases in the value of schemes and adjustments to land values over time.

Ultimately this should lead to the development of better designed and more beautiful homes and places across the country and a range of wider social, economic, and environmental benefits.

In summary, the **monetised** costs are:

1. Additional cost incurred by authorities who would not otherwise produce a design code but are required to do so in the policy option.
2. Familiarisation costs associated with staff at local planning authorities understanding the new legislation as well as developers.
3. Training costs associated with staff at local planning authorities understanding the new legislation.

The **monetised** benefits are:

4. The indirect benefit to business from use of consultants to produce design codes.

Monetised costs

Public sector impacts
Preparing local design codes

We assume that all local planning authorities will produce design codes in line with the new legislative requirements by 2030, but some LPAs may do this prior to the start of the appraisal period of 2024 due to revisions to national planning policy (2021) which sets the policy expectation for LPAs to produce design codes, as well as the benefits that implementing design codes can bring, and the support provided by the ongoing pilot schemes and funding for local planning authorities' design codes (we assume 25 LPAs introduce these before 2024, based on support by government to trail the preparation of design codes locally, as part of the design code pathfinder programme). We assume that all local planning authorities will produce a design code by 2030. We do not have any evidence to inform our assumption about the profile of design codes, so for simplicity have assumed an even take-up profile between 2024 and 2030 (see Table A11.1 below). The profile below shows the number of plans which **start** updating per year in the policy option and counterfactual.

Table A11.1: Estimated uptake of design codes in counterfactual and policy option

	Before 2024	**2024**	**2025**	**2026**	**2027**	**2028**	**2029**	**2030**	**2031**	**2032**	**2033**	**Total**
Do nothing	*25*	0	0	0	0	0	0	0	0	0	0	**0**
Policy option 1	*25*	46	46	46	46	46	46	46	0	0	0	**320**

For this analysis, we assume the full cost occurs in the first year of design code production. This assumption was informed by discussions with policy experts who assume most of the costs are likely to be front loaded.

We compare the total cost of design code production in the counterfactual with the policy option. It is estimated that £200k support per local authority is essential to ensuring the delivery of high-quality design codes, based on insights from the NMDC testing programme. Local authorities that took part in the testing programme have estimated that an area wide design code which sets high level requirements for the whole area and defines area types ranges from £100k to £300k depending on what is included, and the level of community engagement undertaken. We therefore use this range in our analysis, with our central estimate as £200k.

Table A11.2: Discounted costs of preparing local design codes in all LPA areas, £m (2019 prices)

	2024	**2025**	**2026**	**2027**	**2028**	**2029**	**2030**	**2031**	**2032**	**2033**	**Total**
Low	4.3	4.1	4.0	3.9	3.7	3.6	3.5	0.0	0.0	0.0	**27.1**
Central	8.5	8.3	8.0	7.7	7.5	7.2	7.0	0.0	0.0	0.0	**54.1**
High	12.8	12.4	12.0	11.6	11.2	10.8	10.4	0.0	0.0	0.0	**81.2**

Familiarisation cost to LPAs

There will be familiarisation costs incurred by planning staff (and Elected Members) at local authorities who need to understand the design codes process. We assume that approximately 10 employees per local authority will need to understand the requirements for design codes, both in plan-making and decision making, from the new legislation. To gain a basic familiarisation of what the legislation means for the preparation and implementation of design codes, we assume staff will need on average 3-5 hours, with a central assumption of 4 hours, to understand the new

process; this assumption was agreed internally by planning experts. To calculate the familiarisation cost we use the median hourly wage for 'Town Planning Officers' from the 2020 Annual Survey of Hours and Earnings and deflate it into 2019 prices, which gives £17.14. We uprate this by 30% to account for non-labour costs which gives £22.28. The total familiarisation cost is estimated at £0.3m in the central scenario, which occurs in the first year of the appraisal period, as shown below.

Table A11.3: Discounted familiarisation cost to LPAs, £m (2019 prices)

	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total
Low	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	**0.2**
Central	0.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	**0.3**
High	0.4	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	**0.4**

Training costs to LPAs

Due to the current low level of design skills, production and use of design codes by local planning authorities, and the current steer to mandate the production and use of design codes at the widest spatial scale, as well as growth and regeneration sites, we assume there will be a need for all development management and planning policy staff to undertake more detailed training on design codes. We assume from research gathered from the NMDC testing programme and a recent study on design skills in local authorities (Place Alliance 2021) that local planning authorities may on average have (depending on the size of the authority) between one and four employees specialising in design and who will need full and detailed training on producing design codes in the reformed planning system depending on the size of the local planning authority. Due to low current take up (only 14% of local planning authorities have any design codes produced in house[72], none of which are at an entire local authority scale), we assume that all 345 local planning authorities will require training associated with district-wide design codes. Using current market design code training from the Coding School by Urban Design London (UDL), costs £1,000 for one place to attend all modules, which cumulatively is approximately up to 8 days, and £2,500 for three places. We therefore put these costs in 2019 prices, before multiplying the costs by the number of employees (1-4 employees) who will need to produce/use design codes to estimate the total training costs in the different scenarios. The total training cost is estimated at £0.8m, which occurs in the first year of the appraisal period, as shown in Table A11.4 below.

[72] http://placealliance.org.uk/wp-content/uploads/2021/07/Design-Skills-in-Local-Authorities-2021_Final.pdf

Table A11.4: Discounted training costs to LPAs, £m (2019 prices)

	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total
Low	0.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	**0.3**
Central	0.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	**0.8**
High	1.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	**1.1**

Familiarisation costs to planners in the private sector. There will be a cost to planners in the private sector from familiarising themselves with the increased uptake of new mandatory design codes produced by local authorities in the new system. For developers working across local planning authorities these costs may be greater due to variation in design codes between local planning authorities.

1. As a proxy for developers, planners in the private sector will also be required to familiarise themselves with these changes, this includes planning consultants. According to Annual Population Survey (ONS), there are an estimated 21.3k planners in England. According to the RTPI, it is estimated that 44% of planners work in the private sector[73], which suggests that there are around 9.4k planners working in the private sector in England.
2. To calculate the familiarisation cost for the private sector, we use the median hourly wage for 'Management consultants and business analysts' from the 2020 Annual Survey of Hours and Earnings[74] and deflate it into 2019 prices, which gives £20.29. We uprate this by 30% to account for overheads which gives £26.38.
3. Time costs are the same are estimated at 3-5 hours per person. (This assumption is taken from policy intel for expected familiarisation of Design codes).

The total familiarisation cost is estimated at £1.0m in the central scenario, which occurs in the first year of the appraisal period, as shown below.

Table A11.3: Discounted familiarisation cost to planners in the private sector, £m (2019 prices)

	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total
Low	0.7	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	**0.7**

[73] https://www.rtpi.org.uk/media/5889/theplanningprofessionin2019.pdf

[74] https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/regionbyoccupation4digitsoc2010ashetable15

Central	1.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	**1.0**
High	1.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	**1.2**

Non-monetised costs

Business impacts

Higher development costs

There may be costs to developers because of the new requirements for higher design standards. A recent study commissioned by the Department and undertaken by Knight Frank (2020) looked at a range of development projects which had aimed to achieve a high quality of design and placemaking. This study focussed on housing schemes that had been developed with quality as an explicit aim and found increased costs to developers, ranging between 18% and 30%, associated with a well-designed scheme. It also found that the value of a well-designed scheme had a positive return to developers in the long-run which could compensate for these higher development costs in all but the most price sensitive of markets. This is consistent with the findings from previous studies which have explored the value that well-designed schemes can bring to developers[75] and that increased developer costs may be partly offset by increases in the value of schemes and adjustments to land values over time in most markets.

It has not been possible to monetise the impact of increased developer cost because the requirements of design codes for different areas will vary, and so too will the impact which they have on applicants' costs. It is not currently possible to forecast an average of these impacts as design codes are yet to be fully developed at the authority wide scale, prior to the legislation set out in the Bill. The Knight Frank research was also not used as a proxy because it uses a small sample size of developments where it was in developers' economic interests to apply higher levels of design, which may not be representative of the rest of the market, especially with the expected variation in requirements across authorities.

In 2022/23, 25 local authorities and neighbourhood planning groups are being supported directly by government to trial the preparation of design codes in a variety of local authorities across England. Evidence gathered from this programme will help inform further policy development on the production of design codes.

[75] Studies by CABE 2002 (https://www.designcouncil.org.uk/fileadmin/uploads/dc/Documents/the-value-of-good-design.pdf), Savills 2016 (https://pdf.euro.savills.co.uk/uk/residential---other/spotlight-the-value-of-placemaking-2016.pdf) and RICS 2016 (https://www.rics.org/globalassets/rics-website/media/upholding-professional-standards/sector-standards/land/placemaking_and_value_1st_edition.pdf).

Over time, it is expected the new standards of design quality set by local design codes will be considered at a sufficiently early stage of the development process so that their impact on the cost and value of a scheme are factored into investment plans.

Wider impacts

Any additional costs arising from higher design standards set out in design codes could affect the viability of a development and, in turn, this may have a negative impact on housing supply. However, as above, the Knight Frank research indicates that although there could be increased costs associated with developing a well-designed scheme, there is potential for these costs to be offset by increases in value and, over time, for any increased costs and values to be factored into investments plans at an early stage in the development process.

Communities often oppose development due to concerns about lack of amenities and the poor quality of development. However, evidence indicates (2018 British Social Attitudes Survey, 2019 Place Alliance) that investing in design, in collaboration with the community, can help to reduce opposition by the community and increase support for new housing and associated development. If development was more likely to be supported by communities due to better design and availability of amenities/infrastructure and a higher proportion of development schemes were to be granted rather than refused planning permission, then there is a potential to increase the number of homes granted permission which could increase the supply, as well as the quality of new homes.

The overall impact on housing supply from mandating the use design codes locally is uncertain, as it likely depends on specific developer, site, and market characteristics. There may also be differences in the short-term and long-term, as developers adapt to the code and as it helps develop greater community support for projects. For this reason, we have not attempted to quantify the impact of introducing mandatory design codes on housing supply.

Monetised benefits

Business impacts

Increased certainty

Benefits are expected to arise to developers through increased certainty about design standards. This could help quicken the pace at which development proposals are prepared by developers and assessed by local authorities and ultimately reduce the numbers of rejected planning applications. This could save time and costs for developers in the planning and development process.

Design coding is one of a wider set of measures that will increase certainty for developers. The overall expected impact for developers is set out in Annex 4 and it is estimated in the central scenario there will be a direct benefit to business of £2,276.6m

over the 10-year appraisal period that could be achieved through creating increased certainty in the planning system. The mandatory introduction of design codes is expected to contribute to the achievement of these benefits set out in Annex 4.

Non-monetised benefits

Business impacts

Developer benefits are expected to arise to developers from better, more transparent information about the design standards expected. As design codes are put in place locally, developers will have increased clarity about the design standards against which planning applications will be assessed, enabling design requirements to be factored into viability assessments at an early stage. This may encourage developers to make changes to their business models, for example, moving away from a standard house type approach towards a more holistic approach where new developments offer a greater variety of housing options and associated amenities. This adjustment may take some time, but once established, could ultimately:

- Quicken the pace at which development proposals are prepared by developers and assessed by local authorities saving time and costs for both developers and local authorities.
- Reduce the numbers of rejected planning applications saving time and costs for both developers and local authorities. Currently around a fifth of planning applications for major developments are refused planning permission but data is not yet available about the extent to which proposed schemes are refused on design and place-making grounds.
- Lead to an increase in housing supply. We were unable to monetise this benefit due to a lack of information on the impact design codes will have on developer's portfolio plans.

Public sector impacts

As a result of setting design standards through local design codes, local planning authorities will have clearer and more transparent criteria against which to assess the design quality of development proposals which could lead to an increased tendency to refuse poor quality schemes that do not meet expected design standards, as set out in their design code. This could result in quicker determination of applications that meet the new design expectations, and may lead to fewer rejected planning applications, saving staff time and costs for both the local authority and the Planning Inspectorate in the planning and development process.

Wider impacts

There is a range of wider benefits that the proposed reforms will bring through new development approved in accordance with locally supported design codes (Place Alliance 2019) including:

Communities. Communities will benefit from:

- Having more of a say on what their areas look like by working with local planning authorities to set clear design standards through design codes. This will help ensure that their preferences for quality, beauty and sustainability are at the heart of local decision-making and lead to increased satisfaction with and pride in their local area.
- Opportunities to improve physical health provided by well-designed places that encourage active travel through infrastructure for cycling and walking, greater access to green infrastructure, open space, and recreational facilities. They can also improve mental health and wellbeing through access to public and community spaces and buildings that encourage greater social integration and reduce isolation and loneliness.
- Improved safety including through lower rates of crime, fewer accidents due to safer movement networks, buildings and spaces that are inclusive and meet several different needs and effective use of civic and heritage assets. This can also lead to an overall increased sense of local pride and belonging amongst the community.
- Increased equity of access to high quality amenities, for example access to green space including parks and recreational facilities.
- Buildings and spaces that are built to last yet are also designed to enable their use to adapt over time in response to changing social needs.

Environment. Improvements in the local environment may also arise through measures aimed at mitigating the risks due to climate change including:

- Development of buildings and infrastructure that can reduce energy use, carbon emissions, waste, and pollution.
- Creating a greener built environment that can contribute towards biodiversity net gain by improving the ecological diversity of species.

Well-designed places are more likely to attract investment by businesses potentially leading to the creation of new employment opportunities locally or attracting new residents into an area. Improvements in public realm, access to local parks, nature, open space and public transport and street connectivity can also increase the value of properties in residential and retail sectors.

Overall, the proposals to legislate for design codes as part of the planning reforms will increase the certainty that local design codes will be produced by local planning authorities, which further strengthen the possibility of achieving beautiful, well-designed homes and places and the widespread benefits this can bring.

Direct costs and benefits to business calculations

There are expected costs to developers from familiarising themselves with the new design codes. In line with the assumptions set out in the monetised familiarisation costs section, it is estimated that developers will face around £0.8m (central scenario) familiarisation costs for the first year of the appraisal period. For developers working

across local planning authorities these costs may be greater due to variation in design codes between local planning authorities.

Risks and assumptions

Some design codes may run into delays or be adopted later than the assumed profile. There may also potentially be non-compliance with requirement to produce design codes. While authority-wide design codes will be mandatory by law, in the past some local authorities have not been compliant with similar legislation, such as local plans. We assume 100% uptake for the purpose of this assessment as we are unable to predict the rate of non-compliance. However, if we have overestimated the number of design codes being updated per year, there is a risk that we have also overestimated the costs.

Impact on small and micro businesses

Small and Micro Business Assessment (SaMBA)

Small and micro businesses (SMBs) in the housing sector impacted by Design Codes principally comprises developers/constructors and local consultants.

ONS data suggests that in England there are 39,340 developers of which 38,075 (97%) are 'micro' businesses (defined as having less than 10 employees) and 1,200 (3%) 'small' businesses (defined as having 10-49 employees). There are only 65 developers that can be classed as medium or large businesses. For consultants businesses it is not possible to identify the exact number or proportions of SMBs in the sector from published statistics because of categorisation issues.

Impact on small and micro businesses

The impacts on SMB's can be broken down as follows:

1. **Builders/developers:** The increased use of design codes by local planning authorities may impact on SMB housebuilders, who will, as with larger businesses, benefit from greater clarity and certainty about design expectations and potential savings of time and cost in the planning and development process.

   SMBs are expected to benefit, as is expected with SMEs, from being well-placed to deliver design quality through design codes. Evidence presented by FMB[76] to the House of Lords Select Committee, in September 2021, set out that SME business models already typically rely on delivering a premium product informed by local views, which differentiates them from the volume housebuilder offer. It also set out that many SME builders have strong in-house design and build expertise. Although there will be additional costs associated with the familiarisation of staff on design codes, there may therefore be a disproportionate benefit for SMB housebuilders in terms of these costs, as it is

[76] https://committees.parliament.uk/writtenevidence/38963/pdf/

expected that SMBs would also focus on delivering locally driven premium products and have in place in-house design skills.

Expectations set by design codes may also increase competition between developers at all scales, as well as built environment practitioners. Increasing place-making policy requirements may reduce the permissibility of standard 'anywhere' house types and place products, particularly prevalent amongst volume housebuilders. This may therefore potentially unlock barriers to the land markets to SMB developers previously dominated by the larger firms. Conversely, it may push some larger developers into the niche market of some SMBs, but we would expect the benefits from unlocking different land markets to SMBs to outweigh this impact.

2. **Small and medium-sized consultancies:** There may also be a greater need for the services of planning consultancies to assist local planning authorities to produce local design codes, which could create new opportunities for small and medium sized consultancies.
3. **Small businesses**: The National Model Design Code provides guidance to local planning authorities on how local design codes may cover non-residential activities, including the setting of standards for areas of retail, office development, science, and technology parks. The use of design codes will therefore provide greater certainty about the approach to commercial development, leading to potential positive impacts on small businesses such as through encouraging a mix of uses/activities where appropriate, ensuring places are accessible and through use of active frontages to create interest and attract visitors.

To quantify the possible disproportionate impacts on SMB housebuilders, significant in-depth analysis and research would need to be undertaken. Given the lack of data this was not deemed feasible or proportional to monetise at present.

Mitigating the impact on small and micro businesses

We are undertaking the design code pilots at this stage which will help to gain insight into how LPAs engage developers and SMBs in creating design codes. Engagement with the sector is also ongoing, with a series of workshops on specific issues with the 25 pilots as part of the programme.

Rationale for non-exclusion of small and micro businesses from the regulations

SMBs make up ~99% of the number of businesses involved in the design codes sector (see Table above). Given this, an exemption from legislative changes would be inappropriate as it would prevent the policy objectives of the regulatory changes from being achieved. SMBs are also expected to benefit from these changes, as explained above, so there would not be a need to provide exemptions for them. The primary objective of these changes is to expand on the recommendations of the Building Better, Building Beautiful Commission to prioritise and emphasise design quality in the

new planning system. Additionally, the sector is made up of businesses of all types and sizes working together. Applying and policing differing standards to some businesses and not to others would be impracticable and costly.

A summary of the potential trade implications of measure
Not applicable.

Monitoring and evaluation
The content and application of the National Model Design Code in the current planning system is being tested in 14 local authority areas in England during 2021/22.

From 2022/23 a further 25 local authorities and neighbourhood planning groups will be supported by government to trail the preparation of design codes locally. Insights and learning from these programmes are being gathered through monitoring and evaluation.

There will be a continuing need to gain insight into the production and application of local design codes including once the proposed new legislation is in place.

The Office for Place will support the implementation of design codes locally including encouraging further collaboration between communities and local planning authorities to turn their visions into local design standards and help achieve the creation of more beautiful homes and places.

Annex 10: Statement of Impacts - Heritage

Problem under consideration and rationale for intervention

The planning system plays an important role in protecting the historic environment and the intention is to build on the strong protections that already exist.

The heritage protection system in England is well-developed and largely works well. This view was confirmed through stakeholder engagement with the heritage/planning sector. However, the framework for protecting the historic environment has developed over time and can, in parts, be inconsistent which makes it harder to navigate. Fundamental change to the heritage protection system is not required, but wider reforms to the planning system offers the opportunity to make targeted improvements to the heritage protection framework.

Although most planning decisions will continue to be made on a case-by-case basis, the enhanced role of new digital, local plans in decision making means that they need to be underpinned by a thorough understanding of the historic environment, if it is going to continue to be conserved and enhanced. Whilst there is an established system for accessing information relating to the historic environment, called Historic Environment Records (HER), some are of varying scope and currency, and there is a need to ensure that they are all fit for purpose.

Legislation and policies relating to protection of the historic environment have developed over time, as new forms of designated heritage assets have come into the system, and there are some areas of inconsistency between the two which can make more complex decision making more difficult.

There are currently around 400,000 Listed Buildings and c.10,000 conservation areas in England. There is also c.20,000 Scheduled Monuments, c.50 Protected Wreck Sites, c.1,700 Registered Parks and Gardens, c.50 Registered Battlefields and 18 World Heritage Sites[77].

LPAs are under a duty to have regard to the preservation of Listed Buildings and Conservation Areas in the exercising of their planning functions. This duty does not currently extend to Scheduled Monuments, Protected Wreck Sites, Registered Parks and Gardens, Registered Battlefields or World Heritage Sites, but through the Bill we are seeking to bring these onto a level playing field in which LPA would have to have regard to these assets when exercising planning functions.

There are also inconsistencies between the general planning enforcement powers LPAs have and those relating specifically to listed buildings, as well as inconsistencies between the two main enforcement powers (Urgent Works and Repairs Notices) specific to protecting listed buildings. These differences can sometimes complicate enforcement action and can deter LPAs from acting in the first place. When a council

77 Source: Historic England - https://historicengland.org.uk/listing/the-list/

serves an Urgent Works Notice (UWN) they can reclaim the costs from a building owner, but this can sometimes be a complicated legal process.

LPAs can also serve a Building Preservation Notice (BPN), which protects an unlisted building for up to six months whilst it is the subject of a parallel application to the Secretary of State for DCMS for listing. These are only used where the council believes there to be a threat of damage to, or demolition of, a building by an owner or developer to thwart or undermine the listing process. However, if the parallel application to list the building is unsuccessful the council can be liable to pay compensation to the owner for any costs associated with the serving of the Notice. The risk of such a claim is a factor in deterring some LPAs from serving BPNs, putting historic buildings at risk of damage or demolition.

The proposals to address these issues are:

- To introduce a new statutory requirement on LPAs to maintain, or have access to, a HER, as a digital evidence base for plan and decision making.
- To introduce a new statutory duty on LPAs to have special regard to the preservation of Scheduled Monuments Registered Parks & Gardens, Registered Battlefields, Protected Wreck Sites and World Heritage Sites.
- To introduce Temporary Stop Notices for unauthorised works to listed buildings and extend Urgent Works Notices to apply to listed buildings in residential use (i.e., occupied) and make costs of carrying out works a local land charge to aid cost recovery by local planning authorities.
- To remove the risk of compensation claims when a local authority serves a Building Preservation Notice on an unlisted building if the application to list the building is unsuccessful.

Heritage assets make an important contribution to the character of a place. Unauthorised works to listed buildings and listed buildings which are left to fall into a state of disrepair can bring negative externalities by detracting from that character and resulting in a poor-quality environment and reducing communities' sense of pride in their area. Strengthening local planning authorities' enforcement powers in relation to listed buildings and introducing a statutory duty to have regard to other types of heritage asset will help to tackle this issue. Imperfect information about the different types of heritage asset and their significance can lead to development decisions which risk losing important elements of our historic environment for future generations to enjoy. Putting Historic Environment Records on a statutory footing will help to address this issue.

Rationale and evidence to justify the level of analysis used in the IA (proportionality approach)

Description of options considered

The aspiration is to improve the conservation and enhancement of the historic environment through the planning system and the do-nothing option would represent

a missed opportunity to deliver those intentions. The proposals have been developed in conjunction with DCMS and Historic England, and engagement with the heritage/planning sector indicate that the proposals are likely to enjoy wide support.

The suite of targeted measures is designed to address specific technical issues in the planning system. Doing nothing would simply transpose those issues into the new system. With the exception of HERs, the changes would have no direct costs, nor would they introduce any new burdens or familiarisation costs to local planning authorities; and all should result in a better system, with associated costs savings.

Changes to policy or guidance alone would not achieve the desired policy objectives.

Extending the duty to have special regard to the preservation to other designated heritage assets can only be achieved through changes to legislation; and changes to UWNs can only be made by amending existing legislation.

Guidance recommends that LPAs have access to a HER and a network of 83 covers England. However, due to their non-statutory nature some are not as up to date as might be expected nor sufficiently well resourced. A statutory footing for HERs is considered the only way in which HERs can be brought up to the required standard to underpin the new planning system. HERs have a statutory footing in Wales and this was previously proposed in England in the 2008 draft Heritage Protection Bill.

Policy objective

To introduce a new statutory requirement to maintain, or have access to, a Historic Environment Record, as a digital evidence base for plan and decision making:

- The objective is to enable HERs to provide a fit for purpose, digital evidence-base for local plans and decision making relating to the historic environment.

To introduce a new statutory duty on LPAs to have special regard to the preservation of Scheduled Monuments, Protected Wreck Sites, Registered Parks & Gardens, Registered Battlefields and World Heritage Sites:

- The policy objective is to improve plan and decision making by providing legislative parity within the planning system for Scheduled Monuments, Protected Wreck Sites, Registered Parks & Gardens, Registered Battlefields and World Heritage Sites with the statutory duties that already exist relating to listed buildings and conservation areas. Scheduled Monuments and Protected Wreck Sites are protected under non-planning legislation that is the responsibility of the Secretary of State for DCMS.

To introduce Temporary Stop Notices for unauthorised works to listed buildings, and extend Urgent Works Notices to apply to listed buildings in residential use (i.e., occupied) and make costs of carrying out works a local land charge to aid cost recovery by local planning authorities

- Introducing Temporary Stop Notices for unauthorised works to listed buildings, and extending the scope of Urgent Works Notices, will make taking enforcement action easier for LPAs and encourage their greater use.
- The objective is therefore to introduce Temporary Stop Notices for unauthorised works to listed buildings in line with those that exist for planning breaches.
- The proposals we want to take forward in relation to urgent works notices in England are:
    - to remove the current restriction which allows their use, where a listed building is occupied, only in those parts which are not in use (section 54(4)); and
    - to provide that the cost of works undertaken by LPAs under section 54 are a charge on the land.

To remove the risk of compensation claims when a local planning authority serves a Building Preservation Notice on an unlisted building, and the parallel application to the Secretary of State for DCMS to list the building is unsuccessful:

- The policy objective is to encourage, where appropriate, LPAs to serve BPNs; and protect unlisted buildings at risk of damage or demolition whilst they are being considered for listing.

Summary and preferred option with description of implementation plan
To introduce a new statutory requirement to maintain, or have access to, a Historic Environment Record (HER), as a digital evidence base for plan and decision making.

- Putting HERs on a statutory footing would ensure that they were maintained to minimum standards (in terms of content, currency, digitisation, interoperability, etc.) to ensure that digital HERs form a consistent and up-to-date evidence-base for the new planning system. Making it a statutory duty will ensure that HERs are adequately funded by local authorities.
- Further work is needed to assess the precise costings and timeline for getting all HERs up to the minimum required standard, as well as any new burdens (over and above current spending) of maintaining them at that standard going forward.
- It is likely that it may take a number of years (possibly 2-3) to get all HERs to the required standard. There will need to be careful consideration of how that fits with the timelines of the other planning reforms, such as the introduction of new style local plans. If there is a misalignment between the two, there may need to be an interim arrangement or a phased implementation.

To introduce a new statutory duty on LPAs to have special regard to the preservation of Scheduled Monuments, Protected Wreck Sites, Registered Parks & Gardens, Registered Battlefields and World Heritage Sites:

- The duty would come in when the primary legislation is passed. Whilst the alignment of policy and legislation is likely to only impact on complex cases, there may be plans and heritage-related applications within the system, and there will need arrangements for how those are considered.

To introduce Temporary Stop Notices for unauthorised works to listed buildings

- While enforcement powers under the listed building consent regime are broadly based on those in the planning permission system, there is a notable gap in that there is no provision for Temporary Stop Notices. This lack of powers means that where there are suspected unauthorised works to a listed building, the local authority's only options are to issue an enforcement notice (which will not immediately stop of the works) or apply to the court for an injunction to stop the works. Giving local planning authorities the power to serve Temporary Stop Notices in respect of unauthorised works to listed buildings would achieve parity and consistency with the planning permission system in this respect and ensure that heritage assets continue to be protected.
- As new legislation there would be no transitional arrangements which would impact on implementation.

Extend Urgent Works Notices to apply to listed buildings which are occupied and in use and make costs of carrying out urgent works to listed buildings a local land charge

- Currently, local authorities have the power to execute any works which appear to them to be urgently necessary for the preservation of a listed building in their area. However, if the building is occupied, the works may be carried out only to those parts which are not in use and there is no provision for the cost of works undertaken by local authorities to be a charge on the land.
- The inability to use Urgent Works Notices in respect of occupied buildings can result in local authorities adopting 'creative solutions' rather than undertaking works which would deliver the better solution for the listed building. For example, if there was a 3-storey listed building with a leaking roof and a shop on the ground floor, it is not clear if the whole of the building is 'in use'. In such cases, the LPA may decide to put a 'tin hat' on the building to prevent further deterioration because they are unsure of their powers rather than replacing the missing roof tiles.
- Allowing local authorities to use Urgent Works Notices in respect of occupied buildings in use and making the costs of carrying out the urgent works a charge on the land will encourage local authorities to make greater use of these powers helping to ensure that listed buildings are better protected.

To remove the risk of compensation claims when a local planning authority serves a Building Preservation Notice on an unlisted building, and the parallel application to the Secretary of State for DCMS to list the building is unsuccessful:

- Consideration will have to be given to how removal of compensation would impact on any BPNs already in the system. Given that there are currently only c10 BPNs served per annum, and not all of those may expose a council to compensation claims it is not anticipated that implementation would overly complex.

Monetised and non-monetised costs and benefits of each option (including administrative burden)

To introduce a new statutory requirement to maintain, or have access to, a Historic Environment Record, as a digital evidence base for plan and decision making:

- Many HERs are already digitally enabled and maintained to an agreed standard, but Historic England estimates bringing the existing 83 HERs up to a required minimum standard would cost c.£3-5M, with an additional annual burden of c£0.9M p/a on top of the current c£5-6M running costs. These figures would need to be revisited when there is a firmer commitment to progress this option.
- Having better HERs would enable better, faster, and more simplified plan and decision-making, potentially leading to associated savings which could be offset against additional costs. Better HERs would also bring similar benefits to applicants and developers. Better applications, plan and decision making will lead to greater understanding and better protection of the historic environment.
- Due to the variety and number of plans and heritage related planning and appeal decisions made it is difficult to derive general estimates of cost savings.
- HERs generate some income through charged for services, such as paid-for searches, and it is anticipated that an increase in these may offset some of the additional costs outlined above.
- Additional funding for HERs would result in an increase in FTE specialist staff employed in them.

Table A10.1 Discounted total upfront and running costs of the upgraded Historic Environment record.

Year:	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total
Low	1.22	1.45	1.66	0.76	0.73	0.71	0.68	0.66	0.64	0.62	9.12
Central	1.63	1.75	1.95	0.76	0.73	0.71	0.68	0.66	0.64	0.62	10.02
High	1.84	2.05	2.24	0.76	0.73	0.71	0.68	0.66	0.64	0.62	10.93

- The costings above have been provided by Historic England with the following caveat:
    a. The outline costings require further refinement.

b. The programme will bring HERs to a consistent standard to ensure better data readiness for a digital planning system. Going forward, it is likely that existing standards will need to be enhanced and additional national standards developed to meet the requirements of a new planning system. The costings are based on current standards.

- To increase the pool of people able to deliver heritage data improvement, support will be required from digital upskilling and capacity building programmes.
- The analysis assumes an initial three year racketing up period during which HERs are upgraded to the required minimum standard. This reflects the different levels of upgrade requirements across the HERS in England. The costings are based off the average day rates for HER officer costs. It accounts for salary, national insurance, pension, overheads (25%), a fixed additional cost (£500) and a productive rate (44 weeks per year, 30 hours per week) at a range of Local Government salary scales which reflects most HER Officers. The costings also include the backlog clearance of cases with 5 reports per day as a central scenario, with 4 as low and 6 as high per officer.

To introduce a new statutory duty on LPAs to have special regard to the preservation of Scheduled Monuments, Protected Wreck Sites, Registered Parks & Gardens, Registered Battlefields and World Heritage Sites:

- There are no anticipated costs or additional burdens associated with this proposal.
- Legislative parity for all designated heritage assets within the planning system, should lead to simpler, more efficient, and effective plan and heritage-related decision making, with associated cost savings, for LPAs, the Planning Inspectorate, etc. Similarly, it should enable the process of preparing and submitting applications simpler, more efficient, and effective, with associated cost savings.
- Due to the variety and number of plans and heritage related planning and appeal decisions made it is difficult to derive general estimates of cost savings.

To introduce Temporary Stop Notices for unauthorised works to listed buildings, and extend Urgent Works Notices to apply to listed buildings in residential use (i.e., occupied) and make costs of carrying out works a local land charge to aid cost recovery by local planning authorities:

- The changes would enable LPAs to serve TSNs and better enable them to serve BPNs, but there will be no requirement to do so; there will therefore be no associated additional new burdens.
- Improvements to heritage-related enforcement will lead to enforcement action being simpler and more streamlined, along with associated cost savings.

- An ability to enter UWN costs as a land charge should reduce legal costs for LPAs.
- Enhanced and increased enforcement activity will lead to better protection of the historic environment, and greater public confidence in the planning system.
- Due to the variety of enforcement cases undertaken it is difficult to derive general estimates of cost savings.
- This proposal will improve protection of the historic environment in the planning system.
- The changes would better enable LPAs to serve TSNs, and there will be no requirement to do so; there are no associated additional new burdens.

To remove the risk of compensation claims when a local planning authority serves a Building Preservation Notice on an unlisted building, and the parallel application to the Secretary of State for DCMS to list the building is unsuccessful:

- The changes would better enable LPAs to serve BPNs, and there will be no requirement to do so; there will therefore be no associated additional new burdens.

Direct costs and benefits to business calculations

The removal of the right to compensation should a BPN be served on a building that is not subsequently listed will impose a cost to a small number of businesses. Given the small number of BPNs currently served each year, approximately 10 per annum and not all of those expose a council to compensation claims, the direct impact on business is likely to be very small. The number of compensation claims, and the number of successful claims, are not centrally located. There is only one known recent successful compensation claim ('The White House', Romsey, Test Valley. 2006), where the claim against the council for loss of income was £56,058 but settled at £24,600 (including legal costs and VAT) following negotiations. The reforms to heritage protection should make the heritage system easier for businesses to navigate leading to a small amount of efficiency savings.

The remainder of the monetised costs arising from this measure only affect LPAs and the Planning Inspectorate, which are public organisations. Therefore, there are no direct costs to the business calculation.

Risks and assumptions

The risk identified, as noted above, is the HER costings which Historic England notes require further refinement. The costings are to bring the HERs up to consistent standard which may be enhanced, and additional standards developed in the future. The costings are based on current standards. An additional risk is the digital upskilling and capacity building programmes required to develop the enhanced HERs.

Impact on small and micro businesses

The reforms to heritage protection should make the system easier to navigate for all, including small and micro businesses. The reforms will be of more benefit in more complex cases which may not be dealt with by smaller businesses. This measure does not place disproportionate impacts on small and micro businesses. There are no direct impacts on business from this measure, therefore no mitigation or exemptions are required.

Wider impacts

The reforms to the heritage protection system illustrated in this Impact Assessment, will not have any adverse economic, social, or environmental impacts.

The policy ensures a simpler, more streamlined, and digitally accessibly records of the local heritage. Improvement to HERs should allow communities to have better access to records about their local heritage, with all the benefits previously set out. Improvement to HERs will also benefit other government departments who use them.

- HERs have wider benefits beyond the planning system, such as:
    - Advancing knowledge and understanding of the historic environment.
    - Supporting heritage-led regeneration, environmental improvement, and cultural tourism initiatives.
    - Informing countryside management such as forestry and agricultural land management, such as those run by DEFRA and the Forestry Commission.
    - Contributing to research, education, and social inclusion.
    - Promoting public participation in the exploration, appreciation, and enjoyment of local heritage.
- Non-planning related users of HERs typically include property owners, land managers, farmers, academic researchers, local societies, amateur historians/archaeologists, teachers, students and interested members of the public, as well as historic environment professionals working in the public, private and voluntary sectors.
- The information held in HERs is publicly accessible and HERs are proactive in promoting access and encouraging others to contribute to it. In addition to their other benefits, in some cases paid HERs staff are sometimes supplemented by unpaid members of the community, and they help promote volunteering and public participation.
- For many, HERs and local archives are a starting point for any enquiry about the local historic environment. One of the key benefits of HERs is being able to provide a service at a local level with specialist dedicated professional staff who have an unsurpassed understanding of the history and archaeology of a local area. HERs can offer access to information about the past that allows local communities a way to appreciate their heritage and value it more greatly.
- Learning about the historic environment can have several positive effects: instilling feelings of collective responsibility for its conservation, enriching

people's lives, increasing community identity and awareness, and contributing to health and wellbeing.
- This proposal will improve conservation and enhancement of the historic environment in the planning system.

Local communities will also benefit from ensuring appropriate consideration is made to the management of change to the historic environment in plan and decision-making, maintaining or improving the quality of their surroundings. The introduction of Temporary Stop Notices and changes to Urgent Works Notices should make taking enforcement action against unauthorised works easier, improving public confidence in the planning system. Encouraging LPAs to serve BPNs will better protect buildings whilst they are being considered for listing, improving confidence in the heritage protection system.

A summary of the potential trade implications of measure
Not Applicable.

Monitoring and Evaluation
DLUHC already has in place arrangements for the systematic collection of data on each of the proposed areas for change. These include:

To introduce a new statutory requirement to maintain, or have access to, a Historic Environment Record, as a digital evidence base for plan and decision making:

- Historic England currently conducts an annual audit of HERs and this could be used as a basis for future monitoring and evaluation.
- HER data-standards will also tie in with digital powers and it may be that wider digital monitoring and evaluation can be applied to HERs.
- An outcome of statutory HERs will be a better underpinning for local plans. A high proportion of new local plans found to have sound historic environment underpinning and policies should be an indication of the benefits of this change.

To introduce a new statutory duty on LPAs to have special regard to the preservation of Scheduled Monuments, Protected Wreck Sites, Registered Parks & Gardens, Registered Battlefields and World Heritage Sites:

- This would be a qualitative, rather than quantifiable. Impacts might be evident in the extent to which it simplifies complex cases that are dealt with by PINs or the High Court, for example. It would be possible to monitor those decisions.

To introduce Temporary Stop Notices for unauthorised works to listed buildings, and extend Urgent Works Notices to apply to listed buildings in residential use (i.e., occupied) and make costs of carrying out works a local land charge to aid cost recovery by local planning authorities:

- These are very specific planning powers, and it is anticipated that there would be a modest increase in the number of UWNs being served, and a modest use of TSNs, there are no reporting requirements related to either power, but it may be possible to informally monitor the number served.

To remove the risk of compensation claims when a local planning authority serves a Building Preservation Notice on an unlisted building, and the parallel application to the Secretary of State for DCMS to list the building is unsuccessful:

- Historic England has an ability to monitor the number of BPNs served over a given period. BPNs are a very specific power, and it is anticipated that there would only be a modest increase in the number of BPNs being served.

Annex 11: Statement of Impacts – Infrastructure Planning

Problem under consideration and rationale for intervention

Of the capital traps that hold parts of the country back, the literature identifies infrastructure as a key contributor, and in particular how infrastructure is identified and planned for within the development planning system.

There are multiple forms of market failure at play in the planning for and delivery of infrastructure that prevent intensification, particularly of physical, social, and human capital. This includes:

- The incremental approach of infrastructure delivery in the current system does not align with large, strategic infrastructure provision, as the 'lumpy' investments necessary can cause viability issues, or an inability of developers to anticipate and cashflow the large investments necessary to unlock development sites. An undersupply of housing is the result, holding back agglomeration of people and, by maintaining high housing costs, worsening living standards and damaging social capital.
- Information boundaries and incentive structures within the existing planning system prevent the different actors involved effectively co-ordinating infrastructure and development information to maximise development capacity. This combination of market and policy constraints results in negative public externalities generated as a consequence of the pattern of development which results. These negative externalities concern the loss of potential productivity gains arising from agglomeration economies – the spatial concentration of economic activity and the density of the labour market available to firms. Repeated cycles of low density of development, and therefore shallower labour markets, are the result. This restricts accumulation of physical capital by spreading people over wider areas, less efficiently servable by infrastructure, and restricts intangible capital deepening by firms in the local labour market by reducing the pool of skills available.

We propose to introduce a new duty obliging specific infrastructure providers, called here 'prescribed bodies', to assist in creation of a local plan, primarily by providing the information necessary to identify and locate infrastructure in relation to development. We will set out in policy how this new power will be used to inform the production of Infrastructure Delivery Strategies, which are being required separately as part of the new Infrastructure Levy.

These proposals also seek to directly address the Government's commitments in its manifesto to 'amend the planning rules so that infrastructure – roads, schools, GP surgeries – comes before people moving into new homes'.

We also envisage that these reforms will help deliver on other government objectives, including to increase 'levelling-up' opportunities across the United Kingdom, by empowering local authorities to deliver more sustainable transport infrastructure

connecting towns and cities, and increasing build-out and delivery of housing where viability issues may otherwise be a blocker.

What are the current or future harms that are being tackled?

- Untimely delivery of infrastructure can delay build out and reduce sites' capacity to deliver new homes and other development. Alternatively, the resulting pressure on existing facilities and services from new development in the absence of the necessary infrastructure puts pressure on the existing infrastructure and results in overcrowding, long wait times, and a negative incentive for communities to oppose new development as a result.
- A lack of proactive planning often results in infrastructure being an incremental expansion of existing networks, missing opportunities for transformative schemes. This can lock in inefficient development patterns that don't maximise access to infrastructure or jobs[78], which has historically been the case in England[79].
- This also results in energy-intensive development patterns, counter to the Government's ambitions to be net-zero emissions by 2050.
- Negative public externalities are generated as a consequence of such inefficient patterns of development, namely the loss of potential productivity gains arising from agglomeration economies – the spatial concentration of economic activity and the density of the labour market available to firms.
- Development which is less dense and not efficiently servable by transport infrastructure reduces the potential for agglomeration economies, reducing overall social welfare from the optimum[80].
- Regional disparities in productivity are partly caused by these infrastructure capacity limitations. In turn, this misalignment is the result of regulatory and policy constraints in the existing regulatory regimes[81].

What sectors / markets / stakeholders will be affected, and how, if the government does intervene?

- Prescribed bodies could see benefits in improved access to information on future demand, supporting more efficient deployment of infrastructure and achievement of their statutory and regulatory objectives. They will likely see an increase in personnel resource demands, as they are required to engage and provide evidence upon request.
- Local Authorities who plan for strategic infrastructure and rely upon it for their sites identified in their local plans to come forward. Better quality, and earlier

[78] Only 40% of workers in big British cities outside London live within 30 minutes of the centre by public transport: In European counterparts, it's 67% [https://www.centreforcities.org/wp-content/uploads/2021/11/Measuring-Up-Comparing-Public-Transport-in-the-UK-and-Europes-Biggest-Cities.pdf]

[79] E.g. [https://www.transportfornewhomes.org.uk/wp-content/uploads/2022/02/Building-Car-Dependency-2022.pdf]

[80] A typical finding is that doubling a city's accessible population (via infrastructure or density) might raise productivity by 5% [https://www.london.gov.uk/sites/default/files/project_5_why_else_is_density_important_.pdf, p 10]. Graham [https://www.itf-oecd.org/sites/default/files/docs/discussionpaper11.pdf, p12] gives higher estimates of 10-20%.

[81] See e.g. [https://greenertransportsolutions.com/wp-content/uploads/2019/02/20190213_KPMG-Sustainable-Transport-and-New-Housing-Report-for-TKH_FINAL....pdf]

engagement from infrastructure providers should result in less delays at plan-examination from inspectors questioning the deliverability of plans.

- Business – Businesses could benefit from increased productivity as a result of agglomeration benefits in towns and cities.

Why is government best placed to resolve the issue? Could the issue be resolved without intervention (e.g. through the market, innovation or other stakeholder led change)?

The forms of market failure at play are generally secondary effects of existing regulatory regimes in the planning and infrastructure systems. As the institutions are creatures of these regulatory regimes, their incentives are strongly linked to the legislation or regulation establishing them. This means they are not very amenable to interventions outside these regimes. The rationale for each issue is as follows:

- Improving provision of information to inform future investment by infrastructure providers; so that investment plans are better shaped by anticipated demand from the future spatial layout. The regulated monopoly nature of the markets, or statutory functions, that these bodies operate in means statue and regulation is key in incentivising them.
- Improving regulation of development locations by providing LPAs the information needed to ensure they can identify and plan for development locations capable of being served by infrastructure. The relevant bodies lack market incentives to provide this information, given the benefits don't accrue to them.
- This would also help in ensuring the investment budgets held by local government are spent effectively and support housing supply and growth outcomes. This becomes particularly important in the context of new obligations on Local Authorities as a result of the Infrastructure Levy.
- Ensuring limited land resource is used most productively, and failures arising from state co-ordination issues are minimised. This is particularly important in two-tier areas, with consideration of the role infrastructure needs play in shaping developments' spatial form. Functions here are granted by statue to local authorities, which guides the activities of such authorities.
- In terms of being servable efficiently by transport infrastructure, agglomeration is an external benefit to overall welfare. It is therefore not priced into the developer's transactions and thus not reflected in their choices about where to locate development. For the same reason, developers do not provide strategic infrastructure themselves – they would only see a small share of a benefit which would be shared by many others (it is not-excludable).

Rationale and evidence to justify the level of analysis used in the IA (proportionality approach)

Where possible we used evidence to inform our analysis. However, the specifics of the policy detail will only become clear at the point secondary legislation and

guidance are produced. Where the detail is still unknown, we use assumptions to illustrate the costs/benefits. We used ranges where there is uncertainty to show the possible spectrum of outcomes. Our proportionality approach is discussed in more detail throughout the monetised costs and benefits section.

Description of options considered

Option 0) Do nothing - not taking action would perpetuate the shortcomings identified previously:

- Delays to build out of new homes and other development.
- Service overcrowding and incentives to oppose new development.
- Inefficient deployment of capital in providing more network capacity.
- Locking in spatial layouts that cannot be served with infrastructure efficiently, preventing agglomeration economies and productivity gains.
- These spatial forms are also highly energy-intensive, counter to Government ambitions to be net-zero carbon by 2050.

Option 1) A Statutory requirement for prescribed bodies to engage in plan-making (preferred option)

- Our preferred option is to put an obligation in statute for infrastructure bodies with public purposes (such as highway authorities, water and sewage undertakers and Network Rail) to 'provide assistance' in plan-making, if asked to. We will set out the organisations that make up these bodies in regulations.
- Separately, we also will set out expectations for LPAs to consult with certain Infrastructure Providers in relation to the location and assumed infrastructure needs of allocations, and to summarise this evidence. This will be as part of the published Infrastructure Delivery Strategy introduced through the new Infrastructure Levy, which will also set out anticipated Infrastructure Levy revenues and how they will be spent.
- Together, this will:
    - Ensure there is a requirement on infrastructure providers to engage with local authorities, where local authorities require the engagement of those bodies.
    - Reduce the risk of plan failure by boosting the ability of LPAs to ensure infrastructure requirements are reflected, to the extent necessary, in the process of preparing plans, and enable the production of a more informed spatial strategy.
    - This requirement to engage, when applied in conjuncture with the separate policy to require LPAs to produce an Infrastructure Delivery Strategy, will provide greater certainty to developers of what types of infrastructure will be required for their sites. With greater certainty over what infrastructure is required and when, we anticipate faster build out rates. Delays are often caused by disputes of the delivery of infrastructure.

- Ensure the infrastructure needs of the community are identified first-time and designed to be most effective in partnership with the responsible infrastructure bodies.

Option 2) Add requirements to participate in planning into the statutory performance frameworks for each relevant body

- This would involve embedding requirements into the performance frameworks governing each specific body involved. Involvement in plan-making would be a KPI against which each body was assessed.
- While this proposal may be somewhat effective if delivered, it was assessed as undeliverable given the need to negotiate agreements with the sponsor or regulatory body for every single relevant infrastructure provider. In addition, the frequent revision of such frameworks would leave any requirements inserted vulnerable to constant change, necessitating ongoing resource to monitor and ensure retention. Further, there is no suitable performance indicator regime that could be applied to local government bodies, such as the Local Transport Authority or the Local Education Authority.

Option 3) Encourage infrastructure providers to participate fully through 'soft' messaging measures

- This would involve sending targeted communications to infrastructure providers suggesting they participate in plan-making.
- This is unlikely to make much impact since, as set out, the key incentives for the bodies relevant to infrastructure planning are their statutory frameworks and their regulated incentives.
- It would be unclear to relevant bodies what status such communications held, given their commercial and statutory obligations.

How will the options interact with existing legislative and regulatory requirements?

- A current legal duty on infrastructure providers, the Duty to Co-operate, is being abolished. The above proposals will replace this, aiming to provide a more effective power.

Summary and preferred option with description of implementation plan

How will the preferred option be given effect, i.e., primary, or secondary legislation / will there be transitional arrangements?

- Primary legislation – A primary power that requires 'prescribed bodies' (infrastructure providers) to engage with Local Planning Authorities upon request.
- Secondary legislation –the Secretary of State will be enabled to set out the list of 'prescribed bodies' that are required to engage in the system in secondary

regulations. A delegated power will also enable the Secretary of State to set out in regulations the criteria for procedure local authorities must follow when using the new power.
- Separately, we will set out in policy how Local Authorities should use the new power in relation to plan production.

Explain how the intervention would lead to the intended achievement of the policy objective.

- These legal requirements on Infrastructure providers will improve the ability of the Local Plan to identify the correct infrastructure and align development locations accordingly. This will make delivery simpler, improving infrastructure provision and the ability to serve development locations appropriately.
- Unexpected issues raised by these bodies at a late stage can currently cause a number of problems for LPAs with their Local Plan at examination. Bringing their involvement forward should therefore improve LPA's ability to get information earlier and so resolve delivery issues up front.
- We will set out what engagement should be sought from infrastructure providers and what it should focus on.
- Earlier engagement from infrastructure providers can ensure better forward-planning, and that greater breadth of views will inform an LPA's strategic decisions. This can allow for more effective, robust decisions that deliver more development and better job access.

Who will be responsible for ongoing operation and enforcement of the new arrangements?

- Independent inspectors will be responsible for assessing a plan and the plan-making process on behalf of the Planning Inspectorate. Compliance with the new requirements and demonstration that engagement has taken place will be something they will take into consideration.
- In terms of ensuring that Prescribed Bodies respond to plan-making authorities' requests, we believe that as these groups are predominately public bodies, or private companies performing public functions, there is a reduced risk of non-compliance. This is because that as a public performing public functions there are public law principles that these organisations act in the public interest and fulfil their statutory duty. Furthermore, engaging in the plan-making process has benefits for Prescribed Bodies themselves. These groups often have their own proposals for growth and investment and, by not involving themselves in the plan-making process, there is a risk that their own strategies will not be accommodated or supported by the plan-making process. It is therefore believed that there is no need for any specific enforcement within the legislation measures to support this new duty. These bodies could ultimately be taken to court by the Secretary of State or others for not complying with a legal

requirement.

Does the approach to implementation enable sufficient flexibility and scope for experimentation / piloting / trialling?

- We are unable to pilot or trial the statutory proposals given the time available until implementation.
- We are developing a user research strategy that will enable comprehensive engagement with users of the system prior to the detail being set out in regulations and policy.
- We will be trialling Infrastructure Delivery Strategies via production of prototype documents in collaboration with Local Authorities. These will include setting out the templates that will guide LPAs and providers what information they are required to provide.

Monetised and non-monetised costs and benefits of Preferred option

The requirement in statute for infrastructure bodies to 'proactively participate' in plan planning making, if asked to, along with the requirement for LPAs to consult with Infrastructure providers will have three broad impacts: first, costs associated with expanding provider's capacity and familiarisation with the new format; second, the increased certainty benefits of plan making / housing; and third, the on-going benefits arising from infrastructure planning alongside the local plan.

Certainty Benefits

The requirement for engagement from infrastructure bodies along with LPA engagement should create a more predictable and effective system for securing the infrastructure needed to support development.

For Local Planning Authorities

Currently the late / failure to engage with an Infrastructure body can result in a plan being withdrawn by a Local Planning Authority – resulting in a huge loss in both time and money for LPAs. It is expected that the requirement for early engagement between LPAs and Infrastructure bodies (and vice versa) will result in fewer plans being withdrawn / failed at the inspection stage, resulting in increased certainty of the delivery of housing and local infrastructure.

The proposed changes reduce the risk of plan failure by boosting the ability of LPAs to secure the information required, reducing risk, and producing a more informed spatial strategy. Currently, unexpected issues raised by these bodies at a late stage can cause several problems for local plans. Bringing their involvement forward to the plan-making process should therefore improve LPA's ability to get information and resolve delivery issues.

It is expected that certainty benefits (housing and local infrastructure) will be on-going resulting in the withdrawal of fewer local plans at the inspection stage – avoiding the loss of strategic planning and housing outcomes.

For Infrastructure Providers

Infrastructure providers could realise benefits in improved access to information on future demand for their networks and facilities, supporting more efficient deployment of infrastructure and capital, and achievement of their statutory and regulatory objectives. Benefits could be seen in both reduced resource and reduced capital spend by due to the certainty of future need preventing 'double-upping' on infrastructure add on and scoping larger strategic infrastructure projects.

Spatial planning and productivity benefits

The requirement for engagement from infrastructure bodies will result in spatial planning benefits for local communities. Benefits could include improved sense of place, improved infrastructure outcomes and less energy-intensive developments.

At present, infrastructure providers and other prescribed bodies may opt to only engage in Local Plans that have a direct influence on their own strategies, often late on at the examination stage when meaningful changes to the underlying strategy are not possible. This can result in the loss of potential improvements to the overall spatial strategy of the plan, which could in turn have produced a built form that was more efficiently servable by infrastructure, and thus more accessible to economic mass and able to contribute to agglomeration economies and the associated productivity gains.

The proposals here engage all parties involved in the planning for infrastructure, and the more joined-up approach should enable a more strategic approach to the alignment of infrastructure and spatial form, making agglomeration productivity gains more achievable (particularly in the case of transport). Businesses could benefit from a deeper labour market if so.

For public services infrastructure, improved alignment of delivery with new housing could result in possible health, education, and productivity benefits in the future.

Familiarisation costs

The policies will require those parties involved to update and refresh their knowledge of specific changes. This will most likely apply to those responsible for ensuring decisions are made in line with national policy and legislation, such as those working in Local Planning Authorities. Due to the new requirements on, and powers available to, LPAs, it is expected that additional training and resource will be required by LPAs to plan for future infrastructure. Organisations subsequently set out in the regulations as a 'Prescribed body' may also have to increase resource capacity in order to service consultations with LPAs in relation to the location and assumed infrastructure needs of LPAs.

We expect there to be familiarisation costs to those regularly involved in national planning policy and the provision of local infrastructure in the form of reading new guidance and regulations. This includes town planners (working in local planning authorities), infrastructure providers and specialist consultants. The costs are one-off and will therefore only occur in the first year.

The assumptions used in the analysis are as follows:

1. Town planners are required to familiarise themselves with new regulation and guidance. To calculate the familiarisation cost we use the median hourly wage for 'Town Planning Officers' from the 2020 Annual Survey of Hours and Earnings' and deflate it into 2019, which gives £17.14. Consistent with the MHCLG Appraisal Guide, we uprate this by 30% to account for overheads (£22.28).
2. There are 345 local planning authorities, each with an average of 38 staff, which gives 13,110 staff in total. This assumption is taken from a commissioned a survey conducted by the Planning Advisory Service which indicates that, on average, the number of planning staff in each local authority is 38 persons. We have assumed all LPA members will have to familiarise themselves with the basics of the infrastructure planning policy and a smaller group will spend more time understand the measure.
3. Furthermore, infrastructure bodies will also need to become familiar with the change in guidance and regulation. We estimate there to be around 150-200 infrastructure planning organisations who will expect to frequently need to use the changes in statute and policy, each with 3-4 staff in each organisation in charge of familiarising themselves with the measures. This assumption is taken from policy research into the number of infrastructure bodies likely to be subject to the new duty and intel regarding the average team size.
4. we use the median hourly wage for 'Management consultants and business analysts' from the 2020 Annual Survey of Hours and Earnings as a proxy for infrastructure provider staff and deflate it into 2019 prices, which gives £20.29. We uprate this by 30% to account for overheads which gives £26.38.
5. Time costs are the same for both groups and are estimated at two to four hours per person, in line with previous impact assessment estimations of the familiarisation of local infrastructure planning policies (these time ranges are the basis for the low and high-cost ranges).

The approach taken uses wage rates to estimate the monetary costs of pure familiarisation of new documentation and regulation.

Using this approach, the average annual cost of familiarisation with the new regulation is estimated at between £0.6m and £1.2m (first year only). Of this, between £0.6m and £1.2m is estimated to fall to local councils with the remaining £0.02m and £0.08m is expected to fall on infrastructure providers (businesses).

Start-up costs / Administrative Burden for new Requirement to Assist

The new engagement requirement will likely result in the need for additional resource within LPAs and Infrastructure providers to comply with the regulation changes. It is anticipated that there are two costs to both LPAs and Infrastructure providers:

1. Costs of recruiting additional staff to meet the new requirement (this is a one-off cost which we expect to fall in the first year of the new requirement).
2. Ongoing costs associated with training staff to meet these requirements.

Note this differs from familiarisation cost, as the familiarisation cost related to existing staff members whereas start-up costs relate to new resources.

The assumptions used in the analysis are as follows:

1. Although LPAs should already be engaging with Infrastructure bodies. it is estimated that between one and three additional town planners will be required for LPAs to engage with infrastructure providers on local infrastructure. Given that some LPAs likely have sufficient resource we assume additional resource is required in 20% of the 345 LPAs in England[82].
2. We use the median hourly wage for 'Town Planning Officers' from the 2020 Annual Survey of Hours and Earnings' and deflate it into 2019, which gives £17.14. Consistent with the MHCLG Appraisal Guide, we uprate this by 30% to account for overheads.
6. The obligation in statute for infrastructure bodies to assist in plan-making, if asked to, will require additional resource from infrastructure bodies**.** Not all infrastructure providers will be affected as they have significant variations in the likelihood of being subject to the new power, and their existing resource in place. We expect around 150-200 infrastructure bodies to increase their resource.
7. We estimate there to be around 150-200 infrastructure planning organisation with an additional 1-3 staff in each organisation required for infrastructure providers to engage with LPAs on local infrastructure This assumption is taken from policy research into the number of infrastructure bodies and intel regarding the average team size. For this analysis, we assume that all infrastructure bodies are businesses. Some will fall under the public sector, such as Network Rail, but in the absence of firm evidence as to the proportion of such bodies that are public sector, we make this simplifying assumption. As a result, this is likely to over-estimate the extra costs to business.
3. We use the average wage for 'Management consultants and Business analysts' from the 2020 Annual Survey of Hours and Earnings, deflated into 2019 prices, which is £43,236 per annum. In line with assumptions above average wage rates have been uprated by 30% to account for overheads (£56,207).

[82] https://www.planningportal.co.uk/

4. We expect there will be one-off (first year only) recruitment and training costs (ongoing). To estimate recruitment costs, we use the cost of recruitment per new employee at £3,000 in line with Glassdoor' Talent Acquisition report[83].The Employer skills survey 2019 estimates that trainees spend on average six training days per year (first year only) with 3.6 days per year in each subsequent period.

Based on the above assumptions, average annual costs are estimated at circa £5.9m for Local Planning Authorities. Over the 10-year appraisal period, total costs are estimated between £29m and £88m (discounted and in 2019 prices).

Average annual costs are estimated at £18.3m for infrastructure bodies. Over the 10-year appraisal period, total costs to infrastructure bodies are estimated between £73m and £293m (discounted and in 2019 prices).

Infrastructure Delivery Strategy Costs

With the new duty of obligatory infrastructure planning and new cost burden of the creation of an Infrastructure delivery strategy will be borne by local authorities. The cost of developing a complete infrastructure delivery strategy is estimated to be around £70-£120k (This assumption was through conversations with experienced consultants that conduct infrastructure planning studies and viability assessment on behalf of local authorities). This would typically involve the infrastructure strategy, the viability assessment of the local authority and Levy charging schedule that would sit with the current developer contribution system (CIL/S106) or the current developer Infrastructure Levy system. Furthermore, the costs of the strategy can vary between local authorities given an array of factors including iteration, typologies of land and size of local authority. Therefore, to account for the costs only associated to the infrastructure planning element of the strategy a high-level average estimate of £15k per local authorities has been taken (This assumption was also derived from user research on typical consultants' costs for this type of work). This has been scaled to the number of authorities and the occurrence that an IDS strategy will be needed (twice) within the 10-year appraisal period. This provides a total cost estimate of £8.9m over the 10-year period or £890k per annum (discounted and in 2019 prices).

[83] Glassdoor for Employers, How to calculate your cost-per-hire, https://www.glassdoor.co.uk/employers/blog/calculate-cost-per-hire/#:~:text=The%20average%20cost%20of%20recruitment,strategic%20decisions%20lower%20recruitment%20costs.

Local Plan cost savings

We assume the requirement in statute for infrastructure bodies to 'proactively participate' in plan making, if asked to, along with the requirement for LPAs to consult with Infrastructure providers reduces the number of local plans that are withdrawn at the inspection stage. This avoids LPAs incurring the costs associated with withdrawing a local plan and reduces the likelihood of inspectors providing recommendations or calling for an early review. To inform an estimate of the cost savings we made the following assumptions:

1. In 2020, five emerging local plans in England were either withdrawn from examination or found in unsound (historic information from the Planning Advisory Service). One of these withdrawals (Uttlesford) related to issues highlighted in the proposed Infrastructure Delivery Plan. Based on this in the 'do nothing' scenario approximately 1 (we used a range of 0.75 to 1.25) LPAs per year withdraws / fails the review stage due to poor infrastructure planning and failure to co-operate with infrastructure bodies.
2. We assume that under the new requirements, the number of local plans refused or withdrawn due to poor IDPs will reduce significantly. This is expected to fall between 0 and 0.25 LPAs per year.
3. Cost of plan making it is estimated that the cost of producing an emerging plan is in the region of £1.4m - £4m with the average at £2.63m. We therefore use this range in our analysis, with our central estimate as £2.63m (2019 prices).

Based on the above assumptions, average **annual benefits in** terms of cost savings are estimated at between £0.6m and £4.3m for Local Planning Authorities. Over the 10-year appraisal period, total benefits are estimated between £6m and £43m (discounted and in 2019 prices).

Direct costs and benefits to business calculations

There are direct costs or benefits to business as a result of the new infrastructure planning policy. These include familiarisation costs (costs of training new staff to understand the measure) and start-up costs/administrative burden, cost associated with increasing and upskilling new resource.

Familiarisation costs

In line within the assumptions set out in the monetised familiarisation cost section, it is expected that businesses in the form of infrastructure providers will face around £0.02m to £0.08mof familiarisation costs in the first year of the policy (discounted and in 2019 prices). This accounts for current resource becoming familiar with the new infrastructure planning policy. As above, we have counted infrastructure providers as businesses until the final list of bodies is known; until then the cost is likely to be an over-estimation.

Start-up costs / Administrative Burden

In line with the assumptions set out in the monetised start-up costs and administrative burden, businesses in the form of infrastructure providers will be expected to incur costs of between £73m and £293m (discount and in 2019 prices) to fund and upskill new resource to meet the policy requirement. This includes continuous training budget for new resource. It is expected that on average this cost would be in the region of £18.3m per year and is expected to reduce over time as the policy beds in.

Mitigation of impacts

In order to mitigate any impacts on businesses, the following measures will be undertaken:

- Comprehensive user research with impacted organisations to ensure the power is of minimal burden and designed to be straightforward to comply with.
- Publication of guidance for bodies who will be impacted by the power explaining what they need to do, how they should respond and what legislation they need to follow.

Improved outcomes

Local Planning Authorities that have adopted a Local Plan can lead to improved outcomes for local people and place due to a suite of benefits, including, strategic site designations, adequate infrastructure, secondary employment, increased housing / infrastructure certainty and agglomeration benefits.

Risks and assumptions

The assumptions are outlined above. Where estimates are uncertain ranges have been used.

Impact on small and micro businesses

No direct impacts, as the measure impacts large infrastructure providers (public and private), and these bodies are not SMBs. Any minor possible benefits arising from wider impacts would likely be positive (see below).

Wider impacts

- Greater alignment and delivery infrastructure provision contribute to convergence between the country's' regional economies.
- Increased build out, and therefore housing supply, could limit growth in housing costs.
- Increased buildout of housing supply could have indirect impacts on labour productivity via wider determinants of productivity –investment, skills acquisition, and the efficiency with which firms can combine labour and capital.

A summary of the potential trade implications of measure
Not applicable.

Monitoring and Evaluation
The impacts of the reforms will be assessed as part of the holistic evaluation that is being informed by the scoping study. The scoping study will consider the suitability and feasibility of the metrics that will inform the evaluation and recommend appropriate methodologies to address the research questions, enabling the development of detailed proposals.

Annex 12: Statement of Impacts - Infrastructure Levy

Problem under consideration and rationale for intervention

How the current system operates

New developments bring new demand for public services and infrastructure. We can mitigate these impacts by securing contributions from developers. This approach captures increases in land value generated by planning decisions and uses the value to deliver new infrastructure and affordable housing provision, which are key for making development acceptable for both new and existing communities.

Currently, there are two routes to securing developer contributions: negotiated planning obligations, which are mainly delivered through s106 agreements, and the Community Infrastructure Levy (CIL), which local authorities can choose to charge, and which they set on the basis of 'X pounds per square metre of development.' S106 planning obligations must be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in size and scale to the development. They are frequently used to secure affordable housing onsite. CIL can be used to address the cumulative impact of development within an area.

The current system of developer contributions delivers contributions to both affordable housing and infrastructure, as well as to neighbourhoods. There were 52,100 affordable homes delivered (completions), and 57,417 starts on site in England in 2020-21[84], including those delivered through developer contributions and through the affordable housing programme. Just under half (47%) of these affordable homes were funded through section 106 (nil grant) agreements, compared to 51% in the previous year. Every year between 2015-16 and 2019-20 saw an increase in both the overall delivery of affordable homes and affordable homes funded through section 106 (nil grant) agreements. The decrease in 2020-21 could be attributed to restrictions introduced in response to the Covid-19 pandemic[85].

Research published by the Department in 2020[86] found there has been a significant growth in certain areas for developer contributions securing other forms of infrastructure (non-affordable housing) since 2016/2017. The value of non-affordable housing planning obligations in 2018/2019 for England amounted to £294 million for Transport and Travel (110% increase on 2016/2017), £439 million for Education (70% increase), £157 million for Open Space and the Environment (27% increase), £62

[84] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1034090/Live_Table_1000.ods

[85] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1034043/AHS_2020-21.pdf

[86] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/907203/The_Value_and_Incidence_of_Developer_Contributions_in_England_201819.pdf

million for Community Works and Leisure (60% decrease), and £187 million for 'Other', which includes healthcare (240% increase).

We estimate that £591m of CIL was collected in 2019/2020, from published Infrastructure Funding Statements (IFS). Of this, between 15%-25% is allocated to the neighbourhood in which development occurs – either given directly to the parish or spent on the neighbourhood's behalf in unparished areas. Local authorities are able to spend the remainder on infrastructure that addresses the impact of development in the area. A further £136 million of Mayoral CIL was collected, going towards the funding of Crossrail.

Problems with the current system

Evaluations of the current system point to several problems. The existing system of developer contributions is uncertain, with the amount of value a developer must contribute not being decided until the s106 negotiation that occurs as part of the planning application process. If a developer is uncertain of the contribution they will be required to make, it is harder for them to pass these costs on into a reduced land price. Instead, through a process of viability assessment, the uncertainty can result in reduced developer contributions due to agreed contributions being renegotiated downwards on viability grounds once a scheme comes to be developed. CIL, which is not subject to viability assessment, has been cited by developers as creating 'greater certainty when undertaking residual land valuations which in turn support the internal assessments that comprise the business case for development'[87]: increased certainty over developer contributions makes it easier for these to be priced into land values. It is difficult to precisely estimate how much value is currently captured by local and national government, through the system of developer contributions and through national taxes such as Stamp Duty Land Tax and Capital Gains Tax. Estimates have varied from 25% to c50%[88].

The use of section 106 planning obligations is broadly considered to be uncertain and opaque and can sometimes result in long negotiations between developers and local authorities. Research in 2018-19 found that over 80% of local authorities considered that s106 planning obligations create a delay in granting planning permission. This acts as a barrier to entry to the market, and major developers are better placed to devote the legal and valuation resource needed to negotiate successfully. This unevenness is a problem too for local authorities, with significant variation in skill and negotiation in negotiating viability across authorities. This creates uncertainty for communities about the level of affordable housing and infrastructure that development

[87] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/907203/The_Value_and_Incidence_of_Developer_Contributions_in_England_201819.pdf

[88] https://www.savills.co.uk/research_articles/229130/267514-0/how-far-can-land-value-capture-be-pushed, https://www.progressive-policy.net/publications/gathering-the-windfall-how-changing-land-law-can-unlock-englands-housing-supply-potential and http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/housing-communities-and-local-government-committee/land-value-capture/written/79512.html

will bring, creating cost, delay, and inconsistency in the process, with over 60% of local authorities believing that s106 planning obligations can slow development completion[89]**.** Recent research commissioned by the Department looked into reasons for delays in the planning process. In a representative sample of recent planning applications, agreeing the legal terms of a s106 agreement was the third most commonly cited reason for delays (after incorrect documents submitted and applications amended to address consultees concerns) with 30% of applications in the sample reporting this problem.

S106 was the second largest cause of delays in terms of aggregate number of weeks delay caused. There is a general acceptance amongst LPA survey respondents that negotiating s106 agreements adds delay to granting permission and to completion of a development. Only 12% of LPAs agreed that negotiating planning obligations does not create a delay in granting planning permission. 66% of LPA respondents agreed that negotiating s106 increased the time between application and development completion. On average, agreeing the legal terms of a s106 agreement caused 4 or 5 months of delay although in some cases complex issues led to a much longer delay of up to 9 months[90]. Although viability challenges related to the s106 agreement were less common, affecting 3% of the sampled applications, these caused delays of 3 months on average. Qualitative evaluation suggests that there is substantial variation in local authorities' ability to use the s106 system effectively. This can result in substantial differences in the contributions secured between neighbouring authorities that have similar market conditions otherwise, and the pace of development, for example where developers delay the signing of s106 agreements to extend the period before permission expires if a developer wants to finish building out a live site before commencing development on a new site.

There are currently 162 CIL charging authorities in England, which represents 50% of local authorities. Research commissioned by the Department[91] found that some LPAs have concerns implementing CIL, with regard to potential trade-offs in the subsequent reduction in the LPAs ability to secure affordable housing. CIL is not negotiable, meaning it is more certain than s106 planning obligations. However, it does not respond to changes in market conditions, or to variations in the value of development, as the charge is set at the point planning permission is granted and becomes payable from commencement. Any significant upturn in the market cannot be reflected in the charge, and in a downturn, development can become stalled as a result. In addition, the requirement to pay CIL from commencement (prior to completion and sale of any units) can create cash flow challenges (for SMBs in particular) which in turn creates uncertainty. The proposed Infrastructure Levy will mitigate against this as Levy liability

[89] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/685301/Section_106_and_CIL_research_report.pdf

[90] DLUHC, Delays and barriers experienced in the planning applications process, final report, May 2022

[91] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/907203/The_Value_and_Incidence_of_Developer_Contributions_in_England_201819.pdf

is based on the final development value and is able to reflect price changes in the market.

Rationale for reform

Research commissioned by the Department shows that there is substantial scope for increased land value capture, with the greatest scope being on greenfield sites in areas with high development values, and on development types where the current system may perform less well, such as student accommodation. Around half of all development (47%) occurs on greenfield sites. Capturing more land value would enable greater mitigation of development, including more affordable housing and more infrastructure. On brownfield sites there may be less scope for significantly greater land value capture, particularly in areas with low development values, but there are still opportunities to streamline the system of developer contributions, reducing delay and increasing clarity and certainty for communities around the benefits they will get from development.

The government has proposed amalgamating these two elements of developer contributions into a new Infrastructure Levy (IL), which would be a mandatory, non-negotiable charge on development and can be used to secure both affordable housing and infrastructure. The introduction of the new Levy will allow infrastructure like schools, GP surgeries and new roads to be provided in a more effective, transparent, and efficient manner.

The Levy will be charged as a proportion of a development's final gross development value, above a minimum threshold, below which no Levy is charged. Charging the Levy on the final development value will allow liabilities to respond to market conditions, and removes the need for obligations to be renegotiated if the gross development value is lower than expected, whilst allowing local authorities to share in the uplift if gross development values are higher than anticipated. The new Levy would provide certainty about the rate at which developer contributions are charged, ensuring that protracted viability negotiations, which can last up to many months, will no longer occur and providing more certainty to developers, allowing them to price Levy liabilities into the amount they pay for land. together, these create the scope for increased land value capture. The reforms aim to give local authorities greater flexibility to determine how developer contributions are used, including expanding the scope of the Levy to cover affordable housing provision.

Rationale and evidence to justify the level of analysis used in the IA *(proportionality approach)*

We have made best use of available evidence, and where that is limited or there are uncertainties around final design, we have used assumptions, tested with stakeholders. We have used ranges where there is uncertainty to show the possible spectrum of outcomes. Our proportionality approach is discussed in more detail throughout the monetised costs and benefits section.

Description of options considered
The different options considered by officials for the Infrastructure Levy are as follows:

Option 1) This option would maintain the current mix of s106 and CIL for delivering developer contributions but provide more certainty and transparency through guidance/standardisation and introduce a reduced scope for viability negotiation. Digital tools would be used to increase transparency, such as making it easier to find and assess contributions. This would not require primary legislation but would therefore not deal with the problems in the current system.

Option 2) This would make the existing CIL regime mandatory; meaning that the 50% of local authorities that currently do not charge CIL would be required to charge it. We could implement CIL to be based on either current charging mechanisms or change the charging mechanism so that it is based on sales value not £/sqm, making it more responsive to changes in market conditions. The use of a minimum threshold would decrease viability impacts, and affordable housing would continue to be delivered through section 106 agreements.

Preferred Option: Option 3) This merges CIL/s106 developer contributions into an Infrastructure Levy which would be charged on all sites where floorspace is calculable and collected in cash. Delivery of onsite affordable housing, up to a capped proportion of total Levy liability, will be considered as in-kind payment of the Levy. Local authorities will use Levy receipts to fund and deliver infrastructure themselves and will be expected to borrow against future Levy revenues to help secure infrastructure. As with the existing system, we intend for funds from the Infrastructure Levy to prioritise affordable housing and infrastructure, or another purpose set by the Secretary of State.

Alongside this, we will maintain an 'Infrastructure in-kind routeway' to enable the largest and most and complex sites to pay for the delivery of infrastructure and affordable housing through the existing section 106 mechanism. In order to ensure the Levy is paid through this routeway, schemes will be subject to an Infrastructure Levy 'backstop', which ensures that the value of the 'in-kind' contribution is at least as much as that which would otherwise be required to be paid in cash through the core Levy routeway.

Where it is not possible for the floorspace of a site to be calculated, such development would be allocated to the Non-Levy/Negotiated Routeway. These sites would not be subject to the Infrastructure Levy – neither through the core Levy or infrastructure in-kind routeway - and developers would use the existing system of negotiated section 106 planning obligations as currently, not subject to an Infrastructure Levy backstop.

Option 4) We could fully amalgamate CIL/s106 developer contributions into an Infrastructure Levy, with both large and complex sites and small and medium sites subject to it.

All developer contributions would be levied in cash with zero ring-fencing, meaning that local authorities can spend the Levy revenue without any restrictions, or necessity to spend it on infrastructure or housing. Local authorities would secure all infrastructure and affordable housing themselves, borrowing where appropriate.

Policy objective
The policy objectives for the Infrastructure Levy are:

- To capture at least as much, if not more, of the uplift in land value than the current system. This would be supported by charging the new Levy on the final sales value of development, as opposed to CIL which is charged at the point planning permission is granted, and by the increased certainty of the Levy allowing developer contributions to be more effectively priced into land.
- To deliver at least as much, if not more, on-site affordable homes as through the current system.
- To reduce delays between local authorities and developers experienced under section 106 agreements, empowering local authorities by providing flexibility in how they spend the Levy, and
- Provide transparency, so that it is clear to existing and new residents what new infrastructure would accompany development and how it would be delivered.

Summary and preferred option with description of implementation plan
The preferred option will be merging the existing CIL/s106 system (Option 3) into a consolidated Infrastructure Levy, to be charged on the vast majority of sites, with an in-kind infrastructure routeway used for sites in limited circumstances.

The Infrastructure Levy will be locally set, and locally raised, and local authorities will be able to set differential rates and allowances for different types of land. Local authorities will produce a charging schedule which sets out Levy rates, and there will be a requirement to consult on the proposed Levy rates in the charging schedule which will be subject to a public examination to ensure that it does not make development unviable. Funds from the Infrastructure Levy must be used to fund affordable housing and infrastructure, although local authorities will have some flexibility to spend elements on other priorities if they can demonstrate that their affordable housing need has been addressed.

The IL will allow onsite affordable housing to be secured in-kind as a proportion of total Levy liabilities. Local authorities will be able to borrow against future Levy revenues to deliver infrastructure themselves. How infrastructure, affordable housing, and other priorities will be secured through IL proceeds will be set out in an Infrastructure Delivery Strategy (IDS), which charging authorities will have to produce when preparing a charging schedule. The IDS will set out infrastructure capacity needs, committed schemes and a Levy spending plan, which will set out the charging

authority's approach to prioritisation of Levy receipts for infrastructure and the proportion of the Levy intended to be spent on affordable housing through the 'right to require'. The IDS will also set out the proportion of Levy receipts to be allocated to as neighbourhood share. As with the existing system, there will be an expectation for local authorities to prioritise affordable housing and infrastructure.

Modelling from the University of Liverpool, to be published shortly, indicates that potential exists to raise significantly more revenue than the current system of S106 and CIL, particularly on greenfield sites. Subject to detailed design, which appropriately takes into account site variation, this suggests that more value could be captured through the Levy than the existing system. The degree to which additional revenues would be realised would depend not just on the Levy rates and thresholds chosen but on the extent of exemptions, and the reaction of market participants such as landowners, land promoters and developers, and when payments of the Levy are made concluded that potential exists to raise significantly more revenue than the current system of s106 and CIL, giving confidence that the IL will raise no less than the existing system and that it could raise substantially more. The degree to which additional revenues would be realised would depend not just on the Levy rates and thresholds chosen but on the extent of exemptions, the reaction of market participants such as landowners, land promoters and developers, and the approaches taken by local authorities in borrowing against Levy income.

When considering timescales involved, it is considered that we require powers in Planning Bill (primary legislation), predominantly asking for minor amendments to the powers currently in place for CIL in the Planning Act, then elaborating on them further via regulation-making powers to specify the detail of how the Levy would work. Therefore, non-regulatory measures will not deliver the change required to fully implement the new Levy. Moreover, we will implement a phased rollout of the Infrastructure Levy across several local authorities through a 'test and learn' approach, which will be used to understand, monitor, and evaluate the Levy's operational impacts.

Monetised and non-monetised costs and benefits of each option *(including administrative burden)*

The Infrastructure Levy is continuing through the policy research and design stage of construction and therefore a conclusive picture of costs and benefits cannot be fully determined. However, under each option a range of monetisable and non-monetisable cost and benefits scenarios has been considered, and where impacts cannot be determined, high level assumptions have been used to provide indicative estimates.

As determined by options 3 and 4, the major and crucial benefit of introduction of an Infrastructure Levy would be time saved (monetisable benefit) from costly and long negotiations and the certainty (non-monetisable benefit) of tax or developer contributions for both the developer and the local authority to allow for better financial

project management and community infrastructure planning. This increased certainty combined with additional flexibility over spending is expected to create efficiency and equity benefits (non-monetisable). All options that deviate from the current system would require substantial amount of learning and resources for local authorities, developer and any parties involved in the development of housing to become familiar and operate the new developer contribution system. This will include training and upskilling current and new resources. Options 1 and 2 which follow a similar system to the established CIL and S106 would require less intervention and therefore cause significantly less impact. It is expected that the long run the cost of managing the Levy is paid for by Levy revenue.

The aim of the Infrastructure Levy is to capture at least the same amount of land value as the current system captures in the short-term and ramp up across the medium to long term. It is expected that greater land value capture can lead to better provision of public infrastructure and affordable housing. These benefits are difficult to monetise, and measure given the infancy of the policy, and therefore will only be included as non-monetised benefits.

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

Monetised Benefits

Efficiency Benefits from reduced negotiation.

One of the most crucial benefits of the Infrastructure Levy is the reduced or eliminated negotiation time spent on each development. This is a saving for both developers and local planning authorities, however, sometimes it is considered a worthy expenditure for developer in light of a stronger negotiated position, this is discussed further below. For the purpose of this analysis, the reduction in negotiation time is considered a beneficial time-saving exercise for local planning authorities.

Internal research commissioned by the Department[92] on the delays and barriers to the planning application process comprised of a case study survey of 80 major and minor planning applications, with 57% of applications involving s106 agreements. (The remaining 43% of applications were either minor or major applications in which it was agreed that no s106 contribution would be made). Of the 57% of applications where s106 agreements were agreed (46 applications), 27 applications reported delays within the s106 process. The main cause of these were due to legal team agreeing terms of the negotiations, of which the average amount of time delayed was 18.3 weeks.

Using this assumption against the assumptions that the number of applications granted would follow trends observed in recent years, a three-year average (from

[92] DLUHC, Delays and barriers experienced in the planning applications process, final report, May 2022

18/19, 19/20, 20/21) is taken to obtain an estimate of the number of applications granted per year. This results in an estimate of 5,641 major residential applications granted per year would give an approximate annual time saving of 34,840 weeks.

> *[5,641 applications x 34% (percentage of delayed applications due to s106, 57%*(27/46) from sample) = 1,904 (the number of major residential planning applications with delays)].*
>
> *[1,904 x 18.3 weeks (the average length of delays) results in a total number of weeks spent on negotiation at 34,840 weeks]*

It is difficult to average the numbers of hours each local planning authority would spend per week on one application, however, a high-level indicative assumption might suggest 1-2 employees might spend 1-2 hours per week per case. (This assumption has been determined from a combination of policy intel on LPA negotiations and the commissioned research on delays and barriers to the planning application process).

Applying sensitivity analysis to this estimate produces a range between 35,000-140,000 hours spent on all major residential planning applications per year in the form of developer negotiations. To calculate the time saving cost we use the median hourly wage for 'Town Planning Officers' from the 2020 Annual Survey of Hours and Earnings[93] and deflate it into 2019 prices, which gives £17.14. As suggested in the DLUHC Appraisal Guide[94], we uprate this by 30% to account for overheads which gives £22.28 and multiply this by 7.4 working hours in a day to find the daily cost of employment per member of staff (£164.88). This provides us with an indicative central estimate of costs savings of £1.7m per annum for all local planning authorities (in 2019 prices). This is estimated to be between £6.7m and £26.7m over the 10-year period (discounted and in 2019 prices).

Non-monetised benefits

Efficiency and equity benefits

We anticipate that the Infrastructure Levy will drive efficiency and equity benefits in three key areas.

Firstly, as noted above, the Levy is expected to reduce or wholly eliminate in some instances negotiation time spent on each development, generating efficiencies for local authorities (monetised) and developers (non-monetised). The benefit for developers (time and staff cost savings) is not possible to estimate due to it not being possible to disentangle how much of the negotiation time is the developers trying to

[93] https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/regionbyoccupation4digitsoc2010ashetable15

[94] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/576427/161129_Appraisal_Guidance.pdf

reach an agreement that gives them an acceptable profit margin to reflect the risk and effort of developing the site vs. trying to secure greater profit from the site.

Secondly, a reduction in the time taken for LPAs to determine planning applications due to no negotiations will also lead to cost savings to developers from a reduction in the cost of holding capital. Applicants face financing and opportunity costs in holding onto land and other assets whilst their applications are being determined by the LPA. The costs of holding capital are related to both the quantity and value of land. Developers will reduce these costs if they can commence development more quickly due to reduced determination times by LPAs. This is considered an indirect benefit to business as it is contingent on the reduction in LPA determination times. The benefits will only be realised when there is a reduction in LPA determination times therefore the impact is not immediate. As above this is not possible to monetise as it is not possible to disentangle whether the negotiations are worthy expenditure due to increasing profits.

Thirdly, Infrastructure Delivery Strategies will encourage local authorities to consider how they intend to use their Levy funds more strategically, providing greater certainty over what types of infrastructure will be required on different sites, allowing for faster build out rates.

Finally, the University of Liverpool report shows that there is more value that can be captured, and the Levy is designed to allow for greater land value to be captured without impact on development viability. This means that more of the value generated by development will go to local authorities, rather than landowners, and we anticipate that local authorities, in spending these funds on infrastructure and affordable housing, will spend this value uplift more efficiently and equitably than landowners.

By increasing the certainty and flexibility for local planning authorities to plan for and spend receipts where it is needed in the authority, independent of developer negotiations, there may be a more efficient and equitable use of resources compared to the counterfactual. This impact has not been monetised due to the difficulties of estimating efficiency and equity robustly. However, switching point analysis has been conducted which indicates that a 1.0% more efficient and equitable spend of resources would result in a NPV of 0 for the measure over the appraisal period. Under the ‘test and learn’ approach, it will be possible to collect data regarding efficiency impacts, which may allow for this to be taken into account in future calculations of NPV.

Monetised costs

There are three sets of costs that are expected to arise with the introduction of a new infrastructure levy replace the current system of section 106 and community infrastructure levy. These include familiarisation costs, new resource costs and the creation of an Infrastructure Levy schedule.

Familiarisation costs

Many local authorities will already be familiar with the exercise of determining the infrastructure need with their authority and the charge they need to apply on housing development to ensure deliver of this infrastructure. However, with any new policy there is a bedding in period and familiarisation exercise that will happen. Familiarisation refers to the cost for existing staff to upskill. We used the following assumption to estimate the first-year familiarisation cost.

4. Town planners are required to familiarise themselves with new regulation and guidance. To calculate the familiarisation cost we use the median hourly wage for 'Town Planning Officers' from the 2020 Annual Survey of Hours and Earnings' and deflate it into 2019, which gives £17.14. Consistent with the MHCLG Appraisal Guide, we uprate this by 30% to account for overheads (£22.28).
5. There are 345 local planning authorities, and we expect around 10 people in each authority to become familiar with the measure. This assumption is taken from a commissioned a survey conducted by the Planning Advisory Service which indicates that, on average, the number of planning staff in each local authority is 38 persons. Further policy intel determined around 25% of a planning authority planners will work on developer contributions.
6. As a proxy for developers, planners in the private sector will also be required to familiarise themselves with these changes, this includes planning consultants. According to Annual Population Survey (ONS), there are an estimated 21.3k planners in England. According to the RTPI, it is estimated that 44% of planners work in the private sector[95], which suggests that there are around 9.4k planners working in the private sector in England.
7. We use the median hourly wage for 'management consultants and business analysts' from the 2020 Annual Survey of Hours and Earnings as a proxy for planners in the private sector, and deflate it into 2019 prices, which gives £20.29. We uprate this by 30% to account for overheads which gives £26.38.
8. Time costs are the same for both groups and are estimated at 10 hours per person. (This assumption is taken from policy intel for expected familiarisation of the new Levy).

The approach taken uses wage rates to estimate the monetary costs of pure familiarisation of new documentation and regulation.

Using this approach, the average annual cost of familiarisation with the new regulation is estimated at £3.3m (first year only). Of this, between £0.8m is estimated to fall to local councils with the remaining £2.5m expected to fall on developers (discounted and in 2019 prices).

Infrastructure Levy Schedule Creation Costs

[95] https://www.rtpi.org.uk/media/5889/theplanningprofessionin2019.pdf

The Infrastructure Levy will require local planning authorities to construct an Infrastructure Levy charging schedule that will decide and set out the Levy rates for development within each authority. This will usually be commissioned out to consultants as part of a suite of infrastructure assessment work that includes the LPA infrastructure plan. The Levy will require land viability assessment to determine the correct rates. The cost of developing a complete Infrastructure Delivery Strategy is estimated to be around £70-£120k. This assumption comes from policy intelligence through conversations with longstanding consultants that conduct infrastructure planning studies and viability assessment on behalf of local authorities. This would typically involve the infrastructure strategy, the viability assessment of the local authority and Levy charging schedule. Furthermore, the costs of the strategy can vary between local authorities given an array of factors including iteration, typologies of land and size of local authority.

Therefore, to account for the costs only associated with the Infrastructure Levy element of the strategy a high-level range of £40k-£60k per local authorities has been taken, with an average estimate of £50k. This assumption has been derived by policy intelligence, along with research commissioned by the Department[96] which estimates that the average cost of implementing a CIL charging schedule being between £15,000 and £50,000 for 60% of local authorities. This has been scaled to the number of authorities and the assumption that an Infrastructure Levy Schedule will need to be created once over the appraisal period. This provides a cost estimate of approximately total cost over 10 years between £11.9m and £17.8m (discounted and in 2019 prices).

Start-up costs / Administrative Burden

The new engagement requirement will likely result in the need for additional resource within LPAs and developers to comply with the regulation changes. It is anticipated that there are two costs to both LPAs and developers:

1) Costs of recruiting additional staff to meet the new requirement (this is a one-off cost which we expect to fall in the first year of the new requirement).
2) Ongoing costs associated with training new staff to meet these requirements.

Note this differs from familiarisation cost, as the familiarisation costs are related to existing staff members whereas start-up costs/administrative burden relate to new resources.

The assumptions used in the analysis are as follows:

1. Although LPAs should already be engaging with developers. it is estimated that between one and three additional town planners will be required for LPAs to build the Infrastructure Levy charging schedule and Infrastructure Delivery

[96] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/589635/CIL_Research_report.pdf

Strategy (this is a policy assumption derived from intel from LPAs who have created charging schedules for the existing Community Infrastructure Levy).

2. In absence of detailed knowledge of each LPA resourcing structure, the analysis assumed all 345 LPAs will need to recruit to meet the requirement of the measure.
3. We use the median hourly wage for 'Town Planning Officers' from the 2020 Annual Survey of Hours and Earnings' and deflate it into 2019, which gives £17.14. Consistent with the MHCLG Appraisal Guide, we uprate this by 30% to account for overheads (£22.28).
4. Developers may need additional staff resources to adjust to the Infrastructure Levy. We assume that the number of applications granted would follow trends observed in recent years, a three-year average (from 18/19, 19/20, 20/21) is taken to obtain an estimate of the number of applications granted per year. This results in an estimate of 5,641 major residential applications granted per year.to determine the number of additional resources that would be needed. We have used a range of between 0.1 and 0.2 FTE new resourcing requirement for each development given many developers will be sharing a resource across different development in regards meeting the new measure (this assumption is taken from policy intel on expected major developer resource expectations).
5. We use the average wage for 'Management consultants and Business analysts' from the 2020 Annual Survey of Hours and Earnings, deflated into 2019 prices, which is £43,236 per annum. In line with assumptions above average wage rates have been uprated by 30% to account for overheads (£56,207).
6. We expect there will be one-off (first year only) recruitment and training costs (ongoing). To estimate recruitment costs we use the cost of recruitment per new employee at £3,000 in line with Glassdoor' Talent Acquisition report[7].The Employer skills survey 2019 estimates that trainees spend on average six training days per year (first year only) with 3.6 days per year in each subsequent period.

Based on the above assumptions, average annual costs are estimated at circa £29.3m for Local Planning Authorities. Over the 10-year appraisal period, total costs are estimated between £147m and £440m (discounted and in 2019 prices).

Average annual costs are estimated at £41.3m for developers. Over the 10-year appraisal period, total costs to developers are estimated between £276m and £551m (discounted and in 2019 prices).

Direct costs and benefits to business calculations

There are three direct costs or benefits to businesses as a result of the new Infrastructure Levy. These include familiarisation costs to developers (costs of training new staff to understand the measure), start-up costs/administrative burdens to developers (costs associated with increasing and upskilling new resources), and

efficiency benefits from no negotiations for developers. As these impacts relate to tax contributions, they are excluded from the EANDCB.

Familiarisation costs to developers

In line within the assumption set out in the monetised familiarisation cost section, it is expected that business will have circa £2.5m of familiarisation costs to businesses in the first year of the policy (discounted and in 2019 prices). This accounts for current resource becoming familiar with the new Infrastructure Levy policy.

Start-up costs / Administrative Burden to developers

In line with the assumption set out in the monetised start-up costs and administrative burden, business in the form of developers will be expected to incur costs of between £276m and £551m (discount and in 2019 prices) to fund and upskill new resource to meet the policy requirement. This includes continuous training budget for new resource. It is expected that on average this cost would be in the region of £41.3m per annum over the 10yr appraisal period and is expected to reduce over time as the policy beds in.

Efficiency benefits to developers

Businesses, in the form of developers, may benefit from the removal of s106 negotiations via time savings as well as reduced resource **requirements to undergo negotiations. This was not monetised as for some developers the negotiation time, and resourcing and continuous training costs, may provide worthwhile due to reduced developer contributions for purposes other than viability, i.e., increased profits, and it was not possible to calculate the proportion of developers/sites this applies to.**

Impact on small and micro businesses

Small and micro businesses (SMBs) in the housing sector impacted by the Infrastructure Levy (IL) principally comprises developers.

ONS data suggests that in England there are 39,340 developers of which 38,075 (97%) are ‘micro’ businesses (defined as having less than 10 employees) and 1,200 (3%) ‘small’ businesses (defined as having 10-49 employees). There are only 65 developers that can be classed as medium or large businesses. Not all of these developers are involved in the development of new homes.

Impact on small and micro businesses

Overall, the proposed Infrastructure Levy is expected to make the system of developer contributions clearer and more transparent, making it easier for small and micro businesses to navigate than the current system. The impacts on SMBs can be broken down as follows:

1. The existing negotiated and discretionary s106 system puts SMBs at a disadvantage, as they have less access to the level of negotiating expertise than major developers. The new IL system will be fairer, as all developers within a particular area will be subject to the same Levy rates and minimum thresholds that will not be subject to negotiation. This makes it easier for small and micro businesses to navigate the developer contributions system.

2. The new system for developer contributions will enable developers to provide contributions upon completion, compared to at present where contributions are often required at the point of commencement. This could benefit SMBs, which normally have lower resources compared to larger developers in the sector by aiding cash flow issues as a result of IL being payable later than CIL.

3. The IL may cause additional burdens for SMBs working within areas where CIL is currently not charged (~50% of Local Authorities) in terms of new resources and skills required when transitioning to the new Levy system. However, such SMBs would likely be familiar with the existing s106 process, which is a system that can create delay, cost, and inconsistency to the planning process, and the transition to a more streamlined system should mitigate against this concern.

To quantify the possible disproportionate impacts on SMB housebuilders, significant in-depth analysis and research would need to be undertaken. Given this, alongside the IL being expected to have an overall positive impact on SMBs, it was not deemed feasible or proportional to monetise at present.

Mitigating the impact on small and micro businesses

Through regulations it will be possible to introduce reduced rates and exemptions reflecting those in the existing system (such as the small sites threshold) to support SMB housebuilders. We are consulting on whether such thresholds should be introduced, but if SMBs are found to be disproportionately impacted by the IL then reduced rates or exemptions could be applied to mitigate this risk.

We will introduce the Infrastructure Levy through a phased ‘test and learn’ approach across several local authorities. This will be used to understand, monitor, and evaluate the Levy’s overall operational impacts on affected stakeholders and users of the system, including on small and micro businesses.

Wider impacts

The proposed IL will incentivise development by providing more certainty about the rate at which developer contributions are charged, (and ensuring these are linked to the final value of development) ensuring that protracted viability negotiations will no longer occur for all users. It will seek to capture at least as much, if not more, of the uplift in land value through development contributions as currently, and it will enable

developers and local authorities to support development with infrastructure, and to provide the same, if not more, onsite affordable housing as through the existing system. The Levy will also provide more flexibility for local authorities over spending, creating greater incentives for development in their area.

Business Impacts

The new Infrastructure Levy will be mandatory for local authorities to charge, and so developers will have to apply the new Levy calculations to their developments. This may impact developers who operate in areas that do not currently charge CIL disproportionately in comparison to those who operate in CIL-charging authorities. We expect to introduce an Infrastructure Levy calculator tool, which will enable local authorities and developers to establish Levy liabilities and affordable housing requirements quickly.

We expect that developers will incorporate their anticipated Levy liability into the prices they will pay for land. As a result, if the Levy successfully captures more land value, landowners are likely to receive less money for land. Whilst this does risk increasing landowner reluctance to sell land, such a risk is managed by enabling local authorities to account for local existing use values through their setting of local Levy rates and minimum thresholds, which can also be varied by development type and area.

The existing system of developer contributions theoretically allows local authorities to negotiate contributions up to the margin of viability, enabling less viable development to come forward. The shift to a tax-like system reduces flexibility in the system that could otherwise maintain development viability. However, this means it is more likely that costs will be incorporated into land values, and LPAs will be able to set differential rates and allowances for different typologies of land, which will be subject to an examination in public, to ensure that development is not made broadly unviable within the area. Moreover, it will be possible through regulations to introduce reduced rates and exemptions to reflect those in the existing system. We will be consulting on whether such thresholds should be introduced. In the new IL system, developers cannot rely on re-negotiating their s106 where unexpected costs occur, and so developers will need to manage this risk by incorporating these costs into the prices they pay for land instead. Tax-like systems tend to be simpler and can capture the uplift in land value as cash. A centralised national rate-setting process would exacerbate the impact of the IL on development viability. That is why a local rate-setting approach is preferred, enabling local authorities to establish IL charging schedules to reflect local circumstances and best manage the impact a tax-like system would have on viability.

There are risks of a reduction in affordable housing provision in the shift to be a new system for securing affordable housing. However, the IL has been designed such that local authorities can deliver at least as much onsite affordable housing as the current

system prior to spending the IL on other priorities. Affordable housing will no longer be decided via negotiation between local authorities and developers. The IL enables local authorities to secure in-kind, onsite affordable housing contributions through the new 'right to require', along with the 'grant pot' model, where they will be able to top up registered providers to the open market value of homes for additional onsite units. As such, the IL will reduce the element of negotiation over the proportion of affordable homes on a development, and local authorities will have a greater say over the number of onsite affordable homes they can secure.

Public Sector Impacts

The IL will be mandatory for local authorities to charge, locally set and locally raised. There are potential challenges for local authorities for implementing and transitioning to a novel developer contributions system, as the Levy will impose mandatory costs (such as the costs associated with producing an IL charging schedule – this has been estimated to cost between £12m and £18m (discounted and in 2019 prices). This may produce new burdens on local authorities, especially as CIL is currently only charged by around half of local authorities. Local authorities will also need to procure and deliver infrastructure through the core Levy routeway which is currently secured and delivered by developers in the existing system. This could have significant potential for additional costs and burdens for local authorities, including the expertise and resourcing they may need to acquire. There will also be the new requirement for charging authorities to produce an Infrastructure Delivery Strategy, which may also incur a new burden for authorities that do not currently prepare an Infrastructure Delivery Plan.

The retention of s106 to enable in-kind delivery on the largest and most complex sites will help alleviate these impacts and the use of narrowly targeted 'delivery agreements will see infrastructure that is integral to the functioning of a site delivered by a developer as now. Moreover, guidance will be provided to support both the transition and implementation of the new system of developer contributions, which will happen over several years. There will be associated familiarisation costs for local authorities to train and understand the new Infrastructure Levy system. The new system is expected to create costs for business in the form of familiarisation cost for current resource (£2.5m discounted and in 2019 prices) and an estimate of between £276m and £551m (discounted and in 2019 prices) for start-up cost and administrative burden in the form of new recruitment and upskilling over the 10-year appraisal period. As with CIL and s106, a portion of the Levy would be used to meet administrative costs.

As noted above, one of the most crucial benefits of the Infrastructure Levy is the reduced or eliminated negotiation time spent on each planning application for local authorities. Whilst there are wider risks of a reduction in affordable housing provision in the shift to be a new system for securing affordable housing, the IL has been designed such that local authorities can deliver at least as much onsite affordable

housing as the current system prior to spending the IL on other priorities. Affordable housing will no longer be decided via negotiation between local authorities and developers. The IL enables local authorities to secure in-kind, onsite affordable housing contributions through a new ‘right to require’, along with the ‘grant pot’ model, where they will be able to top up registered providers to the open market value of homes for additional onsite units. As such, the IL will reduce the element of negotiation over the proportion of affordable homes on a development, and local authorities will have a greater say over the number of onsite affordable homes they can secure.

Risks and Assumptions

The expectation of a new fixed Levy is that the charge will pass through into the cost of land. However, this process may take several years, and setting rates high in the initial phase risks potential land strikes.

To mitigate this risk local authorities will be able to set stepped rates, which can increase incrementally over time, when introducing their Infrastructure Levy charging schedules. As part of the Levy charging schedule, stepped rates will be subject to viability assessment and examination in public. This means local authorities will be able to increase Levy rates over time to embed the Levy into land prices at a slower rate, thereby increasing the potential for long-term increased land value capture, particularly in areas with high land values.

The shift to a tax-like system will reduce flexibility in the system that could otherwise maintain development viability, Research commissioned by the Department shows that this poses challenges, particularly on brownfield sites. As explained above, this is in part why local authorities will be able to set their own local rates. It is also why implementation of the Infrastructure Levy through a phased ‘test and learn’ rollout across several local authorities initially, whereby the Department will monitor and evaluate the operation of the Levy and seek to understand the most effective means to mitigate impacts on brownfield site viability where reduced flexibility is most acute. By adopting this approach, we aim to ensure the current level of investment in the market is maintained under the Levy.

A summary of the potential trade implications of measure

There are no potential trade implications from these measures.

Monitoring and Evaluation

We will introduce a variety of mechanisms to monitor the impact of the new Infrastructure Levy. The phased rollout of the Infrastructure Levy through the ‘test and learn’ approach across several local authorities noted above will be used to understand, monitor, and evaluate the Levy’s overall operational impacts. As part of this approach, we can evaluate the published charging schedules that all charging authorities are required to have in place, consider the operational impact of the new

Levy on affected stakeholders, and monitor the Infrastructure Levy receipts collected by charging authorities and how these revenues are spent at least annually.

Local authorities will be required to report information to their local communities on their Infrastructure Levy receipts over an identified period. We aim to use this information to assess the delivery of infrastructure and affordable housing through which the Infrastructure Levy is spent and how it has responded to local community priorities. The digital planning reforms will also facilitate improved monitoring and evaluation, and we will continue to engage with key stakeholders on the impact of the Infrastructure Levy.

Annex 13: Statement of Impacts - Environmental Outcomes Reports

What is environmental assessment?

Environmental assessment aims to ensure that significant decisions on land use change are taken in full knowledge of their potential effects on the environment. It operates at two levels – the strategic level (known as Strategic Environmental Assessment or 'SEA') and the project level (Environmental Impact Assessment or 'EIA'). The current UK procedures are derived from two EU Directives - the 'SEA Directive' (2001/42/EC) and the 'EIA Directive' (2011/92/EU).

The criteria for when assessments are required are set out in the EU Directives. To summarise, plans and programmes which form a framework for decisions on land use require an SEA (such as local plans prepared under the Planning and Compulsory Purchase Act 2004) and large-scale projects require an EIA (e.g., windfarms and urban extensions). Nationally Significant Infrastructure Projects, will almost always, by definition, require an EIA.

The process consists of the preparation of a report detailing the state of the environment before the proposed intervention or change (i.e., plan or project), the effect of the intervention or change on the environment, reasonable alternatives to the chosen option and proposed mitigation of any residual environmental effects.

The compilation of information on the environmental effects of a plan or project is a fundamental component of professional planning practice, irrespective of whether an environmental assessment is required. The EU Directives prescribe some additional processes to be followed in addition to those already undertaken. These include screening - determining whether a plan, programme or project has a significant effect and therefore requires an assessment, and scoping – deciding what issues the assessment will cover.

The SEA Directive does not specify who must carry out the SEA. Ideally, it is carried out by the body that is preparing and adopting the plan or programme, but because of its bureaucratic, labour and data-intensive nature it is often contracted out to environmental consultants.

The EIA Directives requires that an EIA be prepared by 'competent experts', although these are not defined. It is expected that technical reports will be carried out by suitably qualified experts with the accreditation from the relevant professional body, as required for smaller (non-EIA) planning applications.

Problem under consideration and rationale for intervention

The need to examine the effectiveness of environmental assessment regimes is widely recognised. In the U.K. commonly expressed concerns include that the processes:

- are cumbersome and bureaucratic.
- produce vast amounts of material that does little to aid decision-making.
- are often inaccurate and biased towards gaining consent.
- are overly technical and act as a barrier to public participation in the process.

- propose mitigation to address environmental harm that is often not implemented in its original form, if at all.
- require little in the way of monitoring of the actual impact and effectiveness of mitigation once implemented, and.
- provide no opportunities for the remediation of any unanticipated adverse effects, despite this being possible in current regulation.

Despite its introduction in the 1980s, EIA (and SEA almost 20 years later) have done little to stop the decline of our natural environment. The 25 Year Environment Plan acknowledges that the UK is one of the most nature-depleted countries in Europe. Indicators show the state of birds dependant on farmland stands at less than half their number compared to 1970[97]. The State of our Nature Report[98] for 2019 found 41% of UK species are declining and one in ten is threatened with extinction.

To address the issues identified, the government intends to develop a new framework of environmental assessment to replace the EU system of SEA and EIA. Intervening to address the issues identified with current practice will allow the government to realise savings to businesses and public bodies through a more streamlined and effective framework of assessment. It will also place the government in a stronger position to use the process of assessment to deliver better environmental outcomes.

Rationale and evidence to justify the level of analysis used in the IA (proportionality approach)

There will be no new burdens arising from this measure in the Bill as all of the measures to be included currently exist in secondary legislation. As the Bill clauses focus on securing the necessary powers to implement a new system through secondary legislation, DLUHC are unable to provide detailed analysis of the impact of, as yet undeveloped reforms but have instead focused on framing how the current system operates and where reforms might seek to realise savings and deliver improvements. Furthermore, Secondary legislation will be subject to its own Impact Assessment once the legislation is drafted.

Description of options considered

Option 0) Do nothing

Doing nothing would retain the existing EU-derived system of environmental assessment. Following the end of transition, the repeal of the European Communities Act 1972 has left the government in the position that it lacks the power in domestic legislation to amend the retained EU law, save in limited circumstances. Taking no action would maintain the status quo but leaves the government in the position that it

[97] Defra National Statistics https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/938262/UK_Wild_birds_1970-2019_final.pdf

[98] State of our Nature 2019 https://nbn.org.uk/wp-content/uploads/2019/09/State-of-Nature-2019-UK-full-report.pdf

would be unable to amend legislation to update following any legal challenge and/or implement temporary measures (e.g., changes to publicity notices put in place in response to COVID 19). Doing nothing would also allow for continued poor performance of the existing system.

Option 1) Intermediate Option (discussed below as preferred option)

Bring forward targeted reforms across the lifecycle of the assessment process to create a more streamlined and effective system. The core legislative proposition at this stage is to introduce an outcomes-based approach to assessment, with increased emphasis on avoiding adverse effects early on in the development of the plan or project. This will mean that the effects of plans and projects will be assessed against government objectives, such as those set out in the 25 Year Environment Plan.

Option 2) Do Maximum options

Retain the current EU assessment processes and take powers to transfer the functions, powers and duties currently set out in regulations into primary legislation. Use primary legislation to set binding targets for each OGD/policy area as the framework for each assessment. Remove the screening process and require all plans (which may have an environmental effect), and all development projects to fall within the scope of the assessment legislation – regardless of size and scale.

ii) Take a power to remove the current legislative requirements for SEA and EIA completely and remove any requirement to measure plans and projects against environmental outcomes. This would be in breach of international law first recognised in the International Court of Justice judgement *Pulp Mills on the River of Uruguay (Argentina v. Uruguay)*[99]. This judgement recognised EIA as a practice that has attained customary international law status, although the Court decided the scope and content of the process should be up to each individual state to determine. This option would also be in breach of non-regression commitments in the Trade and Co-operation Agreement.[100]

Policy objective

Reforming environmental assessment is integral to delivering on the government's ambition to build back better, faster, and greener. By taking powers in primary legislation, the government will be able to develop a new system of assessment that balances the need to deliver the development and infrastructure the nation needs, with securing the best possible outcomes for the environment.

[99] Case Pulp Mills on the River of Uruguay - https://www.icj-cij.org/en/case/135

[100] https://ec.europa.eu/info/strategy/relations-non-eu-countries/relations-united-kingdom/eu-uk-trade-and-cooperation-agreement_en

Summary and preferred option with description of implementation plan

The Levelling Up and Regeneration Bill will secure powers that would allow the government to bring forward targeted reforms across the lifecycle of the assessment process to create a more streamlined and effective system. The core legislative proposition at this stage is to introduce an outcomes-based approach to assessment, with increased emphasis on avoiding adverse effects early on in the development of the plan or project. This will mean that the effects of plans and projects will be assessed against government objectives, such as those set out in the 25 Year Environment Plan. To ensure that plans and projects are having the anticipated effect on environmental outcomes, and that mitigation is working as it should, we want to consider placing greater emphasis on monitoring and remediation.

Over the coming months, we will work closely with stakeholders and end users to develop the detail of the reformed framework of assessment. The reformed system will be delivered through secondary legislation which will be subject to consultation and appropriate parliamentary scrutiny. The reformed processes will increase transparency and accountability and make the processes more accessible for all.

Monetised and non-monetised costs and benefits of each option (including administrative burden)

As the new processes are yet to be designed, we are unable to consider the implications of each option in terms of costs and benefits. However, we have sought to reflect the potential costs and benefits through discussion of the policy intent of the reforms set against a baseline of current practice. It has not been possible to monetise the costs and benefits at this stage due to the significant uncertainty in the detail of the secondary legislation. Once the detail of the secondary legislation is confirmed, the impacts will be assessed in a subsequent impact assessment.

<u>Current practice</u>

Strategic Environmental Assessment

A review of recently let contracts for Strategic Environmental Assessment (SEA) assessments on the Contracts Finder website found a typical range for the first stage of a combined Sustainability Appraisal[101] and SEA to range from £40,000 to £85,000. Costs for additional support are more difficult to obtain, as these normally result from extensions to existing contracts.

All Local Planning Authorities are required to carry out a Sustainability Appraisal (SA) for any local plans they have in development, as well as mineral plans and waste plans, and any joint strategic plans. Neighbourhood Plans also require a Strategic Environmental Assessment where there are likely significant effects as a result of proposals in the plan.

[101] Sustainability Appraisal is the environmental assessment process used for local plans and incorporates SEA

Environmental Impact Assessment

Numbers of Town and Country Planning EIAs/year

- District Level – Total since 2000: 8198[102] (0.08% of all applications in that period)
- Upper tier (i.e., county level) – Total since 2000: 2141[103] (6% of applications)

Number of Planning Act 2008 Development Consent Orders formally submitted

- 136 in total since 2010: Average of 12/year[104]

Costs for EIA are more difficult to obtain. Environmental assessment has become more complicated, with costs for big projects running into hundreds of millions of pounds. As of February 2014, HS2 Ltd had spent £188 million on four professional services contracts for Phase 1. The biggest overspend was for environmental impact assessments between Warwickshire and Staffordshire and cost £20.2 million – almost four times its original budget[10].

A review of the Contracts Finder website suggests a range from £150,000 upwards for a standard assessment and provided an example of £1,000,000 for production of a scoping report for Phase one of a new railway. For smaller projects, research from a current Digital EIA Project found that, on average, an environmental assessment for a 500-home development cost between £150,000 and £250,000; took between eight and 18 months to complete; and ran to 4,350 pages.

The number of local planning authorities which processed an application accompanied by an environmental statement (an 'EIA application') had a distinctive geographic distribution. The majority were located in the East of England (41), followed closely by the South-East (40). Distribution of EIAs among shire councils was also skewed, with 76% of shire districts not processing a single EIA application in the year ending June 2021.

<u>Narrative on potential future costs and benefits</u>

Proportionate assessment

One of the main issues for stakeholders is the disproportionate approach to assessment. Environmental assessment has increased significantly over time. When EIA was first introduced, environmental statements averaged about 100 pages long. Recent years have seen statements significantly in excess of 30,000 pages[105]. This has led to extreme situations where copies of the resulting Environmental Statement have had to be delivered by truck to the Planning Inspectorate.

102 Source: DLUHC, PS1

103 Source: DLUHC, CPS1

104 Planning Inspectorate. Pers Comm. Oct. 2021. Only 2 screened as non-EIA by Secretary of State

105 Institute of Environmental Management and Assessment (2017. Delivering Proportionate EIA - A Collaborative Strategy for Enhancing UK Environmental Impact Assessment Practice. Accessed online 08/11/2021.

In 2004, Justice Sullivan foresaw the challenge ahead and issued a timely warning to practitioners of the need to take a more focussed approach to EIA.

> *'It would be no advantage to anyone concerned… - applicants, objectors or local authorities - if ES were drafted on a purely "defensive basis" mentioning every possible scrap of information ... Such documents would be a hindrance not an aid to sound decision-making by the local planning authority since they would obscure the principles issues with a welter of detail'*[106]*.*

Environmental assessment practitioners have made a number of concerted attempts to make EIA more proportionate, but with limited effect. The 2017 report by the Institute of Environmental Management and Assessment noted that:

> *The rising challenge of disproportionate EIA was therefore recognised nearly 15 years ago, and multiple initiatives have been launched since then to address specific issues. These efforts have had little cumulative impact on making UK EIA more proportionate.*

Bringing forward reforms to drive more proportionate assessment would provide the opportunity to reduce costs by ensuring that only pertinent environmental matters are assessed. This feeds though to the discussion below around preparation costs.

Preparation costs

Preparation costs to plan-makers and developers have also similarly increased, with costs for the biggest projects running into hundreds of millions of pounds. As a result, there has been a significant growth in the number of environmental consultancies in the UK over the last 30 or so years from about 150 in the mid-1980s to over 2,000 in recent years, despite the recent trend for buy outs and mergers with large multi-national consultancies.

A 2017 amendment to require EIA to be prepared and considered by 'competent experts' has further increased the level of nervousness surrounding the assessment process in planning departments, despite planners being recognised as falling within the expert definition. This has further increased the costs and delays associated with the process, as many planning departments put environmental assessments out to other consultancies to assess for a 'third party review'.

An analysis of the UK top environmental consultancies' market revenue found that EIA and sustainable development services were shown to be the largest category of revenue[107]. Expenditure on these services has grown to around £2.0 bn a year, with Covid only having a minor, short term, impact on growth rates. While we are unable to

[106] Derbyshire Waste Ltd vs Blewett and SoS for Environment [2004] EWCA Civ 1508 at para 42 per Sullivan J quoted in 2. above.
[107] Introduction to Environmental Impact Assessment, Glasson 2019, Chapter 3

assess the impact on consultancy spend at this stage, changes to environmental assessment could affect the use of consultants. Consideration of the procedural elements of assessment could realise further cost savings.

Integration

Despite the intention of the EU Directives, there is still little integration between EIA and SEA. One of the key purposes of introducing SEA was to reduce the assessment burden at the project stage. This has not materialised. Case law and practice have highlighted the potential benefits of greater integration between strategic and project level assessment – both in terms of improving the consideration of environmental outcomes, but also in reducing the burden of assessment by ensuring that project level assessments can, where appropriate, rely on the strategic level assessment. Any improvements that remove unnecessary duplication of effort would realise cost savings.

Certainty and time savings

In taking forward reforms, the government intends to introduce greater certainty into the system which should reduce the risk of processes needing to be repeated or reconsidered at a later stage. This certainty will reduce the burden on those producing assessment as well as those who have to consider the assessment as part of the decision-making process. We would anticipate that these time savings will translate into resource and cost savings.

Familiarisation costs

Although both public authorities and businesses already have experience in conducting environmental assessments, there will be a cost to understanding the new system. Both decision-makers and those submitting assessments will need to familiarise themselves with the new system ahead of implementation. However, familiarisation costs should be minimised through the consultative approach to the design of the new system and through effective transitional arrangements. Furthermore, guidance will be prepared, which is not available under the current system, to assist users in navigating the assessment process, this will greatly assist with familiarisation. It has not been possible at this stage to estimate familiarisation costs due to the significant uncertainty over the detail of the secondary legislation. Familiarisation costs will be assessed when the details of the proposal set out in secondary legislation are confirmed.

Risks and assumptions

As the new processes are yet to be designed, we are unable to consider the implications of each option in terms of risks and assumptions. The key operating assumption is that the government is able to secure the necessary powers in primary legislation to realise the potential benefits of a reformed system. While the Bill sets out the framework for environmental assessment, the detail will follow in secondary

regulations, which will be subject to IA, offering further analysis of risks and assumptions.

Impact on small and micro businesses

As the new processes are yet to be designed, at this stage we are unable to consider the implications of each option in terms of impacts on SMBs. However, a key aspiration is to improve the uncertainty associated with the screening stage of the process by providing clearer parameters on what requires assessment and what does not. This will have a positive impact, particularly for borderline smaller scale schemes that are often unnecessarily screened-in for assessment due to over precautionary decision making.

The impacts on small and microbusinesses will be formally assessed when the details of the proposal set out in secondary legislation are confirmed and when there is more certainty as to which SMB schemes will be in scope.

Wider impacts

The above narrative frames the potential wider impacts in the context of the opportunity to realise benefits through reform. Our primary aim is to increase the efficacy of the assessment process and halt further environmental decline resulting from development. We also aim to reduce the considerable burden of the process on end users such as developers, planners, and communities.

A summary of the potential trade implications of measure

As the new processes are yet to be designed, we are unable to consider the implications of each option in terms of potential trade implications.

Monitoring and Evaluation

The impacts of the reforms will be assessed as part of the holistic evaluation that is being informed by the scoping study. The scoping study will consider the suitability and feasibility of the metrics that will inform the evaluation and recommend appropriate methodologies to address the research questions, enabling the development of detailed proposals based on the anticipated outcomes of the processes.

Annex 14: Statement of Impacts - Compulsory Purchase Orders

Policy under consideration and rationale for intervention

Compulsory purchase powers are an important tool for assembling land needed to help deliver social, environmental, and economic change. The Government wants to encourage greater use of compulsory purchase powers to assemble land and support urban regeneration.

It has recently introduced the Levelling Up and Regeneration Bill which sets out its strategy for improving the economic growth and attractiveness of 'left behind' places and regions. A key theme is regenerating towns and cities which will depend upon, in some places, more proactive, comprehensive, and coordinated use of land assembly tools where compulsory purchase can play an important role. Poor quality built environments can worsen 'traps' felt by places in decline – particularly the physical capital trap which can lead to poor productivity through inability to create agglomeration economies, and the social capital trap, in which deprivation can increase and causes places to further degenerate[108].

As a first step to tackling these problems, the Government's high street strategy, Build Back Better High Streets[109], published in July 2021, emphasised the role of compulsory purchase as a catalyst for regeneration in town centres and high streets which are seeing persistent long-term empty properties, and where there are complex and fragmented land ownership patterns. It identified a need to ensure councils feel more confident about how they approach land assembly using compulsory purchase where necessary as central to enabling ambitious projects are able to go ahead.

A key issue is to speed up the delivery of schemes and to provide local authorities with the tools to intervene strategically to support regeneration. It is also necessary to modernise the compulsory purchase order process to reflect the modern digital era.

The compulsory purchase order process is established through primary legislation and changes to regime necessarily require amendments to the existing legislation supported by amendments to secondary legislation where required and updates to guidance where necessary.

The proposals to address this are:

- Give confirming authorities power to impose conditions that need to be discharged before confirmed compulsory purchase powers can be exercised.
- Give confirming authorities power to increase the period during which compulsory purchase powers can be exercised in appropriate cases.

[108] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1052708/Levelling_up_the_UK_white_paper.pdf

[109] https://www.gov.uk/government/publications/build-back-better-high-streets

- Allow acquiring authorities and landowners to mutually agree a vesting date that is different to the statutorily imposed date.
- Allow confirming authorities greater power to choose the appropriate procedure when considering whether to confirm a CPO.
- Require CPO documents to be published online, introduce new data standards, and require publication of notices electronically.
- Give local authorities greater certainty that they can use their compulsory purchase powers for regeneration schemes.

Description of options considered

Option 0) Do nothing

Doing nothing would mean the continuation of a sequential approach to land assembly so that a CPO follows completion of consenting and funding processes, delaying overall delivery of a scheme, or potentially making it impossible to use a CPO as a means of assembling the required land. In some cases, authorities would continue to be reluctant to use their existing CPO powers to support land assembly for regeneration schemes, particularly where the planning position is still being developed. This would fail to deliver on the Government's objective of encouraging greater use of CPO to stimulate new private investment in regeneration areas to support the levelling up agenda and speeding up the delivery of schemes.

Option 1) Amend Government's CPO process guidance

Option 1 would involve amending the Government's guidance on compulsory purchase process and the Crichel Down Rules (Government's CPO Guidance)[110] to:

- encourage earlier and more effective engagement between acquiring authorities and those affected by compulsory acquisition.
- provide more clarity on the use of authorities' compulsory purchase powers for regeneration.

Amending the guidance in this way might encourage greater use of CPO where appropriate and help to speed up the process through more effective and early engagement. However, the CPO process is largely set out in primary legislation and unless that is also amended the impact of guidance changes to achieve the policy objectives will be limited.

Option 2) Amend Government's CPO Guidance and improve the CPO process through legislative change (preferred option)

Option 2, and our preferred option, is to amend the Government's CPO Guidance (option 1) and to introduce a suite of measures through primary legislation aimed at

[110] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1071500/CPO_guidance_-_with_2019_update.pdf

speeding up the delivery of schemes, providing greater confidence to authorities in the use of CPOs and to modernise the CPO process through its digitalisation. This is the only approach that will meet all of the intended policy objectives and have a meaningful impact on tackling the social and physical capital traps explained above and in the main IA document.

Policy objective

Give confirming authorities a power to impose pre-exercise conditions for a confirmed CPO

- The policy objective is to speed up the delivery of schemes by allowing the imposition of pre-exercise conditions on confirmation of a CPO.
- This will allow acquiring authorities to make and seek confirmation of a CPO earlier in the consenting phase of a scheme knowing that a pre-exercise condition may be imposed if an impediment continues to exist at the point of decision on confirmation.
- This will provide more certainty of land assembly at an earlier stage of scheme delivery and more confidence for authorities in using CPOs.
- It will also allow more time to determine if appropriate development will be brought forward by the private sector in appropriate cases, where the CPO may not otherwise have been confirmed at the point of decision.

Give confirming authorities power to increase the expiry period for the use of compulsory purchase powers

- The policy objective is to ensure that an appropriate period for the use of compulsory purchase powers is applied to CPOs.
- In appropriate cases, more than the current three years may be justified, particularly in complex schemes or schemes with long delivery lead-in periods.
- The measure will provide authorities with more confidence in using CPOs in more complex schemes or where implementation may take longer.

Give flexibility to amend a vesting date where parties agree

- The policy objective is to ensure that use of compulsory purchase powers reflects the requirements on the ground and to make the process more efficient for all.
- Current law requires the vesting date to be fixed at least 3 months in advance and circumstances may change for both acquiring authority and landowner during that period. This measure will allow parties to respond to changing circumstances.

Increase power to determine the appropriate examination procedure

- The policy objective is to ensure the appropriate procedure is used for each CPO and ensure that CPOs are processed as efficiently as possible.
- The measure will allow the confirming authority to choose the appropriate procedure whilst maintaining the right for objectors to be heard in person.

Require CPO documents to be published online, introduce new data standards, and allow publication of notices electronically

- The policy objective is to modernise and digitalise the compulsory purchase process for the benefit of all parties using the regime.
- It will allow parties to access the process more efficiently in line with modern reliance on online access.

Give local authorities greater certainty that they can use their compulsory purchase powers for regeneration schemes

- The policy objective is to give local authorities greater certainty that they have the power to compulsorily acquire land for regeneration schemes.
- This will give local authorities greater confidence to bring forward CPOs for regeneration schemes.

Summary and preferred option with description of implementation plan

Give confirming authorities a power to impose pre-exercise conditions for a confirmed CPO

- The ability to impose pre-exercise conditions will allow use of CPOs at an earlier stage of the consenting process for a scheme and provide earlier certainty over land assembly.
- Implementation will require the Government's CPO Guidance to be updated simultaneously on commencement of the provisions to provide guidance on the appropriate circumstances for the imposition of conditions.
- Transitional provisions will provide for CPOs that pre-exercise conditions could apply to.
- Further engagement with the sector and authorities over the changes will be required.

Give confirming authorities power to increase the expiry period for CPOs

- The ability to increase the expiry period for the use of compulsory purchase powers in CPOs would be possible in appropriate cases where the nature of the scheme justified it.
- Implementation will require the Government's CPO Guidance to be updated simultaneously on commencement of the provisions to provide guidance on the appropriate circumstances for the grant of powers for a longer period.
- Transitional provisions will provide for CPOs that this measure could apply to.

Give flexibility to amend a vesting date where parties agree

- The flexibility to amend the vesting date under a general vesting declaration to an alternative date where the parties agree will assist all parties.
- Transitional provisions will provide for CPOs that this measure could apply to.

Increase power to determine the appropriate examination procedure

- The ability to determine the appropriate examination procedure where there continues to be remaining objectors will speed up the CPO process.
- Transitional provisions will provide for CPOs that this measure could apply to.
- Implementation may require amendments to secondary legislation concerning procedure.
- Implementation will require the Government's CPO Guidance to be updated simultaneously on commencement of the provisions to provide guidance on the new procedure.

Require CPO documents to be published online, introduce new data standards, and allow publication of notices electronically

- There is a requirement to modernise and digitalise the compulsory purchase process. These measures will allow electronic access to CPO process information and notices and allow the imposition of appropriate data standards to that information.
- Implementation will require further work with the industry, confirming authorities and the Planning Inspectorate to establish appropriate data standards. This would be followed by the introduction of secondary legislation.

Give local authorities greater certainty that they can use their compulsory purchase powers for regeneration schemes

- Amending local authorities' enabling power to specifically mention regeneration will give local authorities confidence to bring forward more regeneration CPOs.
- Implementation will require the Government's CPO Guidance to be updated simultaneously on commencement of the provisions to provide guidance on this change.

Monetised and non-monetised costs and benefits of each option (including administrative burden)

Give confirming authorities a power to impose pre-exercise conditions for a confirmed CPO - a discretionary power

- Although an acquiring authority will have to go through the process of discharging a pre-exercise condition which is imposed where appropriate, the additional cost of this will be offset by the increased certainty of scheme deliverability and land assembly by having a confirmed CPO earlier in the consenting stage of the scheme. This will in turn result in cost savings in the delivery of the scheme.
- An acquiring authority will only need to assess and familiarise itself with these costs where it is considering use of a CPO. The cost savings will differ between projects and depend on the circumstances.
- Familiarisation of the changes will be required at the Planning Inspectorate and may result in the Planning Inspectorate and relevant government departments assessing applications to discharge conditions for CPOs.

Give confirming authorities power to increase the expiry period for CPOs - a discretionary power

- An acquiring authority is likely to benefit from cost savings through having an appropriate period for the expiry of compulsory purchase powers under a CPO through delivery of the land at the appropriate point in the project rather than earlier than may otherwise have been required.
- Those cost savings will differ between projects and depend on the circumstances. An acquiring authority will only need to assess and familiarise itself with these costs where it is considering use of a CPO.
- Familiarisation of the changes will be required at the Planning Inspectorate and relevant government departments.

Give flexibility to amend a vesting date where parties agree

- All parties may benefit from cost savings by agreeing an appropriate vesting date and mitigating any potential loss as appropriate.
- Those cost savings will differ based on the individual circumstances of the landowner and the savings made to the acquiring authority by amending the vesting date based on their programme for delivery. An acquiring authority will only need to assess and familiarise itself with these costs where it is making use of compulsory purchase powers.

Increase power for confirming authority to determine the appropriate examination procedure - a discretionary power

- All parties may benefit from cost savings through the most efficient process for examining the case for confirmation of the CPO. Cost savings would be expected through reduced professional costs and through earlier delivery of the decision on confirmation of the CPO.
- Those cost savings will differ between projects. An acquiring authority will only need to assess and familiarise itself with these costs where it is considering use of a CPO.
- Familiarisation of the changes will be required at the Planning Inspectorate and relevant government departments. Cost savings may result at confirming authorities through the use of the most efficient procedure.

Require CPO documents to be published online, introduce new data standards, and allow publication of notices electronically – required only if use is made of other discretionary powers

- There may be a cost to acquiring authorities in the requirement to publish documents online in addition to existing requirements and compliance with data standards. However, many acquiring authorities already publish CPO documents online in addition to existing statutory requirements.
- An acquiring authority will only need to assess and familiarise itself with these costs where it is considering use of a CPO. The expected cost will be

administrative time in managing an appropriate webpage on the acquiring authority's website, and the scale will depend on the size of the CPO and the number of documents involved.

Give local authorities greater certainty that they can use their compulsory purchase powers for regeneration schemes

- Acquiring authorities may benefit from having greater confidence that they have the power to bring forward CPOs for regeneration purposes.
- No familiarisation costs are expected to arise from this measure.

Risks and assumptions

There is a risk that, despite the measures, authorities continue to take a risk averse approach and run their consenting and Compulsory Purchase Order processes sequentially.

Impact on small and micro businesses

Compulsory purchase can affect any small and micro business but equally can benefit small and micro businesses through regeneration and the creation of opportunities. The changes that are being made to compulsory purchase mainly relate to the process of determining whether a compulsory purchase order should be confirmed and that is a process which applies universally to all affected parties in order to protect affected parties' interests and ensure that the case for compulsory purchase is justified. As the process is built to protect affected parties there is no case for exemptions for small and micro businesses arising from these changes. Specifically, reforms related to modernisation and digitalisation will make the CPO regime easier to navigate for all. The change to allow the confirming authority greater discretion in the procedure used to confirm a CPO is aimed at reducing the overall costs of the process including for small and micro businesses. The ability to vary the vesting date by agreement will allow affected parties more flexibility over the date they may need to vacate a property. The compulsory purchase compensation framework nevertheless covers losses that an affected party may suffer as a result of compulsory purchase.

The vast majority of any small and micro businesses affected by compulsory purchase will not have been subject to a compulsory purchase order before or at least not recently enough to not require a thorough review of the legislation. Therefore, any costs to an affected landowner of familiarising itself with the legislation would be incurred in any event and the changes will not add to those familiarisation costs.

Otherwise, there is not expected to be any change in the impact for small and micro businesses other than those that would arise from any use of compulsory purchase. The measures are generic changes to the CPO process that will not disproportionately impact small and micro businesses. As a result, no exemptions or mitigations are required for small and micro businesses due to the compulsory purchase order reform.

Wider impacts

The reforms to the Compulsory Purchase Order process will not have any adverse economic, social, or environmental impacts. Existing safeguards in place for the determination of the case for the confirmation of a CPO will remain in place, including the ability for an objector to have a hearing should one be requested and in the assessment of the appropriate length of the period during which the compulsory purchase powers may be exercised.

Local communities will benefit from the faster delivery of schemes through the earlier certainty of the delivery of land assembly in a scheme's development. They will also benefit from improved access to the CPO process through its modernisation and digitalisation.

The vast majority of landowners affected by compulsory purchase will not have been subject to a compulsory purchase order before or at least not recently enough to not require a thorough review of the legislation. Therefore, any costs to an affected landowner of familiarising itself with the legislation would be incurred in any event and the changes will not add to those familiarisation costs.

For acquiring authorities who are not regarded as public sector, we expect the familiarisation position to be similar to that of public sector acquiring authorities as set out further below. We do not expect there to be additional familiarisation costs in respect of these changes for those acquiring authorities. In most cases, they would not have carried out a CPO for some time and would need to thoroughly review the whole legislative framework before undertaking the CPO. Given the bespoke nature of CPOs, even in instances where an acquiring authority has carried out a CPO before, we would expect them to need to familiarise themselves with the current process thoroughly regardless of whether or not it had changed. Any costs to an authority of familiarising itself with the legislative framework would therefore occur in any event.

A summary of the potential trade implications of measure

Not applicable.

Public sector impacts

Authorities will benefit from greater certainty in the use of compulsory purchase powers knowing that, where necessary, conditions may be imposed before the exercise of compulsory purchase powers rather than CPOs not being confirmed. They will additionally have more confidence in running CPOs alongside other consenting or funding processes saving considerable delivery time for schemes.

Local authorities will have more certainty in the use of their compulsory purchase powers where regeneration is required.

There will be the possibility of a longer period over which compulsory purchase powers can be exercised for more complex schemes or those with longer lead in times. This

will give authorities additional confidence to use CPOs for land assembly where necessary.

Further changes to the process will benefit authorities. An increase in the flexibility of authorities in using confirmed compulsory purchase powers will allow a more appropriate vesting/possession date as circumstances change and where there is agreement with the landowner. Empowering confirming authorities to choose the appropriate procedure will streamline the confirmation process. Changes to modernise and digitalise the regime will bring the CPO process into the modern digital world.

For most authorities, we do not expect there to be additional familiarisation costs in respect of these changes. In most cases, authorities would not have carried out a CPO for some time and would need to thoroughly review the whole legislative framework before undertaking the CPO. Given the bespoke nature of CPOs, even in instances where an acquiring authority has carried out a CPO before, we would expect them to need to familiarise themselves with the current process thoroughly regardless of whether or not it had changed. Any costs to an authority of familiarising itself with legislative framework would therefore occur in any event.

It will be necessary to ensure that the Planning Inspectorate and relevant government departments are familiar with the changes, although the changes, particularly to the confirmation process of CPOs, should result in an overall reduction in costs and the time taken to determine CPOs.

Monitoring and Evaluation

Changes to the compulsory purchase regime will be evaluated as part of the holistic evaluation that is being informed by the scoping study. The scoping study will consider the suitability and feasibility of the metrics that will inform the evaluation and recommend appropriate methodologies to address the research questions, enabling the development of detailed proposals.

An overall assessment of the effectiveness of the policy changes will be set out in the wider programme monitoring. The elements that can be monitored are set out below.

Give confirming authorities a power to impose pre-exercise conditions for a confirmed CPO

- It may be possible to assess the quantifiable impact of this measure with authorities where they choose to run consenting and funding processes in parallel to the CPO process rather than sequentially.

Give confirming authorities power to increase the expiry period for CPOs

- It will be possible to monitor requests for an increase in the expiry period of compulsory purchase powers under a CPO and subsequent decisions taken on the appropriate expiry period.

Give flexibility to amend a vesting date where parties agree

- In individual cases, this measure may result in savings through appropriate mitigation of potential losses arising.
- It may be possible to gather evidence from authorities of savings made as a result of an agreement to amend the vesting date.

Increase power to determine the appropriate examination procedure

- It will be possible to monitor the level of use of different procedures currently against their use following the introduction of the provisions.
- Monitoring can be undertaken with the Planning Inspectorate over the use of the different procedures.

Require CPO documents to be published online, introduce new data standards, and allow publication of notices electronically

- It will be possible to seek feedback from the industry following the introduction of these measures. Further work will be needed with the industry to discuss and implement relevant data standards.

Give local authorities greater certainty that they can use their compulsory purchase powers for regeneration schemes

- It may be possible to seek feedback from the industry as to whether this measure has given local authorities greater confidence in using their powers for regeneration purposes.
- It may be possible to monitor the number of regeneration CPOs coming forward after the measure is introduced.

Annex 15: Statement of Impacts – High Street Rental Auctions

Policy under consideration and rationale for intervention

Policy and rationale:

The policy of High Street Rental Auctions (HSRAs) aims to tackle the persistent problem of vacant property on high streets and in town centres, the blight they create and knock-on effects on the social and economic prosperity of places across the country; contributing to social and physical capital traps in these areas. The policy would give local authorities the power to identify a vacant unit that has been empty for over 12 months and to hold a rental auction for a 1-5 year lease of that unit. Once a unit has been identified and the landlord informed of the intention to run a Compulsory Rental Auction (CRA), they would have two months to let the property before the HSRA is imposed.

The desired outcome is an attractive and lively high street with footfall and activity that attracts people and businesses, increases pride in place, and avoids long-term presence of vacancy. This would help to reduce negative externalities created by empty high street and town centre properties through delivering diverse uses, through removing barriers to entry and through improved local growth by supporting the occupation of otherwise vacant units.

The work on HSRAs is based on analysis of supply and demand challenges of the commercial property market, leading to market failure in terms of landlords often holding on to vacant property instead of renting or selling at lower market value. In other cases, it can present as a demand issue where the property market has fallen through, and landlords struggle to rent out. Either barrier requires tackling, and HSRAs present a mechanism of achieving this. HSRAs provide another tool that enables Local Authorities to tackle vacancies as they see fit in their local area and doing so by acting as a temporary catalyst to bring vacant units back into use, using a less interventionist, less time and cost-intensive tool than Compulsory Purchase Order.

The policy objective is to temporarily allow renting out of units at affordable rates to revitalise high streets and town centres and achieve a potential economic uplift by incentivising activity and reversing the effects on investment caused by negative externality, rather than having units sit empty for a long amount of time due to the landlords holding on to vacant property because they cannot achieve rents which they are used to for the area.

Background: Commercial Property

Data from IPF research on the UK commercial property market estimates that commercial real estate in the UK has a capital value of £918bn. There is an estimated rental value of £61.7bn, of which £16.5bn (27%) is retail[111].

Of the commercial property stock in the UK, 70% is owned by UK entities. The largest share of this is owned by 'pooled investment vehicles,' with 16% and UK Real Estate Investment Trusts (REITs) owning 15%. UK pension funds are estimated to make up 8% of commercial property investors. This represents a small proportion of pension investments, with around 3% of the value of private sector employee pension schemes (DC) invested into property (£31bn/£1026bn)[112].

Table 1: UK Commercial Property Investment by Investor Type[113]

Investor Type	**£bn**	**%**
UK insurance company funds	42	8
UK pension funds	43	8
UK & CI pooled investment vehicles	83	16
UK REITs	76	15
UK private property companies	52	10
UK traditional estates	21	4
UK other	34	7
Overseas	156	30

[111] IPF Research (2022) The Size and Structure of the UK Property Market: End 2020, link
[112] ONS
[113] IPF Research (2022) The Size and Structure of the UK Property Market: End 2020, link

Commercial property vacancy rates

High levels of vacant commercial property are a major regeneration challenge for many places across the country. In November 2021, 14.5% of all high street units in retail and leisure were vacant. This continues a pre-pandemic trend, with vacancy rates gradually increasing from 10.9% in 2017 to 12.2% at the start of 2020[114].

With 486,510 retail units in England[115] and a retail vacancy rate of 15.9%, this suggests that there are just over 77,000 vacant shops alone in England.

While some level of vacancy can be a sign of natural business churn and will include units that will be filled relatively quickly or are in the process of being filled, around 30 Local Authorities in England have a vacancy rate of above 20%.

Regional and local variation of vacancy rates

These are not evenly distributed, with seven Local Authorities in the North West and North East having vacancy over 20% but only one each in the South East and the South West and none in Greater London. This has implications for the Government's Levelling Up agenda and high levels of vacant property poses an obvious form of scarring and undermine pride in place.

Table 2: High vacancy by region

Region	**Number of LAs with vacancy rates above 20%**
East of England	2
East Midlands	3
Greater London	0
North East	7
North West	7
South East	1
South West	1
West Midlands	2
Yorkshire and the Humber	5

[114] https://www.localdatacompany.com/blog/q2-brc-retail-vacancy

[115] https://www.gov.uk/government/statistics/non-domestic-rating-stock-of-properties-2020

Length of vacancy

While some level of vacancy is a result of natural churn, there is also a problem of persistent vacancy. Some high streets and town centres also have 'problem' buildings which have been vacant or derelict for a long period of time and blight the area. These are often large units, with 35 of BHS' 167 former sites still empty five years after their closure[116].

Of the properties vacant in England, over 20% have been vacant for over 4 years. Just 9.5% have been vacant for under 6 months and almost 40% have been vacant for between 2 and 4 years.

Table 3: Vacant Units by length of vacancy (Data from Whythawk)

Length of Vacancy	**Up to 6 months**	**6 -12 months**	**12- 24 months**	**24- 48 months**	**48+**
% of vacant units	9.5%	13.0%	18.3%	39.1%	20.1 %

Table 4: Vacant Units by size of unit

Size of units	**50 m^2**	**150m^2**	**250m^2**	**800m^2**	**1500m^2**
% of total vacant units	44.3%	30.4%	9.9%	11.5%	2.3%

Size of unit m2	**12 month+ Vacancy Rate**
50	10.8%
150	8.2%
250	9.2%
800	9.6%
1500	9%
1500+	6.6%

Market Response and Barriers

Government policy to support the repurposing of vacant property has included changes to the planning system, aimed at encouraging a mix of uses on high streets

116 https://www.theguardian.com/business/2021/aug/28/fifth-of-bhs-stores-empty-five-years-after-chain-closed

by making it easier to switch between uses. Funding programmes such as the Future High Streets Fund and Towns Fund have also been used in some cases to support the repurposing of vacant commercial property.

However anecdotal evidence from stakeholders suggests that there are still barriers to repurposing vacant property including the following factors.

- **Unit Size**: Larger units are more difficult to fill than smaller ones, with the costs of repurposing large, former department stores, into smaller units or mixed-use developments deemed prohibitive. There is no longer demand from tenants for large-format retail units and these are often difficult to convert to alternative uses.
- **Economic viability:** the cost of conversion/repurposing of some units to a state fit for a new tenant is often deemed unviable in areas of the country where returns on the unit are low.
- **Business rates**: The costs of doing business for tenants of commercial property, such as rates, are cited as a barrier to filling vacant units by tenant groups.
- **Landlords:** Stakeholders often suggest that there are some landlords that sit on property rather than make an effort to rent it out. Some landlords sit on a property in the hope the market improves along with rental value, or they find a tenant. Others may also be unwilling to lower their price expectations as to do so may reduce what they could expect on their other properties.
- **Ownership and investment:** It is often suggested by stakeholders that large corporate landlords (e.g., pension funds) may lack the economic incentive to invest in property that is a very small part of their portfolio (that in some cases it is suggested they may not even realise they have) and may offer small returns. A study from Power to Change[117], which looked at 22 streets in 11 cities (covering around 3,000 units) found that investment management schemes had the highest rates of vacancy among properties that they owned, at 13%. This was compared to just 1.3% vacancy rates among properties owned by private individuals and 4.5% vacancy rates among those properties owned by the private sector. The second highest rate of vacancy was among 'institutions' (insurance, banking, and pension funds), which had 11.9% rates of vacancy among their properties.

[117] Power to Change, Take back the high street, putting communities in charge of their town own centres, https://www.powertochange.org.uk/wp-content/uploads/2019/09/PCT_3619_High_Street_Pamphlet_FINAL_LR.pdf https://www.powertochange.org.uk/wp-content/uploads/2019/09/PCT_3619_High_Street_Pamphlet_FINAL_LR.pdf

Table 5: Vacant Property by ownership type (via Power to Change study):[118]

Type of Owner	Vacancy Rate	Ownership Rate	Ownership of Vacant Units
Investment management schemes	13%	5.8%	9.6%
Institutions (insurance, banking, and pension funds)	11.9%	8.9%	13.5%
Overseas Investor(s)	9.6%	17.3%	21.2%
UK REITS and propcos	9.2%	21.4%	25%
Other	9.1%	3.9%	4.5%
Traditional estates, church, and charity organisations	6.8%	13.3%	11.5%
Retail and leisure occupiers	5.7%	5.3%	3.8%
Public sector	4.5%	16.6%	9.6%
Private individuals	1.3%	7.5%	1.3%

Background: High Streets and Town Centres

The increase in vacant commercial property on high streets and in town centres is part of a wider trend away from bricks and mortar retail that has been happening since pre-pandemic and has been accelerated by the pandemic. High street vacancy rates have been gradually increasing since 2017, while high street footfall was also decreasing pre-pandemic with a fall of 4% between 2016 and 2019.

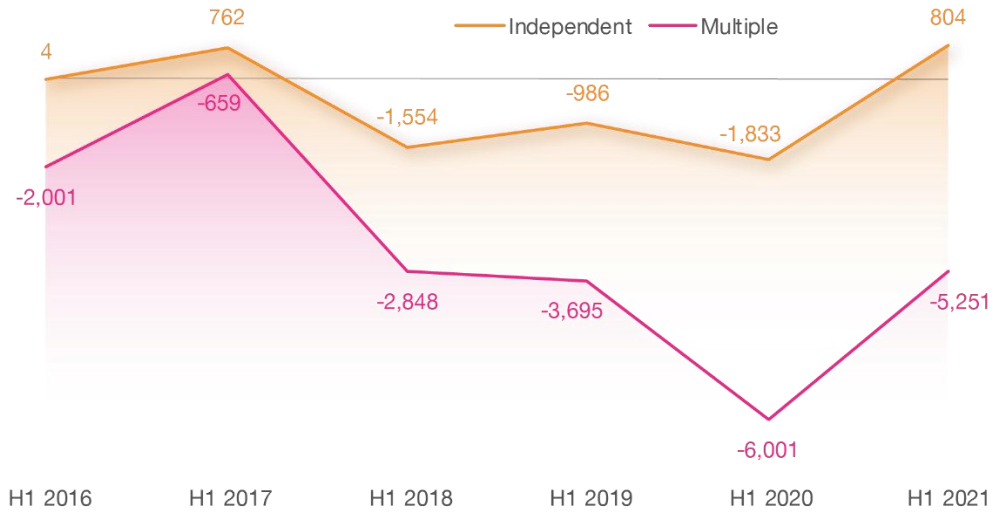
Due to the ongoing structural changes to retail, it is widely accepted that there is an oversupply of retail units in the UK. In 2000-2001 there were 506,500 retail units (defined by VOA) in England, while in 2019-20 this had fallen to 486,510, with a fall of 4% in the number of retail units.

The years 2021 and 2020 both saw fewer openings of new premises than closures, with this driven by large scale closures of multiple retailers. In 2021, there was a net increase of 804 in the number of independent retailers, compared to a fall of 5,251 in the number of multiples. This continues a previous trend outlined below, of net

[118] Power to Change, Take back the high street, putting communities in charge of their town own centres, https://www.powertochange.org.uk/wp-content/uploads/2019/09/PCT_3619_High_Street_Pamphlet_FINAL_LR.pdf

closures being larger in multiple retailers than independents in each of the past five years. Often, these multiple retailers occupy larger premises, meaning that their loss from high streets can have a scarring effect and leave difficult to fill premises.

Net opening and closures over time [119] (Local Data Company)



At the height of the pandemic, footfall fell by 90%[120] and it is estimated that a typical English regional city will have had approximately 10 million fewer people on its streets across 2020[121]. This fall was driven by high streets and shopping centres, with footfall falling 46% in high streets in 2020 and 43% in shopping centres, compared to 23.6% in retail parks[122].

However, this is not uniform, with the impact of the pandemic and changes to retail playing out in different ways in different places. The pandemic led to a rediscovery of local, with most district high streets now recovered to their pre-pandemic levels of footfall. The High Streets Task Force divides places into 'district,' 'town,' 'regional centre' and 'major city' based upon their footfall patterns, with the graphs below showing that major cities have either 'reduced' or 'much reduced' footfall, while 65% of 'towns' and all the district centres in the sample recovering to pre-pandemic levels.

[119] Local Data Company Openings and Closures, https://www.localdatacompany.com/blog/press-release-independent-sector-returns-to-growth-in-h1-2021

[120] High Street Task Force, Review of High Street Footfall July 2019 June 2020, https://www.highstreetstaskforce.org.uk/media/b5dnkp4z/hstf-footfall-report-2020-for-publication.pdf

[121] High Street Task Force, Review of High Street Footfall in England 2020-21, https://www.highstreetstaskforce.org.uk/media/opcelyp1/footfall-report-2021-final-for-publication.pdf

[122] Hight Street Task Force, Professional research and data group, https://squidex.mkmapps.com/api/assets/ipm/hstf-prdg-data-pack-september-2021.pdf

The same recovery comparisons can also be made by type of place. The Task Force categorise places based upon their footfall signatures, with ‘comparison towns’ those reliant on retail, ‘holiday’ those with a summer tourist footfall peak, ‘speciality’ those that serve their local population but also attract tourists and day trippers and ‘multifunctional’ towns those that serve a range of purposes.

All ‘comparison’/retail-led towns within their sample are still experiencing reduced footfall, with ‘multifunctional’ towns the next most impacted. Speciality and holiday towns both have a majority of towns ‘recovered’ to pre-pandemic levels of footfall, indicating that the impact of the pandemic on high street footfall varies by the type of place.

There is some evidence that the market is gradually adjusting to the changing needs of consumers and moving away from retail-anchored town centres. Between 2016 and 2019 the number of towns with ‘comparison/retail’ footfall signatures fell by over 60%, with around half of those moving into the ‘specialty’ category and half into the ‘multifunctional’ category.

This suggests that some places have been successful in starting to move away from a retail-dominated model, but that those who have not managed to do this have been particularly impacted by the reduction in footfall during the pandemic. With both vacancy rates and footfall varying by types of places and geography, the impact of any new policy aimed at addressing this will need to take account of how it will impact different places in different ways.

Market Failures:

1. **Blight and placemaking:** Vacant properties can cause ‘blight’, reducing the amenity value of the area and increasing negative externalities. Evidence suggests that reducing blight and increasing the attractiveness of an area can serve to increase net welfare in an area, which can be potentially capitalised in nearby property values.
2. **Mismatch of supply and demand:** The supply of vacant commercial property, which includes large format retail units, does not meet the demand from potential tenants or the market for mixed use, flexible spaces, as commercial stock is geared towards a retail-led model (often anchor-store led). Landlords are often not incentivised to invest to adapt their units due to the cost involved to attract a potentially uncertain future income.
3. **Monopoly power:** Some landlords or groups of landlords may exercise monopoly power by deliberately restricting the supply of sites in order to maintain higher rents.
4. **Coordination failure:** Where a single project depends on investment by others there is the potential for coordination failure. It might be the case, for example, that a site is owned by several landlords. Individual landlords will not invest as

other properties might remain rundown; if landlords were forced to invest then others might follow. Alternatively, developers will only bring forward residential units if there is an increase in the attractiveness of a place[123].

Description of options considered

Option 0) Do nothing

DLUHC is responsible for the review of the Landlord and Tenant Act 1954 part II, which government has committed to. The purpose of the review is to develop proposals for a framework that helps support the efficient, flexible use of space and supports high streets and town centres. The scope of this is currently being explored by officials and is subject to ministerial agreement. The review of this legislation could, therefore, lead to changes in the way that commercial property relationships exist, however the extent of the review is not guaranteed and subject to ministerial agreement. The mechanism for such change is also not agreed and any legislative change will fall into either the 5th legislative parliamentary session or the next parliament. This means that the 'Do nothing' option may not mean a continuation of the status quo, as other policy interventions are also looking at the commercial real estate market.

There is some anecdotal evidence that the acceleration of trends in the retail market caused by the pandemic, and to a degree the forced negotiations between tenants and landlords that the pandemic and rent moratorium led to, has led to some alteration in innovations such as rents linked to tenant turnover. If these 'turnover rents' become more widespread it could suggest that the market is adapting.

There is also evidence that the market is gradually repurposing vacant retail units, including large anchor stores. There are a number of examples of innovative uses of former retail units, such as for trampoline parks, go karting and mixed use development. This is not widespread though and isn't addressing the level of vacancies we are seeing.

Permitted development rights and funding for mixed use developments, either from local government, the private sector or through national schemes such as the Towns Fund and Future High Streets Fund, are all also supporting the development of a wider range of uses

Option 1) Legislate to give all Local Authorities the power to run High Street Rental Auctions

High rents and the inability to reduce them to provide investors with certainty is often cited as a reason for businesses defaulting and commercial properties falling vacant. CRAs would seek to address this by requiring a landlord of a vacant commercial

[123] Venables, J. (2016) Incorporating Wider Economic Impacts within Cost-Benefit Appraisal, OECD, https://www.itf-oecd.org/sites/default/files/docs/incorporating-wider-economic-impacts-cba.pdf

property to auction their rental rights for one to five years to attract tenants at low rates, but the property would remain in the landlord's ownership.

In effect, the power of local government to run a rental auction should encourage landlords to be more proactive in filling their vacant sites on their own terms because of the risk of a low rent from an auction scenario. This may lead to more temporary leasing to a wider range of stakeholders resulting in fewer vacancies. Should the threat of a HSRA not lead to units being filled by the market, then their use will lead to units that would otherwise be empty being filled by active uses. It is therefore expected that the policy will lead to lower rates of vacancy in some places and in turn will support economic growth through the economic impact of the increases in uses.

Research by the Federation of Small Businesses (FSB) suggests that making empty units available for rent would be well received by businesses. Of the businesses surveyed by FSB, 40% said that making empty units available for rent was one of the biggest changes that could be made to help their high street.

Ensuring active frontages and uses of otherwise vacant properties through CRAs will also help to support local places in breaking the cycle of empty properties leading to low pride in place and lower footfall, which in turn lead to further vacancy.

At present, local, and central government do not have powers to force vacant units into occupation. For local government to auction the lease of a vacant property to address long-term vacancies, a new form of permission granting control over the lease will need to be created. We expect the auction to have no minimum rental value, meaning that the market can determine the price that is appropriate in each case. It will also ensure that the policy has maximum impact by reducing any risk of units not renting, which may have occurred with a minimum rental value.

Summary and preferred option with description of implementation plan

The preferred option is option 1, legislate to give local authorities the power to run HSRAs. The right for a local authority to run a compulsory rental auction does not currently exist and would need to be legislated for. We plan to do this using primary legislation through the Levelling Up and Regeneration Bill.

How the auction would work:

This will be a new permissive power for Local Authorities (rather than any form of duty imposed upon them) to rent out vacant property via an auction. The general process is envisaged to be as follows:

- The Local Authority identifies a vacant property which has been unoccupied for six months (having undertaken a survey to assess its state and compliance with building regulations where necessary) and serves two months' notice of its intention to auction the vacant property for letting.

- If the vacant property remains un-let after the two months, the Local Authority issues a further notice giving the Local Authority the power to instigate a rental auction for the vacant property over a three-month period, but with the landlord having the right to lodge an appeal in the first month.
- The auction would be run by a third-party agency, and the winning highest bid at auction will then be granted a standard form of lease of between 1 – 5 years (contracted out of the LTA 1954), within the uses specified by the Local Authority.

Local authorities will be responsible for the ongoing operation and use of HSRAs and for enforcement. The power will be permissive and so is an option for local authorities to use, rather than a requirement to use it on all vacant property. This allows local authorities to decide when its use is appropriate and to use it in places and properties that will benefit most from the policy.

The policy will be reliant upon local authorities' capacity to implement HSRAs and so any lack of local authority capacity may restrict their use. However, we expect the policy to be a simple process and much of this will be done externally to the Local Authority. We are also working separately to support local authorities in their capacity and capability for regeneration, including through the High Streets Task Force programme.

DLUHC may support some early adopters in going through the HSRA process for the first time, in order to learn more about the use of CRAs and to be able to provide advice and best practice for other authorities looking to use CRAs. However, this will not include funding.

Compulsory purchase orders already provide one means for authorities to fill or reuse property, by giving the power to purchase it. Between April 2020 and March 2021 22 planning CPO applications were made, from 21 different local authorities. We would expect the HSRA process to be simpler and easier than the CPO process, while CRAs would also not give local authorities the same financial risk that using the CPO process does. We would therefore expect CRAs to be used more regularly than CPOs, but the volume of CPOs used does provide some background.

Monetised costs and benefits

HSRAs may realise both benefits captured as a proportion of the value of the properties released into the market and following on from these benefits to nearby places which would also benefit from the reduction in blight, increased footfall, and economic activity.

Benefits

Accurately determining total benefits of HSRAs is problematic for the following reasons:

- **Land value uplift/ change in value:** Typically, DHLUC guidance advises estimating the value of land or sites before and after development and change in land use[124]. However, in this instance sites do not change use: they remain commercial land before and after auction. Moreover, in principle the value of the sites should be approximately the same whether occupied or vacant.
- **Determining changes to consumer surplus:** Shifting the supply curve to the right would, in principle, bring about benefits equal to the net change in consumer surplus, producer surplus and reduction in deadweight loss. Unfortunately, the available data does not allow the calculation of the potential change in price.
- **Disbenefits of reduction in rental values for landlords:** Whilst, in theory, creating a more efficient market for rental property reductions in rental prices might produce disproportionate disbenefits for landlords, data and evidence gaps mean these are difficult to estimate.
- Given the genuine reasons landlords might leave property vacant, (including the costs of refitting and refurbishment), and the potential barriers to LAs utilising CRAs (legal costs etc.) it is difficult to determine how many CRAs might be deployed.

In response to the challenges outlined above the analysis adopts the following assumptions:

Social Benefits: To determine the benefits of the deployment of CRAs this analysis will distinguish between the *financial value* of a property to landlords and the *economic value* to society. Although, as outlined above, the value of a property will change only slightly as a result of the deployment of CRAs, if held empty the value accrues only to the landlord, but if occupied the value can be assumed to be equal to the net increase in welfare to society. As such the increased benefit to society will be equal to the value of the property less disbenefits to landlords, profits, and the costs of refit.

Disbenefits to landlords: In principle a reduction in rental prices might reduce the sale value of a commercial property (which reflects potential rented income) and so the value of the landlord's portfolio. This disbenefit to the landlord will serve to reduce the overall net benefits to society. Whilst possible there are reasons to believe that the impact might be minimal:

- Evidence suggests that investment funds hold a sizeable proportion of vacant properties. It can be assumed that fund managers will look to mitigate the impact of price falls, which are likely for a range of reasons.

[124] DCLG (2016) The DCLG Appraisal Guide, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/576427/161129_Appraisal_Guidance.pdf

- As with the rental property market capital market imperfections can arise where assets are misvalued, as may be the case where property owners distort prices in property markets, leading to capital market instability.

Dynamic Benefits: The analysis below assesses the *first order impacts* as rental prices are assumed to fall following the increase in the supply of rental properties. However, over time there may be further price changes in response to improvements to the local area, which in turn might lead to an increase in rental values. Due to high levels of inherent uncertainty no attempt has been made to estimate these long-term benefits.

Benefits: The direct economic benefit of the HSRA is the consumer surplus gain from allowing the market to clear, as shown by area A in figure 1. This is consistent with DLUHC appraisal guidance.

To frame the problem, these vacant units that are eligible for the HSRA are priced at Pc. This was the equilibrium price between the fixed supply of units (S1) and initial demand (D1). Conceptually, D1 is demand prior to structural changes to the commercial rental market such as the COVID19 pandemic, downwards trend in physical transactions and HMG austerity policy. Now, because of these structural changes, demand for physical commercial units has decreased to D2. However, price has remained at Pc and so the market is not clearing. Given new demand (D2), a price of Pc has a demand of zero units.

Demand in figure 1 can be thought of as the total cost the tenant is willing to incur to lease a given amount of units, this is a function of rent, cost of repurposing and any other cost of ownership.

The cost of repurposing is generally fixed, it is a set cost per square metre (though will vary by tenant purposes). So, as the current rental price of vacant units is not clearing, it must not be fully reflecting the cost of repurposing (and any other costs) given current demand(D2).

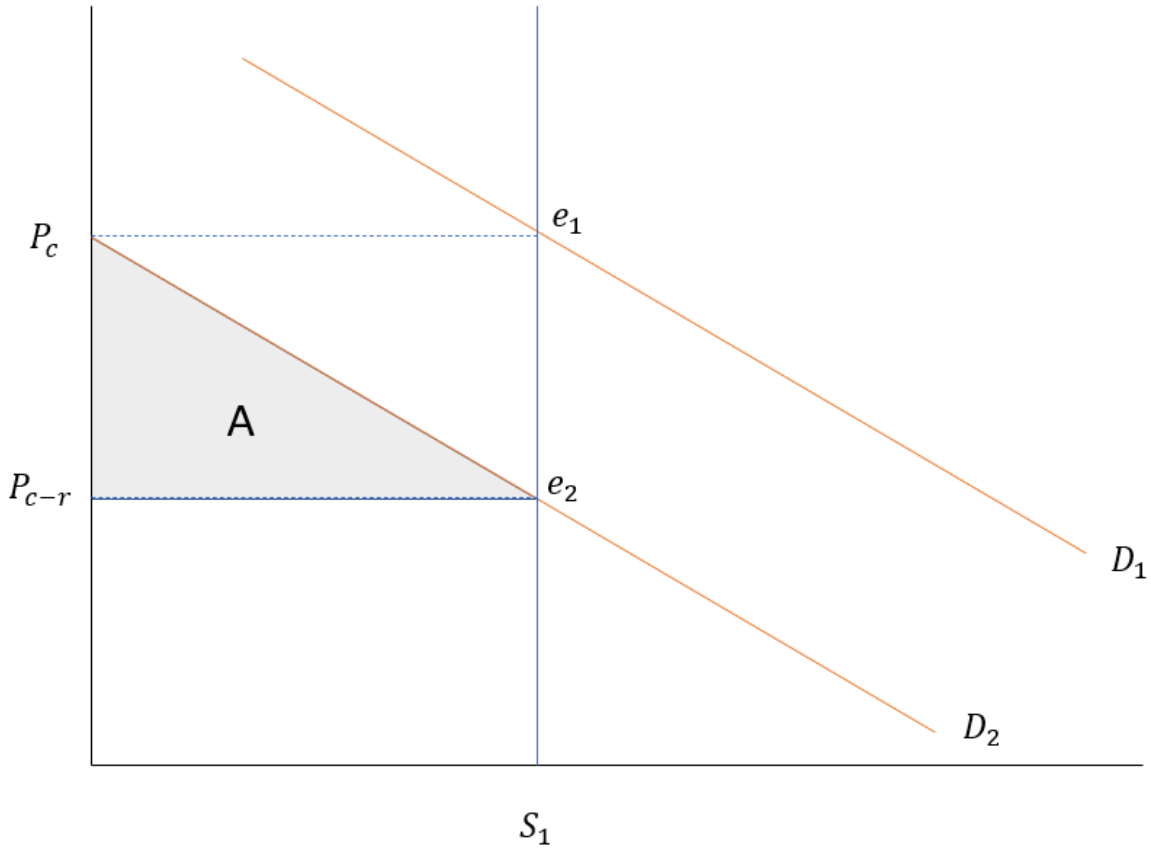
The reasons behind this have been discussed already but the main driver will be irrational agents, landlords are not reducing rent due to expectations of higher rents in future and/or for the purpose of avoiding decreased value in the underlying asset. In theory, the HSRA will allow rent to fall to a price that sufficiently covers the cost of repurposing the unit to the tenant (Pc-r).

The benefit can be calculated by change in price multiplied by supply of HSRA eligible vacant units, divided by two. Area A in figure 1.

The costs, which are not reflected in the diagram, are the costs of the auction. These are costing the landlord would not have faced without the policy and thus is a loss to societal welfare. These are equal to the cost of participation (surveying, valuation,

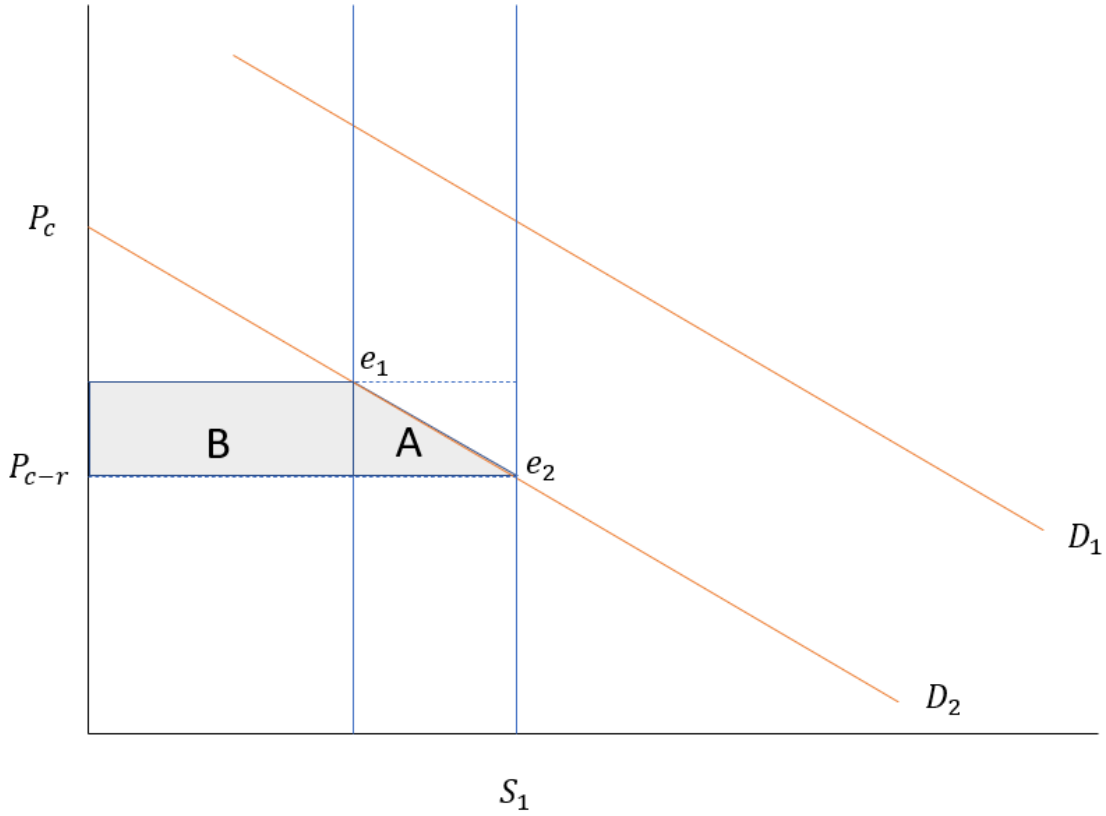
admin charges of auctioneer/letting agent) plus the commission of the auctioneer (% of agreed rent).

Figure 1: Supply and demand for vacant commercial property in areas with high vacancy rates



According to basic microeconomic theory, there also may be wider consumer benefits from the auctions decreasing rents. As shown in figure 2, if the market is monopolistic or monopolistically competitive, we can think of the HSRA as an increase in total supply by forcing producers (landlords) to supply more units at a lower price, this will put downward pressure on all commercial units - reducing rent for wider consumers and creating additional surplus (area B).

Figure 2: Supply and demand for all commercial property



Whythawk data provides a complete set of vacant/occupied properties by local authority. Units can be further broken down by length of time vacant, floor space, and rental valuation.

For a subset of properties in the data that would be appropriate for HSRA (see assumptions), Pc is taken as the most recent rental valuation, scaled to a 3-year lease. Pc-r is calculated by multiplying total floor space for each property by a fixed repurposing cost per square metre and subtracting a percentage of this cost from the rental valuation.

To calculate consumer surplus, the total vacant units are multiplied by their respective change in rent and then divided by two. This produces the triangle of benefits A, in figure 2.

Costs estimates are the maximum cost of survey and valuation per unit (£7,500) and the auction commission (assumed 2%) of the new rent.

To calculate BCR benefits are divided by costs, shown in table 8. A few sensitivities have been applied. In scenario 1, benefits are limited to the consumer surplus gain from just the properties entering the CRA.

The wider market benefits, included in the BCR shown in scenario 2, are calculated by multiplying the total occupied units in each LA by the average rent reduction of vacant units in that LA. This is area B in figure 2. Given the range of sensitivities around refit costs, this analysis has assumed conservatively that wider prices would decrease

by only 10% of the average rental decreases facilitated by compulsory rental auctions in each scenario. It does not make sense that wider prices would fall by the amount equal to refit costs of the HSRA eligible properties.

See tables 6 and 7 for the time profile of the scenarios.

Table 6: Scenario 1 Costs/Benefits

	Description	**Year 1**	**Year 2**	**Year 3**
Benefits	Consumer surplus to HSRA properties	ü	ü	ü
Costs	Auction costs	ü		

Table 7: Scenario 2 Costs/Benefits

	Description	**Year 1**	**Year 2**	**Year 3**
Benefits	Consumer surplus to HSRA properties	ü	ü	ü
	Consumer surplus to all properties		ü	ü
Costs	Auction costs	ü		

Table 8 BCR estimates and sensitivities

Sensitivity	**Scenario 1**	**Scenario 2**
Pessimistic	0.93	4.9
Central	1.6	8
Optimistic	1.7	8.6

Table 9: Scenario costs and benefits

Sensitivity	Costs	Benefits	
		Scenario 1	Scenario 2
Pessimistic	£0.250bn	£0.233bn	£1.23bn
Central	£0.244bn	£0.385bn	£1.94bn
Optimistic	£0.242bn	£0.413bn	£2.095bn

The pessimistic sensitivity assumes HSRA rents clear at 50% the cost of repurposing, the cost of repurposing is £215 per square metre and only vacancies in areas with a greater than 60% long term vacancy rate are included.

The central sensitivity assumes HSRA rents clear at 100% the cost of repurposing, the cost of repurposing is £323 per square metre and only vacancies in areas with a greater than 50% long term vacancy rate are included.

The optimistic sensitivity assumes HSRA rents clear at 150% the cost of repurposing, the cost of repurposing is £431 per square metre and only vacancies in areas with a greater than 40% long term vacancy rate are included.

All scenarios include a limit to rent of 50% of rental valuation, this is to avoid instances where high refit costs cause rent to fall close to zero.

Wider Benefits

There are a number of potential wider economic benefits to the imposition of HSRAs. Unfortunately, existing methodologies are typically tailored to the analysis of single sites, and as such require a range of local data to accurately estimate potential benefits. Nevertheless, as outlined briefly here wider economic benefits can be expected to be positive.

Amenity Benefits

Interventions such as HSRAs can be expected to generate positive 'place making' effects, leading to an increase in *amenity* through:

- local environmental improvements and the removal of blight; and/or
- more general market effects arising from enhanced confidence in the area and 'demonstration effects[125]'.

[125] Effects on the behaviour of individuals or businesses caused by the observation of the actions of others and their consequences.

Improvements to a town centre or high street can potentially lead to an increase in visitors to the area, as well as an increase in demand for properties, both commercial and residential. This may be realised in the prices for these properties. These impacts are explicitly mentioned in HMT's Green Book:

"Sometimes it is possible to identify the implied value of non-market goods from other decisions people make where prices are available. This gives a revealed preference – the value revealed as a result of people's actions. Hedonic pricing is an example of this approach. For example, the relationship between house prices and levels of environmental amenity, such as peace and quiet, may be analysed in order to assign a monetary value to the environmental benefit."[126]

Homes England and DHLUC have commissioned research into the potential benefits of interventions that seek to remove existing blight and develop brownfield land. Although work is ongoing initial results suggest that wider impacts on property prices can be substantial. Using a hedonic pricing approach to assess the impact of placemaking schemes on properties in a series of case studies the study suggests the following range of potential increases in the value of nearby properties:

Table 9: Placemaking impacts[127]

Table 1: Placemaking Impacts by grouped region (% increase in capital value in impact area)				
NORTH		**Rate of development**		
		Low Development (LD)	**Medium Development (MD)**	**High Development (HD)**
Units	**<100**	0.80%	0.55%	0.12%
	100/250	1.50%	1.24%	0.82%
	250/500	2.76%	2.50%	2.08%
	500+	2.05%	1.67%	1.39%
MIDLANDS		**Rate of development**		
		Low Development (LD)	**Medium Development (MD)**	**High Development (HD)**
Units	**<100**	0.96%	0.71%	0.28%
	100/250	1.66%	1.40%	0.98%
	250/500	2.92%	2.66%	2.24%
	500+	2.21%	1.78%	1.49%
EAST & SOUTH WEST		**Rate of development**		
		Low Development (LD)	**Medium Development (MD)**	**High Development (HD)**
Units	**<100**	0.66%	0.53%	0.32%
	100/250	1.01%	0.88%	0.67%
	250/500	1.94%	1.68%	1.30%
	500+	1.49%	1.15%	1.01%
SOUTH EAST		**Rate of development**		
		Low Development (LD)	**Medium Development (MD)**	**High Development (HD)**
Units	**<100**	1.31%	1.06%	0.63%
	100/250	2.01%	1.75%	1.33%
	250/500	3.27%	3.01%	2.59%
	500+	2.56%	2.01%	1.87%
LONDON		**Rate of development**		
		Low Development (LD)	**Medium Development (MD)**	**High Development (HD)**
Units	**<100**	0.00%	0.00%	0.00%
	100/250	0.00%	0.00%	0.00%
	250/500	0.61%	0.35%	0.00%
	500+	0.41%	0.29%	0.15%

Note: The impacts for the East and South West are based on the mid-point impact between London and the South East[9]

[126] HMT (2020) The Green Book, p. 59, https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-governent/the-green-book-2020

[127] Unpublished DLHUC research

Table 9 shows the increase in housing stock capital value by grouped regions for urban areas with varying numbers of units supported and local rates of recent development.

To determine the potential impact of HSRAs across the UK would require knowledge of the size and value of housing stock in each area, including the distance from potential improvements. Even so, the analysis suggests that depending on the extent of the commercial floorspace brought to market and the impact on footfall there could be non-trivial increases in property values.

Density and Agglomeration

In as much as the reduction in blight and increased attractiveness of a place encourage some combination of an increase in the number of businesses, visitors, and residential units there may be further benefits from increased agglomeration and density. This of course assumes that the only constraint is long-term vacant properties, and that transport links and housing will be forthcoming. Given available resources it is impractical to estimate these potential benefits for each Local Authority, however, evidence underpinning DfT guidance[128] (ref) and NIC (2021)[129] suggest that benefits are likely to be positive.

Familiarisation costs

The requirement to run rental auctions may prove disruptive for the commercial property market to adapt to. It will provide a new challenge for Local Authorities and will require LAs to gain the knowledge and skills to oversee rental auctions. It may also impose familiarisation costs upon landlords, who would need to understand the rules, process, and any appeal process. Auction costs will be paid for by the tenant, however if a local authority wanted to run an optional pre-auction survey, then this would be paid for by the authority.

There is no robust evidence on how long it would take to understand and disseminate the information for landlords. However, we can use illustrative assumptions to arrive at a direct familiarisation cost for landlords. We assume 1 hour of familiarisation cost per landlord where the wage cost is £22.80 per hour[130], and assume one landlord per eligible vacant unit (30,652 eligible units[131]. This is number of units from the sample in 2021 that had been vacant for at least 12 months and categorised as retail or leisure).

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[128] DfT (2016) Tag Unit A2.4: Appraisal of Productivity Impacts, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/554790/webtag-productivity-impacts-tag-unit-a24.pdf

[129] NIC (2021) Effects of population density changes on the value of amenities in the United Kingdom: Evidence from the Rail Plan for the Midlands and the north of England, https://nic.org.uk/app/uploads/RNA-Amenity-benefit-research-report.pdf https://nic.org.uk/app/uploads/RNA-Amenity-benefit-research-report.pdf

[130] Office for National Statistics, Index of Labour Costs per Hour, UK: July to September 2020, https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/indexoflabourcostsperhourilch/julytoseptember2020

[131] https://openlocal.uk/

Therefore, by multiplying £22.80 by 20,562 we get familiarisation costs for landlords of £698,865.6.

Non-monetised costs

We would expect that LAs would likely contract a managing agent to run the process for them, rather than run it themselves in house. However, this would still require management from the authority and would likely incur a cost. Some local authorities may be better placed to use these new powers than others due to the differing capacity and capability among local authorities. Because this is a permissive power (i.e., authorities are not compelled to rent out vacant units), it is not considered a new burden and will not receive new burdens funding from HMG.

Delaying the conversion of unviable units:

There is a risk that in some cases a HSRA would simply delay dealing with a more fundamental problem behind a unit.

While 'hope value' can sometimes be blamed for landlords not filling property or adapting it for alternative uses, the same hope value of bringing a large retail unit back into retail use through a rental auction when it may not be economically viable in the long term could lead local authorities to run rental auctions on properties that then end up empty again at the end of the lease.

While there will likely be some successes that lead to more long-term uses, there may be some cases, where offering a HSRA process with no minimum rental value is still not viable due to other associated costs. We would expect HSRAs to lower the prices of rents on units such as these, to a rate that the market would pay. This in itself may be a benefit in bringing rents to a new market value. However, while this lower rent may be the maximum rent that renters are willing to pay, there is no guarantee that it will always be at a rate that landlords would accept if they weren't legally compelled to by the HSRA. There may therefore be a risk that at the end of the lease the unit either needs another HSRA process, returns to vacancy or requires a new use or redevelopment to a more sustainable long-term use.

Non-monetised benefits

Lower barriers to entry for businesses:

HSRAs would likely lead to space being auctioned at a rate below the current market value. Should HSRAs be used widely, they may lead to downwards pressure on rents more widely. This would support businesses being able to enter the market that previously they wouldn't have been able to, as the barrier to entry of lease costs may be lessened. This could lead to a more diverse range of uses of space or to more innovation.

Businesses taking up the offer of space in the short to medium term may either find a more permanent/longer term lease elsewhere following the end of their lease or negotiate a more permanent arrangement with the landlord of the unit they have leased. Research by the Federation of Small Businesses[132] suggests that 56% of small businesses believe that reducing rents would make a difference to their high streets.

Community benefits

HSRAs leading to downward pressure on rents could also remove barriers to entry for community groups.

Should HSRAs lead to increased community use on high streets, then research from London School of Economics suggests that this could lead to benefits through footfall increases, increased resilience within a high street, attracting a more diverse range of people to high streets and supporting the reputation of a high street[133].

Reducing Blight:

The policy would support local authorities in reducing the blight of vacant buildings in their high streets and town centres. The 24% of department stores that existed in the UK and Ireland in 2015 are currently vacant with no plans for redevelopment[134]. East Midlands (28.6%) and East of England (27.4%) have the highest proportion of department stores that were open in 2015 now vacant with no plans pending. These stores, which are usually larger than average and are often anchor stores, create blight when vacant. Given their size and the long-term vacancy that many face, we would expect large former department stores to make up a significant number of the properties that would pass the 'public interest test' and be eligible to be filled through CRAs.

The blight of empty property reduces a local community's pride in place and can lead to further negative sentiment that may be damaging to the wider town centre and reduce the chance of filling other units. There is therefore social value in filling these units.

Research conducted by Oxford Economics for BCSC[135] found a relationship between vacancy rates and wider rental incomes, citing previous research by CABE that found

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[132] Federation of Small Businesses, Streets Ahead, https://www.fsb.org.uk/resource-report/streets-ahead.html

[133] Power to change, Saving the high street: the community takeover, https://www.powertochange.org.uk/wp-content/uploads/2020/10/Saving-the-High-Street-the-community-takeover-Report.pdf

[134] Nexus, The Future of Department Stores, https://squidex.mkmapps.com/api/assets/ipm/the-future-of-department-stores-nexus.pdf

[135] Oxford Economics, Empty Shops: What does the future hold for town centres, https://d2rpq8wtqka5kg.cloudfront.net/278638/open20141003043000.pdf?Expires=1660740664&Signature=Jd0Rlr0xhmmFHevXB58N-bM4viNOhkt4skmT0H1dnr8ZHYSidM7cBxwLFQHDdMAJqb85O9HSFjXM9fTxKqRHbqiMDKEZKSmUrQtx9MuSHLoq00k-MN1Ho5mIqyXByAPhrbD5~Nghe2R1C7ZT57zZayvedzxE6W2BTvlFvMtXo7GMcza0T-HyfLkPShC6UzsuKE5NQNc5Mi3qjCHVnDvH-J6vWGIbB5LIgILvsZc6fiMaf1LxOGVQ5XZWycnF5Rl9YkvU1P8AFfS5aU1UAZy4lE2vEcoyQu5H3wvJmWaQb8RottYlki4d4mADjcO-4bLx0KkUcjvpc4GOgg7aU5o3Zw__&Key-Pair-Id=APKAJVGCNMR6FQV6VYIA

that a 1% increase in vacancy was equal to around 9% fall in prime rental incomes. While this is based upon a small sample, it does suggest that there is a wider good in filling empty units.

DLUHC also engaged an external survey company (Walnut Unlimited) in 2018 to survey 3,000 people on their views on high streets in support of its previous policy development. Of those who had negative views of their high street, the most cited reason for those negative views was empty shops (33% of those with negative views blamed empty shops), suggesting that the existence of empty units impacts people's pride in place and views of their high street.

A London Assembly Economy Committee report[136] found that empty shops lead to further decline as they; deter investment; reduce pride in an area; reduce footfall; and increase negative perceptions. The House of Commons Housing, Communities and Local Government Committee High streets and town centres in 2030 Eleventh Report of session 2017-2019 outlines evidence from London Councils statins that "[Empty units] are not only a symptom of a struggling high street, they are also a cause. Empty shops can cause a 'negative feedback loop', which means they discourage investment, decrease the 'offer' on the high street, keep consumers from visiting and contribute to a general sense of decline and neglect." (p.49).

Local engagement over significant buildings:

HSRAs would provide another tool for Local Authorities (and by extension communities) to act to support change in their town centres. It would provide a tool for buildings important to the community to be bought back into use without the need for funding (national, local, or private sector) and for local communities to identify and benefit from spaces that it is in the public interest to fill. The requirement for community engagement could also lead to a wider conversation about the future of some empty units and ensure uses that reflect the needs of that community.

While they would not be able to control who ended up winning the auction and filling the unit, HSRAs would allow LAs to ensure that the building is at least in use. In some cases, the local authority itself may be able to bid for the unit, giving them the opportunity to take control of a building without the financial liability that they would incur if the used alternatives such as buying the unit or compulsory purchase (CPO).

Links to Compulsory Purchase

HSRAs may also serve as a precursor to a strategic site being compulsory purchased. Where a local authority does decide to use the CPO process, a HSRA could complement this and provide a short-term use for that building while the CPO process is ongoing. Use of a HSRA ahead of a CPO may also serve as market testing for the LA and reduce some of the risk of the CPO process.

[136] London Assembly, Open for Business Empty shops on London's high streets, March 2013, https://www.london.gov.uk/sites/default/files/gla_migrate_files_destination/FINAL_Economy%20Committee_empty%20shops%20report.pdf

Risks and assumptions

Risks:

New policy: HSRAs are new powers that are not currently existent or in use anywhere in the world, so there are no comparators elsewhere. This means that there is not a large evidence base to show the impact of the policy or of any unintended consequences. The policy therefore comes with the risk that it may not work as anticipated or may have unintended consequences.

Viability of long term vacant "difficult" units: If properties that are vacant over a certain period of time are in scope of the policy, then the policy may be starting with a large number of units that are long-term issues that have been vacant for many years and may not be economically viable even at a peppercorn rent. This could lead to some quick wins if they rent but could also lead to high profile failures if these don't have bidders. This in turn could lead to negative impacts on the rest of a particular town's property market if there are units that can't even be let at a nominal price.

Displacement risk: There's a risk that, in some places with high vacancy rates, prospective HSRA tenants are just displaced from engaging with a landlord who is actively attempting to rent out their empty unit, to renting from the auction system in hope of getting a lower price. This could end up with the same number of empty units as it would anyway but incentivise tenants to rent from the auction and from a potential absent landlord who may not be actively engaged with their property, rather than a landlord that is actively marketing and trying to fill their units. However, as this would incentivise more concentrated activity in town centre, it is in line with NPPF town centre first policy guidelines.

Disruption to the commercial property market: If use of the policy is widespread then it has the potential to provide some disruption to the commercial property market. Renting vacant property without a reserve price is likely to lead to downward pressure on rents. Arguably, this is necessary to prevent the market failures that exist in keeping rents at a higher rate than the market is willing to pay. Any rental value provided by the auction process is the value that the market is willing to pay and so this may be a good thing in bringing rental values to a market equilibrium. However, there is a risk that this may have short term impacts on investment and on the incomes of existing landlords not subject to HSRAs as the market adjusts to the downwards pressure on rents.

Scale of use by LAs: We know that Compulsory Purchase Order powers are often not used to their full extent by local authorities. This is often due to their complexity, cost, and lengthy process, with many LAs lacking the skills and resource to do so in house. While HSRAs are a less dramatic intervention, the same issues of lack of use could still occur. Some LAs may be concerned about legal complexities and challenge, and some may lack the internal capacity or capability to use them, depending on the

complexity of the process. This could limit the impact of the policy. There may also be a risk to LAs of challenge to the HSRA process, through appeals or potential litigation from landlords.

Assumptions:

BRCs have been calculated with the following assumptions.

- Subset of vacant units are those that have been vacant greater than 6 months, have a vacancy rate above the local authority average.
- Assumed the eligible properties are those in local authorities where the proportion of vacancies mad up by long-term vacancies is at least 40%, 50% or 60% depending on sensitivity. This assumption is to control for local authorities that may have above average vacancy rates but are predominantly short-term vacancies. These values have been chosen indicatively to limit the direct benefits.
- Sensitivities of +/- 50% for the proportion of refit costs have been applied to show the range of uncertainty in rental auction outcomes.
- Rental agreements from HSRA will be 3-year leases (middle range of the available lease lengths).
- Conservative estimate of HSRA surveying, valuation, and admin fees of £7,500 per unit[137].
- Auction commission of 2% of rental agreement (assumptions in footnote)[138].
- Repurposing costs of £215-431 per square metre depending on sensitivity[139].
- Standard discount rate of 3.5% as per HMT Green Book.
- Wider rental impacts occur the year after HSRA policy takes place and are only 10% of that caused by HSRA[140].
- In instances where refit costs exceed 50% of rent valuation, the reduction in rent is capped at 50%[141].
- Labour costs per hour used in familiarisation costs are assumed to be £22.80, this includes non-wage labour costs[142].

[137] Based on maximum survey costs found here, auction fees and commission found here, valuation costs found here.

[138] Based on indicative housing auction commissions found here

[139] Values from here, converted to square metre.

[140] There is no specific evidence available on the cross-price elasticity between vacant units spatially, as such this sensitivity is based on the values for 'leakages' in the green book supplementary guidance for additionality (table 4.2). Where 10% is used for instances where there is 'low' leakage of benefits to other groups outside of the reference group.

[141] There is no specific evidence available on expected decreases in rent for vacant retail units, moreover there is no specific evidence on the relationship between cost of repurposing and cost of leasing. As it is feasible that repurposing costs can exceed the cost of a lease for some units, this assumption it is justified to account for optimism bias towards rental reductions as a result of repurposing costs. Without it, direct benefits would strongly increase.

[142] ONS, Index of labour costs per hour, UK: July to September 2020, https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/indexoflabourcostsperhourilch/julytoseptember2020

Impact on small and micro businesses

To determine the potential impact of HSRAs across the UK would require knowledge of the size and value of housing stock in each area, including the distance from potential improvements. Even so, the analysis suggests that depending on the extent of the commercial floorspace brought to market and the impact on footfall there could be non-trivial increases in property values.

Density and Agglomeration

In as much as the reduction in blight and increased attractiveness of a place encourage some combination of an increase in the number of businesses, visitors, and residential units there may be further benefits from increased agglomeration and density. This of course assumes that the only constraint is long-term vacant properties, and that transport links and housing will be forthcoming. Given available resources it is impractical to estimate these potential benefits for each Local Authority, however, evidence underpinning DfT guidance[143] (ref) and NIC (2021)[144] suggest that benefits are likely to be positive.

Removed barriers to entry for businesses:

We do expect the introduction of this policy to have a direct impact on businesses from familiarisation costs. Any other impacts on business are indirect as it would only be felt where a local authority uses the power the Bill grants them.

On the demand side, we would expect all small and micro businesses to benefit through access to space at a lower price than they may pay through the current market.

Small units of around 50 square metres make up the majority of eligible vacancies, intuitively these may be better suited and more attractive to micro businesses with a small number of employees (if we assumed space demanded is some function of employees). So, there could be disproportionate benefits for these enterprises.

However, there may still be competition for rents against non-SMB that are seeking to open additional small units that limits this argument.

We will explore with LAs what other levers they have to lower barriers to entry for small businesses, and will engage further with SME organisations to see what further support they would need – i.e., publishing guidelines/codes of practice etc.

[143] DfT (2016) Tag Unit A2.4: Appraisal of Productivity Impacts, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/554790/webtag-productivity-impacts-tag-unit-a24.pdf

[144] NIC (2021) Effects of population density changes on the value of amenities in the United Kingdom: Evidence from the Rail Plan for the Midlands and the north of England, https://nic.org.uk/app/uploads/RNA-Amenity-benefit-research-report.pdf

Cost impacts

We have also considered mitigations from a cost perspective and have removed the EPC requirement and spread the costs of the process between LAs and tenants.

Impact on small business landlords:

On the supply side, a sector of the landlord market are small businesses with a small number of properties or a single property. While from a small sample, analysis of 22 streets in 11 cities/towns by Power to Change suggests that smaller landlords are less likely to have vacant property and thus be impacted. While the vacancy rates of investment management schemes were at 13%, the vacancy rates in the study for private individuals was 1.3%.

Wider impacts

As set out in previous sections, compulsory rental auctions removing barriers to entry for groups and businesses looking for space could lead to an increase in community uses on high streets and town centres. This could have an impact beyond filling vacant units.

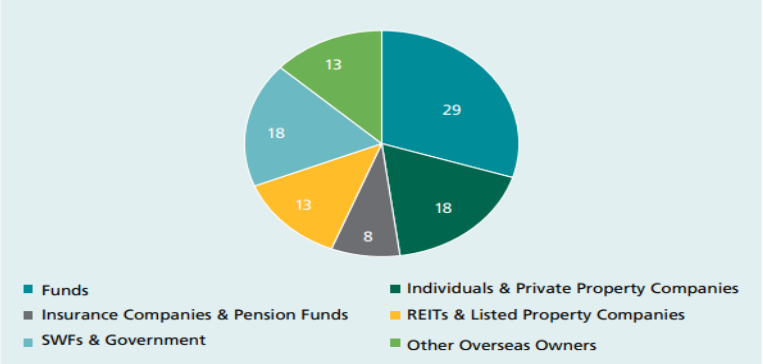
There could also be wider impacts through positive influence on community's perception of place through the removal of the blight of vacant commercial property.

A summary of the potential trade implications of measure

It is estimated that 30% of UK commercial property investment comes from overseas. There may therefore be some impact on these investors, should HSRAs lead to lower rental values and lower returns on investment.

Among these, 'overseas funds' is the group with the largest share of the market, accounting for 9% of investment. This is followed by 'overseas government' and 'overseas private companies and individuals' with 5% each. A breakdown of overseas investment in UK commercial property by investor type is provided below.

Figure 4.2. Share of Overseas Investment in UK Commercial Property by Investor Type (%)



Note: Individual percentages do not total 100% due to rounding
Source: Author's own estimates based on multiple sources

Monitoring and Evaluation

The impacts of the reforms will be assessed as part of the holistic evaluation that is being informed by the scoping study. The scoping study will consider the suitability and feasibility of the metrics that will inform the evaluation and recommend appropriate methodologies to address the research questions, enabling the development of detailed proposals.

The metrics could include monitoring vacancy rates although there are wider factors that would impact nationwide vacancy rates beyond this policy (e.g., economic conditions and other policy interventions). Metrics could also include monitoring the number of auctions to take place and the number of units that are long-term vacant and in scope of this policy and would expect a reduction in these if the policy is successful.

The impact of the policy in incentivising landlords to negotiate before their property is in scope for a HSRA will be difficult to quantify. However, we would expect this to contribute to a reduction in long-term vacant property.

Annex 16: Statement of Impacts – Urban Development Corporations

Problem under consideration and rationale for intervention

Urban Development corporations are important tools for delivering large-scale development, including mixed-use regeneration, transformational urban extensions, and new settlements. In the right circumstances, these powerful vehicles can bring a number of advantages to complex projects including:

- the focus, coordination, and consistent delivery of a dedicated body
- the ability to deliver well designed developments at scale, with a focus on placemaking
- the ability to harness the delivery expertise and leadership of the private sector
- visible public-sector commitment that can help attract private investment
- broad powers to facilitate delivery of the project.

Urban Development corporations were used, for example, to deliver over 20 post-war new towns across England, such as Telford and Milton Keynes, and to regenerate brownfield sites such as Canary Wharf.

However, as development corporation legislation was designed at various times in response to different circumstances, development corporations have varying powers and remits, which inhibit their use today.

The Development corporation reform: technical consultation published in October 2019 sought views on how this varied legal framework inhibits the operation of development corporations[145]. The consultation document covered three main areas of potential change:

- technical changes to improve the effectiveness of development corporations.
- use of development corporations by local areas.
- comparable powers for development corporations.

Responses to the consultation highlighted:

- the potential benefits of private sector involvement and investment in development corporations, however emphasised that this involvement should be focused on improving delivery and act not as an end in itself.
- the existing models of development corporation are not currently broad enough as there is no locally led model available with a regeneration remit outside of mayoral areas.
- development corporations should have the ability, where appropriate, to take on the plan-making and development management functions of a Local Planning Authority.

[145] DLUHC, Development corporation reform: technical consultation, https://www.gov.uk/government/consultations/development-corporation-reform-technical-consultation

- development corporations should be able to access a range of developer contributions where they have taken on the corresponding planning powers from the Local Planning Authority.

Without reforming the development corporation legislation, this will result in a less effective delivery vehicle, impacting on the ability to address housing supply and therefore intensify existing equity issues.

Responding to the consultation feedback, the proposed reforms will ensure that development corporations, where necessary, have the powers and functions necessary to unlock strategic development in all parts of the country. This includes empowering local areas to drive forward renewal and growth without the need to establish a body accountable to central government. These reforms will therefore help address existing equity issues and coordination issues by providing a suitable delivery model that can support and drive forward housing delivery and transformative regeneration, with a focus on place making.

Description of options considered
Option 0) Do nothing

Doing nothing would mean that the current legislative framework would remain as it is, and development corporations would maintain varying powers and remits. Retaining the current framework will also mean there is no model available for local areas outside of mayoral areas to pursue to support transformational regeneration and growth.

Option 1) Amend the legislative framework(s) to equalise powers and remits for all development corporations

Update and equalise the powers available to ensure all types of development corporation have access to consistent powers. This would focus on aligning the various powers for development corporations but would not create a route for local places to access a development corporation with a regeneration remit outside of a Mayoral Combined Authority.

Option 2) Amend the legislative framework(s) to equalise powers and remits for all Development Corporations and introduce a locally-led Urban Development Corporation model (preferred option)

Ensure that development corporations have the powers and functions necessary to unlock strategic development in all parts of the country, where necessary. This includes updating and equalising the powers available to ensure all types of development corporation have access to consistent powers. In addition, it enables local areas to establish a locally-led Urban Development Corporation to ensure that there is a locally-led development corporation model with the appropriate powers to support transformational regeneration and growth.

Policy objective

As set out in the Development corporation reform: technical consultation, the policy objective is to ensure that, in future, where it is appropriate for a development corporation to be used, a fit-for-purpose model exists to unlock strategic development in all parts of the country to *support* transformational regeneration and growth. These improvements will support the Government's ambition to level up the country, regenerate the nation and deliver homes.

Summary and preferred option with description of implementation plan

The preferred option – option 2 – is to amend the legislative framework(s) to equalise powers and remits for all development corporations. This includes introducing a locally-led Urban Development Corporation model to ensure that development corporations have the powers and functions necessary to unlock strategic development in all parts of the country, where necessary.

The preferred approach seeks to align powers so that all types of development corporation can access plan making and development management powers, where necessary. This includes streamlining the designation process for locally-led New Town Development Corporations, to speed up delivery and avoid unnecessary bureaucracy. We will also remove board membership cap and the aggregated borrowing limits for Urban and New Town Development Corporations. The aggregate borrowing cap is currently set at £5,250m for New Town Development Corporations and £100m for Urban Development Corporations. Borrowing limits will still be agreed by HM Treasury but will be decided on a case-by-case basis, and lending will be subject to the appropriate HM Treasury and statutory controls.

Implementation

We will be seeking to make the legislative amendments so that all types of development corporation have a set of consistent powers and we will introduce legislation to enable a locally-led Urban Development Corporation so that local areas, where appropriate, can access the necessary powers to regenerate their local area without the need to establish a body accountable to central government.

The designation of any future development corporation will be subject to a Statutory Instrument. We will look to strengthen and streamline the guidance to support the creation and operation of development corporations.

Monetised and non-monetised costs and benefits of each option (including administrative burden)

Impacts of the reforms cannot be monetised as it entirely depends on take-up, which is discretionary, and the particular circumstances of a given area. Some of the

amendments are minor/technical in nature, with impacts that cannot be quantified at this stage.

Direct costs and benefits to business calculations

We do not consider that the reforms to the development corporation legal framework will have a direct impact on businesses. The reforms to the development corporation legal framework are discretionary and may have an indirect positive impact on businesses, charities, or the voluntary sector. Where a development corporation is established, there will be a consolidation of the public bodies working to deliver regeneration in an area. This will allow a more coordinated, cohesive, efficient, and effective arrangements, including for interested investors and developers, and cost savings in comparison to the existing arrangements. However, as the effect is likely to be relatively minor and will vary dependent on individual circumstances, we are not able to quantify this more thoroughly.

Risks and assumptions

We are unable to consider the implications in terms of risks and assumptions as take up is discretionary and particular to the circumstances of a given area.

Impact on small and micro businesses

We do not consider that the reforms to the development corporation legal framework will have a direct impact on small and micro businesses. The reforms proposed relate to ensuring the appropriate powers to support transformational regeneration and growth are up to date. Any indirect impact is expected to be positive and minor - similar to general business impact.

Wider impacts (consider the impacts of your proposals)

The proposed reforms to the development corporation legal framework will ensure that, in future, where it is appropriate for a development corporation to be used, a fit-for-purpose model exist to drive forward and deliver regeneration in an area.

Reforming the development corporation legislative framework will create the opportunity for local areas to have access to appropriate delivery vehicles to support local growth and regeneration. The proposed reforms will enable development corporations to be more accessible and comprehensible to end users and all sectors of society to support growth and regeneration in their area. A locally-led Urban Development Corporation will create clearer lines of accountability outside of mayoral areas and will be overseen by the democratically elected local authorities as opposed to central government to support local growth and regeneration. In addition, development corporations may have wider benefits for businesses, for example, through their clear focus on placemaking and ability to attract investment. However, this will vary dependent on the individual circumstances of the development, and we are not able to quantify this more thoroughly.

Moreover, ensuring all types of development corporation can have access to plan-making and development management powers – including the ability to secure developer contributions – will help to ensure that where appropriate for a development corporation to be used, a fit-for-purpose model exists to support the delivery of regeneration and growth.

The creation of locally-led Urban Development Corporations may result in additional costs for local authorities compared to other delivery vehicles for large scale housing development. It will though be entirely for the local authority or authorities covering the area of the proposed regeneration/growth to decide to request the establishment of a locally-led Urban Development Corporation, taking account of the benefits this may bring. The measures are discretionary and therefore there are no familiarisation costs.

A summary of the potential trade implications of measure

Stakeholder feedback suggests that the reforms may strengthen the marketing ability of a given project for inward investment.

Monitoring and Evaluation

The reforms proposed relate to ensuring the appropriate powers to support transformational regeneration and growth are up to date.

Prior to agreeing to the establishment of a locally-led Urban Development Corporation, the Secretary of State will need to be satisfied that plans for robust oversight of the new entity by the local authority or authorities are in place. As the establishment and designation of development corporations are subject to Statutory Instrument this will be considered in due course. Development corporations are set up and overseen by government (either local authorities or central government). Accountability and decision-making powers will ultimately sit firmly with either the Secretary of State (in the case of centrally-led development corporations), or the democratically elected decision-makers for the local authority or authorities in charge of the scheme (in the case of locally-led development corporations).

Annex 17: Statement of Impacts - Build-out

Policy under consideration and rationale for intervention

There are two build out measures discussed in this Annex – first, Development Commencement Notices (DCNs) and second, Completion Notices. They are discussed under separate headings for ease of reference.

Background

There is a significant gap between permissions for new homes being granted and those homes being built. According to analysis of Glenigan data, as of 31st January 2022, there were 901,000 homes with detailed planning permission granted on sites which had not been completed. Of these, building had started on 511,000.

While Sir Oliver Letwin's independent review of build out rates found no evidence that speculative land banking is part of the business model for major house builders, nor evidence that this is a driver of slow build out rates, it has been raised as an issue by many during consultation on planning reforms. Consequently, Officials have been considering numerous potential interventions[146] to incentivise the prompt build-out of permissioned but unused schemes and to support Councils to act against those not promptly building out developments in their communities. These measures seek to increase transparency about build out and implement sanctions where prompt build out does not happen. DCNs are in the former category. Completion Notices are in the latter.

Development Commencement Notices

The House Builders Federation (HBF) and Local Government Association (LGA) agree that there is no reliable data currently available on the build out rates of permissioned schemes. This measure's purpose is to require developers to provide a commencement date when build out on a permission is started, expected build out rates, details of any phases it contains, and when the scheme will be completed. As such, the creation of this transparency measure will provide better data to inform on build out levels and inform on the extent to which build out problems (such as, land banking and schemes not being built out or being built out slowly) exist.

A similar measure exists in Scotland; a "notification of initiation of development" (NID) was introduced in 2006 to improve monitoring of build out starts in LPAs.

The practical effect of the introduction of Commencement Notices is that it will make it more transparent to all when schemes begin, and when they will be completed, thereby making it clearer to all when unacceptable delays to a scheme's build out programme are occurring. It will improve the poor-quality information we have on build

[146] The potential package of build out measures currently includes the following measures: diversification, material consideration, reporting duty, development commencement notice, preventing future permissions, naming developers who do not build out, reducing the default permission period, build out levy and completion notice measures.

out rates which can hinder effective decision-making by LPAs, developers, and investors. It will also provide the evidence that will inform any potential LPA build out sanctions, including the completion notice measure that is included as Clause 100 of the LURB.

Completion Notices

Under Section 94 of the Town and Country Planning Act 1990, local planning authorities have the discretionary power to issue a completion notice on unfinished development where they are of the opinion that development will not be completed in a reasonable period. Once a completion notice takes effect, the landowner, occupier, or other relevant persons have a specified period in which to complete development or else the planning permission will cease to have effect for any unfinished parts of the development. Completion notices can therefore provide a useful last resort for local planning authorities to encourage completion of unfinished permissions, especially on small-scale development.

However, at present completion notices are rarely used owing to the unnecessarily slow and bureaucratic process for issuing them. This includes receiving confirmation of the Secretary of State before a notice can take effect. This confirmation process not only adds delays but is disproportionate to the scale and nature of development best suited to the completion notice procedure.

Making completion notices a simpler, more attractive option for local planning authorities can help address negative externality issues experienced within the existing system; targeting on half-finished developments which have an impact on the visual amenity of an area.

Problem under consideration

Development Commencement Notices

Currently there is only incomplete information available on build out rates. There is also no current requirement to report information regarding proposed build out of a planning permission. As such, LPAs and the public are largely unaware of when building work is likely to take place, how long it will take, and when it will be finished. This results in speculation about build out rates and claims that permissions are being 'land banked' by developers and house builders. It also creates uncertainty in the planning system, as there is no transparency about when a 'live' planning permission will be built out. Only the government (via legislation) can require developers to provide information relevant to build out.

Completion Notices

Completion notices are rarely issued. A 2000 study by the Department for Transport, Local Government and Regions found that since 1990 29 completion notices had been served upon development in England. The Planning Casework Unit, who are responsible for confirming notices on behalf of the Secretary of State, has received 13

cases since 2011, with only 3 served since 2014. We do not expect these reforms to result in a substantial increase in the number of completion notices that are issued, and they will remain a last resort for local planning authorities. Completion notices will also remain a discretionary tool for local planning authorities to use.

Due to the number of notices expected to come forward and because they are anticipated to be issued on small-scale development, the impacts on business are likely to be minimal.

Description of options considered

Development Commencement Notices

Option 0) Do nothing.

Option 1) DCNs require developers to provide comprehensive information about planned build out **(Preferred Option).**

Developers will be required to submit a Development Commencement Notice before starting work on all full and outline applications. It is proposed that the DCN will require the following information to be specified in it:

(a) The planning permission (inc. reference number) which authorises the development which is to be commenced.

(b) Whether the permission is an alternative or variation to a previously granted permission (i.e., whether that is an alternative scheme to the originally proposed one, or a variation under section 73 to a previously granted permission).

(c) The intended commencement date of the development.

(d) In relation to schemes for or involving housing, the proposed trajectory / delivery rate of the scheme (I.e., the numbers of dwellings per financial year that will be built out over a specified number of years and any phases of development).

(e) In relation to non-housing schemes or non-housing parts of scheme, the amount of floorspace per financial year that will be delivered.

(f) The date on which development is expected to be substantially completed.

(g) The name and contact details of the person sending the notice.

(h) The name and contact details of the person carrying out the development.

(i) The name and contact details of the owner(s) of the land.

(j) A signed declaration confirming the contents of the notice.

LPAs will be required to publish a DCN on their statutory register, therefore making the above information available to the public.

Option 2) Require DCNs that only require developers to record the start date of a development.

Completion Notices

Completion notices are a self-contained development management procedure. No other options have been considered with regards to completion notice reform. These proposals fit within the broader package of reforms on build-out.

Option 0) Do Nothing - Completion notices remain as at present.

Option 1) Completion notice changes.

To amend the Town and Country Planning Act 1990 to:

(1) remove the requirement for local planning authorities to seek confirmation from the Secretary of State before a completion notice can take effect, and

(2) allow for a completion notice to be served before the duration of planning permission as specified in the time limit condition has passed, providing that permission has been implemented.

Policy objective

The wider package of build out measures includes measures – such as DCNs - which seek to improve transparency surrounding build out by collecting data on the proposed build out rates of schemes at the application stage and the actual build out rates of schemes once they commence. The wider package also includes measures - such as Completion Notices - which seek to increase sanctions if build out rates are not considered acceptable by the LPA.

Development Commencement Notices

The objective of this policy is to increase transparency by addressing the current lack of comprehensive and publicly accessible data about the build out start dates and timescales. The specific aims are to:

- Enable the LPA to be formally notified of the starting date for material operations to commence a development authorised by a planning permission, and to make this information available to the public.
- Generate regular, robust, and standardised data for LPAs, providing an accurate picture of the predicted and actual delivery of new homes on a site-by-site basis.
- Enable closer scrutiny by LPAs of the pace of housing delivery, helping central and local government to pinpoint blockages and develop appropriate responses.
- Minimise new burdens on:
    a. developers by making it as simple as possible to comply with, and
    b. local authorities by reducing the LPA monitoring burden and making the DCN process largely reactive for them; and

- Inform future policy development by improving evidence on the extent of build out delay and better information on build out rates.

The DCN measure also seeks to increase pressure on developers to start a site.

Completion Notices

The policy objective is to simplify the use of completion notices by local planning authorities to galvanise development or clear unused planning permissions, and to ensure that developers progress with development when possible. The changes will also give greater control and certainty to local planning authorities by removing mandatory central Government oversight. The use of completion notices will remain discretionary.

Summary and preferred option with description of implementation plan

Development Commencement Notices

A DCN is proposed to be a notice conveyed electronically that prospectively confirms the commencement of development in relation to applications for planning permission (including outline planning permission) and applications to develop land without compliance with conditions previously attached granted under the provisions of the TCPA 1990.

Any person carrying out work in pursuance of an application for planning permission granted under sections 58(1)(b) and 73 of the TCPA 1990 will be required to give notice to the LPA, via a DCN, of their intention to carry out development for which permission has been given as soon as practicable after deciding on a date on which to initiate development and, in any event, on a date before commencing the development. The DCN measure will not apply to other permission routes, such as permission granted by development order or local development order.

In granting planning permission for the carrying out of any development, the LPA would need to make the developer aware of the requirement to serve a DCN and the consequences of non-compliance. This is a similar approach to that used in Scotland currently on such matters.

Completion Notices

To amend the Town and Country Planning Act 1990 to (1) remove the requirement for local planning authorities to seek confirmation from the Secretary of State before a completion notice can take effect, and (2) allow for a completion notice to be served before the duration of planning permission as specified in the time limit condition has passed, providing that permission has been implemented.

Monetised and non-monetised costs and benefits of each option (including administrative burden)

Development Commencement Notices

Option 0) Do nothing

The status quo continues; there are no impacts.

Option 1) DCNs require developers to provide comprehensive information about planned build out (Preferred Option).

Under this option, businesses will incur a small administrative cost to comply. This will be a direct cost to business because the additional administrative burden is unavoidable for businesses to comply with the measure, having immediate effect once the measure is in place. There is some uncertainty about the likely scale of these costs, and therefore three cost scenarios have been estimated. These are summarised in Table A20.1.

It is assumed that an employee being paid the average hourly wage for 'office administrative, office support and other business support activities' would complete the commencement form (from ASHE 2020). This wage (£17.14) is then uplifted by 30% to account for non-labour costs to give an hourly wage of £22.30. It is most likely that businesses would have all the information required for the DCN, therefore the only action required would be to collate the information into the form and submit it. There is some uncertainty regarding the time required to complete a DCN, consequently a different assumption has been made in each of the three cost estimates: 1 hour in the low scenario; half a working day, equivalent to 3.7 hours in the central scenario; and a full working day, equivalent to 7.4 hours, in the high scenario.

Assuming historic trends in the number of applications granted continue, the expected number of residential permissions granted per year is estimated to be approximately 358,000. This estimate is derived from official DLUHC planning statistics[147]. Given that there are robust data collection and quality assurance processes for official statistics, we have high confidence in the accuracy and credibility of the data. There are numerous potential obstacles which may delay commencement; if delays are significant, permission may lapse. MHCLG's 2015 analysis suggested that between 10% and 20% of permissions granted may not commence[148]. Therefore, it is assumed that 80% of annual permissions granted commence in the low scenario, 85% in the central scenario, and 90% in the high scenario.

[147] Table P120A: District planning authorities - planning applications decided and granted, performance agreements and speed of decisions on major and minor residential developments, England, up to January to March 2021

[148] Lichfield's, "Taking Stock: The geography of housing need, permissions and completions", May 2021, Source: https://lichfields.uk/media/6453/taking-stock_the-geography-of-housing-need-permissions-and-completions_may21.pdf

Table A20.1: Discounted costs associated with submitting a DCN under Option 1, £m (2019 price, 2024 present values)

Year	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total
Low	4.77	4.58	4.40	4.22	4.04	3.87	3.71	3.55	3.40	3.26	39.80
Central	18.76	18.01	17.29	16.57	15.88	15.22	14.58	13.97	13.38	12.81	156.48
High	39.72	38.14	36.62	35.10	33.64	32.24	30.88	29.58	28.32	27.12	331.37

There will also be some familiarisation costs incurred in year 1 as relevant employees in the private sector spend time familiarising themselves with the new measures. It is assumed that only those employees who will be submitting DCNs will need to familiarise themselves with the changes. Data from the UK Housebuilders Directory is to estimate the number of active housebuilders and developers in the UK. This is the best available source, and we have a high degree of confidence in its reliability. According to the UK Housebuilders Directory, there are 2,280 businesses that could be affected by the changes, and it is assumed that one employee in an administrative role per homebuilding business. This assumption is simplistic, and implicitly assumes that a volume builder would require the same amount of time to familiarise as a small business, but it illustrates the potential scale of costs in the absence of better information about the number of employees that would likely be required to familiarise with the changes. It is assumed that employees would spend two hours familiarising themselves with the changes. The calculations use the average hourly wage costs for 'office administrative, office support and other business support activities' (£17.14), uplifted by 30% to account for non-wage costs (£22.28). The familiarisation costs to business are summarised in Table A20.2.

Table A20.2: Discounted familiarisation costs associated with submitting a DCN under Option 1, £m (2019 price, 2024 present values)

Year	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total
Low	0.10	-	-	-	-	-	-	-	-	-	0.10
Central	0.10	-	-	-	-	-	-	-	-	-	0.10
High	0.10	-	-	-	-	-	-	-	-	-	0.10

There are no monetised benefits to business.

The present value total costs to business under Option 1 are presented in Table A20.3. Total costs over the 10-year appraisal period are estimated to be £156.50m (Low = £39.80m; High = £331.40m).

Table A20.3: Total discounted costs to business from submitting a DCN under Option 1, £m (2019 price, 2024 present values)

Year	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total
Low	4.80	4.58	4.40	4.22	4.04	3.87	3.71	3.55	3.40	3.26	39.80
Central	18.79	18.01	17.29	16.57	15.88	15.22	14.58	13.97	13.38	12.81	156.48
High	39.75	38.14	36.62	35.10	33.64	32.24	30.88	29.58	28.32	27.12	331.37

Option 2) Require DCNs that purely note the start date of a development.

Under this option, businesses will incur a small administrative cost to comply. These will be direct costs to business because the additional administrative burden necessitated for compliance with the measure will be unavoidable and with immediate effect. This option requires that businesses provide less information than under Option 1; therefore, the employee time required to complete the DCN, and the costs associated, will be less than under Option 1.

There are no monetised benefits to business.

Completion Notices

Option 0) Do nothing

The status quo continues.

A 2000 study by the Department for Transport, Local Government and Regions found that 29 completion notices had been served upon development in England since 1990. The Planning Casework Unit, who are responsible for confirming notices on behalf of the Secretary of State, has received 13 cases since 2011, with only 3 served since 2014. Since 2011, an average of 1.6 completion notices have been issued each year.[149] It is assumed that this trend will continue, with an expected 1.6 completion notices being issued annually.

Option 1) Completion notice change

This is a measure intended to galvanise the completion of unfinished development and will impact on businesses (landowners and occupiers of sites).

[149] MHCLG Analysis: 2021.

There are no expected benefits to businesses. There are also no direct costs to business. However, if these measures do not incentivise a significant change in developers build out behaviour, this measure could result in increased use of completion notices which would impose additional indirect costs to businesses. These costs will only be incurred when developments are not completed within the time limits set for the schemes; it is not the intention of the policy to place additional burden on business, and so these costs are not counted as a direct cost to business.

Where a notice takes effect and development remains unfinished, it will result in the loss of land value as well as a partially complete development which no longer benefits from planning permission and a new planning permission would have to be applied for. Alternatively, developers may face increased build costs to ensure development is completed.

The indirect cost to developers and/or landowners because of a completion notice that has resulted in the loss of a planning application and thus a loss in land value has been estimated based on the following assumptions:

1. *The number of completion notices issued annually.* Since 2014, only 3 completion notices have been served. Since 2011, an average of 1.6 completion notices have been issued each year[150].
2. *Expected increase in the number of completion notices issued.* Completion notices are expected to be rarely used and remain a last resort for incentivising delivery of permission once all other alternatives have been exhausted. The number of completion notices issued are not expected to increase significantly. In the absence of data, and to illustrate the potential scale of impacts, a central estimate of 5 applications has been applied to the analysis (Low: remains at 1.6 applications; High: 10 applications). There is little evidence for this, but enforcement officers have told us that they are more likely to consider using this tool if the SoS consent is removed.
3. *The proportion of sites that remain unfinished where a completion notice takes effect*. Monitoring data is not collected on the status of a site once a completion notice has been issued by a Local Planning Authority. Due to the small number of completion notices issued since 1990, there is limited evidence of the effect of completion notices. To illustrate the potential scale of impacts, it is assumed that there is equal probability that a site is able to finish after a completion notice is served or that a site is unable to finish after a completion notice is served. It therefore assumed that 50% of sites issued with a completion notice can complete the construction in the agreed time frame. Resulting in the remaining 50% of sites issued with a completion notice unable to complete construction – resulting in the loss of planning application.
4. *Land value loss as a result of an unfinished development where a completion notice has been served.* The VOA estimates that the average residential land

[150] MHCLG Analysis: 2021.

value in England in April 2019 was £6.0m per hectare, while the average value for agricultural land was approximately £23,000 per hectare. We have high confidence in the VOAs data collection, methodology, and quality assurance processes and therefore we consider that these are the best available estimates of residential land values. It is estimated that values could fall by approximately 50-90% as a result in the loss of a planning application (Low – 50% fall; Mid – 70% fall; High – 90% fall)[151].

5. *Average land value with a planning application.* Developers expect to pay a premium for sites with granted planning applications. Savills research[152] models that land value is approximately one third of the value of the new build house price – this assumption factors in the cost of achieving planning permission on a site (including consultancy fees etc.). Without any official statistics, this assumption by Savills has been deemed credible.
6. *Dwellings per small site.* Anecdotal evidence suggests that a significant majority of completion notices are served on small sites with a relatively small number of units in scope. It is assumed that a small site includes sites with an overall size less than 0.25ha; this assumption is consistent with the definition used by local authorities, such as Tower Hamlets[153]. In the absence of an official definition of a small site, we have chosen to use the figure from Tower Hamlet's council website. This is the best source available, and we have a high level of confidence in its reliability.
7. *Cost of a new planning application.* It costs £462 per unit to apply for planning permission on sites up to 50 units. stated in 'The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012' (as amended) is assumed that the initial scoping exercises have already been completed as part of the initial application (lost as a result of a completion notice being served). Therefore, the developer / landowner will have to re-apply for planning permission – there may be small additional time costs as a result of applying but this has not been estimated.

The total number of completion notices issued following the introduction of this policy has been estimated by applying the assumed percentage increase in completion notices served annually to the average number of annual completion notices served. This gives an estimated figure of 1.6 to 10 (central 5) completion notices being served per year. Some developers may complete sites that have been issued a completion notice within the required time; in the absence of evidence, we assume that it is equally likely that a developer may complete a site before the completion notice takes effect as it is for the site to remain unfinished; we therefore halve the number of expected completion notices issued to get an estimate of the number sites that would incur costs

[151] MHCLG analysis of Savills Land value research: https://www.savills.co.uk/research_articles/229130/188996-0

[152] Savills: The value of land. https://www.savills.co.uk/research_articles/229130/188996-0

[153] Let's talk Tower Hamlets, What are small sites, https://talk.towerhamlets.gov.uk/goodgrowthspd/news_feed/small-sites#:~:text=For%20the%20purposes%20of%20the,buildings%20and%20new%20build%20developments

resulting from a completion notice. As a result, it is estimated a figure of 0.8 to 5 (central 2.5) completion notices being served per year.

The estimated loss of land value is calculated by applying a percentage assumption of land value lost to the land value per site; land value per site is estimated by multiplying the number of dwellings per small site by a third of average new build sales price. This is estimated between £351k to £3,945k (central £1,534k). The cost of reapplying for planning permission is estimated for a single site (average cost per dwelling by the average number of dwellings on a small site which translates to £462 multiplied by 10.75 to give £4.97k) and then multiplied by the number of sites that are expected to remain unfinished after a completion notice has been issued to give £4.0k to £24.8k (central £12.4k). Therefore, the estimated cost through land value loss and costs associated with applying for planning permission once per year is £355k - £3,970k (central £1,547k). In a 'Do Nothing' scenario, it is anticipated that 1.6 completion notices would be issued annually, hence some of these costs would be incurred regardless.

Compared to Option 0, the additional average annual cost to landowners and developers over the 10-year appraisal period is estimated to be £1.19m (Low = £0; High = £3.62m). Over the 10-year appraisal period, total costs are estimated at £10.26m (Low = £0; High = £31.12m). The additional costs to business incurred under this option are summarised in Table A20.4.

Table A20.4: Total discounted indirect costs to business resulting from completion notices under Option 1, £m (2019 price, 2024 present values)

Year	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total
Low	0	0	0	0	0	0	0	0	0	0	0
Central	1.19	1.15	1.11	1.08	1.04	1.00	0.97	0.94	0.91	0.87	10.26
High	3.62	3.49	3.37	3.26	3.15	3.04	2.94	2.84	2.75	2.65	31.12

Given that completion notices already exist, it is assumed that businesses will not incur any familiarisation costs.

Summary

The combined total cost to business from Development Commencement Notices, Completion Notices and familiarisation costs under the preferred option, Option 1, over the 10-year appraisal period is estimated to be £166.9m (Low = £39.93m; High = £362.62m). Excluding the one-off familiarisation costs to businesses in the first years, this represents an average annual cost of £16.68m (Low = £3.98m; High = £36.3m). This is summarised in Table A20.5.

Table A20.5: Total discounted costs to business resulting from familiarisation costs, DCNs and Completion notices under Option 1, £m (2019 price, 2024 present values)

Year	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total
Low	4.90	4.58	4.40	4.22	4.04	3.87	3.71	3.55	3.40	3.26	39.93
Central	20.08	19.16	18.41	17.65	16.92	16.23	15.55	14.91	14.28	13.68	166.87
High	43.47	41.63	39.99	38.36	36.79	35.28	33.82	32.42	31.07	29.78	362.62

Risks and assumptions

Development Commencement Notices

A similar measure has been successfully introduced in Scotland; Scottish officials report that the burden on business has been negligible and as such there is little to no resistance to this process from developers and compliance is very high. Therefore, there is high confidence that the additional burden on business created by this measure will be minimal.

There is some uncertainty regarding the number of hours required to complete the DCN. Therefore, three assumptions have been made for Options 1 to produce a range of cost estimates that reflect this uncertainty.

The analysis assumes that the number of planning applications granted permission will continue following historic trends. The number of applications expected annually is estimated based on the number of applications granted permission in the last 5 complete years (2016 to 2020). It is possible that other measures in the Levelling Up and Regeneration Bill may change the number of planning applications received and granted permission. In addition, other measures proposed to combat slow build out may affect the proportion of sites that are delayed or have permission lapsed. Therefore, the estimate used in this analysis may not be an accurate representation of the number of commencement notices that would be expected during the appraisal period.

Completion Notices

There is a risk that local planning authorities may become overzealous in their use of completion notices. This could result in the serving of notices on inappropriate development (e.g., larger, major development sites) or serving them on more sites which can result in a greater number of developments being left partially complete without the benefit of planning permission. An appeals process (to the Planning Inspectorate) is being introduced to provide for an appropriate opportunity for landowners/occupants to seek independent judgement on local planning authority decisions to serve notices.

There is some uncertainty in the costs to businesses resulting from a change in land value following the loss of planning permission, and estimates have been produced to illustrate the potential scale of benefits. The analytical approach has made numerous assumptions. Where there is no data to inform these assumptions, a range – sense checked internally by officials – has been adopted to reflect the uncertainty.

Impact on small and micro businesses

As mentioned above, data from the UK Housebuilders Directory estimate that 2,280 business will be affected by this measure, and we have considered the impact it could have on small (defined as having 10-49 employees) and micro (defined as having less than 10 employees) businesses.

Development Commencement Notices

DCNs would create a small additional burden on small and micro businesses to provide additional information to LPAs. There is no information required that would not already be available to the developer building out a scheme and therefore no additional information burden. Consequently, the only additional burden it would add are those involved in filling and sending in a simple electronic form. The burden would be likely to be less than half a day in time for small developments due to reductions in scale and complexity that will come from fewer units. This is not considered to impact detrimentally on small and micro businesses.

Completion Notices

Completion notices are expected to be rarely used and remain a last resort for incentivising delivery of permission once all other alternatives have been exhausted. However, completion notices are mainly issued on small sites. Therefore, small scale developers and landowners are likely to be affected more than large scale developers despite completion notices remaining a last resort for local planning authorities. However, guidance will be issued to support the use of completion notices to make sure that they are only employed where appropriate, recognising the challenges that small builders face relative to larger developers.

Wider impacts (consider the impacts of your proposals)

Development Commencement Notices

To combat slow build out, developers need to be further incentivised against stalling commencement. This can be achieved by empowering LPAs to enforce consequences against developers that fail to build out and by improving transparency in the planning system. DCNs would contribute to the required improvements in transparency in the planning system. In isolation, this measure will have minimal impact on the supply of new housing. However, there will be a benefit to local communities as the public are better informed about the development in their area.

There are no levelling up implications.

Completion Notices

A sped-up and simplified completion notice process could incentivise landowners and developers to build out permissions more quickly.

Incomplete development can impact on the visual amenity of areas and is often a complaint of local communities where planning permissions are partially developed but left unfinished. This can lead to negative externalities associated with unfinished developments – including 'visual amenity', wider impact of place and a negative effect on surrounding house prices. The reform aims to create a simpler and quicker process for serving a completion notice and will help ensure fewer developments remain unfinished. As a result of the reform a completion notice will be able to be served before the duration of planning permission as specified in the time limit condition has passed, providing that permission has been implemented. This will give developers more time to complete construction on site and will result in fewer sites losing their planning application – resulting in a reduction in unfinished housing units, reducing the amenity impact of unfinished development.

A summary of the potential trade implications of measure

Development Commencement Notices

There are no identified trade implications for these measures.

Completion Notices

There are no identified trade implications for these measures.

Public sector impacts

Development Commencement Notices

There may be a small familiarisation cost to LPAs which has been monetised. According to the PAS "Resource Survey 2019", 5% and 8% of employees in planning teams work on "delivery, s106, CIL and monitoring" and "enforcement including appeals", respectively. It is therefore assumed that 13% of the 9,200 LPA employees in England will need to spend 1 hour to familiarise themselves with the changes. The average hourly wage of an LPA employee has been uplifted by 30% to capture non-wage costs. It is assumed that familiarisation costs are the same under both DCN options. Familiarisation costs are summarised in Table A20.5.

Table A20.5: Discounted familiarisation costs to LPAs, £m (2019 price, 2024 present values)

Year	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	**Total**
Low	0.03	-	-	-	-	-	-	-	-	-	0.03
Central	0.03	-	-	-	-	-	-	-	-	-	0.03
High	0.03	-	-	-	-	-	-	-	-	-	0.03

There will also be some additional employee resource required to take responsibility for any new work created by this measure (for example, hosting the DCN form and placing the DCN on the statutory register). These costs have not been monetised but are anticipated to be relatively small in scale.

DCNs would improve transparency regarding proposed build out levels and development which will be beneficials for LPAs; specifically, it will reduce LPAs burden to monitor and will improve the information available to LPAs in decision making (for example, 5 Year Housing Land Supply).

Completion Notices

These reforms will make it simpler for LPAs to issue a completion notice and quicker for that notice to take effect.

These reforms are expected to reduce the time delays associated with the serving of a completion notice and will allow them to serve a notice sooner where they believe that a development will not be completed in a reasonable period. On the former, for the last 11 notices which have been confirmed by the Secretary of State (dating back to 2011), the average time it has taken to confirm a notice has been 93 days, or 3 months. Four of these cases took over 110 days to confirm, with the longest of these taking 202 days, or over 6.5 months. According to a report undertaken by the Office of the Deputy Prime Minister in 2001, the average time taken between 1990 and 1999 was 8.5 months.

Without the need to seek SoS approval in order to issue a completion notice. The Local planning authority will avoid a time delay in issuing the notice. This will likely speed up the process of issuing a completion notice and make it a more useful tool for LPAs to use as a last resort. LPAs will still use these as an absolute last resort.

In terms of administrative impacts, we do not anticipate any material impact on LPAs above the existing process for serving a completion notice and familiarisation costs will be negligible.

Monitoring and Evaluation

Development Commencement Notices

We will need to ensure that DCN details are being placed on a LPAs statutory register and that all relevant development is forwarding the correct information. This is in order to ensure more transparency about build out rates is provided to the public and LPAs. We may also wish to consider if any enforcement issues are created in relation to not supplying DCN information to check that the measure creates no additional planning enforcement burden.

Such information could be evaluated via reviews with LPAs.

Completion Notices

We will discuss the use of completion notices and the impacts of the reforms as part of our routine engagements with the sector. This will enable us to gauge the volume and nature of completion notices that come forward.

Annex 18: Statement of Impacts - Pavement Licencing

Policy under consideration and rationale for intervention

Summary: Previous route to licences under the Highways Act 1980 were costly and it was a lengthy process. The new cheaper and quicker process that was introduced during the pandemic was successful in support businesses expand outdoor dining provisions, and Ministers want to make this permanent to continue to support businesses, communities and local authorities in the 'al fresco dining revolution'.

Prior to the introduction of the temporary Pavement Licensing process the Highways Act 1980 allowed businesses to obtain a licence to place furniture on the highway outside the business. The process under the Highways Act includes a minimum public consultation period of 28 days, and a determination by the council was made in an average total of 42 days[154] this regime had no deemed consent or statutory requirement to determine in a set timescale and as such applications tended to be determined over longer periods. It also does not specify how much a local authority should charge a business as there is no fee cap, instead allowing locally set fees which in some cases were more than £2000 per application.

To support the hard-hit hospitality sector, the department introduced temporary pavement licence provisions in the Business and Planning Act 2020, which provided a cheaper and faster alternative to the Highways Act 1980. The main objective of temporary regime was to assist the sector in reopening safely and to aid economic recovery when the lockdown restrictions were lifted in the summer of 2021. The temporary measures were extended and will be in place until 30 September 2022.

Under the current temporary provisions:

- The process for applying for a licence is capped at £100.
- The consultation and determination period were shortened to 14 days (7-day consultation period, and 7-day determination period) during which the local authority is expected to either grant a licence or reject the application.

As this process offered a clearer, faster, and cheaper route and was well received by both businesses and local authorities, Ministers now want to turn these temporary measures permanent. This would be a deregulatory measure, reducing bureaucratic obstacles and making it easier for businesses to apply for licences.

The main points covered by the permanent process are the fee cap and the consultation and determination period.

Before the introduction of the temporary measures, licenses were acquired through the Highways Act 1980. This process offers a slower route, which is costlier to business due to a non-existing fee cap. The new temporary regime provides a faster and cheaper alternative, which was well received by the hospitality sector and high

[154] Based on an average sample of LA's surveyed (2020)

streets. Previous matters regarding longer determination periods and higher fees under the Highways Act couldn't be resolved without legislation.

Therefore, Government is best placed to reduce the burden on businesses through legislative steps. Even though the current temporary measures are faster and cheaper, they are not sustainable long-term as they currently exist.

This is due to:

- the fee cap not covering costs that local authorities accumulate, and.
- the very short consultation period which does not give communities enough time to provide their opinion while local authority officials struggle to process the applications.

The aim of the permanent measures is:

- to ensure the regime is self-funding so that local authorities can make up for what they spent on the process.
- to ensure that the cap is the lowest it can possibly be so that the financial impact on businesses is not too high.
- to ensure that there is enough time to consider applications, both for local authorities and for communities.

We have actively engaged with representatives from local authorities and the hospitality sector to make informed decisions based on their observations on the ground.

Description of options considered
Option 0) Do Nothing

Doing nothing would mean the temporary measures will be ceased and that local authorities and businesses would revert to the processes based on the Highways Act 1980.

This would mean potentially higher charges for the applications, as there is no fee cap. This creates disparity in different areas of the country.

Previously under the Highways Act, Westminster Council for example charged businesses around £1320 for a pavement licence, whereas Waltham Forest charged £71[155].

The consultation and determination periods would also revert back to the previous process, consisting of a 28-day consultation with an average determination timescale of 42 days.

[155] https://www.westminster.gov.uk/licensing/markets-and-street-trading/apply-renew-or-vary-tables-and-chairs-licence and Pavement licence new burdens assessment survey (2021)

Option 1) Implement permanent measures

Turn the temporary measures permanent to run alongside the Highways Act 1980.

This would entail an amended version of the temporary measures:

- Rather than have a £100 cap or no cap at all, the permanent regime would contain a two-tier fee cap system where first applications would be charged at a max of £500, and renewal applications at a max of £350. Local authorities would be free to charge up to the max cap (or less if they wish), covering their costs for processing, monitoring, and enforcing the licenses.
- A total of 28-days for the consultation period (14 days for consultation and 14 days for determination). This provides an appropriate amount of time for local authorities to review applications and consult with relevant stakeholders such as the fire brigade to determine safety risks of furniture placed outdoors. It also gives more time for communities to provide their opinion, including those with accessibility needs to identify potential access issues from applications.
- Local authorities are able to grant licences for up to 2 years, meaning that businesses will have to reapply less frequently, saving money and reducing the burden on local authorities.

Policy objective

To support hospitality businesses through the pandemic, the Government introduced temporary pavement licence provisions in the Business and Planning Act 2020, which created a quicker and cheaper process for obtaining a licence. This process was subsequently extended and is currently in place until 30 September 2022.

The changes to the temporary process have been positively received by local authorities and businesses, as a more streamlined, clearer, and cheaper way of gaining a pavement license. Therefore, Government now wants to make this streamlined process permanent.

In summary, the main objectives are:

- To support the hospitality industry through a cheaper and streamlined process.
- To ensure the communities interests are being taken into consideration though a fair and considerate process.

The aim is to balance business and local authority interests, by introducing a fee cap that is high enough to allow local authorities to recover their costs while at the same time low enough that it has a reasonable financial impact on businesses.

As for the consultation period the aim is to balance businesses' need for quick determination with local authorities' need to have reasonable time to process, and communities' need to input, particularly the need to ensure disabled people have sufficient opportunity to comment.

Summary and preferred option with description of implementation plan

Considering how well the temporary measures were received, letting the temporary process fall away and reverting to the old process might discourage businesses from applying for pavement licences.

The preferred option is therefore Option 1) Implement Permanent measures.

We extensively engaged with representatives from local authorities and the hospitality business and have come up with permanent measures that take into consideration the needs and interests of both groups.

The two-tier fee cap and 28-day consultation period is the result of data analysis and on the ground intel from relevant groups and provides a better alternative to the Highways Act.

The new Pavement Licensing regime would follow on from the temporary legislation that is already in place.

Monetised and non-monetised costs and benefits of each option *(including administrative burden)*

Option 0) Do nothing

Doing nothing would mean the temporary measures will be ceased and that local authorities and businesses would revert to the processes based on the Highways Act 1980.

This would mean potentially higher charges for the applications, as there is no fee cap, and a consultation period of 28 days.

Under this system, the calculated mean fee charged per application was £685.01.[156] This is derived a survey of 45 local authorities, taken over two rounds, the first starting 29/07/2021 and the second starting 04/11/2021. The survey question asked LAs to provide the fees charged for pavement licenses previously, under the Highways Act 1980 (before the Business and Planning Act 2020). It is important to note that this survey had a relatively small sample size (15% of LAs). This is the most robust data available as there is no regular collection of this information.

Option 1) Implement permanent measures

Under option 1, businesses will only be charged *up to* £500 for a new pavement license application and the application process will be shortened to a maximum of 28 days, with 14 days for consultation and a further 14 days for the local authority to determine. If a decision is not reached within this time, the application will be automatically approved. For a renewal application the same determination period applied but the fee

[156] Pavement licence new burdens assessment survey (2021)

cap would be set at £350, as the amount of officer time in determining a renewal is less. Furthermore, the maximum length of the permit will be extended to two years, reducing the administrative and monetary burden on both businesses and local authorities. In years whereby a business does not have to reapply for a permit (a 'continued' application), they will incur no charge.

Benefits

This option will provide three key benefits:

1. Reduced fee paid per application (monetised).
2. Renewal every two rather than one years (monetised).
3. Faster decisions reached (non-monetised).

Businesses will experience a monetary benefit per application in the form of the saving they make on the application fee in comparison to the fee they would pay under option 0. Furthermore, applications will only need to be made every two years instead of one. The size of this benefit depends on the *average saving to business per application* and *the number of applications expected to occur under option 1.* This is a direct benefit to business; the measures make the fees charge cheaper and the process more streamlined, hence the benefit is immediate and unavoidable.

It is highly uncertain whether past trends in the number of applications for pavement licenses will likely prevail, and therefore three estimates have been calculated to reflect this uncertainty. The central estimate assumes that the expected annual number of applications received in year one and each subsequent renewal year would be 25,400; this is derived from a survey of 45 local authorities, taken over two rounds, the first starting 29/07/2021 and the second starting 04/11/2021[157]. The survey question asked LAs to provide the estimated number they expected to receive up to September 2022, and this has been interpreted as the number of applications expected between the date the LA started the survey and 31/08/2022; the expected number of applications has been adjusted on a pro-rata basis to reflect the annual expected applications. It is important to note that this is a relatively small sample size (15% of LAs). The high and low estimates assume 20% more and 20% less applications per year respectively to capture the uncertainty. Whilst our central estimate relies on historical data, there is no evidence to suggest that the past trend in the number of applications will continue in the future. Therefore, we have assumed a low and high scenario to illustrate the range of possibilities for the annual number of applications.

Under this option, businesses with existing pavement licenses will be charged less to renew the license. In the absence of evidence about the proportion of applications which are likely to be 'new', 'renewed' application, and for simplicity, we assume that

[157] Pavement licence new burdens assessment (2021)

all applications in year 1 are 'new' applications charged the capped fee of £500, licences in year 2 are in their second year of a 2-year licence term/duration incurring no fee, and all application in year 3 are 'renewed' and charged the capped fee of £350. It is assumed that the same three-year cycle continues over the 10 year period. The benefits in year 2 onwards are notably higher than in year 1 because it is assumed that all applications in the counterfactual incur a fee of £685, and therefore there are greater savings to business from a renewed application, or not needing to reapply at all, rather than a new application.

Table A7.1: Discounted costs and benefits associated with Option 1, £m (2019 price, 2024 present value)

	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total
Low	2.46	11.13	4.72	9.93	4.21	8.86	3.76	7.90	3.35	7.05	**63.36**
Central	3.08	13.92	5.90	12.41	5.26	11.07	4.69	9.88	4.19	8.81	**79.21**
High	3.69	16.70	7.08	14.90	6.31	13.29	5.63	11.85	5.02	10.57	**95.05**

The average annual benefit is estimated to be £6.3m in the low scenario, £7.9m in the central scenario, and £9.5m in the high scenario. Over the 10-year appraisal period, this total benefit is estimated to be between £63.4m and £95.0m, with a central estimate of £79.2m.

Familiarisation costs

Many businesses will already be familiar with the process of applying for a pavement license as the process under option 1) will be similar. However, the following proposed changes will require that applicants will need to re-read the application form in order to familiarise themselves.

- Higher fee cap
- Increase in consultation/determination period
- Possibility of amending of licenses
- License duration

Main differences between temporary and permanent measures:

Temporary Regime	**Permanent Regime**
Fee cap £100	Fee cap £500 for first time applications, £350 for renewal applications
14 day consultation period	28 day consultation period

Cannot amend license	Possibility to amend licence
License duration: 12 months max	License duration: 24 months max

We used the following steps to estimate the first-year familiarisation cost.

1. Catering and bar managers are required to familiarise themselves with new regulation and guidance. To calculate the familiarisation cost we use the median hourly wage for 'Catering and bar managers from the 2020 Annual Survey of Hours and Earnings' and deflate it into 2019, which gives £9.45. Consistent with the MHCLG Appraisal Guide, we uprate this by 30% to account for overheads (£12.29)[158].
2. As previously detailed, the central estimate for applications in the first year is 25,382.
3. Time costs are estimated at 10 minutes per person. This assumption is based on the time it would take to review simple and easy to access statutory guidance which businesses already have access to and have used previously. This will be updated to show the changes made to the permanent system. The application process will remain the same.

The approach taken uses wage rates to estimate the monetary costs of pure familiarisation of new documentation and regulation.

Using this approach, the average annual cost of familiarisation (2019 prices, 2024 present value) with the new regulation is estimated at £51,976 (first year only).

Discounted familiarisation costs to business', £m (2019 price, 2024 present values)	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total
Low	£ 0.04	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	**0.04**
Central	£ 0.05	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	**0.05**
High	£ 0.06	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	**0.06**

[158] Annual Survey of Hours and Earnings (ASHE) 2020

Public sector impacts

LAs will on average receive less revenue under option 1, however we have assumed that the reduction in revenue – equal to the saving to business – will be offset by the reduction in the cost of processing applications and monitoring costs due to the reduced consultation period and reduction in officer time needed through clear considerations set out in statutory guidance. The fee cap has been determined following targeted consultation with local authorities to determine their costs to ensure that, on average, all local authority costs resulting from pavement licenses are covered by the fee cap. We therefore assume option 1 would be a zero-sum game for LAs, with no additional costs or benefits.

Familiarisation costs: There will be a small cost resulting from local authorities spending some time to review the guidance and update their website with the revised fee cap and consultation/determination timescales. Beyond this there will be no setup costs of implementing new processes as these have already been spent in establishing the temporary measures and were fully funded through new burdens funding.

Risks and assumptions

It is assumed that LAs will incur no additional costs or benefits under option 1. Under option 0, LAs set their fees at a level to cover the costs to process and monitor applications. Under option 1, this will remain the case as the fees cap should cover the costs of local authorities, and any potential issue with larger urban LAs wishing to charge higher fees we expect will be offset by the fact that most applications will be repeats, leading to less officer time needed to consider, and a reduction in officer time and therefore cost of processing the applications as considerations for determination are set out in statutory guidance. It is assumed that all LAs will charge the maximum fee cap for all applications (£500 for new applications and £350 for renewals). Many applications will incur lower fees than this, as they cost less to process and monitor. Under the temporary measures, 18% of LA's incurred costs greater than the £500 cap proposed[159]. As the cost of processing applications under option 1 are likely to be greater than that under the temporary measures, we expect *at least* 18% of LAs to incur costs greater than the revenue they receive[160]. Therefore, a portion of the cost savings for businesses submitting applications to these LAs captured in the estimates above will instead be *transfer payments* from the LA to business, as the LA will be incurring losses. For LAs who process applications for less than the £500 cap, we have assumed in our analysis that they will pass these savings on to businesses in lower fees, however in reality they may choose to keep these as profits. This could mean that the estimates presented in this analysis slightly overstate the benefits to business.

[159] Pavement licence new burdens assessment survey (2021)

[160] Pavement licence new burdens assessment survey (2021)

In addition, it is assumed that *all* expected applications come forward year 1 are 'new' applications incurring a charge of £500 and therefore all applications in year 2 are 'continued' with no new or renewal applications. In year 3 all applications that came forward in year 1 are 'renewed' applications incurring a charge of £350. The assumptions are laid out in the table below.

Number of estimated 'new' or 'renewal' applications per year	Lower	Central	Upper	
2024	20,305	25,382	30,458	*new*
2025	-	-	-	*continued*
2026	20,305	25,382	30,458	*renewal*
2027	-	-	-	*continued*
2028	20,305	25,382	30,458	*renewal*
2029	-	-	-	*continued*
2030	20,305	25,382	30,458	*renewal*
2031	-	-	-	*continued*
2032	20,305	25,382	30,458	*renewal*
2033	-	-	-	*continued*

This assumption is highly simplistic, but there is no available evidence to suggest what the likely split of applications between new, continued and renewal applications could be. We chose to assume that all applications came forward in year one as there does not seem to be an incentive for businesses to delay their application to a later year. It is implicitly assumed that renewed and continued applications result in a greater saving to business (a saving of £335 and £635 per application respectively) compared to the savings results from a new application (a saving of £183 per application). Therefore, the benefits in year 2 onwards are likely to be overstated given that some applications would be expected to be 'new' in these years.

The analysis assumes that moving to option 1 permanently will lead to no significant shift in behaviour from businesses – the number of applications over in each of the 10 years will remain uniform. Our data source is a survey based upon an LA response rate of only 15% - This is a small sample size, however in absence of more suitable evidence we have assumed this to be representative of all LA's, which may not be accurate.

The analysis assumes that all applications will be granted for the full 2 years. This is simplistic, however there is no available evidence to suggest the average length of application that would be granted. Therefore, the benefits in year two onwards may be overstated as some applications may require renewal more frequently. Under the temporary measures implemented during the pandemic we have anecdotal evidence that most local authorities granted licences for the maximum time period.

Impact on small and micro businesses

Small and micro businesses (SMBs) who will be impacted by this measure are within the food and beverage service activities sector (SIC 56), primarily; licensed restaurants, unlicensed restaurants and cafes, public houses and bars. The number of small (10-49 employees) and micro (0-91 employees) businesses in the affected sectors are detailed below. These are from the ONS UK Business Counts dataset, broken down by employment band and 5-digit SIC code rounded to the nearest 5[161]. For licensed restaurants, 97% of the 25,395 businesses are SMBs. For Unlicensed restaurants and cafes, 98% of the 20,645 businesses are SMBs. For Public houses and bars, 99% of the 25,275 businesses are SMBs [162].

Business (5-digit SIC code)	Micro businesses	Small businesses	Total number of businesses	SMBs as % of total
Licensed restaurants	16,370	8,305	25,395	97%
Unlicensed restaurants and cafes	16,990	3,285	20,645	98%
Public houses and bars	17,195	7,785	25,275	99%

This is a deregulatory measure, and we have assumed that there will be very low additional costs to any businesses (including SMB's) under option 1.

The benefits to business are that they will pay a reduced fee per application and decisions will be reached faster. Therefore, SMB's experience the same benefit in absolute terms. However, under option 1 the fee cap will be the same for both SMBs and larger businesses which is not proportionate given larger business' greater ability to pay higher amounts.

Reducing the fee cap for SMBs and offsetting this by setting a higher fee cap for other businesses has been considered as a potential mitigation. However, applying lower fixed caps for SMBs and higher for other businesses would likely generate additional costs to some LA's. In LA's where there is a disproportionate amount of SMBs, there would not be enough large businesses to offset the revenue loss from LA's only being able to charge a low fee cap. Therefore, it is not a viable mitigation to set different fee caps for SMBs and other businesses across all LA's.

[161] The consensus at the ONS is that the 3 digit SIC code is the optimum level in terms of sample size and confidence in estimates. However, given this assessment is specifically about the construction of domestic buildings, this requires a more specific SIC code hence the reason for using SIC 5.

[162] ONS: UK business: activity, size and location

Wider impacts

This policy will have a wider positive impact on the hospitality industry. Cheaper application fees and shorter consultation times should give businesses more confidence in applying for pavement licenses and if approved, a pavement license gives these businesses greater scope to increase their revenue. This should assist businesses (particularly those in the hospitality industry) by aiding their recovery from the pandemic and provide them flexibility in response to potential future restrictions in response to the ongoing COVID-19 should they occur.

A summary of the potential trade implications of measure

There are no identified trade implications for these measures.

Monitoring and Evaluation

We will continue to work with local authorities and businesses to assess the impact of the measures. We will update guidance if specific issues arise and will review the fee cap regularly to ensure it continues to cover fees.

Annex 19: Statement of Impacts - Relief from Enforcement of Planning Conditions

Problem under consideration and rationale for intervention

Since March 2020, Written Ministerial Statements (WMSs) have been used to encourage local planning authorities to be flexible when considering enforcement action against breaches of conditions relating to delivery times, construction hours and other operative activities. This was initially introduced in response to the COVID-19 pandemic but has since been expanded to deal with the HGV driver shortage.

In December 2021, a fresh WMS was laid, instructing local planning authorities not to undertake planning enforcement action which would result in unnecessarily restricting deliveries and construction site working hours. This WMS will expire on 30 September 2022.

The WMSs have been well received by the logistics and construction sector, allowing industries and businesses to adapt and respond to challenges they face. BEIS reiterated this sentiment stating that the relaxation of enforcement measures to delivery time conditions enabled significant flexibility for the retail, logistics and hospitality sectors to respond to the HGV driver shortage.

However, the use of a WMS to limit enforcement action is not a practical long-term solution, where new issues arise that have an adverse impact on the development and logistics sectors. Consequently, we will bring forward a stronger mechanism, enshrined in law, which would have the effect of constraining enforcement action by local planning authorities against certain types of conditions. This would include conditions that govern operative uses. This would introduce greater flexibility into the planning system, enabling it to respond quickly to different circumstances, particularly during times of uncertainty. A statutory measure would also provide greater certainty to businesses than the current policy measures.

Description of options considered

Option 0) Do nothing

Do nothing would mean that in times of uncertainty which unduly impact on the development and logistics sectors, local planning authorities would be able to take enforcement action against breaches of planning control. This could have the effect of directly or in-directly stifling business operations where the threat of or use of enforcement action creates uncertainty for business.

Option 1)

Option 1 would involve the continued issuing of a WMS to limit enforcement action against breaches of planning control during certain periods. While this may be a practical short-term solution, it does not provide assurance necessary to business that

enforcement action would not be taken where certain conditions were breached during times of uncertainty.

Option 2)

Under Option 2, a general statutory constraint on the taking of enforcement action by local planning authorities and the Secretary of State would be introduced. This would limit enforcement action against non-compliance of prescribed conditions. We envisage that this power would be used in specific circumstances such as periods of disruption e.g., a global pandemic or economic downturn. When exercised, we anticipate that the limitation on enforcement action shall only be in place for a specified period ("relief period"), which will be set out in secondary legislation. The measure would also be subject to certain exemptions including the statutory conditions mandated by section 98 and Schedule 14 of the Environment Act 2021 (which requires biodiversity gain to be a condition of planning permission), and the statutory conditions required by sections 91 and 92 of the Town and Country Planning Act 1990 (which limits the duration of planning permission).

Policy objective

The objective of the new power is to introduce greater flexibility into the planning system to allow it to adapt quickly to changing circumstances, particularly in times of disruption. As was shown during the COVID pandemic and later the HGV driver shortage, the ability to provide temporary relief from planning conditions allowed the planning system to respond to and help ease logistical challenges – although the mechanism used in these instances, a Written Ministerial Statement, is sub-optimal. The introduction of a new power is intended to have a similar effect but can provide more certainty for both businesses and local authorities who can be sure that no enforcement action will be taken against them when the power is engaged.

Summary and preferred option with description of implementation plan

The objective of the new power is to introduce greater flexibility into the planning system to enable it to adapt quickly to different circumstances, particularly during times of uncertainty and disruption.

Although WMS have been used successfully to discourage the enforcement of certain conditions linked to operative uses, the difficulty with this approach is that while LPAs should have regard to it and it encourages them not to take enforcement action, it is not a prohibition: an LPA could still take enforcement action against a breach of the relevant condition if it considered it justified. Therefore, current measures do not provide certainty that enforcement action will not be taken and, as such, a more certain measure limiting enforcement action is required.

We wish to bring almost all types of conditions within the scope of the power as it is hard to predict what circumstances may arise in the future which merit the restriction of enforcement measures. The discretionary nature of planning conditions, which can

tailor to local circumstances, means that it is difficult to classify exact categories of conditions that will be included in primary legislation.

The new power would provide for a general constraint on local planning authorities limiting enforcement action against non-compliance against conditions as prescribed by the Secretary of State. Certain conditions will be exempt from the power. Secondary legislation will be used to set out further details of the power including:

- the types of conditions against which enforcement measures will be restricted.
- the time limit for any restriction on the use of enforcement measures.
- the type of authority to which the constraint on enforcement action will apply; and
- the types (and parts) of enforcement measures that will be restricted.

Monetised and non-monetised costs and benefits of each option (including administrative burden)
Option 0) **Do nothing**

Under Do Nothing, the status quo continues; there will be no impacts.

Option 1) WMS approach

Under this option, there are benefits to businesses who may be afforded greater flexibility in their operations. However, there would be no guarantee that this would be universal as LPAs may still take enforcement action, even where, under the circumstances, it would be unreasonable to do so.

Option 2)

This option will provide businesses with greater flexibility in their operations which will have economic benefits. These measures are intended to support businesses to respond to and recover from periods of disruption.

Given that the details of the policy are to be confirmed in secondary legislation on a case-by-case basis, it is not possible to provide a detailed assessment of the impacts of the policy at this stage. The impacts will be analysed as secondary legislation comes forward.

The measures will restrict the ability of local planning authorities to take enforcement action against non-compliance with planning conditions. This raises the possibility of local authorities suffering lost revenue from fines related to breaches of planning control. However, it is envisioned that this will at least partially be offset by a reduction in the resources required for enforcement and should be noted that enforcement is discretionary in any event.

As the measures will apply automatically (as regulations are introduced) there would be no familiarisation costs for businesses associated with the measures. Businesses

will also already be familiar with the measures as similar provision was made through the introduction of Written Ministerial Statements since March 2020. There may be some familiarisation costs once details of the policy come forward, on a case-by-case basis in secondary legislation, but these are likely to be relatively low and would be analysed as secondary legislation comes forward.

Risks and assumptions
Given that the details of the policy are to be confirmed in secondary legislation on a case-by-case basis, it is not possible to provide a detailed assessment of the impacts of the policy at this stage. The impacts will be analysed as secondary legislation comes forward.

Impact on small and micro businesses
There will be no disproportionate impact on SMBs. These measures will apply to all planning permissions with relevant planning conditions, which will include SMBs. This will mean that SMBs will also benefit from increased certainty that enforcement measures will not be taken for breaches of relevant planning conditions during a specified period of relief.

These measures will provide greater certainty to SMBs and support how they can respond to periods of disruption and also help address issues of an asymmetrical market, where larger businesses may be better able to respond to periods of disruption without these additional planning flexibilities.

Wider impacts
This measure will be able to provide businesses with greater flexibility to respond and recover during periods of disruption, such as those experienced during the COVID-19 pandemic or the HGV driver shortage.

The wider impacts will be analysed when the details of the policy are confirmed in secondary legislation.

A summary of the potential trade implications of measure
This measure will provide businesses with greater flexibility which could be used to help business continue to trade in periods of disruption, for example during an HGV driver shortage. The trade impacts will be analysed when the details of the policy are confirmed in secondary legislation.

Public sector impacts
This measure will restrict the enforcement function of specified local planning authorities. This could mean that local authorities earn less revenue from fines which would be offset – at least partially – by a reduction in the resources required for enforcement. The public sector impacts will be analysed when the details of the policy are confirmed in secondary legislation.

As the measures will apply automatically (as regulations are introduced) there would be no familiarisation costs for local planning authorities associated with the measures.

Local planning authorities will also already be familiar with the measures as similar provision was made through the introduction of Written Ministerial Statements since March 2020. There may be some familiarisation costs once details of the policy come forward on a case-by-case basis in secondary legislation, but these are likely to be relatively low and would be analysed as secondary legislation comes forward.

Monitoring and Evaluation

There are no plans for monitoring or evaluating these measures. However, we will review whether it will be necessary to do so for future regulations made under this power as they come forward.