

Report to	<b>Planning Committee</b>
Date	<b>10 April 2025</b>
By	<b>Director of Planning</b>
Title of Report	<b>Planning and Infrastructure Bill and Written Ministerial Statement</b>
Purpose of Report	<b>To inform members about the proposals in the Planning and Infrastructure Bill and the contents of the Written Ministerial Statement on Statutory Consultees</b>

#### **Note**

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**Recommendation: The Committee is recommended to note the contents of this report**

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#### **Executive Summary**

This report summarises the main implications for the Authority contained in the Planning and Infrastructure Bill and the Written Ministerial Statement on Statutory Consultees.

For the Written Ministerial Statement these are divided into:

- Proposals that will be the subject of a future consultation; and
- Expectations for how Local Planning Authorities and Statutory Consultees will work together which apply with immediate effect.

For the Planning and Infrastructure Bill the summary covers:

- Planning;
- Development and Nature Recovery;
- Infrastructure: NSIPS, Electricity and Transport; and
- Other Provisions for Development Corporations and Compulsory Purchase Orders

#### **1. Background**

1.1 A report came to Planning Committee in February 2025 on the Government's Planning Reform agenda, which flagged that many of these reforms would be introduced through the Planning and Infrastructure Bill. The Bill was introduced to Parliament on 11 March and its anticipated date of Royal Assent is in the Autumn of 2025. On the 10 March Matthew Pennycook, the Minister of State for Housing and Planning, made a Written Ministerial Statement on Statutory Consultees. This Statement is a material planning consideration for planning decisions.

#### **2. Written Ministerial Statement on Statutory Consultees**

2.1 The Statement flagged a consultation this Spring on reducing the number of statutory consultees – potentially removing Sport England, the Theatres Trust and the Gardens Trust. For context, over the last three years we have on average consulted Sport England five times a year, the Theatres Trust three times a year and the Gardens Trust 15 times a year.

The consultation will also consider whether some types of planning application should be removed from scope - i.e. not require statutory consultation.

- 2.2 The Statement also set the following expectations for Local Planning Authorities (which apply immediately):
- Local planning authorities should limit consultation of statutory consultees to only those instances where it is necessary to do so.
  - Routine referrals to statutory consultees outside the statutory requirements should not take place.
  - Where a statutory consultee has not provided advice within the agreed period, the decision maker should consider whether they can make a decision without it.
  - Decisions should not be delayed in order to secure advice from a statutory consultee beyond the statutory deadlines unless there is insufficient information to make the decision, or more detailed advice may enable an approval rather than refusal.

2.3 It also sets the following expectations for statutory consultations:

- Responses to planning applications “should be provided in the form of advice to the decision-maker and should not be framed as an objection to the development”.
- MHCLG will create a new performance framework for statutory consultees, which will be overseen by both MHCLG and the Treasury.
- MHCLG promises to develop a model to support the sustainable funding of statutory consultees, and incentivising efficient and constructive engagement in applications, and in the planning system more generally.

### 3. Planning and Infrastructure Bill

- 3.1 The most relevant parts of the Planning and Infrastructure Bill to the SDNPA are Planning; Development and Nature Recovery and Infrastructure. Other changes are summarised more briefly.

#### Planning

- 3.2 **Planning Fees:** local planning authorities will be allowed to set their own planning fees provided that the fees are capped at a cost-recovery level. This will need secondary legislation, but includes ringfencing the proceeds to development management activities. MHCLG will have the right to direct councils to change fees that they deem “inappropriate”. For context, in 2023/24 SDNPA’s development management function cost approximately £4 million of which approximately £1 million was recouped in planning fees. The amount of fee income will rise during 2025/26 due to national increases due from 1 April 2025. However, there is still likely to be a significant gap between the cost of the development management service and fee income. Once we know the details of the secondary legislation, and what costs can be taken into account in cost-recovery, recommendations will be made to Planning Committee on whether SDNPA should set local planning fees, and if so what they should be.
- 3.3 **Planning Committee Training:** subject to secondary legislation, there will be mandatory, standardised, training for planning committee members. Once the committee member has completed the training, they will be issued with a “completion certificate” which will be valid for a specified period of time. Members will not be able to sit on planning committees or make any planning decisions without an up-to-date certificate. The SDNPA training for planning committee members will need to encompass these national requirements in future, but will also need to continue to cover National Park specific training.
- 3.4 **A National Scheme of Delegation** is also proposed, but, following discussion with ourselves and others in the National Park family, this will not apply to National Park Authorities or the Broads Authority.
- 3.5 **Strategic Planning:** The bill places a duty on Strategic Planning Authorities (SPA) to prepare a Spatial Development Strategy (SDS). The SPAs in this area are likely to be the mayoral combined county authorities currently proposed for Sussex and Hampshire – see

<https://www.gov.uk/government/news/devolution-priority-programme-consultations-launch>

Where such bodies comprise more than one principal authority (i.e. County or Unitary Authority) the Secretary of State can by regulations establish a joint committee to be known as the 'Strategic Planning Board'. These regulations will set out the bodies to be included in this Board, and the Secretary of State must consult with all the local planning authorities in the SDS area on these regulations. It will be important to secure a place for the SDNPA on the Strategic Planning Boards for Sussex and Hampshire, especially if the NPA is unsuccessful in gaining non-constituent body status on the Combined County Authorities themselves.

- 3.6 SDS will have to specify the amount and distribution of housing (and affordable housing) across its area; embed climate change policies, address health issues, take into account Local Nature Recovery Strategies and identify strategic infrastructure requirements. They will not allocate sites or repeat National Development Management Policies (due to be published in May 2025). Local Plans and Neighbourhood Plans will remain, but future versions will need to be in general conformity with the SDS once it is adopted.
- 3.7 The SPA will have to prepare a timetable for preparation of the SDS and agree this with the Secretary of State. There will be one formal period for public consultation, with statutory consultees including affected local planning authorities, but there will be no right to be heard at the examination carried out by an examiner appointed by the Secretary of State. The SDS should be reviewed 'from time to time', either wholly or in part, and the Secretary of State will be able to intervene to ensure that they are not unreasonably delayed or withdrawn. If a SPA refuses to adopt an SDS the Secretary of State can approve it themselves.

Development and Nature Recovery

- 3.8 Natural England will be required to prepare a new type of plan, called an "Environmental Delivery Plan" (EDP), which would set out conservation measures to be carried out at a strategic level within an area. These measures would then be funded by a "Nature Restoration Levy" that is paid by developers. An EDP would, once made by the Secretary of State:
- Relate to a specific area or areas of England (as identified by a map);
  - Apply to specific types, scales or forms of development within that area;
  - Specify the environmental features (such as protected habitats or species) that are likely to be negatively affected by the relevant type or development;
  - And set out:
    - o the conservation measures that are to be taken by or on behalf of Natural England in order to protect those environmental features;
    - o the amount of the nature restoration levy payable by developers to Natural England to cover the cost of those conservation measures (taking into account impact on the viability of development); and
    - o the environmental obligations in relation to development that are discharged, disapplied or otherwise modified if a developer pays the nature restoration levy in relation to the development.
- 3.9 Once an EDP is in place, a developer bringing forward a scheme in the affected area could either:
- Commit to pay the Nature Restoration Levy for the development; or
  - Continue under the current system, under which they would need to provide site specific mitigation for their development proposals (unless NE can demonstrate to the Secretary of State that this second option is not appropriate).
- 3.10 The Bill proposes giving Natural England compulsory purchase powers to acquire land in connection with the conservation measures set out in EDPs. Public bodies would be required to cooperate with Natural England in the production and implementation of EDPs,

including by imposing or varying conditions on development. Implementation would require secondary legislation.

- 3.11 Whilst Government seems committed to giving Natural England the responsibility to prepare EDPs, and the power to acquire land to implement them, there still seems scope for bodies such as National Park Authorities to act as delivery bodies and brokers with landowners. Compulsory Purchase is a lengthy and potentially costly process, and most mitigation schemes will progress more quickly and cost effectively by negotiation and joint working with farmers and other landowners, something which this Authority has significant experience and expertise in undertaking. We will continue to make this case to Government and Natural England and to stress the importance of not undermining existing successful mitigation schemes such as those secured under our Green Finance initiative.
- 3.12 Concerns about the proposals are being raised by many environmental organisations, alleging that the proposals will result in a worse outcome for nature than existing legislation contrary to the Environment Act; they ignore the mitigation hierarchy (where the first step should be to avoid harm to nature); mitigation should not be constrained by viability; lack of evidence that strategic mitigation schemes work; removal of requirement for species surveys; risks to delivery and lack of public scrutiny of EDPs.
- 3.13 More detail will be provided in the secondary legislation and presumably accompanying guidance, but it should be remembered that:
- The proposal would only apply to protected sites and protected species under the Habitats Regulations, the Wildlife and Countryside Act 1981 and the Protection of Badgers Act 1992, and will not affect areas or species not covered by this legislation;
  - At present Biodiversity Net Gain would not be affected by these proposals (although that may change in future);
  - Strategic mitigation schemes for such matters are not new – for instance Suitable Alternative Greenspace (SANGs) and Strategic Access Management and Monitoring (SAMM) are established methods for addressing impacts on European protected sites and District Level Licensing for Great Crested Newts has been in place now for a number of years; and
  - The current system of mitigation site by site is not working, as evidenced by the State of Nature report 2023 recording that, since 1970, UK species have declined by about 19% on average, and nearly 1 in 6 species (16.1%) are now threatened with extinction. The Lawton principles of ‘bigger, better and more joined up’ suggest that strategic approaches are likely to be more successful at reversing this trend.

Infrastructure: Nationally Significant Infrastructure Projects (NSIPs), Electricity and Transport

- 3.14 The Bill introduces measures aimed at streamlining the process for applications for large-scale infrastructure. This includes:
- Amendments to the Planning Act 2008 to require National Planning Policy Statements (NPS) to be fully reviewed and updated every five years and to enable the specific amendments to be made to the NPS which arise from changes in government policy and legislation, and in response to court decisions;
  - Giving the Secretary of State the power to direct that specific projects are not considered under the Development Consent Order (DCO) regime, but are instead consented under another route (which could include through the Town and Country Planning Act 1990);
  - Reducing the type of parties that are consulted and the content of the consultation reports for DCOs;
  - Strengthening the requirements of the acceptance gateway for DCO applications;

- Changes to the judicial review process for NPS and DCO consents (the Banner reforms) which reduce the number of stages in the Judicial Review process and removing the ability to progress to the Court of Appeal if the claim is deemed ‘totally without merit’.
- 3.15 These measures are broadly in line with those set out in the Working Paper summarised in the report to Members February 2025. Streamlining of the process and clearer requirements for acceptance are welcomed. The Banner Reforms are unlikely to have a significant impact on the Authority. One notable omission is cost recovery for Local Planning Authorities and Statutory Consultees. Whilst this would have been welcomed, the SDNPA has been able to recover much of the cost for non-statutory work on NSIPs through Planning Performance Agreements.
- 3.16 The introduction of alternative consenting routes for NSIPs could mean that the SDNPA would be the decision-making authority for projects within the National Park boundaries. Such projects are likely to require significant officer time and resource, above that currently through the DCO regime (e.g. technical and admin support, Committee).
- 3.17 Other changes include:
- A provision that imposes an express duty on the grid and electricity distributors to have regard to strategic plans;
  - Financial incentives to local communities to accept the development of pylons or other energy transmission infrastructure in their area; and
  - Standardising the period for objections to highways schemes in England at 30 days.

Other Provisions for Development Corporations and Compulsory Purchase Orders

- 3.18 The Bill also includes:
- Measures largely designed to standardise and consolidate the powers available between the various different types of development corporation that can exist; and
  - Changes to the Compulsory Purchase Order (CPO) processes, including allowing CPOs to be made on behalf of town or parish councils; and removing hope value from the calculation of compensatory payments for the loss of land, as well as to the calculation of market value.

**4. Conclusion**

4.1 The timetable for the Bill to go through the Parliamentary process is extremely tight for a Bill of this scale (for comparison the Levelling Up and Regeneration Act took over a year). Nonetheless there is likely to be lobbying of Members of both Houses of Parliament to make amendments. Planning Committee will be updated with any significant changes to the Bill as it progresses, alongside other planning reforms as they are announced or consulted upon. Views are invited to inform our engagement with officials, the public and MP’s as we deliver our planning service.

**5. Other implications**

Implication	Yes*/No
Will further decisions be required by another committee/full authority?	No
Does the proposal raise any Resource implications?	No
How does the proposal represent Value for Money?	N/A

<b>Implication</b>	<b>Yes*/No</b>
Which PMP Outcomes/ Corporate plan objectives does this deliver against	N/A as report for noting.
Links to other projects or partner organisations	N/A as report for noting.
How does this decision contribute to the Authority's climate change objectives	N/A as report for noting.
Are there any Social Value implications arising from the proposal?	N/A as report for noting.
Have you taken regard of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010?	N/A as report for noting.
Are there any Human Rights implications arising from the proposal?	None.
Are there any Crime & Disorder implications arising from the proposal?	None.
Are there any Health & Safety implications arising from the proposal?	None
Are there any Data Protection implications?	None.

**6. Risks Associated with the Proposed Decision**

6.1 No risks associated with consideration of report as it is for information only.

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Appendices None.

SDNPA Consultees Director of Planning; Monitoring Officer; Legal Services.

External Consultees

None

Background Documents

[Written statements - Written questions, answers and statements - UK Parliament](#)

[Planning and Infrastructure Bill - Parliamentary Bills - UK Parliament](#)

