

Levelling Up, Housing and Communities Select Committee

Levelling Up and Regeneration Bill Inquiry

Dear Committee,

Further to my oral evidence at your inquiry, please find enclosed supporting answers to the following questions raised by members of the committee.

Q148 Why could you not borrow from the Public Works Loan Board and just pay it off when the returns came in?

1. As discussed in the session, developer contributions are formed of Section 106 planning obligations and the Community Infrastructure Levy (CIL). It is correct that “you cannot forward fund infrastructure through any mechanism at local authority currently unless it is for Mayoral CIL”.
2. I have now been able to clarify that – outside of London - there are legislative barriers preventing local authorities from borrowing from the Public Works Loan Board. Community Infrastructure Levy (CIL) Regulations 2010 S60 provides ability for the Secretary of State to direct the interest percentage allowed from developer contributions that can be used to reimburse expenditure already incurred on infrastructure. However, in the absence of direction legislation allows “zero per cent” wherein lies the problem.
3. However, I welcome the Levelling Up and Regeneration Bill’s inclusion of borrowing for infrastructure delivery as part of proposals for the Infrastructure Levy. To quote from the Bill’s explanatory note on page 214:

“Subsection (8) gives a power for the relationship between IL and local authority borrowing to deliver infrastructure, to be set out in regulations. This power would allow local planning authorities to borrow against future IL receipts in order to deliver infrastructure at the right time to support development. This subsection allows local planning authorities to borrow money from the Public Works Loan Board or other funding sources, against future IL receipts, thereby using IL money as a reimbursement of the expenditure already incurred.”

Q163 There are measures in the Bill to strengthen enforcement powers. Are they sufficient and will they work, Victoria?

4. Further to my comments, the purpose of planning enforcement is to uphold the integrity of the planning system. We therefore welcome efforts to extend the period for taking enforcement action to ten years in all cases; increasing fines associated with certain planning breaches; extending the time period for temporary stop notices from 28 to 56 days; and give the Planning Inspectorate the power to dismiss certain appeals where the appellant causes undue delay.
5. We also welcome the introduction of enforcement warning notices but believe that this needs to be accompanied by adequate training and guidance upon implementation to define the threshold at which you have to be satisfied that the planning application would be granted permission and what else needs to be attached to the notice
6. We do not support the doubling of fees for retrospective action as this risks penalising those who have made genuine mistakes on their applications and discouraging them from applying.
7. The committee should also note that planning enforcement has been considered by local authorities as a ‘discretionary service’ and not a statutory duty. We hope these measures will help to change that perception.

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8. This is particularly important because the National Association of Planning Enforcement (NAPE) has received feedback from its members that pressures on local government budgets could be having a severe impact on planning enforcement teams.
 9. This problem seems to be particularly acute where planning enforcement teams are separate from planning services teams and planning services budgets are therefore not supplementing planning enforcement services.
 10. In response to the budgetary pressures, we understand that some councils are prepared to risk the challenge of potential judicial reviews and ombudsman complaints for failure to take enforcement action rather than spend precious resource on staffing planning enforcement teams.
 11. We urge your committee to help set expectations for councils to fulfil their planning enforcement obligations sufficiently. Moreover, outside of the current legislation we believe that more needs to be done to properly resource planning enforcement, fund enforcement action which is not complaint driven (including Biodiversity Net Gain which requires an endowment), and to educate magistrates and the courts on the need to fine and sentence offenders properly.

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