Ministry of Housing, Communities & Local Government

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Ministry of Housing, Communities & Local Government
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Dear Members of the Planning and Infrastructure Bill Committee,

PLANNING AND INFRASTRUCTURE BILL: PUBLIC BILL COMMITTEE

Thank you again for the constructive and spirited debate during the passage of the Planning and Infrastructure Bill through the Commons Public Bill Committee.

During the Committee, I made several commitments to write to Members to set out more detail on specific issues or clarify points raised. Responses to these points are annexed to this letter. Please note that for the purposes of this letter, clause references match the Bill print as introduced and considered in Committee rather than as amended.

The contributions and challenges made by Members were extremely valuable and, as I set out, I know we are all united in wanting to deliver the most positive legislative change for our constituents and the country. I look forward to further engagement as the Bill progresses through its remaining stages.

Best wishes,

MATTHEW PENNYCOOK MP
Minister of State for Housing and Planning

ANNEX A: Responses to points raised during debate

Transport infrastructure

Interaction with Greater London Authority (GLA) Road Boundaries and Statutory Undertakers (Clauses 26 and 29)

In relation to Clauses 26 and 29, David Simmonds MP, asked how changes to National Highways powers interact with roads managed by the GLA, and raised two concerns regarding statutory undertakers – including potential interference with their powers and coordination of works.

There is no conflict between the new temporary possession powers and those of statutory undertakers. These powers simply clarify that the right to temporarily possess or occupy is included amongst those rights in land that can be created under existing provisions. The process mirrors that which has already been in place since the inception of the Highways Act 1980, including public notices and the ability for statutory undertakers to make representations. Special parliamentary procedure still applies, and existing protections remain in place.

On coordination, the system of notices that would ordinarily exist if orders of this type were sought is maintained, allowing for voluntary coordination if the relevant parties wished to. However, mandating coordination is beyond the scope of this provision and would be better addressed through broader regulation rather than this Bill. We will fully consider this as regulations are prepared.

Regarding compensation, existing legislation – including the Compulsory Purchase Act 1965, Compulsory Purchase (Vesting Declaration) Acts 1981 and Land Compensation Acts 1961 and 1973 – continue to apply. Compensation is determined by reference to market value, with disputes handled by the Upper Tribunal. Those affected by a proposed temporary possession order have the same rights as those affected by a proposed order for compulsory purchase. Compensation provisions elsewhere in the Bill are not intended to (and will not once be enacted) apply to land temporarily acquired for highway acquisitions.

Orders relating to Trunk Roads

David Simmonds MP also raised concerns about the use of section 10 powers under the Highways Act 1980 by strategic highways authorities, the impact of Clause 26 on GLA-managed roads, and implications for affected authorities.

Clause 26 streamlines the section 10 order process by allowing strategic highways authorities to prepare, publish, and make orders, while still requiring confirmation by the Secretary of State. This removes the need for a statutory instrument but does not change the core consenting process in Schedule 1 of the Act. Local authorities, including the GLA, retain the right to object, potentially triggering a public inquiry. The ability of the strategic highways authority to set objection periods and issue notices does not affect stakeholders' rights.

Clause 26 does not affect GLA management of red routes. Where trunk roads near GLA-managed routes are involved, the GLA will be consulted as required. While the GLA oversees Greater London's highway system, it has no authority over trunk roads; Transport for London may submit objections where relevant.

Overall, Clause 26 preserves the consultation process and the roles of local authorities, while reducing administrative delays.

Transport and Works Act 1992 (Clause 31)

David Simmonds MP also raised concerns regarding the lack of retrospective application contained in section 9 of the Transport and Works Act 1992.

Clause 31 seeks to provide a procedural fix by removing references to schemes that are considered of national significance. Since the introduction of the Planning Act 2008, which established a consenting regime for Nationally Significant Infrastructure Projects with clearly defined thresholds, this part of the Transport and Work Act has effectively become redundant.

Section 9 has not been applied in respect of a Transport and Works Act application in recent years, and there is no reason to believe that such an application would be received before Clause 31 comes into force. Indeed, there would be no discernible advantage for an applicant to utilise section 9 prior to its revocation, as the process would be slower than an application submitted under section 35 of the Planning Act 2008, under which an applicant can request that their transport project be treated as a nationally significant development.

This change supports our wider aim of streamlining and improving the efficiency of delivering transport infrastructure projects by removing outdated references and making the law clearer and easier to apply.

Immediate Street Works – Urgent and Emergency Works (New Clause 21)

Lewis Cocking MP asked what the government is doing to ensure roadworks are finished as quickly as possible.

The government is continuing to look for ways to improve the street work permit system, and particularly the way immediate works are planned, carried out and better communicated to road users.

We are taking steps to minimise the impact all works have on our roads and to incentivise good performance. This is demonstrated by our recent announcement that fixed penalty notices for utility companies will double from their current level for certain offences – such as working without a permit, breaching permit conditions or providing late notification of reinstatements or start and stop notices. Current overrun charges of £10,000 for works that overrun their permitted end date will also be extended to apply at weekends.

Planning

Planning fee surcharge (Clause 44 and New Clause 39)

I committed to write to the Committee in relation to the operation of the planning fee surcharge.

Firstly, as I set out in the debate, much of the detailed operation of these measures will be set out in regulations, and it is the government's intention to consult on detailed proposals prior to making these regulations. As such, while what follows sets out our broad intention, the precise approach will not be settled until we have formally consulted and responded to the feedback we receive through this process.

With regards to the interaction of the planning fee surcharge and the process for setting local planning fees, this is in part addressed through the drafting of Clause 44 and New Clause 39. Clause 44, in particular, amends section 303 of the Town and Country Planning Act 1990 introducing the ability for local planning authorities to set local fees in a new 303(5A).

Meanwhile New Clause 39 allows the Secretary of State to set a surcharge, which will primarily be used to fund statutory consultees, through the introduction of new section 303ZZB to the Town and Country Planning Act. The surcharge can be set by the Secretary of State as a proportion of the national planning fee, disregarding any variations to that fee that may be introduced by the local authority.

We will consult on proposals to set surcharges on the basis of the national default fee, rather than local variations. Under this approach, local planning authorities would not need to account for any impact on surcharges, when setting their own fees. This will remove the potential stumbling block that was identified in the debate, in which the local planning authority must also consider the level of the surcharge.

We will consult on the exact way in which we propose to set regulations for the surcharge, but the starting point would be to create distinction between voluntary pre-engagement and the statutory function performed by statutory consultees. The surcharge would be used to fund part or all the statutory function, while voluntary pre-engagement would continue under existing arrangements.

We will continue to test this approach with stakeholders, but our underlying principle for these policy choices is to ensure that developers are not charged twice for the same service; that is to say, statutory consultees should not be able to charge developers for something that is accounted for through the surcharge.

Delegated Planning Decisions (Amendment 152)

While debating Amendment 152, David Simmonds MP raised an important point about the need to ensure consistency across delegated planning decisions as well as those made by planning committees.

I would also like to draw Committee members attention to our technical consultation on planning committee reforms which has now been published and is open for responses. This document provides detail on how we intend to implement the Planning and Infrastructure Bill provisions relating to the delegation of planning decisions, the size and composition of planning committees and mandatory training for members of planning committees.

As set out in the consultation, I can assure Committee Members that the government is committed to ensuring delegated decision making is effective and as consistent as possible across the country. To help achieve this we are taking the following steps:

- Overhauling the local plans system to ensure that each area has an up-to-date local plan in place. This will make them simpler to understand and use so that communities can more easily shape them and it will allow for an easier application of local plans to decision making;
- Consulting on a set of National Decision-Making Policies and a revised National Planning Policy Framework later this year that will create a clearer policy framework for decision making; and
- Supporting skills and resourcing by empowering local planning authorities to set their own planning fees to cover costs of delivering a good planning applications service.

In addition, we have an existing framework which measures the decision-making performance of local planning authorities by both committees and officers. It looks at the quality of decision making by measuring the proportion of total decisions overturned at appeal. As part of our work to modernise the planning system and ensure it is delivering the outcomes communities want, we will consult on lowering the thresholds in the performance regime to further support high quality decision making across both committee and officer decisions.

I indicated during the debate that I would provide some sense of the level of refusals on appeal for decisions made by committees versus decisions made by expert planning officers. While we do not currently collect this information, we are aware of some research undertaken by Lichfields which provides some data.

Moving forward we will collect more data on approval rates by committees and officers at each local planning authority. We will also collect data to see whether there is a reduction in the number of appeals, where the decision of the local planning authority, either by officer or committee, is overturned. This will ensure we have a very clear picture of what is happening on the ground.

Spatial development strategies – consultation, chalk streams, air quality and climate change (Clause 47)

I committed to write to the Committee with further information on spatial development strategy consultation requirements; the government's policy on chalk streams and air quality; and the provision relating to specifying infrastructure for the purposes of mitigating and adapting to climate change.

Firstly, I want to reiterate that spatial development strategies are intended to be high-level documents focused on addressing issues of strategic importance at a sub-regional scale. They will provide a spatial framework for development, but it will be for local plans to provide more locally specific detail including allocating specific sites for development.

To reinforce this point, under the Planning and Compulsory Purchase Act 2004, as amended by the Levelling-up and Regeneration Act 2023, local plans must be in general conformity with the spatial development strategy, and it is the role of the local planning authority to ensure that this requirement is met. Strategic planning authorities must have regard to the need to ensure consistency with national planning policies when preparing their spatial development strategies and, therefore, it is not necessary to replicate national policy within the clause itself.

Consultation requirements

Concerns were raised by members of the committee regarding consultation provisions in spatial development strategies. Clause 47 includes robust provisions to ensure that communities are consulted during the preparation of spatial development strategies.

Under new section 12H, strategic planning authorities are required to publish their draft spatial development strategy along with a statement inviting representations about the strategy. This gives anyone the opportunity to make representations. In addition, there is a requirement to notify specific persons of the publication of the draft strategy and strategic planning authorities must consider notifying voluntary bodies and groups which represent the interests of different racial, ethnic, national and religious groups and businesses. There is also a corresponding duty in the new section 12K which requires authorities to consider any representations received in accordance with regulations under section 12H.

As I mentioned during the committee session, very similar requirements already apply to the preparation of the London Plan where past experience demonstrates that communities are effectively consulted in the process. Communities will also have further opportunities to shape development in their local areas through the local plan-making process where detailed planning policies are set, including specific site allocations.

While I intend to reflect further on the matter, my present view remains that the consultation requirements in Clause 47 strike the right balance between enabling a proportionate approach to community engagement that aligns with the role of spatial development strategies as strategic documents while also ensuring that strategic planning authorities consider the views from a wide spectrum of the community when preparing their plans.

Chalk streams

Ellie Chowns MP raised the possibility for spatial development strategies to be used to protect threatened natural resources, such as chalk streams.

The government is fully committed to restoring our chalk streams to better ecological health as a vital part of our programme of reforms to the water sector. On 23 October 2024, the Secretary

of State for the Department of the Environment, Food, and Rural Affairs launched an independent commission to fundamentally transform how our water system works.

Additionally, in 2024/25, over 45 chalk stream projects received funding from the government's Water Environment Improvement Fund – each leveraging private investment – and over the next 5 years, water companies will spend over £2 billion on chalk stream restoration. We intend to end damaging abstraction of water from chalk streams by making full use of our existing powers to amend abstraction licenses, and chalk streams will be prioritised as part of the record £11 billion of investment to improve nearly 3,000 storm overflows in England and Wales, as set out in Ofwat's 2024 Price Review.

Alongside our reforms and investment to the water system, the Bill itself under new section 12D(11) sets out that a spatial development strategy must take account of any local nature recovery strategy that relates to any part of the strategy area. These new spatial strategies highlight the most valuable existing areas for nature, including chalk streams, and set out specific proposals for protecting and restoring them. We will also consider how we can give further protection on chalk streams as part of our work to make national planning policy clearer and more effective, and consulting on these changes later in the year.

As committee members are aware, the Environment Act also introduced a new mandatory Biodiversity Net Gain (BNG) requirement of 10% for new developments last year. This will ensure that a grant of planning permission for new development results in more or higher quality natural habitat than there was before the development. The metric uses pre-development information about the habitat including its type, condition, distinctiveness, and how difficult it is to create or restore, to create the biodiversity value of the site. Chalk streams score highly in the BNG calculation, requiring proportionately higher compensation, and disincentivising developers from building on sites which will impact them. Where chalk streams are affected, the BNG metric requires like for like compensation, in the form of habitat creation or enhancement.

Air quality

Ellie Chowns MP also raised an amendment to ensure that spatial development strategies must identify specific measures to reduce air pollution. Having previously established the All-Party Parliamentary Group on air pollution, I know air quality is a public health issue and a social justice issue, and the government is committed to improving air quality across the country.

However, in line with my previous comments, it is not necessary to replicate national planning policy in the legislation. The National Planning Policy Framework is already clear that planning policies should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, considering the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement.

So far as possible, these opportunities should be considered at the plan-making stage, including through spatial development strategies as the amendment intends, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications.

Climate change and infrastructure

Gideon Amos MP also asked about the drafting on infrastructure provision under new section 12D(4)(b). As I made clear during the committee session, I agree with the importance of ensuring that spatial development strategies can identify infrastructure for the purposes of both mitigating and adapting to climate change. Upon review of the drafting, I remain confident that the new section 12D(4)(b) allows for spatial development strategies to specify infrastructure for the purposes of mitigating and/or adapting to climate change.

I would also like to draw the committee's attention to new section 12D(10) which sets out that a spatial development strategy must be designed to ensure the use and development of land in the strategy area contributes to the mitigation of, and adaptation to climate change. Combined with the earlier provisions, this will ensure that strategic planning authorities will consider the key issues of climate change when preparing their strategies.

Unauthorised development (New Clause 76)

The Shadow Minister, Paul Holmes MP raised the issue of how the government is monitoring the number of unauthorised developments and the extent to which local planning authorities are using their enforcement powers.

Local planning authorities are required to submit information to my Department on the number of times they take enforcement action against unlawful development such as issuing an enforcement notice or a breach of condition notice.

Our planning statistics show that there were over 9,000 different enforcement actions in 2024. Further information is publicly available online using our interactive dashboard. We do not collect data on whether intentional unauthorised development is a material consideration in these cases or not. Similarly, we do not collect data on which appeal cases considered by the Planning Inspectorate involve intentional unauthorised development.

As I made clear at Committee, the government does not condone intentional unauthorised development. It is important to remember that there is no guarantee that unauthorised development will be granted permission retrospectively.

Local planning authorities are required by law to determine planning applications – including retrospective applications - in accordance with the development plan unless material considerations indicate otherwise. As we discussed during Committee, national planning policy makes intentional unauthorised development a material consideration which must be weighed in determining planning applications and appeals. Local planning authorities, and inspectors

at appeal, must therefore weigh up this and any other relevant considerations and reach a balanced and proportionate judgement in each case.

Nature and the Nature Restoration Fund

Environmental Delivery Plans (EDP) – sequencing, public bodies and consultation on EDPs

Several questions were asked by members of the Committee regarding Part 3 of the Bill, especially regarding EDPs.

Sequencing (Clause 51)

David Simmonds MP asked for further clarification on the sequencing of an EDP. As set out at Committee, Clause 51 establishes that one or more charging schedules will be included with each EDP (one for each environmental impact of a development identified by Natural England). The intention is that these schedules will be clear and understandable. They will set out how much developers will be required to pay to discharge their environmental obligations through the EDP and will reflect the environmental impacts that the EDP is seeking to address.

Clause 62 establishes that the Secretary of State may make regulations about the nature restoration levy. The provision also requires that, in making these regulations, the Secretary of State aims to ensure that costs on developers are reasonable and do not make the development economically unviable. This is to avoid high levy costs creating a disincentive to development.

The intention is that the costs of delivering an EDP be fully met through development payments through the nature restoration levy. As was rightly set out during the Committee debate, this will require consideration of inflation and its impacts on the cost of delivery over the EDP period.

Clause 64 addresses this point in two ways. Firstly, it specifies that Natural England must, when setting the charging schedule, have regard to the actual and expected costs and sources of funding of the conservation measures, as well as matters relating to economic viability that may be specified in regulations (under Clause 66, as above). Secondly, a specific provision (Clause 64(5)(d)) allows for levy regulations to operate by reference to an inflation index rate. This recognises that some conservation measures will be addressing development that will not come forward until later in the EDP period, and therefore may not be delivered until sometime after the EDP is made, and ensures that inflation can be factored into the costing of the delivery of conservation measures, and the collection of the nature restoration levy.

The Bill recognises there are scenarios where projected future costs of delivering conservation measures may prove to be incorrect. It is for this reason that Clauses 62 and 64 allow the Secretary of State to provide, in regulations, for a range of approaches, such as values to be used, and time periods for revision, in charging schedules.

Public bodies (Clause 75)

David Simmonds MP also asked about the function of a public body, for example, when a third party is appointed to undertake the functions of Natural England and how this would interact with a situation in which the public body covered by the duty is opposed to the development that gives rise to the need for an EDP.

As members of the Committee know, Part 3 of the Bill allows the Secretary of State to designate, by regulations, another person to exercise the functions of Natural England. As was indicated in the debate, the duty to co-operate at Clause 75 sets out that a public authority in England must co-operate with Natural England in the preparation or implementation of an EDP.

It is our view that, if the Secretary of State designates a third party under Clause 74 to take on the functions of Natural England, then the duty on other public authorities to cooperate with Natural England would extend to cooperation with that third party.

This is because, if it were specified in regulations, a third party could take on Natural England's functions including those functions set out at clause 87 (requesting assistance in connection with the preparation and implementation of EDPs). We note that regulations can specify the functions that the Secretary of State considers necessary.

Finally, the Secretary of State is able, under Clause 74(4), to make consequential amendments to this Act or others, which may be required where it is necessary to give full effect to a designation.

However, it is important to note that the duty to cooperate does not prevent public authorities from opposing measures proposed in EDPs.

Public authorities, such as local planning authorities in the example used in Committee, will have the opportunity to express any opposition to an EDP through the consultation required under Clause 54. This clause requires Natural England to seek the views of specified bodies including local planning authorities, any other public body they consider should be consulted, and any other authority specified in regulations by the Secretary of State.

Clause 59 then requires that Natural England provide the Secretary of State with copies of all responses to the consultation, and Natural England's response to the consultation including details of any further consultation that may have taken place. This will ensure that where a public authority is opposed to a proposed EDP they will have the opportunity to express their concerns, and these must be considered by both Natural England and the Secretary of State before they determine whether to make the EDP.

When preparing an EDP, Natural England must have regard to relevant plans or strategies for an area, including the development plan(s) for the area covered by the EDP. This ensures that an EDP fully considers the plans and strategies of other relevant public authorities when preparing an EDP.

It is also important to remember the scope of the nature restoration fund. An EDP will only be addressing specific environmental impacts to specific environmental features. Local planning authorities remain the decision maker, and it is only the specific impact to the environmental features covered by an EDP that they are required to disregard when coming to a decision on whether to grant planning permission.

Requirement to consult (Clause 54) and amending an EDP (Clause 58)

Ellie Chowns MP asked for specification on the requirement to consult on an EDP. In providing a power to amend an EDP, we have also included proportionate requirements to consult on amendments. If the Secretary of State wishes to amend an EDP, other than to amend only the charging schedule, they may first direct Natural England to consult on the EDP as proposed to be amended. That allows EDPs to adapt and reflect changing circumstances, while ensuring that they are subject to sufficient scrutiny and oversight.

Specifically responding to the question raised at the Committee, as to where in the Bill the requirement to consult on an amended EDP is set out - Subsection 3 of Clause 58 sets out the power as follows:

"Where-

(a) *Natural England requests an amendment, other than an amendment only to a charging schedule, or*

(b) *the Secretary of State is minded to make such an amendment,*

the Secretary of State may direct Natural England to consult on the EDP as proposed to be amended."

Where Natural England is directed to consult, they must then follow the consultation process set out at Clause 54 and provide relevant documents to the Secretary of State.

As amendment could be for a variety of reasons and might only be minor, it is appropriate that the requirement to consult on an amended EDP is at the discretion of the Secretary of State. For example, an EDP may have planned for more development than may subsequently come forward. In such circumstances an amendment would only be removing some conservation measures from the plan to reflect the reduced impact from development, rather than proposing anything additional. In such a scenario, requiring full consultation would not be proportionate or appropriate.

In the event of a substantive change to an EDP, the Secretary of State's direction to consult would then, of course, ensure that expert views, stakeholders' opinions and that of the public were considered prior to the amended EDP being made.

Crucially, in making an amendment to an EDP, the Secretary of State is bound by the same overall improvement test as when the EDP was made, and will need to be satisfied that the conservation measures in the amended plan are likely to be sufficient to outweigh the negative

effect of development on the relevant environmental feature. This provides an important safeguard ensuring that amendments to EDPs deliver positive outcomes as intended.

Protection of Badgers Act (Part 2 Schedule 6)

I offered to write to Gideon Amos and Lewis Cocking MP to further outline our policy intention behind Part 2 of Schedule 6. As I set out at the Commons Committee, the purpose of the amendments to the Protection of Badgers Act (PoBA) is to bring licences for managing impacts on badgers into line with wider species mitigation licensing.

The government recognise that badgers are an iconic British species, and we have acted to support them. We have begun work on a comprehensive new bovine tuberculosis (TB) strategy for England, to end the badger cull by the end of this Parliament. We are also launching the first badger population survey in over a decade, developing a new national wildlife surveillance programme to inform how and where TB measures are deployed, and we have begun establishing a new Badger Vaccinator Field Force to increase delivery at pace, drive down disease rates and protect badgers. We must recognise that – while badgers were historically persecuted – the species population is currently in a robust conservation position across England.

In this overall context, and in proposing the amendments to the PoBA, we have carefully examined the case for change and opted to include the lethal control provision for several reasons, including addressing inconsistencies across different legislative regimes.

First, the PoBA already allows the killing of badgers in some instances where it can be justified, such as for science and educational purposes, to prevent the spread of disease and to prevent serious damage. This amendment standardises this approach across different licence types.

Second, the amendment allows Natural England flexibility in the actions that can be taken for an EDP covering badgers. Where intervention is necessary, Natural England would first seek to resolve cases by excluding or displacing badgers. However, there may be situations where this may be unsuccessful. Moreover, in some cases, the killing of badgers may provide a better overall outcome, for instance in high-risk TB areas where displacement could lead to transmission risk.

Third, the amendments address the present inconsistency between the PoBA and the Wildlife and Countryside Act (WCA) and Habitats Regulations, which both allow licences for animals to be killed where necessary where stringent conditions are met. These existing significant safeguards are replicated for badgers in these amendments.

For licences deemed to be granted through EDPs, the overall improvement test means the Secretary of State can only make the EDP if they are satisfied that the conservation measures in the plan are likely to be sufficient to outweigh the negative effect of development.

An EDP will set out the strict licence terms, defined by Natural England as the conservation experts, with which any developer must comply. Deemed licences in relation to badgers

granted through EDPs will be enforced under the PoBA, including in respect of contraventions of, or failures to comply with, licence conditions. There will be additional scrutiny through consultation, reporting and potential for EDP revocation.

Importantly, licences – both within and outside EDPs – will be subject to stringent tests derived from international law. These require that there must be no other satisfactory solution than the decision to use lethal control and that the licence will not be detrimental to the survival of any population of badgers. This is a high bar and means that this provision can only be used exceptionally and where justifiable.

We are confident that these amendments strike the right balance of creating the necessary flexibility to ensure certain EDPs are operable, while also maintaining high standards of protection for badgers.

EU system transitioning (Clause 93)

The Shadow Minister, Paul Holmes MP asked whether transitioning from the EU systems of environmental assessment will be further affected by any government deal made between the EU and the UK.

There are powers in the Levelling Up and Regeneration Act 2023 (LURA) to make regulations over how to carry out the assessment of projects and plans against outcomes (section 153, LURA) and how to enforce Environmental Outcomes Reports requirements (section 160, LURA). Practical assessment and enforcement measures will be developed in regulations (and associated guidance) using these powers as we continue to develop policy for Environmental Outcomes Reports. However, the UK Government continues to operate under the EU-derived framework until the new system is in place, which will ensure effective environmental assessment of projects and plans.

The primary aim of Clause 93 is to ensure that relevant international obligations can be met under the new system of Environmental Outcomes Reports which will replace the EU-derived processes of Environmental Impact Assessment and Strategic Environmental Assessment. This clause secures a minor amendment to the LURA to address a deficit in the original drafting. This will mean developers must consider all likely significant effects of their projects, regardless of where those effects occur.

Compulsory Purchase Orders

Earlier vesting of land (Clauses 86 and 87)

The Shadow Minister, Paul Holmes MP, raised concerns that the imbalance in the compulsory purchase context could make landowners feel pressured to enter into voluntary agreements with acquiring authorities for the early vesting of their land without fully understanding their rights or the valuation consequences. He further argued that the technical nature of the

provisions allowing the early vesting of land in certain circumstances without agreement may leave room for confusion or disputes which reassurance was sought on.

The proposed power for acquiring authorities to enter into agreements with landowners to take earlier possession of land/property will only apply where the relevant owner has entered into an agreement for the authority to take possession on a date agreed by the relevant owner. The power for ownership of land/property to transfer earlier to acquiring authorities under the compulsory purchase process is dependent on landowners entering into agreements. The earlier vesting of land/ property by agreement will have no consequences on the amount of compensation payable to the landowner. The earlier vesting will allow landowners to receive their compensation more quickly.

In relation to the proposed power for acquiring authorities to take early possession of land/ property in certain circumstances without agreement, there are safeguards, including a representation procedure, built into the provisions to ensure disputes are minimised. Furthermore, we believe acquiring authorities are well placed to make judgments about whether the circumstances for use of the power have been met and, due to the legal risks, they are unlikely to use the power if there is a question as to whether the circumstances for use of the power exists.

To ensure landowners are fully informed of the new power, the government intends to update the prescribed forms for statutory notices relating to the confirmation of compulsory purchase orders in addition to its guidance on the compulsory purchase process, to ensure the process for taking earlier possession of land is transparent.

The ability for acquiring authorities to take earlier possession of land/ property under the general vesting declaration procedure with or without an agreement will not affect the operation of existing compensation mechanisms or the ability for landowners to access alternative dispute resolution processes.

New powers to appoint inspectors to take decisions on applications for additional compensation (Clause 92)

Finally, David Simmonds MP sought clarification on how the government will ensure inspectors have the correct skillset to make decisions on applications for directions for additional compensation under Schedule 2A to the Land Compensation Act 1961 (“the 1961 Act”).

The role of inspectors when determining applications for directions for additional compensation will be to consider whether the acquiring authority’s use of the land acquired under a CPO with a direction applying section 14A of the 1961 Act (i.e. removing hope value) was materially in accordance with the intentions set out in its Statement of Commitments at the date the CPO was confirmed. The decision-making process will not require inspectors to determine the amount of additional compensation payable where an application for additional compensation is successful. As such, they will not need to have accountancy, surveying or other qualifications appropriate to the assessment of compensation to make decisions on applications for directions for additional compensation.

Where an application for additional compensation is successful, and the decision is additional compensation is payable by an acquiring authority, any disputes over the amount may be referred to the Upper Tribunal for a determination. The Upper Tribunal has the necessary experience and knowledge to undertake assessments relating to the amount of additional compensation payable.