Written evidence submitted by Broadland District Council and South Norfolk Council (LRB16)

Written Evidence Levelling-up and Regeneration Bill

About Broadland and South Norfolk

Broadland District Council (BDC) and South Norfolk District Council (SNC) form part of the Greater Norwich area; one of the fastest growing parts of the country which is establishing itself as a leader in science, technology, financial services and manufacturing. The districts are both diverse and are home to both urban and rural locations.

BDC and SNC have a long history of working together and we began our journey of collaboration in 2017. We recognised that the environment we work in is constantly changing and our collaboration has provided us with the opportunity to align our services, working together to define our own futures, and most importantly, continue to deliver those services that our residents and businesses value the most. While keeping us financially secure was a key driver, the main focus of our collaboration is to drive economic and housing growth and improve the services we deliver. These services make a real, positive difference to the lives of our combined 260,000 residents and 10,000 businesses.

We pride ourselves on our innovative approaches and new ways of working, pro-growth agenda, efficient and effective collaboration with public and private sector partners both locally and regionally.

District Councils are at the heart of the community and are best placed to understand the needs of local residents and businesses, delivering services which residents view as the most important to them. Both Broadland and South Norfolk's populations are growing significantly as identified in the recent Census (5.7% and 14.4% respectively), so the importance of the district council role is ever more growing.

Norfolk's districts are the powerhouses and engine rooms for delivery across the County, working collaboratively, effectively and at pace to improve the lives of our communities. We need an ambitious devolution deal, embedded in a strong, collaborative governance model – to allow us to deliver more, further and faster

Executive Summary

1.1 We welcome the opportunity to provide written evidence to the Committee on the Levelling Up and Regeneration Bill. We are at a critical point in shaping the future direction of public services and it is important that in collaboration, we get the model right to enable equality to be delivered effectively across the country.

1.2 Through Levelling Up, we truly believe there is extensive scope not only in Norfolk, but across England to unlock potential through ambitious devolution deals, securing long-term economic and social prosperity through greater devolution of money and powers - and enhanced local decision-making.

1.3 Levelling Up should give communities the opportunity to have greater influence and to rethink the delivery of critical services and investments in places. ***It is clear that the delivery of the 12 missions heavily rely on collaboration of all tiers of local government and we believe this is the only way for Levelling Up to succeed. We***

believe that for us to succeed working together, equal representation of partners is required.

Detailed evidence on the Bill:

2. Creation of new Combined County Authorities (Part 2, Chapter 1, Section 8 onwards)

2.1 Government have intended to unblock devolution to enable the delivery of Levelling Up, and they have moved some way to deliver this through the new Framework and subsequent Bill. Getting the governance model of achieving Levelling Up is critical – both for ensuring local areas can deliver at pace, but also ensuring there is the right open, transparent and collaborative model in place to act as an enabler to Levelling Up.

2.2 However, the creation of the alternative form of Combined Authority (CA) which only includes upper tier authorities as constituent members, simply removes the involvement of the critical delivery agent of district councils and incorrectly assumes that local government is hierarchical, with upper tier authorities 'leading' lower tier authorities. It is instead, a collaboration where each authority has their own powers, responsibilities and expertise which when working collaboratively, can achieve large scale change.

2.3 For example, during the height of the pandemic, in Norfolk, district councils worked in collaboration with the county council, town and parish councils, alongside the wide public sector and voluntary partners to protect the public and minimise the disruption to key services. Without the collaborative response, expertise from each partner and the powers each partner had, Norfolk would not be in such a strong position to recover from the pandemic.

2.4 Levelling up can only be achieved through true collaboration of all partners. **We believe that any form of CA, whether that be through the new Bill or through existing legislation, should include all partners (both upper and lower tier authorities) as constituent members and any partner can request to create a CA.** True two-tier areas such as Norfolk, should not be left out and restricted from creating CA's – the Bill as it stands, blocks two-tier areas from creating Combined County Authorities.

2.5 Government should also recognise that this creation of a new form of CA is significantly different to the existing model (which can be created through the Local Democracy, Economic Development and Construction Act 2009). There are a number of successful Mayoral Combined Authorities which have already been created under this existing legislation and who are delivering some significant projects across the country – both with upper and lower tier authorities forming part of the Combined Authority Boards. **To fast-track Levelling Up, the Government should seek to use the existing legislation to establish Combined Authorities for those areas who are ambitious enough to drive forward with Level 3 deals.**

Key asks:

1. The new legislation (specifically Clauses 42 and 43) should be amended to allow for both upper and lower tiers of Local Government (e.g. Counties, Districts, Unitaries) to be formal constituted partners of a Combined County Authority.
2. The new legislation should be amended (Clause 42 (2)) to allow for areas of two-tier local governance (e.g. a County Council and Districts) to create a County Combined Authority, with all having constituent membership.
3. The collective majority consent of constituent members should be required for the formation of a CCA.
4. All constituted partners should have equal voting rights.
5. If Government do not change the Bill to enable two tier areas to form County Combined Authorities, then they should enable two-tier areas who are ready to move forward with Level 3 Levelling Up, to create Combined Authorities through the existing legislation.

3. Transfer of functions (Part 2, Chapter 1, Section 16 onwards)

3.1 We agree with Government that under certain circumstances and to achieve clear deliverables, it makes sense to legislate the ability for functions to be transferred from one authority to another. However, this should be done with the right form of consent, and not create complexity depending upon what governance model is in place.

3.2 Under existing legislation (Section 105A of the Local Democracy, Economic Development and Construction Act 2009), which is to be amended by this Bill, a Mayor of a CA can make a request to Secretary of State for an order to allow for public authority functions to be exercisable by the Mayor – this requires consent from the constituent councils, of which districts are part of under current legislation. The new legislation introduces powers for a Combined County Authority to take on county and district powers and functions, only with the consent of constituent councils, of which only upper tier councils can be part of. **Government have created a clear potential for a centralizing and a complicated model where, depending upon where you live in the country, a district council may have their functions moved with or without consent. This is both destabilizing and counter intuitive to the devolution agenda and runs the very real risk of frustrating the delivery of the 12 missions as it sets one tier of Local Government against another. It fundamentally undermines the independence of local councils and the mandate they have from their electorate to determine and deliver local services.**

3.3 In Clause 16, the Government have sought to give reassurance that the transfer of functions would not be used to move functions of a district of county against their will. However, even with the requirement of secondary legislation, the consent of the authority whom the function is being taken from, would still not be required (only the consent of Parliament and constituent members of the CCA).

3.4 Government should urgently review this part of the Bill and seek to ensure that where functions are being proposed to be exercised by any other partner (be that of a district, county, unitary, combined authority, mayor), that **consent is requested both from the receiver of the functions, but also the party where the function is to be taken from**.

Key asks:

1. Government to urgently review the provisions (specifically clause 16) for transfer of functions to ensure consent is required from all parties involved.

4. A genuinely plan-led system (Part 3, chapter 2, clauses 82 to 91)

4.1 We welcome the Government's focus on a plan-led system and the proposal that there should be strong reasons to override policies set out with the development plan. Ensuring the local communities can see that planning decisions are being made in accordance with the local plan prepared on their behalf by their locally elected representatives, and on which they have been consulted is essential to the wider support for and confidence in the planning system.

4.2 A set of national development management policies (NDMPs) is a key element of streamlining the plan-making process and ensuring that plans remain up to date. We consider that there should be scope to set out locally derived development management policies through local plans or supplementary plans in exceptional circumstances. The validity of this approach could be adequately addressed through the examination of those plans.

4.3 Where a locally derived development management policy is adopted in a Local Plan then it should take precedence over the NDMPs for at least the first 5 years following the adoption of the plan.

4.4 We are concerned that it will be a significant challenge to prepare a comprehensive local plan within 30 months, including 2 meaningful periods of public consultation. Government will need to ensure that planning departments are effectively resourced if this is to become a reality.

4.5 Standardising the expectations around data and evidence to support plan-making is also key to streamlining planning and we are pleased to see this reflected in the Bill. Also crucial is the effective and timely engagement of statutory agencies and infrastructure providers. We welcome the proposed duty for prescribed public bodies to assist the authority in relation to the preparation or revision of the relevant plan. We view this duty should be extended, however, to include the implementation of its plan, which may present new, or previously unforeseen challenges.

4.6 We recognise that it may be necessary in certain instances for Government to utilise Local Plan Commissioners and welcomes the reference in government's policy paper to commissioner supporting local plan production. We view that the supporting role of the commissioners is likely to be most valuable and would also note that where, in extremis, commissioners take over local plan functions that this should not exclude ongoing engagement with local democratic structures.

Key asks:

1. Where justifiable exceptional circumstances exist, Government should provide the scope for locally produced development management policies to be included within Local and Supplementary Plans.
2. The Bill should be amended to state that if there is a conflict between a NDMP and local plan policy that the conflict should be resolved in favour of the local plan where it has been adopted within the last five years.
3. The proposed duty for prescribed public bodies to assist the authority in relation to the preparation or revision of the relevant plan should be extended to include the implementation of its plan.
4. Government should set out a strong presumption that where a Council has amended a plan in line with advice provided at a gateway check, and where no substantive new evidence has emerged, that the matter in question should not be revisited during the final examination of the plan.
5. The Councils are likely to adopt a new local plan shortly ahead of the implementation of the new system. In these circumstances the Council's should be provided with an additional transition period to allow the emerging system to "bed-in" before needing replacement.
6. The exemption from 5-year land supply test should be extended to all recently adopted plans, provided that they are replaced in line with Government's timetable for the preparation of plans under the new system.

5. Delivering Infrastructure (Schedule 11)

5.1 We welcome the proposals to secure more of the money accrued by landowners and developers to go towards local infrastructure, alongside the proposal for the IL to be set locally. We are concerned that despite Government intention the development, adoption and implementation of the IL has the potential to be significantly complex.

5.2 In particular, there appears to be the potential for there to be uncertainty about the final level of IL that needs to be paid on any scheme. Care needs to be taken to ensure that any IL is sufficiently predictable to ensure that developers can make decisions about risk and investment, particularly in areas where values are closer to the minimum threshold. We look forward to engaging with the forthcoming consultation on the detailed proposals for IL.

Key asks:

1. We consider that both the IL level and the threshold at which a site is classified as a larger site for the purposes of the revised S106 regime should be set locally. This will allow for local consideration of the types of sites that will deliver the spatial strategy for the area and the specific infrastructure needed to support the spatial strategy.

6. Creating beautiful places and improving environmental outcomes (Part 3, chapter 1)

6.1 We welcome the aspiration to set ambitious goals to improve our natural environment, and address climate-related policy requirements. However, we note that there is not any detail on environmental outcomes against which we could comment further, as much would be picked up in secondary legislation. We recognise the proposal for further consultation on this.

6.2 We are generally supportive of the requirement for each authority to produce a design code for its area. We are however aware of the potential resource implications, and the possible need to engage specific skills from outside the authority with associated cost implications. It is therefore imperative that the Government funds its proposed changes to the planning system overall to ensure that its agenda can be delivered.

6.3 We are broadly supportive of amending the existing regime of Environmental Impact and Strategic Environmental Assessment. We consider it important that scope within the planning system remains to balance the three-overarching sustainable development objectives, as was sought to be achieved in Sustainability Appraisal (SA). For the purposes of plan making, care should be taken to ensure that these matters continue to be balanced within any new system.

Key asks:

1. Any new duty should come with appropriate new burdens funding to ensure that the process can be effectively delivered.

7. Wider improvements to planning procedures (various)

7.1 There is a key opportunity to modernise the planning system and increase the scope of public participation in decision making. The Bill should include provisions to enable virtual planning committees, where a local authority considers it appropriate to do so.

7.2 We note that there is a placeholder within the Bill for a process of street votes system in relation to development and that no proposed consultation on the operation of street votes is identified within the policy paper but assumes that such consultation will be included in Government's programme. As part of the proposals for street votes consideration should be given as to what the process for appeal against refusal may be to ensure fairness and probity within the system.

7.3 We support the proposal to increase fees, we consider it essential that additional resources are put into the planning system for it to function effectively.

7.4 We would welcome a stronger requirement and position from PINS to amend appeal procedures – we all too often see hearing or Inquiries where these can be considered by written representation and this is an unnecessary resource on all parties.

7.5 The greater flexibility to amend planning permissions is to be welcomed however we need clarity on what 'non substantial changes' are so as to avoid further confusion and debate.

Key asks:

1. Include a provision within the Bill to enable virtual planning committees to take place.

8. Licencing Fees and Enforcement Powers (Schedule 17 (3))

8.1 We support the Government's initiative to create a permanent licensing regime for pavements and to increase the consultation and determination period for licenses. Broadland and South Norfolk have worked hard during Covid pandemic to implement temporary provisions to enable the high street to continue to operate.

8.2 We welcome the increase in the cap for licensing fees but would argue that fees should continue to be set locally, determined by the local need and requirement. This would enable councils to recover costs but also ensure that the fee is regularly updated to account for rising costs and inflation incurred by different councils.

8.3 We welcome the enforcement changes to the legislation, however, would argue that a more streamlined approach is required. We believe that a better approach would be to create a formal offence of breaching a pavement license, for which a fixed penalty notice could be issued.

8.4 The current temporary pavement licensing regime operates from the point at which a new application is registered. We would welcome the creation of a specific offence for operating a pavement licensing activity without a license.

Key Asks:

1. A new offence for breaching pavement licenses to be created to enable councils to better manage enforcement.
2. A new offence to be created for operating a legally defined pavement licensing activity without a license.
3. Licensing fees should continue to be set locally by councils within any cap defined in the new legislation.

9. Summary

9.1 Both upper and lower tier partners have a key role to play in any form of combined authority. Combined authorities provide the critical capacity and collaborative space to achieve Levelling Up across the country and should be open to all partners being constituent authorities and having the ability to create them.

9.2 We support Government's intentions to have a stronger focus on a plan-led system, alongside enabling delivery of infrastructure more effectively.

9.3 We ask for consideration to be given to our key asks – in response, Broadland and South Norfolk will continue to drive forward with the Levelling Up Agenda in Norfolk, setting the right environment for our communities and businesses to thrive.

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