

# HIGH STREETS (DESIGNATION, REVIEW AND IMPROVEMENT PLAN) BILL

## EXPLANATORY NOTES

### What these notes do

These Explanatory Notes relate to the High Streets (Designation, Review and Improvement Plan) Bill as brought from the House of Commons on 29 April 2024 (HL Bill 69).

- These Explanatory Notes have been prepared by the Department for Levelling Up, Housing and Communities with the consent of Lord Whitby, the Peer in Charge of the Bill, in order to assist the reader and to help inform debate on the Bill. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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## Overview of the Bill

- 1 The High Streets (Designation, Review and Improvement Plan) Bill will require local authorities to designate at least one street or network of streets in their area as a high street and to develop an improvement plan for that high street. The objective of the Bill is to create thriving high streets. The Bill will require local authorities to set out proposals for the preservation and enhancement of the designated high street in the improvement plan.
- 2 The Bill will require local authorities to make the first high street designation within six months of commencement, and to review high street designations every five years thereafter. The Bill will require local authorities to publish a draft improvement plan within six months of a high street designation and a final improvement plan within 12 months of that designation. Local authorities will be required to review improvement plans at least once every five years thereafter, and to prepare a revised plan if changes are considered necessary or desirable. The Bill will require local authorities to consult on both designations and draft improvement plans. The Bill will require local authorities to have regard to improvement plans when exercising planning functions.

## Policy background

- 3 Many high streets are currently struggling as a result of changing consumer behaviour and the Covid-19 pandemic, with the collapse of several major high street retailers in recent years. The Government is committed to supporting the businesses and communities that make high streets and town centres successful.
- 4 The Government is delivering a range of programmes to support the revival and regeneration of high streets as part of its overall strategy for creating successful town centres. These include:
  - a. The Long Term Plan for Towns, which will provide long-term investment of £1.1 billion in 55 towns to be spent on local people's priorities, such as regenerating local high streets and town centres or securing public safety.
  - b. Levelling Up Partnerships, which are providing bespoke place-based regeneration in 20 of England's areas most in need of coordinated government and local support.
  - c. The High Streets Task Force, which is providing essential support to local leaders on high street regeneration, giving expert advice in areas like place-making, planning and design. As of October 2023, it had visited over 130 places, giving local authorities expert advice to help their high streets and town centres thrive and adapt.
  - d. High Street Rental Auctions, introduced as part of the Levelling Up and Regeneration Act 2023 ("the LURA 2023"), which will empower places to tackle decline by bringing vacant units back into use, increase cooperation between landlords and local authorities, and make town centres more affordable and accessible for tenants.
  - e. High Street Accelerators, a £2.5 million programme that brings together residents, local businesses, and community organisations to work with their local authority to develop and deliver a long-term vision to regenerate a high street in their area. It is currently being piloted in 10 high streets across England.
  - f. Business Improvement Districts, which are business-led partnerships that are created voluntarily to deliver additional local services and upgrade the local environment for the benefit of business.

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## Legal background

- 5 There is no existing legislative provision that requires either a high street improvement plan or the consideration of the preservation and enhancement of high streets in development control decision-making.
- 6 The Bill will require local authorities to have regard to an improvement plan when exercising planning functions, which will include any functions conferred under Part 2 of the Planning and Compulsory Purchase Act 2004 (“the PCPA 2004”) or Parts 3, 7 or 8 of the Town and County Planning Act 1990 (“the TCPA 1990”). This duty will only apply to the exercise of planning functions where the exercise of that function is capable of affecting a designated high street.

### **Part 2 of the PCPA 2004**

- 7 Part 2 of the PCPA 2004 sets out the framework for local planning authorities to plan for development in their areas by producing local development documents (“LDDs”). Some LDDs are development plan documents (“DPDs”).
- 8 Section 19 sets out the requirements for preparing both a DPD and an LDD. Section 19(2) sets out a number of matters to which the local planning authority must have regard in preparing a DPD or other LDD, including national planning policy as set out in the National Planning Policy Framework (“NPPF”) as well as other statements (such as Written Ministerial Statements and national policy statements). National planning policy is supplemented by the planning practice guidance (“PPG”). The NPPF provides that development plans should have policies defining a network and hierarchy of town centres and promoting their long-term vitality and viability.
- 9 At present, the main influence that policy on high streets has on the preparation of a DPD or LDD is through the NPPF. The Bill will require local authorities to have regard to improvement plans when preparing these documents too.

### **Part 3 of the TCPA 1990**

- 10 Part 3 of the TCPA 1990 and subordinate legislation made under it sets out the process by which development control decision-making functions are exercised by local planning authorities. The key provision under this is section 70, which governs decisions on individual planning applications, although other controls of development are also covered by this (including, for example, local and neighbourhood development orders).
- 11 Alongside the existing statutory considerations when determining planning decisions, the duty to have regard to improvement plans will require local planning authorities to also have regard to such plans when exercising development control decision-making functions.

### **Part 7 of the TCPA 1990**

- 12 Part 7 of the TCPA 1990 concerns planning enforcement. The Bill will require local planning authorities to have regard to improvement plans when exercising enforcement powers.

### **Part 8 of the TCPA 1990**

- 13 Part 8 of the TCPA 1990 sets out special controls, including a power to make Tree Preservation Orders (section 198) and a power to require the proper maintenance of land (section 215). The Bill will require local planning authorities to have regard to improvement plans when exercising these powers.

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## Territorial extent and application

- 14 Clause 6 of the Bill sets out the territorial extent of the Bill, which is England and Wales. The extent of a Bill is the legal jurisdiction of which it forms part of the law; application refers to where it has practical effect. The application of the Bill is England only.

## Commentary on provisions of Bill

### Clause 1: Designation of high streets

- 15 Clause 1 sets out the requirement and the process by which local authorities must designate a street or network of streets in their area as a high street. Local authorities are required to designate at least one street or network of streets as a high street(1(2)). Local authorities are also able to vary or withdraw a designation (1(1)(b)) but must ensure that at least one street or network of streets is designated as a high street at all times following the first designation (1(2)). Once a designation has been made, the local authority is required to review it at least once every five years (1(6)) and must maintain and publish a list and map showing all designations that are in force (1(8)).
- 16 Clauses 1(3) and (4) set out the criteria for designation. A local authority may designate a street or network of streets as a high street if it considers it is important to the local economy because of a concentration of high-street uses of premises on the street or streets (1(3)) but not if its importance is primarily due to goods or services being purchased in the course of business. ‘High-street uses’ is defined in clause 5(3).
- 17 Clause 1(5) requires local authorities, prior to designating a street or network of streets as a high street, to consult persons that the Secretary of State may specify in regulations and any other persons the local authority might consider appropriate. Clause 4 gives the Secretary of State the power to make regulations for the purpose of Clause 1(5).

### Clause 2: High street improvement plans

- 18 Clause 2 sets out the requirement, content and process by which local authorities must prepare and publish an improvement plan for any street or network of streets that has been designated as a high street. An improvement plan should include information about the condition of the street or streets, the importance of the street or streets to the local economy and proposals for the preservation and enhancement of the street or streets (2(1)). Local authorities are also required to have regard to any guidance issued by the Secretary of State when preparing an improvement plan (2(11)).
- 19 Local authorities are required to publish a draft improvement plan within six months of the street or network of streets being designated as a high street (2(2)), which must then be consulted on (2(3)). Clause 2(9) requires that when carrying out that consultation local authorities must consult persons that the Secretary of State may specify in regulations and any other persons the local authority might consider appropriate. Clause 4 gives the Secretary of State the power to make regulations for the purpose of Clause 2(9). Following consultation, a final improvement plan must be published within 12 months of the date that the street or network of streets was designated as a high street (2(4)).
- 20 Clauses 2(5), (6) and (7) set out the requirement for and process by which local authorities must review improvement plans. Within five years of the date on which the final improvement plan was published, it must be reviewed at least once and, if changes are considered necessary or desirable, a revised version of the plan should be prepared. A

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consultation must be carried out as part of the review (2(7)). Prior to publishing a revised version of the improvement plan, a local authority must undertake a further consultation (2(8)). There is no requirement to carry out a review of an improvement plan if the high street designation to which it relates has been withdrawn under clause 1(1)(b).

### Clause 3: Planning functions: duty to have regard to high street improvement plans

- 21 Clause 3 sets out the requirement for local authorities to have regard to improvement plans when exercising planning functions. This duty is limited to those planning functions that are capable of affecting a designated high street in the local authority's area (3(1)).
- 22 'Planning functions' is defined by clause 3(2) and includes any function conferred under Parts 3, 7 or 8 of the TCPA 1990 or Part 2 of the PCPA 2004, or any other function prescribed by the Secretary of State by regulations (3(3)). Clause 4 gives the Secretary of State the power to make regulations for the purpose of adding functions that will be considered planning functions.

### Clause 4: Regulations under section 1 to 3

- 23 Clause 4 provides the Secretary of State with the power to make regulations for the purposes of clauses 1, 2 and 3. Regulations which set out the persons whom the local authority must consult for the purpose of designation of a high street or preparing or reviewing an improvement plan should be made by statutory instrument (4(2)) subject to the negative procedure (4(3)). Regulations which amend the list of statutory provisions which set out the 'planning functions' that a local authority must have regard to an improvement plan when exercising should be made by statutory instrument (4(2)) subject to the affirmative procedure (4(3)).

### Clause 5: Interpretation

- 24 Clause 5 provides definitions for words and phrases used in the Bill, namely for 'local authority' (5(2)), 'high-street use' (5(3)), 'premises' (5(4)) and 'street' (5(6)).

### Clause 6: Extent, commencement and short title

- 25 Clause 6 sets out the territorial extent, commencement and short title of the Bill. See Territorial extent and application above and Commencement below for further detail.

## Commencement

- 26 Clauses 1 to 3 of the Bill will come into force on such day or days as the Secretary of State may appoint by regulations. Different days may be appointed for different purposes or areas (clause 6(4)). Clauses 4 and 5 of the Bill will come into force on the day the Bill is passed.

## Financial implications of the Bill

- 27 The Department for Levelling Up, Housing and Communities has undertaken an analysis of the anticipated financial implications of the Bill. The assessment has been undertaken on the basis that Government will fund up to three designations and improvement plans per local authority, and any further designations will need to be funded by the local authority itself.

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## Parliamentary approval for financial costs or for charges imposed

- 28 A money resolution was agreed for the Bill on 5 March 2024. It is expected that the bulk of the costs will be associated with the preparation and review of improvement plans under clause 2.

## Compatibility with the European Convention on Human Rights

- 29 This is a Private Member’s Bill and the Government is not required to give a statement of compatibility with the European Convention of Human Rights (“ECHR”) in accordance with section 19(1)(a) of the Human Rights Act 1998. The Department for Levelling Up, Housing and Communities has, nevertheless, considered the question of compatibility and has concluded that the Bill is compatible with the ECHR.

## Environmental Law

- 30 This a Private Member’s Bill and the Government is not required to give a statement that the Bill, if enacted, contains provision which would be environmental law for the purposes of section 20 of the Environment Act 2021. The Department for Levelling Up, Housing and Communities has, nevertheless, considered the question and has concluded that the Bill does not contain provision which is environmental law.

## Annex A – Territorial extent and application in the United Kingdom

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clause 1	Yes	No	N/A	No	N/A	No	N/A
Clause 2	Yes	No	N/A	No	N/A	No	N/A
Clause 3	Yes	No	N/A	No	N/A	No	N/A
Clause 4	Yes	No	N/A	No	N/A	No	N/A
Clause 5	Yes	No	N/A	No	N/A	No	N/A
Clause 6	Yes	No	N/A	No	N/A	No	N/A

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## Subject matter and legislative competence of devolved legislatures

31 The provisions in the Bill relate to planning and local government and apply to England only.



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