

QUEEN'S SPEECH 2021

British Property Federation policy analysis



Information provided in the Government's briefing document is shown in normal type under '**Briefing notes**' and BPF analysis is given in italics under '*OUR VIEW*'

The Queen's Speech sets out the Government's agenda for the next session and its plans to build back better from the pandemic and level-up opportunities across the country.

The full background briefing notes can be found [here](#).

This paper provides an overview of the most pertinent announcements for the commercial real estate sector and commentary by the British Property Federation.

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Health and Care Bill

BRIEFING NOTES: Repairing the NHS post-pandemic is unsurprisingly high on the agenda for the next year. The Health and Care Bill will lay the foundations for a more integrated, efficient, and accountable health and care system through the delivery of an Integrated Care System across the country. The intention is that patients will receive more tailored and preventative care, closer to home. The Bill will deliver on the proposals in the NHS' Long Term Plan, which include mainstream digitally-enabled primary care.

OUR VIEW: We welcome seeing elements of the NHS Long Term Plan being brought forward, particularly integrated care systems that will facilitate more care in the community. However, it will be crucial going forward to look out for how the restructuring will create clear paths for private sector providers to support the NHS by providing state of the art infrastructure. On the other hand, it is disappointing that Social Care Reform has again been kicked down the road – all we have been told is that the Government is committed to bringing proposals forward this year.

Levelling up White Paper

BRIEFING NOTES: The White Paper will consider how to improve living standards and grow the private sector, particularly where it is weak. In Government's view this is about: "increasing and spreading opportunity...improving health, education and policing...strengthening community and local leadership, restoring pride in place and improving the quality of life in ways that are not just about the economy".

OUR VIEW: The White Paper was announced a week ago and there is currently very little detail about what it might contain. The Government's levelling up initiatives so far have been an assortment of place-based funding pots (Towns Fund, Future High Streets Fund, Strength in Places Fund), spreading some Whitehall jobs around the country and a big infrastructure investment programme.

These are all worthy measures in their own right but seemingly lacking in any unifying thread and therefore at risk of pulling in different directions. The White Paper should therefore be asking how these various initiatives can be brought together to enhance each other. It should explore what role the public, private (especially the property industry) and community sectors have in supporting the levelling up mission, drawing on their respective strengths.

It is unclear whether the Levelling Up White Paper is in addition to, or as a replacement for the Devolution White Paper that Government has been promising for some time. Ultimately, levelling up is as much a local as a national challenge and without the right sort of support and resourcing, local authorities will find it very difficult to deliver real change in their areas.

Planning and economic development departments in particular have had their budgets squeezed over the past decade, yet without them firing on all cylinders, aspirations to restore civic pride and growing the private sector will fall flat. In this context, the Government's "multiple funding pot" approach seems shortsighted; far better to make long term capacity funding available so that local authorities can tackle the long term challenge of improving people's lives.

Business rates measures

BRIEFING NOTES: The Government will extend the business rates relief available to retail, leisure and hospitality until 30th June 2021, with some tapered relief available thereafter. The Government has also announced a new £1.5 billion relief fund to be awarded to non-retail, hospitality and leisure properties most affected by COVID-19. The relief, which will be awarded by Local Authorities on a discretionary basis.

OUR VIEW: The Government's new £1.5 billion relief fund for businesses affected by Covid-19 but not so far eligible for business rates support is intended to go some way to compensate for the Government's decision earlier this year to retrospectively "cancel" Covid-related Material Change in Circumstance (MCC) appeals. However, this new fund leaves a gap in support for owners of empty units in retail, leisure and hospitality sectors – who were not entitled to the original business rates holiday – so could be left with no mechanism to seek support on business rates as a result of the pandemic.

The pandemic has accelerated some of the changes in the way we use real estate – and emphasises the urgent need for the reform of this tax. A lower rate of tax, more frequent revaluations and an end to the system of downwards transitional relief, where businesses are still paying rates based on far outdated rental values, are desperately needed to support our town centres.

Planning Bill

BRIEFING NOTES: Through the new Planning Bill, the government have committed to bring forward a number of the proposed reforms first outlined in the government's Planning White Paper last Autumn. The main elements of the Bill include:

- **Legislating so that development land is zoned into different categories of land and thus radically changing the way in which local plans currently allocate land for development.**
- **Reducing the time it takes for developments to go through the planning system**
- **Replacing the existing system of developer contributions with a more 'predictable and ... transparent levy'**
- **Using post- Brexit freedoms to simplify and enhance the framework for environmental assessments for development**
- **Reforming the current framework for locally led development corporations to ensure local areas have access to the necessary delivery vehicles to support growth and regeneration.**

OUR VIEW: It is welcome that the Bill focuses on modernization of our planning system, taking forward many of the positive proposals from the White Paper such as rapidly produced local plans, nationally set development policies and the shift towards digitization of the system. However, if the reforms are to achieve in practice, our new planning system will need the resources to match the bold rhetoric from Government in this sphere. We are broadly supportive of the zoning approach outlined in the Bill and look forward to seeing how any new system will work for complex urban regeneration schemes in particular.

As noted in our response to the Planning White Paper, our major concern with the Government's planning reform agenda is that there is such a strong focus on housing and that little attention is paid to the need to plan effectively for employment uses. Whatever our new planning system looks like in the future, it will be important that the system works for commercial property as well as residential development.

We look forward to seeing more details as to the fate of the Infrastructure Levy as originally proposed in the Planning White Paper. There are undoubtedly tradeoffs in any reform – a simple national levy by its very nature would have to take account of the lowest possible contributor and therefore cannot maximise revenue. On the other hand, if a levy can be tailored to individual circumstance and the development economics of a particular area more can be raised but this makes the overall system more complex.

The property sector absolutely accepts that new infrastructure is essential to creating sustainable communities but it is difficult to see how the same levy can work for housing development and commercial development. History of reform in the developer contributions sphere would indicate that Government have their work cut out to create a new system that is simple, but also works for all forms of development.

Product Security and Telecommunications Infrastructure Bill

BRIEFING NOTES: This Bill aims to accelerate and improve the deployment of digital communications networks as well as enhance the security of smart consumer products.

As part of this, there will be reforms to the Electronic Communications Code intended to support faster and more collaborative negotiations for the use of private and public land for telecommunications deployment. These reforms will also aim to put the right framework in place for the use of installed apparatus. The Government says it is carefully analysing responses to the recent consultation to ensure this package of reforms delivers the necessary results.

OUR VIEW: Property owners stand to gain immensely from the fast rollout of high-speed communications networks. Previous reforms to the Electronic Communications Code have however been one-sided, with enhanced powers for telecommunications operators undermining collaborative negotiations and restricting owners' ability to undertake vital redevelopment or maintenance work. We hope the government considers further reform of the Code carefully to ensure that the root causes of issues are addressed and past mistakes not remade.

Building Safety Bill

BRIEFING NOTES: This Bill is about trying to tackle the failures in the regulatory regime that allowed Grenfell to happen and moving to a better place. It implements the recommendations of Dame Judith Hackitt, and much of the new regime will initially apply to just High-Rise Residential Buildings HRRBs (those of 18 metres plus). It will be a hefty Bill and therefore there will be a lot of 'devil in the detail'. We also still await the Government's response to the pre-legislative scrutiny on the draft Bill, conducted by the HCLG Select Committee, which challenged the Government on various aspects of the Bill. Some of the key areas of reform will include the legislation to formally create the new Building Safety Regulator, defining the roles and responsibilities of developers, owners, building safety managers, building control functions and the regulator, and various bits of evidence that responsible parties will have to produce as part of developing and owning HRRBs, particularly at the Gateways of the new regime, where progress will be dependent on evidencing compliance. An important aspect will also be the requirements on existing owners of HRRBs and how those buildings are passported into the new regulatory regime. What the Bill doesn't capture is the legacy of buildings that need remediated and who bears the cost of that, hence the toing and froing on the Fire Safety Bill between the House of Commons and House of Lords, which has been seen over the past month, before the Fire Safety Bill became an Act. Much of that debate, may continue on the Building Safety Bill.

The Bill will also establish a new framework to provide national oversight of construction products and strengthening the powers of the Office for Product Safety and Standards in this area.

It will also provide the legislation for the New Homes Ombudsman, and give social housing tenants easier access to the existing Housing Ombudsman.

OUR VIEW: The Bill should generally be welcomed. It seeks to build confidence in HRRBs, provide additional reassurance to residents and prospective residents, and take us to a better place on Building Safety. There will be various parts of the Bill we will want to scrutinise, including the roles and responsibilities of owners and building safety managers, some of the aspects around recovering on-going costs and insurance obligations. The cooperation of residents and how those are enforced. How open the clauses are to the future capture of other building typologies beyond HRRBs.

Leasehold Reform (Ground Rent) Bill

BRIEFING NOTES: The Government will keep this bill relatively short and focused, as it seeks to avoid numerous amendments more suited to its longer-term reform agenda, which will be covered in a second Bill later in this Government's tenure. The Bill is likely to be one of those that will start its passage through Parliament relatively soon, before the summer recess of Parliament.

The content reflects a manifesto commitment by the Conservative Party to effectively abolish ground rents in new residential leases, by capping their value at a peppercorn rent.

The commentary out today offers the prospect of some, but limited, exceptions:

Some parts of the community-led housing sector, so they can retain the right to levy ground rent to maintain their ability to further promote community activities.

Certain financial products which depend on leases where rent replaces interest bearing mortgage payments, such as those drawn on by the older population for a type of equity release and the growing Islamic finance sector.

Business leases, to allow people who need to live in the same premises as their workplace to continue to do this and agree with their freeholder the most beneficial and appropriate terms.

The Bill will also set out the penalty regime for non-compliance.

OUR VIEW: Preventing ground rents was a Conservative Party manifesto commitment, following several poor practices in the sale of leasehold houses. The Bill is therefore no surprise, having been trailed in January of this year. The commentary on the Bill notes there will, however, have to be exceptions, and that is an area that will require careful consideration, so that it allows for ground rents where they are needed, but doesn't provide a loophole. The other challenge Government might face, is given the profile of the issue, keeping third-party amendments at bay, whilst the Government prepares for its second round of reforms.

Tenancy Reform White Paper/Reform Package

BRIEFING NOTES: The Government committed in the Queen's Speech to commencing a number of progress steps by the end of 2021 that will mark the beginning of tenancy reform in England. The Government will publish a White Paper detailing the proposed reform package in the Autumn, with legislation to follow in due course. The Government intends to conduct comprehensive stakeholder engagement on these reforms and is aiming for a private rented sector "that works for both landlords and tenants."

The White Paper/Reform Package is expected to include:

- Publication of the consultation response on reforming tenancy law to abolish Section 21 'no fault' evictions;
- An outline of proposals for a new 'lifetime' tenancy deposit model that eases the burden on tenants when moving between tenancies;
- Detail of reforms to improve standards of rented accommodation including the right to redress for all tenants;
- Consideration of further reforms to the PRS enforcement system to target bad landlords whilst not penalising good landlords;
- Exploration of improvements and efficiencies to possessions proceedings and the court system.

OUR VIEW: Clarity on the timeline for Tenancy Reform is most welcomed. The Government has confirmed that it will be commencing scoping and stakeholder engagement to reform the private rented sector (PRS) later this year. We have already commenced work via the Tenancy Reform Working Group to develop an industry position on how the PRS can work better for both landlords and tenants and will be well-positioned to contribute to the formulation of Government proposals.

Our initial views on the reforms detailed are mixed but optimistic. The intention to examine and reform the court system is fundamental to the productivity and efficiency of the possessions process and we are very pleased that the Government will be including this in the scope of their reforms. Significant modernisation and digitalisation is required and we will be pushing for substantial reform in this space.

On balance, the other reforms seem reasonable – provided that in their final form they do not compromise the fundamental right of 'good landlords' to repossess their properties and effectively manage their portfolios. We are developing an 'alternative grounds for eviction' structure in anticipation of the expected removal of Section 21. Our proposal would see eviction grounds streamlined without the rights of landlords being compromised and we will put this to Government once finalised.

Careful consideration will also need to be given to any additional administrative requirements as a result of reforms, to ensure that they do not unreasonably increase the administrative burden particularly for professionally managed rented homes such as those in Build to Rent.

We look forward to engaging positively with Government on behalf of the sector to ensure that the PRS works better for both landlords and tenants.

Environment Bill

BRIEFING NOTES: The now longstanding Environment Bill (first introduced in 2019) will be brought forward in due course. Perhaps of most interest within the bill are the proposals to mandate biodiversity net gain through the planning process, and the creation of a new Office for Environmental Protection (OEP). The biodiversity mandates will provide a clear and measurable framework for enhancing ecology, habitats, and the natural environment through development projects. The new OEP will act as a body to hold public authorities to account on environmental law. The bill will also place a duty on government Ministers to ensure that environmental considerations are central to all policy development.

OUR VIEW: Some of the core tenets of the Government's 25 Year Environment Plan have been brought to Parliament through the Environment Bill on a number of occasions without success (for reasons of limited parliamentary time/capacity). The Bill is the key vessel for the implementation of flagship environmental policy in the context of Brexit and an associated commitment to avoid regression in terms of environmental protection.

We have been supportive of the proposals to mandate biodiversity net gain through the planning process. This is a formalisation and expansion of existing requirements placed on applicants to ensure that no net harm is caused in ecological terms when redeveloping a site. The biodiversity net gain regulations will require applicants to measure the existing biodiversity of a site (through a points-based methodology) with a view to enhancing this by 10% after the development has been completed. The proposals to date have incorporated an element of flexibility, to allow a hierarchy of onsite provision, offsite local provision, and the purchase of biodiversity credits. We would also hope a level of flexibility (for solutions) is afforded to applicants by local authorities when determining applications, particularly in the case of space intensive building uses such as industrial warehousing. We have encouraged government to closely monitor and assess the impacts of the regulations over time to ensure that valuable ecological gain/creation is balanced against the need to deliver viable development.

With regard to the new Office for Environmental Protection, we understand that an element of the Bill provides for the OEP to outline and deliver a complaints procedure. This will allow a person to submit a complaint (assuming the relevant authority does not offer an existing complaints procedure) to the OEP on the grounds that a public authority has not complied with environmental law in decisions it has made. The OEP may then investigate the complaint. We look forward to seeing the detail of the OEP's complaints procedure document.

The OEP will also be given powers to apply for judicial review of decisions made by public authorities in matters of compliance with environmental law. It will again be important to provide clear guidance to industry as to when and in which circumstances such reviews may occur.

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