

The Levelling-up and Regeneration Bill (Bill) is now in its final stages with the House of Commons making its latest amendments to the Bill on 18 October 2023.

This is the first part in a miniseries of planning enforcement articles, which will provide an insight into the ways in which the Bill will impact planning enforcement action, together with practical implications these changes may have, going forward.

Increased Time Limit for Planning Enforcement

Current Law on Enforcement Action

Section 171B(1) of the Town and Country Planning Act 1990 (TCPA) sets out the current time limit for planning enforcement:

Section	Breach	Time Limit
171B(1)	Building, engineering, mining, or other operations in, on, over or under land	Four years from substantial completion of works
171B(2)	Change of use of any building to a single dwellinghouse	Four years from the date of the breach
171B(3)	Any other breach of planning control (i.e. those falling outside S.171B(1) and (2))	Ten years from the date of the breach

Ten-year Time Limit for Enforcement Action

No further amendments to Section 101 of the Bill were proposed during the reading on 18 October 2023. It is still the intention, therefore, for Section 101 of the Bill to create a “consistent” approach across all three abovementioned breaches, in theory providing clarity to both local planning authorities (LPA) and developers, moving forward.

Impact

In the short term, landowners and developers should carefully review development undertaken, and should consider applying for certificates of lawfulness if immunity from enforcement under the current regime has been achieved.

From an LPA perspective, the changes proposed may ultimately result in an increase both in certificate of lawfulness applications and enforcement action. Increased caseload notwithstanding, LPAs may take comfort from the changes, given that they will now have six more years to take enforcement action in both instances.

Conversely, landowners and developers will now have significantly longer to wait before such development becomes lawful.

We await with interest an update on any transitional arrangements, and the way in which these may apply. As with all such arrangements, the devil will very much be in the detail.

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