

TITLE OF REPORT: **New Planning Legislation**

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Purpose of the Report

To update Planning and Development Committee about recent changes to planning legislation

Background

Levelling up and Regeneration Act 2023 (LURA)

The Levelling Up and Regeneration Act received Royal Assent on 26 October 2023. Much of the Act is enabling legislation requiring detailed further legislation to set out the detailed framework for the changes. Around two thirds of the Act sets out at a high level, the extensive reform of the planning process including to the following areas.

- **Plan Making**

Accelerating the plan making process into a streamlined 30-months.

- **Digitisation of Planning**

Using technology to enable an efficient, timely and robust planning service.

- **Strengthening enforcement**

Extending the time limit for enforcement of breaches of planning control to 10 years for all development. There are also new powers for local planning authorities to issue “enforcement warning notices” where it appears a rectifiable breach of planning control has taken place in respect of land in England.

- **Biodiversity Net Gain**

Requires an increase in the relevant biodiversity value of a site by 10% above that prevailing immediately before the development activity took place.

- **Environmental Outcomes Reports**

The Act creates powers to require environmental outcomes reports (EOR) to be prepared in relation to development consents. They will replace the current environmental impact assessments.

Updated NPPF

Since the LURA came into force, the Government has published some of the secondary legislation and on 19th December 2023 published an updated National Planning Policy Framework (NPPF) which is effective immediately.

A high-level description of the key changes is provided below, as was set out by the Levelling Up Secretary. In headline terms, the new NPPF:

- gives flexibility for local authorities in relation to setting out its local housing need, clarifying that the outcome of the standard method is an advisory starting point, noting any assessment will be subject to examination as usual though the Local Plan process.
- sets out that there is no requirement on a local authority to review or alter its Green Belt boundaries unless it chooses to do so;
- removes the requirement for authorities to demonstrate a five-year housing land supply on an annual basis, where an up to date (less than five years old) local plan is in place that contained a deliverable five-year supply of land at its adoption.
- removes the 5% and 10% buffers that could be applied to five-year housing land supply, and maintains the 20% buffer only for those authorities that do not have an up-to-date plan in place and score below 85% on the Housing Delivery Test;
- gives additional support to the delivery of self-build, custom-build and community-led housing and encourages the delivery of older people's housing, including retirement housing, housing-with-care and care homes;
- emphasises the role of beauty and placemaking in strategic policies;
- gives greater protection to agricultural land through additional reference to the need to address food production, maintaining the emphasis on best and most versatile (BMV) land; and

Further changes

When announcing the updated NPPF on 19th December 2023, the Secretary of State also made other announcements. He set out his ambitions for planning performance, namely that planning decisions must be taken on time and should be robust in their reasoning, and all authorities must have an up-to-date local plan.

In order to support authorities in meeting those expectations, the Secretary of State made a number of announcements, grouped around four themes:

Greater transparency

- Developing a new planning performance dashboard that will provide greater transparency and accountability for local authority performance, including exposing performance reliant on Extension of Time agreements.
- Reviewing the use of Extension of Time agreements in managing performance issues, considering proposals to limit their use on minor and householder applications. DLUHC intend to consult on this in early 2024.

Additional financial support

- Emphasising the increase in planning fees, which have risen by 35% for major applications and 25% for other applications – and reminding local authorities that they must spend these fees on planning services, with an expectation of no decrease in authorities' spend on planning from their general fund.

Faster processes

- Establishing Accelerated Planning Services, improving on the patchwork approach of Planning Performance Agreements by regularising arrangements so that they're offered across England, that clear milestones have to be agreed, that fees are set at an appropriate level, and that those fees have to be refunded where milestones are missed.
- Reviewing Statutory Consultees, which will scope and examine the operation of statutory consultees in the planning application process, in particular their role in providing advice to local planning authorities. This will not cover the role of statutory bodies in plan-making or the Nationally Significant Infrastructure Planning regimes.
- Focusing on planning committee decisions, with the Planning Inspectorate being asked to start reporting to the department about cases where a successful appeal is made against a planning committee decision, and the final decision is the same as the original officer's recommendation.

The secretary of State is also taking direct action

- Intervening in the seven local authorities that have failed to get a local plan to examination since the 2004 Act, requiring a plan timetable within 12 weeks.
- Designating two local authorities in relation to quality of decision making.
- Publishing the results of the 2022 Housing Delivery Test, with 20 new authorities falling into the presumption in favour of sustainable development.

Implications for Gateshead

These changes are significant and will require alterations to the way that we currently undertake our planning processes. Many of these changes will require consideration once the final detail emerges but immediate implications for Gateshead are:

Plan Making: the review of the Local Plan has started and will follow the new accelerated plan making process.

Digitisation of Planning: The Council has been successful in gaining DLUHC grant funding to help to incorporate digital systems into our processes. In addition, digital projects are exploring how we use our planning data to help to streamline our processes.

Housing Delivery Test: The revised NPPF removes the requirement for authorities to demonstrate a 5 year housing land supply on an annual basis where an up to date local plan is in place that contained a deliverable 5 year supply of land for housing. The MSGP was published in 2021 and the review of the CSUCP 2020.

Removal of Extensions of Time: Currently if a decision unable to be made within the statutory 8/13 or 16 week deadline, the Council can agree with the applicant to amend the decision deadline date. This often allows further time to discuss amendments to the application to get it to a stage where it can be approved. However, the removal of the ability to seek extensions of time will be likely to result in more refusals or push people to use the pre application service before making an application.

Fees increase: On 6th December 2023, nationally set fees for planning applications were raised by 25% for minor applications and 35% for major applications. In addition, the legislation included the removal of the free go for resubmitted application (phased over the next year). Linked to this is the intention to improve performance, charge more for retrospective applications and remove the ability to agree Extension of Time agreement with applicants, all of which would require further legislation.

Biodiversity Net Gain: All applications (with 4 very limited exceptions) will be required to demonstrate at least a 10% net gain in biodiversity following the development. This can either be achieved in the design of the development or by improving an area of land outside the site. This must be maintained for a period of at least 30 years. Likely to come into force in January 2024 for larger sites and April 2024 for smaller sites.

Conclusion

Committee will note that the LURA and subsequent published legislation will bring significant changes to the Planning Service that we offer. As detailed legislation and guidance emerges, the Development Management team are focusing on organising and reviewing our internal processes, consultation methods and forms etc to be ready for the changes.

Recommendation

It is recommended that the Committee note the report for information.

1. FINANCIAL IMPLICATIONS

The increase planning fees introduced in December 2023 will allow additional funds to be put into the changes required by the LURA. However note the expectation that all of these increased fees be spent on planning services.

2. RISK MANAGEMENT IMPLICATIONS

Nil

3. HUMAN RESOURCES IMPLICATIONS

Nil

4. EQUALITY AND DIVERSITY IMPLICATIONS

Nil

5. CRIME AND DISORDER IMPLICATIONS

Nil

6. SUSTAINABILITY IMPLICATIONS

Nil

7. HUMAN RIGHTS IMPLICATIONS

Nil

8. WARD IMPLICATIONS

This applies to all wards.

9. BACKGROUND INFORMATION

The Levelling Up and Regeneration Act 2023 [LINK](#)

The updated National Planning Policy Framework [LINK](#)

The Secretary of State's speech [LINK](#)

Written Ministerial Statement [LINK](#)