

# Levelling Up and Regeneration Act 2023 / Local Plan update

## Planning Policy Committee Thursday, 16 November 2023

Report of: Planning Policy Manager

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Purpose: For information

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Publication status: Open

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Wards affected: All

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### **Executive summary:**

Following the decision reached at Full Council on the 19<sup>th</sup> October 2023 to request a full report from the Inspector, this report updates the Council on the latest situation regarding the Local Plan. It also summarises the key changes resulting from the Levelling Up and Regeneration Bill securing consent, not only for the Development Plan but also for the wider planning service.

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**This report supports the Council's priority of:** Creating the homes, infrastructure and environment we need/ Supporting economic recovery in Tandridge/ Becoming a greener, more sustainable District

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### **Recommendation to Committee:**

The Committee should note the report.

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## **Introduction and background**

- 1 The Council submitted its emerging Local Plan 2033 for examination by PINS in January 2019. Initial examination hearings were held in 2019, followed by protracted ongoing engagement between the Council and PINS and further work between 2019 and summer 2023, and finally a procedural meeting was held on 27<sup>th</sup> July 2023.
- 2 Following the procedural meeting, the Inspector wrote to the Council (ID26) concluding that the Council's suggested way forward (TED-61) would only serve to protract the examination further and raise further procedural concerns. On that basis, the Inspector stated that it would not be possible to make the plan sound and that he would recommend non-adoption of the Plan. The letter set out two options:
  - a. Inspector writes a report of the examination concluding the Plan is unsound and that it is not adopted.
  - b. The Council withdraws the Plan prior to the Inspector making any such recommendations.
3. These options were debated at the September 2023 Planning Policy Committee and Members voted unanimously in support of Option a, subject to Full Council ratification. This was confirmed at the meeting of the Full Council on 19<sup>th</sup> October 2023.

## **Inspectors Report**

- 4 The Chief Planning Officer has confirmed the Council's decision to the Planning Inspector via the Programme Officer.
- 5 At this point in time, the date for receipt of the Inspector's Report is unknown, however it is estimated that it is likely to be early 2024 given the Inspector's known commitments.

## **Next Steps for the Local Plan**

- 6 Until either the Inspector issues his report, or the emerging Local Plan is withdrawn, the emerging Local Plan technically remains under examination. However, irrespective of the outcome reached, no weight can be given to policies in the emerging Local Plan due to the Inspector's findings that the emerging Local Plan cannot be made sound. Therefore, the adopted Local Plan remains the Tandridge District Council Core Strategy 2008, the Tandridge Local Plan Part 2: Detailed Policies 2014-2029, the Caterham, Chaldon & Whyteleafe Neighbourhood Plan, the Limpsfield Neighbourhood Plan and the Woldingham Neighbourhood Plan.
- 7 The evidence base published as part of the emerging Local Plan will remain public until the end of the Examination. The evidence base is published to help the Inspector in his examination of the Plan and does not form part of the Development Plan. The eventual non-adoption of the emerging Local Plan does not place more or less weight on the emerging Local Plan evidence base than on any other evidence base published by the Council. Until such time that evidence base studies are withdrawn, they remain capable of being a material consideration for planning applications.

- 8 In the intervening period, the Planning Policy team will undertake work to inform any final decision on the emerging Local Plan and potential next steps. This will include consideration of the implications of the recently enacted Levelling Up and Regeneration Bill. The team will also update the Examination website.

### **Levelling Up and Regeneration Act**

- 9 The Levelling Up and Regeneration Bill (LURB) secured Royal Assent on 26<sup>th</sup> October 2023. The full text of the Levelling Up and Regeneration Act (LURA) can be found here - <https://bills.parliament.uk/bills/3155/publications>.
- 10 LURA introduces various changes to the planning system, which are summarised in the table below. Although LURA immediately becomes law, many elements will require secondary legislation, new regulations and / or national policy revisions prior to any changes taking effect.
- 11 DLUHC’s statement announcing that the Royal Assent, also stated that the Government will publish its response to last December’s consultation on the proposed changes to the National Planning Policy Framework (NPPF) ‘in due course’.
- 12 The Government still needs to conclude its detailed position on the proposed plan-making reforms following its 25 July 2023 consultation paper. The transitional arrangements in the consultation paper were as follows (subject to royal assent of the LURB and Parliamentary approval of the relevant regulations):
- Local plans, minerals and waste plans and spatial development strategies to be submitted for examination under current system by 30 June 2025.
  - Plans will need to be adopted by 31 December 2026.
  - New regulations, policy and guidance to be in place by Autumn 2024 to enable the preparation of new style plans.
  - Plans that will become more than 5-years old during the first 30-months of the new system will be considered ‘up-to-date’ for decision making purposes for 30 months after the new system starts.
  - Plans with an early update requirement within the first 30 months of the new system, will have the deadline extended to 30 months after the new system goes live.

<b>Key change</b>	<b>Expected to take effect</b>
<b>Planning Data</b>	
Wide ranging provisions to bring forward the digitisation of planning with new powers in relation to planning data standards, publicly available data and use of approved planning data software	Unknown – when the Secretary of State publishes new regulations and / or national policy

Key change	Expected to take effect
<b>Planning Policy</b>	
<p>Development Plan redefined to include:</p> <ul style="list-style-type: none"> <li>• spatial development strategy (where appropriate)</li> <li>• local plan</li> <li>• minerals and waste plan</li> <li>• supplementary plan</li> <li>• neighbourhood development plan</li> <li>• policies map</li> </ul>	<p>Unknown – when the Secretary of State publishes new regulations and / or national policy</p>
<p>Revisions regarding the content of and basic conditions for neighbourhood development plans</p>	
<p>Time limits are prescribed for different stages of plan preparation (30-month plan making system)</p>	
<p>Scope of local plans will be limited to locally specific matters, including infrastructure and affordable housing requirements</p>	
<p>LPAs are required to have a design code in place covering their entire area</p>	
<p>Local Plan must contribute to the mitigation of and adaptation to climate change; and take account of any local nature recovery strategy</p>	
<p>Supplementary Plans will replace supplementary planning documents and will be subject to independent examination</p>	
<p>New provisions regarding the examination of Local Plans including pausing for further work</p>	
<p>Duty to cooperate will be replaced with an alignment test</p>	

Key change	Expected to take effect
<b>Development Management</b>	
<p>A new suite of National Development Management Policies (NDMP) will be introduced. All decisions will need to be in conformity with the development plan and any NDMP. If the development plan conflicts with NDMP, the latter takes precedence. The NDMP will reflect the need to mitigate and adapt to climate change.</p>	<p>Unknown – when the Secretary of State publishes new regulations and / or national policy</p>
<p>New duty to have regard to certain heritage assets and their setting in granting permissions</p>	
<p>Revisions to the Listed Buildings Act regarding temporary stop notices, urgent works and compensation</p>	
<p>Introduction of street vote development orders, to grant permissions within a defined area. The latter will have a prescribed description and can not cover excluded areas, such as AONB, Green Belt and SSSI</p>	<p>Will come into force at the end of the period of two months beginning with the day on which this Act is passed. 26 December 2023</p>
<p>New powers enabling urgent crown development applications to be made directly to the Secretary of State in certain circumstances</p>	<p>Unknown – when the Secretary of State publishes new regulations and / or national policy</p>
<p>New power to amend planning permissions through s.73B, which will allow permissions to be granted that were not that were not substantially different in effect to a previous permission on the site - but with consideration only being given to the proposed changes</p>	<p>Unknown – when the Secretary of State publishes new regulations and / or national policy</p>
<p>New powers regarding development commencement notices</p>	<p>Unknown – when the Secretary of State publishes new regulations and / or national policy</p>
<p>New power to issue completion notices if a development is being built out 'unreasonably slower'</p>	

Key change	Expected to take effect
New power to decline to determine planning applications on the basis of the developer previously not implementing permissions in its area, or building them out unreasonably slowly	
New Power to impose conditions relating to development progress reports on specified residential planning permissions in England	<p>Will come into force at the end of the period of two months beginning with the day on which this Act is passed.</p> <p>26 December 2023</p> <p><u>Will require secondary legislation</u></p>
Enforcement	
Enforcement period for all breaches of planning control is raised to ten years (from four years)	<p>Unknown – when the Secretary of State publishes new regulations and / or national policy</p>
Amendment of legislation in relation to duration of temporary stop notices, introduction of enforcement warning notices (including appeals), delays in appeals and penalties for non-compliance	
SoS granted power to provide relief from enforcement of planning conditions in certain circumstances (i.e. national defence, civil emergencies or significant economic disruption)	<p>Will come into force at the end of the period of two months beginning with the day on which this Act is passed.</p> <p>26 December 2023</p> <p><u>Will require secondary legislation</u></p>
Other provisions	
Amendment of legislation in relation to self-build and custom housebuilding	<p>Unknown – when the Secretary of State publishes new regulations and / or national policy</p>
New powers regarding the form and content of planning applications	
New powers in relation to planning obligations	

Key change	Expected to take effect
Ability to introduce fees for certain services in relation to nationally significant infrastructure projects.	Will come into force at the end of the period of two months beginning with the day on which this Act is passed.  26 December 2023
Power to shorten deadline for examination of development consent order applications	
Additional powers in relation to non-material changes to development consent orders	
Provisions enabling the participation in certain proceedings conducted by, or on behalf of, the Secretary of State (i.e. PINS proceedings) via remote means	
Biodiversity net gain: pre-development biodiversity value and habitat enhancement	Unknown – when the Secretary of State publishes new regulations and / or national policy
Development affecting ancient woodland – variation of the '2021 Direction' so that it applies in relation to applications affecting ancient woodland	Before the end of the period of three months beginning with the day on which the Act was passed
S106 and Community Infrastructure Levy (CIL) regimes will be replaced by an Infrastructure Levy	Unknown – when the Secretary of State publishes new regulations and / or national policy
Introduction of Community Land Auctions	
Environmental Impact Assessment and Strategic Environmental Assessments will be replaced by Environmental Outcome Reports	Will come into force at the end of the period of two months beginning with the day on which this Act is passed.  26 December 2023  <u>Will require secondary legislation</u>
New nutrient pollution standards to apply to certain sewage disposal works	Will come into force at the end of the period of two months beginning with the day on which this Act is passed.  26 December 2023

Key change	Expected to take effect
Compensation scheme for compulsory purchase orders will be changed to remove hope value in some instances (including delivery of affordable housing)	Unknown – when the Secretary of State publishes new regulations and / or national policy
LPAs will have the power to instigate auctions to take leases on vacant high street properties	
New process will be introduced to require developers to deliver some forms of infrastructure that are integral to the design and delivery of a site	

## Key implications

### Comments of the Chief Finance Officer

As this report is for noting, there are no direct financial implications. The financial implications of requesting a full report from the Inspector were set out in the report to Planning Policy Committee in September and will be met from existing budgets. Future spending on Planning Policy matters and any financial impacts of the Levelling Up and Regeneration Act (LURA) will need to be reviewed alongside the emerging budget for 2024/25 and the Council’s Medium Term Financial Strategy.

### Comments of the Head of Legal Services

There are no legal implications apart from those covered in the main part of the report.

### Equality

There are no equality impacts associated with this report.

### Climate change

There are no significant environmental / sustainability implications associated with this report.

### Appendices

None

### Background papers

None

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