



Levelling-up and Regeneration Act 2023 received royal assent on 26 October 2023

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8 November 2023

Levelling-up and Regeneration Act

Development Plans

What's happening?

S38 Changes

- Development plan now expressly includes supplementary plans, minerals/waste plans and policies maps
- Determination in accordance with development plan **AND** National DM policies unless material considerations **strongly** indicate otherwise.
- Conflicts – National DM policies trump development plan.

NEW- Climate Change and Local Nature Recovery Strategies

- All types of development plans and National DM policies-to have regard to the need to mitigate and adapt to climate change.
- All types of development plans- to have regard to local nature recovery strategies in particular areas that are/could be particularly important for biodiversity; areas where recovery/enhancement of biodiversity could make a particular contribution to other enviro benefits; priorities for recovery/enhancing biodiversity.

Neighbourhood Plans

- OUT General conformity with strategic policies in the development plan.
- IN- NP cannot have the effect of preventing proposed housing development in the development plan.

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Development Plans

What's happening?

NEW- Local Plan Timetables

- Timetables to set the area; matters local plan deal with; design codes and suppl plans to be prepared; if any joint local plan/suppl plans; timetable.
- SoS and London Mayor can direct amends to LP Timetable
- LPA to publish and comply with LP Timetable.
- New Regs on what in the LT Timetable and when revise them

NEW- Key Local Plan Procedures

- LPA have to seek observations/advice on proposed LP from SOS appointed person. SOS may require LPA to pay for person's fees and expenditure.
- LPA must publish and have regard to the observations/advice and National DM policies.
- LPA must submit LP to examination if appointed persons advises prescribed requirements met.
- Suppl Plans general rule- examine by written reps. General conformity with any spatial dev strategy
- Withdrawing plans-once submitted can only withdraw LP if SoS directs or inspector recommends withdrawal.
- Design codes in dev plan- no need for every description of dev't nor every aspect of design
- New Regs on many things including: observations/advice, timing when SoS step in to prepare LP, when new LP needed.

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What's happening?

OUT- Duty to Cooperate

- Sch 7 repeals s33A of PCPA 2004 which establishes DTC. Intention is national policy will introduce a new “alignment” test.

NEW- Old Age & Disability Guidance

- SoS must issue guidance on how LP/suppl plans address housing needs resulting for old age & disability- First time specific obligation to publish guidance for this specialist housing need.

NEW- Policies Map

- LPA must prepare a policies map illustrating geographic application of the dev plan- form and content may be prescribed by SoS. Part of move to be more accessible and digital transformation in planning.

WATCH THIS SPACE...

- Many regulations needed as well as guidance. This dovetails with the recent plan making reforms consultation on implementation. Needs regulations for Development Plan sections will come into force.

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Development Plans

Practical Implications

Budgetary

- Allow for engagement with Design Codes, Suppl Plans as well as LP- more budget cost
- Climate change and Local Nature Recovery/Biodiversity- expect to see more LPA seeking additional requirements than just EA2021 10% BNG also affect NDA

Contract/Project Timings & Implications

- Do not adjust length of time for LP and applications- no real sticks & carrots to ensure delivery
- LPA will provide ambitious LP Timetables but likely to fail to achieve; SoS resource in PINS won't match demand for Gateway checks
- Allocation Fees- best to avoid-some policy details and certainty over delivery requirements may cascade to Suppl Plans.

Risks & Opportunities

- **Risk:** Suppl Plans- cascade of detail to SP to make LP less controversial and to try to hit timetables =less scrutiny of SP eg no Gateway checks and written reps
- **Risk:** Engage with National DM consultations as no independent testing
- **Opp:** Older person housing to be accommodated in LP- consider building into general housing sites
- **Opp:** New LP process has potential speed things up and Gateway checks could reduce delays later (Let's see!)

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Development Corporations

What's happening?



Levelling-up and Regeneration Act

Development Corporations

What's happening?

Now 5 (rather than previous 4) types of Development Corporation

- Current: New Town DC, Urban DC, Mayoral DC & Locally-Led New Town DC
- **NEW!**: Locally-Led Urban Development Corporation



New Locally-Led Urban Development Corporation Model for Wider Regeneration Purposes

- New locally led UDCs for wider regen remit - can cover wider, non-contiguous areas and different types of projects, including City & Town Centres, brownfield regen, new employment parks etc.
- Can be across multi-authority areas, e.g. Hertfordshire Growth Board authorities have been looking at this
- Local authority consults and proposes what it wants and SoS decides
- Oversight authority can be split functions between relevant local authorities
- Midlands Engine and others lobbied for this.
- Pathfinder Bids to DLUHC: Tewkesbury, Sheffield, Carlisle, Milton Keynes, others

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Development Corporations

What's happening?

More Consistent Powers Across the Development Corporation Spectrum

- All Dev Corps now eligible to become LPAs for local plan making, overseeing neighbourhood planning and development management. Brings them into line with MDCs. How these powers are bestowed does still vary somewhat.
- N.B. All Dev Corps have CPO powers (even though Bill explanatory notes doesn't refer to this). Therefore watch out for Dev Corps looking to exercise the power to disapply hope value in the LURA as acquiring authorities – see Jenny Wigley's slides/slot.
- Borrowing aggregate limit removed and cap on board members removed

Simplification of New Town Development Corporation Model

- Simplifies establishment

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Development Corporations – Practical Implications

Practical Benefits	Practical Risks/Issues
Locally-Led Dev Corps allows multiple types of regen project and cross-authority collaboration, plus dedicated project delivery	More clarity on funding needed for Locally-Led New Town DCs and Locally-Led Dev Corps
More standardisation across Dev Corp powers and functions removes current discrepancies and limitations	Role of Locally-Led New Town Dev Corps needs more clarity in light of Locally-Led DCs establishment
Increased borrowing power for Dev Corps	If you are a landowner/developer within a Dev Corp red-line boundary, consider enhanced risk of disapplication of hope value by compulsory purchase and potential “strong arm” negotiations by the Dev Corp (N.B. Dev Corps can certainly be your friend but also potentially not in this respect)
Simplification of Locally-Led New Town Dev Corp establishment	Delay risk to projects whilst Dev Corps and interim vehicles are set up. Guidance on establishment time (typically 18 to 24 months) would be helpful and pick and mix of powers – note County Council functions typically not covered
More funding opportunities from DLUHC and Treasury for Local Authorities with Dev Corps	Inter-play with local authorities and Homes England needs monitoring and clarity in practice

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Development Corporations – What Should I Do?

Local Authorities and Mayoralities

Consider Dev Corp options and models best suited to your area and local politics – funding, delivery focus, resources, political semi-independence

Engage with Government/DLUCH and Labour (who are also keen on Dev Corps for c.12 Growth Areas)

Business case production

Legal, financial, economic modelling & valuation advice

Engage politically locally and sub-regionally

Landowner/Developers

Engage with local authorities, Homes England, DLUCH, Mayors (as applicable) and consider infrastructure funding and other studies/assessment opportunities

Monitor Dev Corp redlines carefully and engage/make reps

Consider provisions dealing with LURA disapplication of hope value risk in land acquisition contracts, options and promos re what happens if the land is CPO'd re any reduction below market value (cf. EUV, planning permission, CAAD and hope value components of valuation and viability models)





Consider JV and acceleration of development options with Dev Corps

Engage politically locally and sub-regionally

Thank you

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