



By Email Only

Message from Chief Planner

30 January 2024

This Newsletter provides updates on the latest announcements from the Department for Levelling Up, Housing and Communities (DLUHC) and other government departments and agencies relating to planning practices and policy. Please see overleaf for the list of contents.

The regulations required to implement the first phase of Biodiversity Net Gain (BNG) were laid in Parliament on 19 January, meaning that on 12 February, BNG will become mandatory for all major developments. The newsletter update below provides links to all the relevant guidance and information to help prepare local planning authorities and other stakeholders for that moment.

This issue also highlights the consultation on the Future Homes and Buildings Standard, which is open till the 6 March; changes to permitted development rights to support open prisons and solar equipment; and publication of the Town and Country Planning (Consultation) (England) Direction 2024.

We're also aware that there's been some debate regarding the new Paragraph 226 of the National Planning Policy Framework which introduced a temporary measure that means some authorities only have to demonstrate four years of specific deliverable sites instead of the usual five. We will be updating the Planning Practice Guidance to provide clarity on this issue imminently.

All previous Chief Planner Letters and Newsletters are available on GOV.UK [here](#).

Joanna Averley
Chief Planner



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Policy and Delivery Updates

NPPF clarification on 5 Year Housing Land Supply (Paragraph 226)

There has been some discussion in the sector around the new paragraph 226 which was added to the National planning Policy Framework (NPPF) in December 2023. This introduced a temporary measure that means some authorities only have to demonstrate four years of specific deliverable sites instead of the usual five. An update to Planning Practice Guidance is forthcoming to provide further clarity on this.

Biodiversity Net Gain Implementation

Last week Government reached another key milestone towards the implementation of Biodiversity Net Gain (BNG) within the planning system. The regulations required to implement the first phase of BNG were laid in Parliament on 19 January, and these will come into force on 12 February. This means BNG will become mandatory for new major developments on **Monday 12 February 2024**.

In November last year DLUHC published draft Planning Practice Guidance to enable familiarisation with the requirements for the planning application process. We will be updating this guidance ahead of BNG coming into force on Monday 12 February.

As well as updating planning practice guidance, DLUHC has worked closely with Defra on BNG's implementation. Defra have published a blog updating on progress [here](#). Further details concerning BNG can be found on the [Biodiversity Net Gain collections page](#).

For those who are not already engaged, the Planning Advisory Service (PAS) offers advice, support and training on planning and service delivery to councils. The [PAS Biodiversity Net Gain page](#) is a useful resource and provides answers to some of the most frequently asked questions.

In addition, a reminder that the second evidence return for the 2023/24 Defra BNG grant is due by 15 March 2024. This evidence return covers work carried out in the period 01/09/2023 to 31/03/2024. The grant can be used to deliver measures that apply at least 10% BNG to planning permissions. Examples include expansion of current ecologist capacity, upskilling current ecologist resource, training, production of guidance, cost of staff time in implementing mandatory BNG, and scoping/baselining/mapping work to assess BNG opportunities in your area.

Any questions can be addressed to sm-defra.netgain@defra.gov.uk.

Information about any BNG funding beyond the current financial year will be issued in due course. The Government has committed to funding burdens arising from the Environment Act.



Local Plans Update

On the 19 December 2023, in his [Written Ministerial Statement](#) on the Long-Term Plan for Housing, the Secretary of State directed seven local planning authorities that have not yet adopted a plan under the current system and are not currently at examination to provide him with a revised local plan timetable. This requires them to submit an up-to-date local development scheme to the Government within 12 weeks of the NPPF revisions.

The update to the NPPF provides certainty and adds responsibility on local planning authorities to deliver. As part of this, in his statement, the Secretary of State also asked all local planning authorities with an out-of-date timetable for producing a local plan to review and update their current timetable within the same time frame. Once revised, a copy of the timetable should be made publicly available and we are asking for authorities to provide a copy to the department using the following email address: LocalPlans@levellingup.gov.uk

Transitional arrangements for our December 2023 changes to the NPPF are set out in the [NPPF implementation annex](#). These arrangements have been set out to minimise delays and disruption to plan-making.

Update on designation of sensitive catchment areas and upgrades to wastewater treatment works

To address pollution at source, the Levelling-up and Regeneration Act 2023 (LURA) created a new duty for water companies in designated catchments, to ensure wastewater treatment works (WwTW) serving a population equivalent over 2,000 meet specified nutrient removal standards. Competent Authorities (including local planning authorities) when considering planning proposals for development that drains via a sewer to a wastewater treatment works that is subject to the upgrade duty; are required to consider whether the nutrient pollution standard will be met by the upgrade date when carrying out Habitats Regulations Assessments.

On 25 January 2024, the Secretary of State for the Environment, Food and Rural Affairs designated 16 catchments in which water companies are required to upgrade WwTW before 1 April 2030. Further information can be found in the [Notice of designation of sensitive catchment areas 2024](#) and Natural England have provided affected local planning authorities with revised nutrient calculators.

A separate and limited exemption process for the WwTW upgrade duty will be completed by 1 April 2024, when any final exemptions will be confirmed. This may affect the levels of nutrient mitigation that development must secure for specific wastewater treatment works in some catchments. It is important that planning decision-making continues, based on material planning considerations and Habitats Regulations Assessment as amended by Regulation 85A (introduced in the LURA).



These upgrades will address nutrient pollution from WwTW in designated catchments, significantly reducing the mitigation burden on development proposals connected to the WwTW subject to the upgrade duty. This follows the announcement in December to boost the supply of mitigation, with £57m awarded to eight successful bidders as part of Round 1 of the Local Nutrient Mitigation Fund. Further details on the Local Nutrient Mitigation Fund – Round 2, will be announced shortly.

Changes to permitted development rights to support open prisons and solar equipment

Legislation came into force on 21 December 2023 to introduce changes to permitted development rights to support open prisons and solar equipment.

DLUHC have amended an existing permitted development right, under Class M of Part 7 of the General Permitted Development Order, that allows for the erection, extension or alteration of schools, colleges, universities, hospitals, and closed prisons, to additionally apply to open prisons.

DLUHC have also made changes to the four existing permitted development rights which allow for the installation of solar equipment on and within the curtilages of domestic and non-domestic buildings. This includes the removal of the 1 megawatt cap so that there is no limit on the electricity generated by rooftop solar equipment on non-domestic buildings. We have also introduced a new permitted development right for solar canopies in non-domestic off-street car parks. The new right is subject to limitations and all installations will require prior approval from the local planning authority.

The legislation also makes clarificatory amendments to the permitted development right for electronic communications to deliver the policy intention set out by Government in its [Response to the Technical Consultation on changes to permitted development rights for electronic communications infrastructure](#) published in March 2022.

Further details on the changes can be found in The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) (No. 2) Order 2023, available at: <https://www.legislation.gov.uk/uksi/2023/1279/contents/made>.

Consultation on the Future Homes and Buildings Standard

On 13 December, the Government launched the [consultation on the Future Homes and Buildings Standard](#), which is open until **6 March**. The standards will update the Building Regulations and associated guidance to ensure that new buildings are fit for a net zero future.

From 2025, the Future Homes Standard will ensure that new homes produce, on average, at least 75% less CO2 emissions than those built to the 2013 standards.



Homes built to the Future Homes Standard will be future proofed with low carbon heating and high levels of energy efficiency. The Future Buildings Standard is the equivalent standard for non-domestic buildings. With implementation from 2025, the Future Buildings Standard will produce efficient non-domestic buildings complemented by high fabric standards.

Homes and buildings constructed to the Future Homes and Buildings Standard will be 'zero carbon ready', meaning that no retrofit work will be needed for them to have zero carbon emissions as the electricity grid decarbonises.

Also published on 13 December was a new [Written Ministerial Statement on Local Energy Efficiency Standards](#). It set out that any planning policies that propose local standards that go beyond current or planned Building Regulations should have a well-reasoned and robustly costed rationale that ensures:

- Development in the area remains viable; and
- Any additional energy efficiency requirement is expressed as a percentage uplift of a dwelling's Target Emissions Rate.

The Written Ministerial Statement does not revoke the ability of local plan-makers to set energy efficiency standards at the local level that go further than the Building Regulation, which was established by the Planning and Energy Act 2008.

Planning Practice Guidance will be updated in due course to reflect the new Written Ministerial Statement.

Review of Building Regulations 2010 (Part G) for tighter water efficiency standards

On 19 December 2023, the Secretary of State for DLUHC [announced](#) a review of the Building Regulations 2010 (Part G) in Spring 2024 to allow local planning authorities to introduce tighter water efficiency standards in new homes.

In the meantime, in areas of serious water stress, where water scarcity is inhibiting the adoption of local plans or the granting of planning permission for homes, local planning authorities are encouraged to work with the Environment Agency and delivery partners to agree standards tighter than the 110 litres per day that is set out in current guidance.

Publication of the Town and Country Planning (Consultation) (England) Direction 2024 – Ancient Woodland

On the 26 January a revised [Town and Country Planning \(Consultation\) \(England\) Direction 2024](#) (Consultation Direction) was published in response to Section 136 of the [Levelling-up and Regeneration Act 2023](#). This required the Secretary of State to vary the Town and Country Planning (Consultation) (England) Direction 2021 within



three months of Royal Assent to apply to applications for planning permission for development affecting ancient woodland.

The amended Consultation Direction 2024 includes suitable criteria and arrangements that must be followed for consulting the Secretary of State once a local planning authority has resolved to grant planning permission for development affecting ancient woodland.

This enacts a previous [Government commitment made in October 2021](#) during the passage of the Environment Act 2021. The administrative extent of the Direction covers England, and the amendment applies only to applications for planning permission relating to land in England, received by local authorities on or after the date of publication of the Direction.

The amended Consultation Direction should be read in conjunction with the planning policy contained within the [National Planning Policy Framework](#) and the supporting [Planning Practice Guidance](#) in respect of ancient woodland.

Update on Protected Landscapes

Clause 245 'Protect Landscapes' of the Levelling-Up and Regeneration Act (LURA) changed the duty on relevant authorities in respect of their interactions with statutory purposes of protected landscapes: National Parks, The Broads and National Landscapes (Areas of Outstanding Natural Beauty).

The new duty came into force on the 26 December 2023. Relevant authorities (as defined by the Environment Act Section 62 11A (for National Parks), Countryside and Rights of Way Act 2000 Section 85 (2) (for AONBs) and Norfolk and Suffolk Broads Act 1988 Section 17A) must now seek to further the purposes of these areas 'in exercising or performing any functions in relation to, or so as to affect, land' in the designated area. The LURA clause also granted power to issue a Statutory Instrument to direct relevant authorities in the fulfilment of the new duty.

Internal Review of Active Travel England

Active Travel England (ATE) has been a statutory planning consultee since 1 June 2023 and has issued responses to over 1,100 consultations for new development proposals.

Following an internal review of ATE's service offer and in response to feedback from stakeholders, it will update its suite of published guidance products in February. ATE will also establish its developer and local authority forums in the spring to advise and inform ATE's approach to its role in the planning system, including how it can effectively engage at pre-application stage.

If you would like further information on the above matters, please email Planning-Advice@activetravelengland.gov.uk.



Research & Events

User Research on Compulsory Purchase Orders

The Planning Research Centre at DLUHC is inviting organisations with experience of bringing forward a Compulsory Purchase Order (CPO) to take part in user research.

A statutory requirement under the CPO process is that the acquiring authority must publish various notices in local newspapers to inform people of their intent. We are carrying out some research to understand the costs associated with publishing these notices, how they vary across different types of CPOs, and how the process of publishing the notices works in practice across different organisations.

We would like to hear from organisations that have brought forward a CPO, who are able to provide estimated costs associated with publishing notices regarding CPOs and share more about their thoughts on the CPO process.

To have your say, please complete the short survey found at [this link](#). This survey will remain open until **Wednesday 14 February**.

Through this form, you can also volunteer to take part in a 45-minute recorded, virtual research interview via Microsoft Teams with DLUHC staff to explore these costs in more detail and share your wider experiences and views about the CPO process. If you don't work on CPOs but there is someone in your organisation that may be interested in taking part, please feel free to share this invitation with them.

For further information about how your data will be used, please refer to our [Privacy Notice](#).

Housing Design Awards and The Architect Directory

DLUHC has been supporting improvements to both the Housing Design Awards and The Architect Directory websites to provide greater accessibility to well-designed housing projects and to architectural expertise across the country.

The 2024 [Housing Design Awards](#) are now open for submissions. The awards are given each year for schemes with planning approval but not yet built (Project) and those which are built and occupied (Completed). As part of this announcement, the Housing Design Awards website continues to add new tools and improved functionality to allow all users to find and access relevant schemes from both map and criteria searches to help learn from well-designed housing schemes across the country.

The Housing Design Awards website also includes links to [The Architect Directory](#) which is currently being expanded to enable easy access to architects across the country. The directory allows developers and clients to find the right architecture practices for their projects based on criteria which matter to them. The purpose of



the directory is to provide greater visibility of the whole supply chain, promote SME suppliers and improve the quality of new homes, enabling house builders to make more informed choices.

DLUHC Digital Planning Programme

How are you using our planning data platform?

The Digital Planning Programme's data platform, planning.data.gov.uk, was launched in 2022 with the aim of helping users create services to inform planning and housing decisions in England. It makes planning and housing data easy to find, understand, use and trust.

DLUHC's Digital Planning Team would like to know more about how stakeholders are using it so they can understand how it could be developed in the future and make appropriate updates.

Please complete this [short form](#) to provide feedback. It takes just a few moments to complete.

Open Digital Planning Project 10 year plan

The [Open Digital Planning \(ODP\) project](#) is a DLUHC funded community of forward-thinking local planning authorities working together to be at the centre of an ecosystem supporting advanced digital planning services which will transform the local authority planning landscape in England.

Project partners have adopted multiple products that greatly improve the planning application process for applicants and planning officers and recently published their [10-year vision for 2023-2033](#). This sets out why the project is needed, the progress made so far, and specific aims for progress.