

LONDON BOROUGH OF CAMDEN	WARDS: ALL
REPORT TITLE Planning Reforms	
REPORT OF: Director of Economy, Regeneration and Investment	
FOR SUBMISSION TO: Planning Committee	DATE 8 April 2024
<p>SUMMARY OF REPORT</p> <p>This report provides a summary and update on recent changes to national planning legislation, policy and guidance and consultation on changes likely to take affect this year.</p> <p>Local Government Act 1972 – Access to Information</p> <p>No documents that require listing were used in the preparation of this report.</p> <p>Contact Officers:</p> <p>Jenna Litherland, Planning Improvement and Support Manager 5 Pancras Square London N1C 4AG Tel: 020 7974 3070 E-mail: Jenna.Litherland@camden.gov.uk</p> <p>Elizabeth Beaumont, Appeals and Enforcement Team Manager 5 Pancras Square London N1C 4AG Tel: 020 7974 2075 E-mail: elizabeth.beaumont@camden.gov.uk</p>	
<p>RECOMMENDATIONS</p> <p>The Planning Committee is asked to note the report.</p>	

Signed:



Dated: 25th March 2024

1. Introduction

1.1 National planning legislation, policy and guidance is undergoing a period of change. This section of the report summarises recent changes to legislation and consultation on proposed changes likely to take affect this year (in date order):

- The Levelling-Up and Regeneration Act 2023.
- Department for Levelling Up, Housing and Communities (DLUHC) Update.
- NPPF Update.
- Short term lets.
- Bio-diversity Net Gain.
- Strengthening planning policy for brownfield development.
- Proposed changes to permitted development right consultation.
- An Accelerated Planning System.

2. The Levelling-Up and Regeneration Act 2023 - Planning Summary

2.1 On 26 October 2023, the [Levelling-up and Regeneration Act \(LURA\)](#) became law, the Act covers a wide range of subject areas, but includes amendments to Planning. Very few of the changes outlined in the legislation have an immediate effect, most will require secondary legislation.

2.2 It includes the following changes affecting enforcement, applications and appeals:

Enforcement

- **Time limits for enforcement** all breaches of planning control can only become immune from enforcement action after 10 years.
- **Enforcement Warning Notices (EWN)** - where an officer considers that a breach of planning control can be resolved through a retrospective planning application.
- **Increased fines** - The Act increases the maximum level of fines that can be levied for some planning enforcement offences.
- **Temporary stop notices** for works to listed buildings.
- **Commencement notices, Development Progress Reports and Completion notices (currently in force)**
 - New requirement for developers to submit commencement notices to the Local Planning Authority (LPA) specifying the date that development is expected to start;
 - Power to issue completion notices if a development is being built out “unreasonably slowly” and sets out the procedure for doing so without the need for secretary of statement approval; and
 - Reports will need to be submitted on an annual basis following the commencement of development.

- **Power to provide relief from enforcement of planning conditions (currently in force)** – Secretary of State has power to prevent local authorities from enforcing against failure to comply with certain conditions.

Applications

- **Planning fees increase** - In December 2023 planning application fees, which are nationally set, were increased by 25-35%. The 25% fee increase relates to minor applications and the 35% increase is for major application. The new [fee regulations](#) also introduced annual indexation of fees, capped at 10% from 1 April 2025, removed the 'free go' fee exemption for repeat applications and reduced the Planning Guarantee for non-major planning applications from 26 to 16 weeks.
- **Development Plans and National Development Management Policies** - gives the Secretary of State a very broad power to create 'National Development Management Policies' ("NDMPs"). Once in place NDMPs will have the same status as the development plan and where there is conflict they will take precedent. They will narrow the remit of what Local Plans will cover. Consultation on NDMPs is likely to take place early summer.
- Duty to make planning decisions in accordance with the development plan and NDMP unless material considerations strongly indicate otherwise.
- Power to require developers to engage with communities at pre-application stage.
- **Infrastructure Levy** - Government to replace CIL and some s.106 Agreements with a new 'Infrastructure Levy'.
- **Material Variations in Planning Permissions** - The Act introduces a new mechanism for amending planning permissions. The new s.73B allows variations to be granted to planning permissions where the varied permission is not "substantially different" in effect to the existing permission. (see section 9)
- **Further power to decline to determine planning applications** - Introduces the power for LPAs to decline to determine applications in cases of earlier non-implementation or unreasonably slow build-out.
- **New Duty to Preserve additional Heritage Assets** - including: scheduled monuments, registered parks and gardens, restricted area sites on/in the UK seabed and world heritage sites (all "relevant assets"), will enjoy statutory protection.
- **Environmental Outcomes Reports to replace:** Environmental Impact Assessments (EIA), Strategic Environmental Assessments (SEA) and Sustainability Appraisals (SA) to make the process simpler, using more consistent data and focussed on measuring environmental effects against improving environmental outcomes.
- **Street Votes** - The Act also introduces a new form of 'hyper-local' development order – called a 'street vote development order' which residents can apply for in relation to their own streets or neighbourhoods.

Consultation on Street Votes took place in December 2023 and finished on 4 February.

- **Duty in relation to Self-Build and Custom-Build Housing** - strengthens the duty placed on local planning authorities in respect of Self-Build and Custom-Build Housing by making it clear that only permissions expressly granted for self or custom build schemes can be counted as meeting the local planning authority's duty to facilitate self and custom build housing.
- **Crown development** – ability to apply directly to the Secretary of State in certain instances.
- **Development consent orders (DCO)** – power to shorten deadline for examination of applications for DCO, power to make NMA to DCO.
- **Power to make changes to planning and compulsory purchase related legislation** required in connection with consolidation of that legislation
- **Ancient Woodland and Nutrient pollution standards**

Appeals

- **Restrictions on appeals against enforcement notices** - If an applicant has already tried to regularise a breach of planning control through an application to the local planning authority, they can no longer rely on 'ground (a)' as part of an appeal against a subsequent enforcement notice. The Act also gives the Secretary of State the power to dismiss enforcement related appeals where it appears to them that the appellant is responsible for undue delays in the progress of the appeal.
- **Appeals** – ability to attend remotely.

Data

- **Changes to planning data** - Set "data standards" that would apply across English local planning authorities – standardising the way certain planning data is collected or presented.

3. **Department for Levelling Up, Housing and Communities (DLUHC) Update – December 2023**

- Ambition to build 300,000 homes a year retained.
- Confirm that housing targets are advisory (they always were) and can be lowered to take account of local constraints such as flood risk, green belt, land availability, and character.
- Critical of housing delivery in London – London Plan to be reviewed by a panel of experts and will report in January with focus on brownfield sites in the heart of London.

(Update: The London Plan Review report was issued 13 February 2024. Greenwich and Newham councils are set to see planning "super squads" created by central government to assist with building new homes.)

- Advised that consultation was due shortly on planning performance and PPA regimes. Real speed of determining planning apps to be measured (excluding Extensions of Time for householder apps). See section 9.
- £13.5m for a super squad of planners to unblock major housing developments.
- Commits to further consultation on key principles of Infrastructure Levy (replaces CIL and S106 and unlikely to deliver more funding, infrastructure or affordable housing)
- Future changes to NPPF to support Government's Life Science Growth Package.
- Ministerial Statement - Plan-makers should not set local energy efficiency standards for buildings that go beyond current or planned building regulations. A consultation is currently underway on changes to Part 6, Part L and Part F of the Building Regulations for dwellings and non-domestic buildings and seeking evidence on Part O. This would be a change to building regulations but still has relevance to planning.

4. National Planning Policy Framework Updated – December 2023

4.1 The National Planning Policy Framework (NPPF) must be taken into account in preparing the development plan, and is a material consideration in application decision making. The NPPF was updated in December 2023. The key changes were:

- Requirement to maintain 5-year land supply, but not for recently adopted Local Plans.
- From Dec 2023-Dec 2025 Local Plans at Reg 18/19 stage can show a 4 year supply (but against existing target and in our case 20% added – so 4.8 years)
- Housing Delivery Test (HDT) retained, 95% (action plan) and 75% targets (presumption in favour of sustainable development) retained for all LPAs but 80% (20% buffer) only applies where there is no up to date plan.

(Note: Until the Camden Local Plan adopted in late 2025, presumption applies as unlikely to reach 75% against existing target. Target and 5-year housing supply easier to meet in new plan. Under the most recent HDT Camden achieved 69% of supply from 19/20-21/22 with 1981 homes built from a combined target of 2891 homes.)

- Neighbourhood Plan protection against speculative development increased from 2 - 5 years.
- Can use design code to resist developments wholly out of character with existing area.
- Support for small builders, for community-led, self and custom build housing.
- Mansard roof extensions encouraged.
- Increased weight for changes to existing buildings to improve energy performance.

5. Short term lets

5.1 In May 2023 the Government consulted on the proposed introduction of a new use class for short term lets (Class C5), a new permitted development right from residential to short term let use and a registration system. The Government have not produced a response to the consultation but in a Ministerial Statement dated February 2024 confirmed their intention to press ahead with these changes. Whilst the detail is very unclear at this stage, the proposals include:

- All properties in STL use (whether authorised or not) would automatically be designated as the new use class – Class C5.
- There would be a permitted development right to go between Class C3 residential and C5 short term let.
- The introduction of a new light touch registration system which would apply to properties in the new C5 use.

5.2 There appears to be a mismatch between the Government objective for introducing these changes and the potential outcome. Councillor Beales sent a letter (see appendix 1) in response to the statement setting out the Council's concerns in this regard and highlighting that the proposals could result in the loss of approx. 6000 permanent homes to short term lets. This issue received press response within The Guardian –

<https://amp.theguardian.com/society/2024/mar/24/thousands-of-london-homes-at-risk-from-holiday-lets-plan>

6. Bio-diversity Net Gain

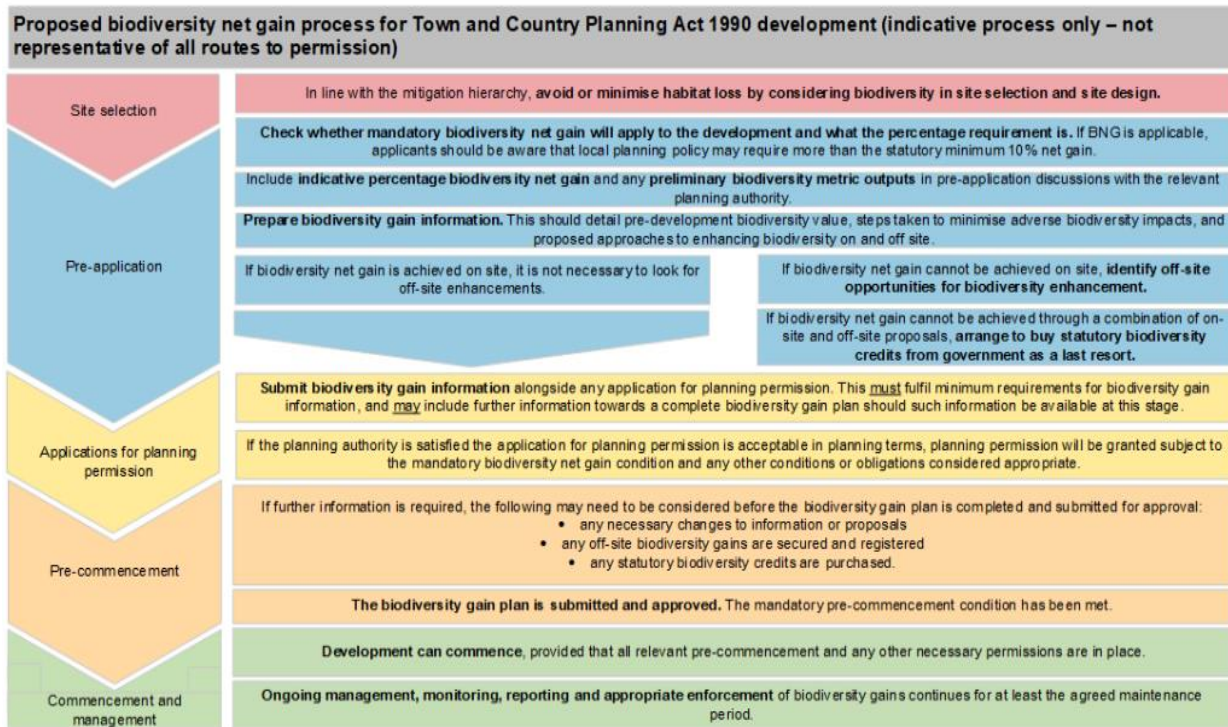
6.1 Biodiversity Net Gain (BNG) is an approach to development, and/or land management, that aims to leave the natural environment in a measurably better state than it was beforehand. The Environment Act 2021 was the legislation that introduced Biodiversity Net Gain, but it was only in December 2023 that the secondary legislation and guidance was issued explaining how this would operate a part of the planning process. Biodiversity net gain became a mandatory requirement for all major sites from 12 February 2024 and will be rolled out further for small sites (with some exemptions) from 2 April 2024. The following application types are exempt by the [Environment Act 2021](#): urgent crown developments; and developments that are granted planning permission by a development order (including permitted development rights).

6.2 Developers must deliver a BNG of 10%. This means a development will result in more or better quality natural habitat than there was before development.

6.3 The changes include:

- Amendments to Town & Country Planning Act (TCPA).
- Baseline information must be submitted at application stage along with a plan to show how a minimum 10% gain calculated using Biodiversity Metric is achieved.

- We can then use conditions and Section 106 legal agreements to secure further information to be submitted pre-commencement and to secure the delivery and maintenance.
- Habitat secured for at least 30 years via obligations/conservation covenants, can be delivered on-site, off-site or via a new statutory biodiversity credits scheme.
- National register for net gain delivery sites.
- Does not change existing legal protections for important habitats and wildlife species.



7. Strengthening planning policy for brownfield development – consultation (closed 26 March 2024)

7.1 This consultation covers:

- proposed updates to national planning policy on brownfield land in the National Planning Policy Framework (to maximise delivery of homes on brownfield land)
- reviewing the threshold for referral of applications to the Mayor of London.

8. Proposed changes to permitted development right consultation (consultation closed 9 April 2024)

8.1 Consultation is underway on the following topics:

- Changes to certain permitted development rights which enable householders to improve and enlarge their homes to allow larger extensions.

- Changes to the building upwards permitted development rights which enable the upward extension of a range of existing buildings to allow larger extensions.
- Changes to the permitted development right which allows for the demolition of certain buildings and rebuild as homes.
- Changes to the permitted development rights which enable the installation of electrical outlets and upstands for recharging electric vehicles.
- Changes to the permitted development right for the installation of air source heat pumps.

8.2 The proposed changes will reduce local authority control over certain types of development, allowing people do more without the need to obtain planning permission.

9. **An Accelerated Planning System (consultation ends 1 May 2024)**

9.1 Consultation is underway on the following topics:

- The deadline for determining majors remains 13 weeks, but Council's would be required to offer a faster service for major commercial developments of 10 weeks for a higher fee (which would repayable if deadline is missed).
 - This should also be offered to mixed use schemes which include more than 1000sqm of commercial floorspace. It would not apply to EIA or where heritage assets are involved or residential applications. The consultation poses the question whether this should be a discretionary or mandatory service.
- At present the targets are 60% Majors and 70% non-majors within the statutory time limit or with an extension of time/planning performance agreement. It is proposed that the targets are adjusted to 50% Majors and 60% non-majors within the statutory time limit (excluding extension of time/planning performance agreement).
- From October 2024 planning authorities will be measured on the basis of both the current and new performance targets. There would be a risk of designation if we do not meet the current targets, or we do not meet the new targets, or we do not meet either of them.
- change the use of extensions of time, including ending their use for householder applications and only allowing one extension of time for other developments, which links to a proposed new performance measure for local planning authority speed of decision-making against statutory time limits

(Note: In order to meet the targets detailed above we would need to determine more applications within the statutory deadline. There will less

scope and freedom to secure more time even if the applicant would have no objection)

- expand the current simplified written representations appeals process for householder and minor commercial appeals to more appeals.

(Note: In summary this means we would have to write less appeal statements, Inspectors would rely on the officer's report except in certain instances. The aim is also to prevent appellants submitting additional information at appeal stage which was not put before the LPA when they were considering the application. This could reduce workloads, but there may be instances where we would want the opportunity to write a statement – for example committee overturns)

- implement section 73B for applications to vary planning permissions (for a new permission which is not substantially different to that granted by the existing permission) and the treatment of overlapping permissions.

10. Summary

- 10.1 Whilst some of the proposals are welcomed, others are unclear and some will present significant challenges for the planning department. Further permitted development rights and strict performance measures will have implications for our communities which some may welcome and others may not.
- 10.2 Whilst the proposed performance measures are only at consultation, it seems likely that they will be progressed and because of the time frame for their introduction and the implications of failure to meet them it is necessary to take immediate action. In order to comply with new policy and procedures we will need to adjust the way in which we operate particularly in terms of determining applications. Even without all the details it is clear that there will be less time and opportunity to negotiate changes during of the course of applications. They will need to be determined on the basis of the submission and this could result in a higher proportion of applications being refused. We will be encouraging applicants to use the pre-application advice service ahead of making applications.
- 10.3 In respect of planning enforcement the additional controls are welcomed and will strengthen the powers the enforcement team have available to resolve breaches of planning control.
- 10.4 The majority of the changes require secondary legislation and we do not have full details as to when they will come into force. We will update members in due course.

11. Finance Comments of the Executive Director Corporate Services

- 11.1 There are no finance implications arising from this report.

12. Legal Comments of the Borough Solicitor

12.1 The Borough Solicitor has been consulted and has no legal comments.

13. Environmental Implications

13.1 There are no environmental impacts.

14. Appendices

Appendix 1- Short Term Lets Response

REPORT ENDS