

South East Plan Update

Report by Head of Planning Applications Group to the Planning Applications Committee on 27 July 2010

Summary: Update on the South East Plan and revised Communities and Local Government advice for the determination of planning applications

Recommendation: To note the report and take into account in the delivery of the County Council's development control function.

Local Member: n/a

Unrestricted

Background

1. At the June Planning Applications Committee I provided a verbal update on the new Coalition Government's stated intention to abolish the Regional Spatial Strategies (RSS) and the potential implications for the business of this Committee. In the case of the South East region, the RSS was the South East Plan, May 2009. The Plan formed part of the '*development plan*' to which regard was to be had in the determination of planning applications.
2. At the June Committee meeting, the Committee resolved that the Cabinet Member for Environment, Highways and Waste be asked to write to the Secretary of State, Mr Eric Pickles setting out this Committee's concern. The purpose of the letter was to seek urgent clarification on the abolition and urge that swift action be taken to establish effective and clear transition arrangements to address the policy vacuum that had been created and to make the necessary provision for over arching policies that are vital for effective planning decisions. A copy of the letter is attached at appendix 1.
3. On the 6th July 2010 the Secretary of State announced the revocation of Regional Strategies with immediate effect. As part of the announcement, the Communities and Local Government's Chief Planner published some '*question and answer*' advice on immediate issues that it considers may arise from the announcement. This guidance covers the period between revocation and legislation (the proposed Localism Bill) to abolish the RSS altogether. I attach this as appendix 2.
4. This advice has immediate consequences for the determination of planning applications. The most significant being that the South East Plan is no longer part of the development plan for the purposes of s38(6) of the Planning and Compulsory Act 2004 and has no future role to play in the decision making process. In particular I draw your attention to the following paragraphs in the advice note which are provided to aid the development control process.
5. Paragraph 4 of the note provides advice on the **affect on planning applications**. It requires local planning authorities to continue to have regard to the development plan. This now consists of
 - a. Adopted development planning documents (DPDs from the Local Development Frameworks)
 - b. Saved policies; and
 - c. Any old style plans that have not lapsed.

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In addition, local planning authorities should have regard to other material considerations, including national policy. Evidence that informed the preparation of the revoked RSS may also be a material consideration depending upon the facts of the case.

6. In the case of mineral and waste development, this means the saved policies in the Kent Waste Local Plan, 1998, the Kent Minerals Local Plan - Construction Aggregates, 1993, Kent Minerals Local Plan - Chalk and Clay, 1997, Kent Minerals Local Plan - Oil and Gas, 1997 and Kent Minerals Local Plan - Brickearth, 1986 and any relevant policies in the District Local Plan or the adopted District Development Plan Documents. The County Council development will need to be considered against relevant policies in the District Local Plan and the adopted Development Plan Documents. All applications will also need to be considered in the context of relevant Planning Policy Guidance Notes and Statements (PPGs and PPS) which will continue to apply until they are replaced by the National Policy Framework. Where relevant, mineral and waste applications will need to be considered in the context of Mineral Policy Guidance Notes and Statements (MPG and MPS).
7. Paragraph 15 provides advice relating to the need for **minerals and aggregates supply** in the absence of regional strategy targets. The Mineral Planning Authorities retain the responsibility for continuing to plan for a steady and adequate supply of aggregate minerals to support economic growth. They should do so within the longstanding arrangements for minerals planning and in the case of Kent take account of the technical advice provided by SEERAWP (South East England Regional Aggregates Working Party). There is specific mention that South Eastern Authorities should work from the apportionment set out in the proposed changes to the revisions of (former) policy M3 of the South East Plan that was published in March 2010.
8. In the case of **waste management**, paragraph 16 advises that local planning authorities should continue to provide for waste management facilities to support the sustainable management of waste, including the move away from the disposal to landfill.
9. Paragraph 18 provides advice on the **natural environment** and the need to work with communities on conservation, restoration and enhancement of the natural environment. Paragraph 19 addresses regional policies on **flooding and coastal change**. There is a need to prevent unnecessary building in areas of high flood risk. **Renewable and low carbon energy** issues are addressed in paragraph 20 with support for a move towards a low carbon economy to cut greenhouse gas emissions, secure more renewable energy and adapt to the impacts arising from climate change. Paragraph 21 considers regional policies on **transport** and the need to deliver the most effective and sustainable development. The implications on **Green Belt** are considered in paragraph 22. The Coalition Government is committed to the protection of the Green Belt and local planning authorities should continue to apply policies in PPG2.
10. Finally, Members are asked to note that the Government expects to introduce new ways for local authorities to address strategic planning and infrastructure issues based upon cooperation. Details of which are awaited. There is no specific mention of the proposed Infrastructure Plan, its purpose or status, nor who will be responsible for its preparation. Since receiving the new advice, I have sought further clarification from the Department of Communities and Local Government on a number of matters. This is

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awaited and I hope to be able to update members further at the meeting.

RECOMMENDATION:

11. Members are asked to note the report and take its contents into account in the delivery of the County Council's development control function.

Case Officer: Sharon Thompson	01622 696052
Background Documents: Letter and question and answer advice from Steve Quartermain, Chief Planner, Communities and Local Government dated 6 July 2010	



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Date: 6 July 2010

Dear Mr Pickles

PROPOSED ABOLITION OF REGIONAL SPATIAL STRATEGIES

The County Council's Planning Applications Committee recently considered your Government's intention to abolish the Regional Spatial Strategies. In the case of Kent, this means the South East Plan. The Council welcomes the Coalition's Government's decision to abolish the Regional Spatial Strategies and return decision making powers on housing and planning matters to locally elected planning authorities. Without urgent and clear transition arrangements, the County Council is however very concerned about the policy vacuum that has effectively been created and the uncertainty this creates. This is of particular concern for the wide range of over-arching policies, which are most effective when applied at a county or sub-regional level.

Your letter of 27th May 2010 sent to all Chief Planners states that the intention to abolish is a material planning consideration that planning authorities should have regard to in the determination of planning applications. There is very little detail in the letter although it is more specific in terms of advice on housing supply. As you will be aware, the South East Plan is much broader than a housing document and provides the strategic policy context for a wide range of development considerations. This includes countryside protection, biodiversity, built and historic environment, climate change and economic development, along with considerations for mineral and waste management development. A number of these matters are also embedded in more local development frameworks. This is not so in the case of the cross boundary issues, such as minerals and waste management which have an important strategic element and which are fundamental in underpinning sustainable communities.

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For effective planning, it is vital that the abolition of the Regional Spatial Strategy is properly thought through and ensures that all those in the planning and development process have a clear understanding of the policy context. In doing so we need to be mindful of the financial implications and seek a cost effective solution that avoids 'reinventing the wheel' and draws upon the good policy work that already exists both at County Council and District Council level. There also needs to be a clearer understanding of the proposed new Infrastructure Plan, its purpose, status and who will be responsible for its preparation.

The County Council therefore urges you to urgently clarify the position and take swift action to establish effective and clear transition arrangements that address the vacuum and make the necessary provision for over arching policies that are vital for effective planning decisions.

Yours sincerely

A handwritten signature in black ink, appearing to read 'N. Chard', written in a cursive style.

Nick Chard



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The Chief Planning Officer
Local Planning Authorities in England

6 July 2010

Chief Planning Officer Letter:

REVOCAION OF REGIONAL STRATEGIES

Today the Secretary of State announced the revocation of Regional Strategies with immediate effect.

I have attached some 'questions and answer' advice on immediate issues that may arise from this announcement. It will be important for local planning authorities to carry on delivering local development frameworks and making decisions on applications and the attached document focuses on how to continue taking these forward.

Please address any queries to Eamon Mythen at CLG in the first instance (Eamon.Mythen@communities.gsi.gov.uk).

A handwritten signature in black ink, appearing to read "Steve Quartermain", with a long horizontal line extending to the right.

STEVE QUARTERMAIN
Chief Planner

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Guidance for Local Planning Authorities following the revocation of Regional Strategies

The Secretary of State for Communities and Local Government confirmed today that Regional Strategies will be revoked (see the attached copy of the Parliamentary Written Statement). In the longer term the legal basis for Regional Strategies will be abolished through the "Localism Bill" that we are introducing in the current Parliamentary session. New ways for local authorities to address strategic planning and infrastructure issues based on cooperation will be introduced. This guidance provides some clarification on the impact of the revocation; how local planning authorities can continue to bring forward their Local Development Frameworks (LDFs); and make planning decisions in the transitional period.

1. Under what powers are Regional Strategies being revoked?

Regional Strategies have been revoked under s79(6) of the Local Democracy Economic Development and Construction Act 2009 and no longer form part of the development plan for the purposes of s38(6) of the Planning and Compulsory Purchase Act 2004. This guidance covers the period between revocation of Regional Strategies and legislation to abolish them altogether.

2. Do Planning Policy Statements (PPSs) remain in force?

Yes. The Policy Statement on Regional Strategies (February 2010) is cancelled, and references to Regional Strategies in other Policy Statements are no longer valid. But all other PPSs will continue to apply until they are replaced by the National Planning Framework.

3. Will this affect the London Plan?

The London Plan will continue to provide the planning framework for London boroughs. As part of a wider process of decentralisation in London, we are reviewing how powers and discretion can be shifted downwards from central government to the Mayor and Assembly, to London Boroughs and to local neighbourhoods. This will include reviewing the scope for devolving power from the Greater London Authority down to the Boroughs and below.

The following sections provide advice on some of the issues likely to arise following revocation of Regional Strategies, until the "Localism Bill" and the new National Planning Framework are in place. This guidance should be regarded as a material consideration by local planning authorities and the Planning Inspectorate in their decisions.

4. How will this affect planning applications?

In determining planning applications local planning authorities must continue to have regard to the development plan. This will now consist only of:

- Adopted DPDs;

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- Saved policies; and
- Any old style plans that have not lapsed.

Local planning authorities should also have regard to other material considerations, including national policy. Evidence that informed the preparation of the revoked Regional Strategies may also be a material consideration, depending on the facts of the case.

Where local planning authorities have not yet issued decisions on planning applications in the pipeline, they may wish to review those decisions in light of the new freedoms following the revocation of Regional Strategies. The revocation of the Regional Strategy may also be a material consideration.

5. Should we continue preparing LDF documents?

Yes – the revocation of Regional Strategies is not a signal for local authorities to stop making plans for their area.

Local planning authorities should continue to develop LDF core strategies and other DPDs, reflecting local people's aspirations and decisions on important issues such as climate change, housing and economic development.

These local plans will guide development in their areas and provide certainty for investors and communities. Local authorities may wish to review their plans following the revocation of Regional Strategies. We recommend reviews should be undertaken as quickly as possible.

6. How does this affect adopted local plans / LDFs?

Adopted DPDs and saved policies will continue to provide the statutory planning framework. Local authorities may decide to review these now that Regional Strategies have been revoked. There is no need to review the whole LDF, only those issues or policies which local authorities wish to revisit. When undertaking consultation and sustainability appraisal on their draft policies, authorities should take an approach that considers the stage reached, the extent of work already undertaken and the scope of the policy changes they are making.

7. What if my LDF document is still being prepared?

Where local planning authorities are currently bringing forward development plan documents they should continue to do so. Authorities may decide to review and/or revise their emerging policies in the light of the revocation of Regional Strategies. Where authorities decide to do this they will need to ensure they meet the requirements for soundness under the current legislation. When undertaking consultation and sustainability appraisal on their draft policies, authorities should take an approach that considers the stage reached, the extent of work already undertaken and the scope of the policy changes they are making.

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8. Will Examinations in Public continue for DPDs?

Yes – where local planning authorities are bringing forward new development plan documents or reviewing adopted plans they should present evidence to support their plans. The examination process will continue to assess the soundness of plans, and Inspectors will test evidence put forward by local authorities and others who make representations.

9. Will data and research currently held by Regional Local Authority Leaders' Boards still be available?

Yes. The regional planning function of Regional LA Leaders' Boards – the previous Regional Assemblies – is being wound up and their central government funding will end after September this year. The planning data and research they currently hold will still be available to local authorities for the preparation of their local plans whilst they put their own alternative arrangements in place for the collection and analysis of evidence. Notwithstanding, the new Government regards the Regional Leaders' Boards as an unnecessary tier of bureaucracy.

Clarification on policy issues

There are a number of areas where Regional Strategies supplemented the national policy framework. Further clarification on these areas is set out below.

10. Who will determine housing numbers in the absence of Regional Strategy targets?

Local planning authorities will be responsible for establishing the right level of local housing provision in their area, and identifying a long term supply of housing land without the burden of regional housing targets. Some authorities may decide to retain their existing housing targets that were set out in the revoked Regional Strategies. Others may decide to review their housing targets. We would expect that those authorities should quickly signal their intention to undertake an early review so that communities and land owners know where they stand.

11. Will we still need to justify the housing numbers in our plans?

Yes – it is important for the planning process to be transparent, and for people to be able to understand why decisions have been taken. Local authorities should continue to collect and use reliable information to justify their housing supply policies and defend them during the LDF examination process. They should do this in line with current policy in PPS3.

12. Can I replace Regional Strategy targets with "option 1 numbers"?

Yes, if that is the right thing to do for your area. Authorities may base revised housing targets on the level of provision submitted to the original Regional Spatial Strategy examination (Option 1 targets), supplemented by more recent information as appropriate. These figures are based on assessments undertaken by local authorities. However, any target selected may be tested during the examination process especially if challenged and authorities will need to be ready to defend them.

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13. Do we still have to provide a 5 year land supply?

Yes. Although the overall ambition for housing growth may change, authorities should continue to identify enough viable land in their DPDs to meet that growth. Strategic Housing Market Assessments and Strategic Housing Land Availability Assessments can help with this. Local planning authorities should continue to use their plans to identify sufficient sites and broad areas for development to deliver their housing ambitions for at least 15 years from the date the plan is adopted. Authorities should also have a five year land supply of deliverable sites. This too will need to reflect any changes to the overall local housing ambition.

14. How do we determine the level of provision for travellers' sites?

Local councils are best placed to assess the needs of travellers. The abolition of Regional Strategies means that local authorities will be responsible for determining the right level of site provision, reflecting local need and historic demand, and for bringing forward land in DPDs. They should continue to do this in line with current policy. *Gypsy and Traveller Accommodation Assessments* (GTAAAs) have been undertaken by all local authorities and if local authorities decide to review the levels of provision these assessments will form a good starting point. However, local authorities are not bound by them. We will review relevant regulations and guidance on this matter in due course.

15. How do we establish the need for minerals and aggregates supply without Regional Strategy targets?

Minerals planning authorities will have responsibility for continuing to plan for a steady and adequate supply of aggregate minerals to support economic growth. They should do this within the longstanding arrangements for minerals planning. Technical advice provided by the Aggregate Working Parties, including their current work in sub-apportioning the CLG guidelines for 2005-2020 to planning authority level will assist with this.

Planning authorities in the South East should work from the apportionment set out in the "Proposed Changes" to the revision of Policy M3, published on 19 March 2010.

Planning authorities can choose to use alternative figures for their planning purposes if they have new or different information and a robust evidence base. We will work with the minerals industry and local government to agree how minerals planning arrangements should operate in the longer term.

16. How do we establish the need for waste management without Regional Strategy targets?

Planning Authorities should continue to press ahead with their waste plans, and provide enough land for waste management facilities to support the sustainable management of waste (including the move away from disposal of waste by landfill). Data and information prepared by partners will continue to assist in this process. For the transitional period this will continue to be the data and information which has been collated by the local authority and industry and other public bodies who

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currently form the Regional Waste Technical Advisory Bodies. We intend for this function to be transferred to local authorities in due course.

17. Does the abolition of the hierarchy of strategic centres mean the end of policies on town centres?

No. Local authorities must continue to have regard to PPS 4: *Planning for Sustainable Economic Growth* in preparing LDFs and, where relevant, take it into account in determining planning applications for retail, leisure and other main town centre uses.

In assessing any planning applications proposing unplanned growth in out of town shopping centres, particularly those over 50,000 sqm gross retail floor area, local authorities should take account of the potential impacts of the development on centres in the catchment area of the proposal.

18. What about regional policies on the natural environment?

Local authorities should continue to work together, and with communities, on conservation, restoration and enhancement of the natural environment – including biodiversity, geo-diversity and landscape interests. Authorities should continue to draw on available information, including data from partners, to address cross boundary issues such as the provision of green infrastructure and wildlife corridors.

19. What about regional policies on Flooding and Coastal Change?

Local authorities should continue to work together across administrative boundaries to plan development that addresses flooding and coastal change. For flooding matters local authorities already have a duty to co-operate under the Floods and Water Management Act. The Environment Agency will continue to work with local authorities individually and/or jointly to provide technical support on these matters. The Coalition agreement is clear that we should prevent unnecessary building in areas of high flood risk.

20. What about regional policies on Renewable and Low Carbon Energy?

Through their local plans, authorities should contribute to the move to a low carbon economy, cut greenhouse gas emissions, help secure more renewable and low carbon energy to meet national targets, and to adapt to the impacts arising from climate change. In doing so, planning authorities may find it useful to draw on data that was collected by the Regional Local Authority Leaders' Boards (which will be made available) and more recent work, including assessments of the potential for renewable and low carbon energy.

21. What about regional policies on Transport?

Local authorities should continue to ensure their land use and local transport plans are mutually consistent, and deliver the most effective and sustainable development for their area. Local authorities should work with each other and with businesses and communities to consider strategic transport priorities and cross boundary issues.

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22. Does the end of Regional Strategies mean changes to Green Belt?

No. The Government is committed to the protection of the Green Belt and the revocation of Regional Strategies will prevent top-down pressure to reduce the Green Belt protection. Local planning authorities should continue to apply policies in PPS2. As part of their preparation or revision of DPDs, planning authorities should consider the desirability of new Green Belt or adjustment of an existing Green Belt boundary, working with other local planning authorities as appropriate.

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Parliamentary Statement Revoking Regional Strategies

Today I am making the first step to deliver our commitment in the coalition agreement to "*rapidly abolish Regional Spatial Strategies and return decision-making powers on housing and planning to local councils*", by revoking Regional Strategies.

Regional Strategies added unnecessary bureaucracy to the planning system. They were a failure. They were expensive and time-consuming. They alienated people, pitting them against development instead of encouraging people to build in their local area.

The revocation of Regional Strategies will make local spatial plans, drawn up in conformity with national policy, the basis for local planning decisions. The new planning system will be clear, efficient and will put greater power in the hands of local people, rather than regional bodies.

Imposed central targets will be replaced with powerful incentives so that people see the benefits of building. The coalition agreement makes a clear commitment to providing local authorities with real incentives to build new homes. I can confirm that this will ensure that those local authorities which take action now to consent and support the construction of new homes will receive direct and substantial benefit from their actions. Because we are committed to housing growth, introducing these incentives will be a priority and we aim to do so early in the spending review period. We will consult on the detail of this later this year. These incentives will encourage local authorities and communities to increase their aspirations for housing and economic growth, and to deliver sustainable development in a way that allows them to control the way in which their villages, towns and cities change. Our revisions to the planning system will also support renewable energy and a low carbon economy.

The abolition of Regional Strategies will provide a clear signal of the importance attached to the development and application of local spatial plans, in the form of Local Development Framework Core Strategies and other Development Plan Documents. Future reform in this area will make it easier for local councils, working with their communities, to agree and amend local plans in a way that maximises the involvement of neighbourhoods.

The abolition of Regional Strategies will require legislation in the "Localism Bill" which we are introducing this session. However, given the clear coalition commitment, it is important to avoid a period of uncertainty over planning policy, until the legislation is enacted. So I am revoking Regional Strategies today in order to give clarity to builders, developers and planners.

Regional Strategies are being revoked under s79(6) of the Local Democracy Economic Development and Construction Act 2009 and will thus no longer form part of the development plan for the purposes of s38(6) of the Planning and Compulsory Purchase Act 2004.

Revoking, and then abolishing, Regional Strategies will mean that the planning system is simpler, more efficient and easier for people to understand. It will be firmly

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rooted in the local community. And it will encourage the investment, economic growth and housing that Britain needs.

We will be providing advice for local planning authorities today and a copy has been placed in the house library.