

Not throwing the baby out with the bathwater?

A briefing note on how the new government can use LURA to its own ends

The Levelling Up and Regeneration Act 2023 (LURA) took extensive powers over planning, compulsory purchase, design coding and other areas. Due to lack of time and focus, the previous Government failed to take advantage of these, and much of the massive act remains unimplemented. The LURA therefore offers many low-hanging opportunities for the new Government to shape and enable development.

National Development Management Policies (NDMPs)

Local plans are made up of policies, in which the planning authority explains its approach to shaping development. Many of these are categorised as 'development management policies', including all or many of the policies governing design, environmental standards, flood risk, transport impact and heritage.

In the LURA, the Government took the power to set *National* Development Management Policies (NDMPs), which would take precedence over overlapping local development management policies. Part of the rationale for this is to harmonise local policies to make the system more accessible for builders, especially small builders. It is easier for small builders to learn to work with one national flood risk management policy than 330 different local ones. Because local plans will need to cover less, it will also make it easier for local authorities to update their local plan.

NDMPs are also an opportunity for the Government to substantively set policies which it believes to be in the national interest. This mirrors the approach the Government is taking with 'brownfield passports.'

1. **Social housing.** Many social housing providers say that planning uncertainty is a major barrier to building more homes. An NDMP could set out requirements for a proposal to build more social homes on existing estates to be considered acceptable in principle, provided that the proposal has the support of the majority of existing residents. That could include restoring a damaged street network, compliance with a local design code (if published), and 'gentle density' around the perimeter of the estate, to minimize impacts on surrounding residents. An NDMP on social housing would substantially reduce planning costs for social housing providers and enable greater expansion in the total stock.
2. **Energy efficiency.** The climate crisis is a global problem, but carbon standards differ across the country. Some planning authorities require Passivhaus standards, while other authorities have different Energy Performance Certificate (EPC) requirements. Some require on-site renewable energy generation or heat pumps and some do not.

A national development policy could set out standard national requirements on energy efficiency and carbon emissions. That would enable the construction industry to standardize, reducing costs for providers of social housing and leaving more value to be captured from private development to fund more council homes.

Compulsory purchase

The Levelling Up and Regeneration Act inserted a new section 14A of the Land Compensation Act 1961. Subject to confirmation by the Secretary of State in each case, the new section allows compulsory purchase of land without paying 'hope' value where the acquiring authority commits to building additional affordable housing.

The relevant sections are already in force. The Secretary of State could issue a statement that she would welcome submissions by councils and development corporations of orders to acquire land free of hope value with a commitment to build social housing.

Renting out vacant high street properties

Many local authorities face substantial problems with shops left empty on their high streets. Vacant properties act as a blight on the whole neighbourhood, undermining amenity, deterring shoppers, and damaging neighbouring businesses. Part 10 of the LURA gives local authorities a new power to compulsorily rent out shops and other types of premises that have been left vacant for more than a year, with various safeguards.

This provision will be highly popular with local authorities, neighbourhoods and communities, but it has not yet been brought into force. We suggest that the Secretary of State instruct the Department to bring Part 10 into force as soon as possible.

Section 219 in Part 11 gives the Secretary of State power to make regulations to require landlords to disclose information about beneficial owners and other arrangements. This would make the Part 10 rules on vacant properties even more effective.

Street votes

The drafting of secondary legislation to implement street votes is nearly 100 per cent complete. The main remaining requirements are a formal consultation of three statutory bodies and a write round to other departments before the statutory instruments can be laid and enter into force.

Street votes are intended to enable communities to bring forward 'gentle density' development where it is broadly supported, setting out their own design rules to improve the place where they live. At worst, they will achieve nothing. Modelling by pro-housing groups suggested they would generate 10,000-20,000 homes per year with low controversy. At best, they might achieve more. Given the work is all but done, it seems worth attempting the pilot. Street votes also mirror and support the approach the government is taking with 'brownfield passports.'

Design codes

Authority-wide design codes are required under Section 15 of LURA. This will insert a new section 15F in the Planning and Compulsory Purchase Act 2004 (PCPA):

"Design codes for whole area

- (1) A local planning authority must ensure that, for every part of their area, the development plan includes requirements with respect to design that relate to development, or development of a particular description, which the authority consider should be met for planning permission for the development to be granted.
- (2) Subsection (1) does not require the local planning authority to ensure—

- (a) that there are requirements for every description of development for every part of their area, or
- (b) that there are requirements in relation to every aspect of design.”

This has not yet been brought into force, and Question 5 of the summer’s National Planning Policy Framework (NPPF) consultation implied that the government may not implement it.

We understand the need to focus resource on areas where codes will have the biggest impact. However, we think that the principle of an authority area wide code is still important. This should be made through a Statutory Instrument as is required.

An authority wide code need not be detailed in all circumstances. It will often be an overarching strategy and map setting out high level principles and where which policies apply rather than a fully detailed code everywhere. This would ensure that good design is considered across the district, and then detailed codes could be provided for specific strategic sites or for particular development types such as domestic extensions. Such an approach would allow local and neighbourhood codes to be nested in a wider strategic document. Another option is to provide codes for street design, this is something that will not vary significantly across a district, or even nationally, and can make a huge impact on the quality of new places whilst de-risking development that follows this pattern.

Further guidance could be issued on how to achieve this, setting out the minimum that an authority wide code or strategy should cover.