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HSF Kramer Legal Update

Town and Country Planning News

November 2025

Introduction

Welcome to our regular overview and analysis of recent legal developments in town and country planning law. We have refreshed the format of this newsletter, picking up where the [last Monthly TCPA Newsletter](#) left off. With the summer Parliamentary recess and autumn party conferences, recent months may have seemed relatively quiet on the planning news front, but there is still a lot to report.

In early July, MHCLG published the [English Devolution and Community Empowerment Bill 2024-25](#). We take a look at the key provisions of the Bill and its potential effects on local governance and planning. We also provide an update on progress with the [Planning and Infrastructure Bill \(P&I Bill\)](#), touching on Wild Justice's judicial review and celebrating the appointment of our own Catherine Howard as an advisor to the Chancellor of the Exchequer.

The government has also now published the [final report of the New Towns Taskforce](#), alongside its own response to the report. The report demonstrates how the many strands of planning reform are intended to come together to enable large-scale housing delivery across England. The government will issue its final conclusions on the Taskforce's recommendations in spring 2026 once it has undertaken further assessments. The House of Commons Housing, Communities and Local Government Committee have commented on this report in their own [Land Value Capture Inquiry Report](#), with recommendations on immediate actions that the government should take to protect land required for new town development alongside recommendations for changes to the existing developer contributions system and to increase planning team resourcing.

We highlight four cases. In [CG Fry & Son Limited v Secretary of State for Housing, Communities and Local Government and another](#), the Supreme Court clarified important questions about when an appropriate assessment can be required under the Habitats Regulations, whether Ramsar sites should be treated in the same way, and the protection granted by an outline consent against revisiting the need for an appropriate assessment at the reserved matters or discharge of conditions stage. In this decision, the Supreme Court has provided useful clarification for developers about the extent to which local planning authorities can re-open the principle of development once outline consent has been granted. The High Court case of [Cooper v Ludgate House Ltd and Powell v Ludgate House Ltd](#) is interesting for the Court's approach to rights of light and the implications for developers. We look at [Westminster City Council v Gems House Residences Chiltern Street Ltd](#) for its insights into the interpretation of mortgagee exclusion clauses in section 106 agreements. Finally, [R \(on the application of Chidswell Action Group\) v Kirklees Council](#) is worth noting for what it tells us about *when* a local planning authority should publish a draft section 106 agreement.

Last but not least, in our [general round-up](#) we cover a variety of topics including the updated flood risk PPG, news that an agreement between the Environment Agency and Southern Water has unblocked development stalled by water neutrality issues, the request by Universal Studios for planning permission by way of a Special Development Order (SDO), work on using AI to speed up decision making, and updates from the August 2025 issue of the Chief Planner's newsletter on the local plan making system, statutory consultees and design codes.

As for what's to come, we're expecting a very busy few months ahead: the government is reportedly aiming for the P&I Bill to be enacted before the Autumn Budget on 26 November 2025; Matthew Pennycook has indicated that we can expect consultations on the new National Development Management Policies and updated NPPF towards the end of the year; we are expecting draft primary and secondary legislation to implement the new local plan making system; and we are expecting the consultation on statutory consultees. This is in addition to updated guidance on Viability and the use of [section 73](#) of the Town and Country Planning Act (TCPA) 1990 to vary planning obligations, as well as implementation of [section 73B](#) of the TCPA 1990 to enable material variations to planning permissions. We also await further news on whether Environmental Outcomes Reports pursuant to the Levelling Up and Regeneration Act (LURA) 2023 will be brought forward, and the government's response to its consultation on biodiversity net gain (BNG). And finally, if reports are to be believed, we may also see the government introduce further reforms to the planning system, although it's not clear how or whether these may be brought forward.

Please let us know if you have any questions on anything mentioned in this update, or feedback to share. To receive future issues of this update direct to your inbox, [subscribe](#) to our blog [Real Estate Development Notes](#). [Subscribe](#) to [Energy and Infrastructure Consenting Notes](#) for updates on the nationally significant infrastructure project (NSIP) regime.

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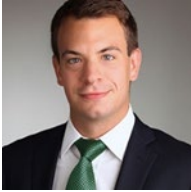
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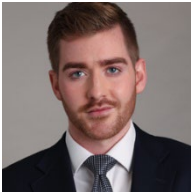
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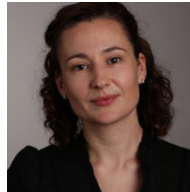
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1. ENGLISH DEVOLUTION AND COMMUNITY EMPOWERMENT BILL 2024-25

1.1 Summary

The government published the [English Devolution and Community Empowerment Bill](#) on 10 July 2025. The purpose of the Bill is "to transfer power out of Westminster, by giving local leaders the tools to deliver growth, fixing the foundations of local government, and empowering communities"¹.

In addition to bringing forward changes to local government, the Bill has implications for planning reform:

- The Bill introduces a new level of strategic governance in the form of Strategic Authorities (**SAs**) which will be responsible for producing Spatial Development Strategies (**SDSs**) pursuant to the P&I Bill.
- The new system of local governance and additional layer of strategic planning under the Bill will likely disrupt development planning and management in the short to medium term.
- Should the government be so minded, it is possible that strategic planning and devolution as proposed in the Bill could facilitate a move towards a flexible zoning regime, which commentators such as [Centre for Cities](#) say is necessary to achieve the desired increase in housebuilding and economic development.

¹ English Devolution and Community Empowerment Bill [Explanatory Notes](#).

1.2 Key points

- Part 1 of the Bill introduces three levels of SAs: (i) foundation SAs; (ii) mayoral SAs (MSAs); and (iii) established MSAs. The government wants each SA eventually to have a mayor, with standardised powers and the ability to raise revenue, including through mayoral CIL.
- Part 2 of the Bill sets out the intended functions of SAs, as well as voting and governance arrangements.
- Part 3 of the Bill is aimed at strengthening local government and communities. Chapter 1 of Part 3 includes measures to streamline local government into a single tier. The Bill mandates the cabinet model of governance "to provide more efficient, clear and consistent governance".
- Other elements of interest include:
 - a new community right to buy in Chapter 3 of Part 3. Communities will have first refusal on the sale of assets of community value, which will be expanded to include sports stadiums; and
 - the controversial and unexpected ban on upwards only rent reviews in Part 5 of the Bill. We discussed the implications of this in our [blog post](#) of 11 July 2025.
- The Bill was introduced to the House of Commons on 10 July 2025. Committee Stage started on 16 September 2025, where a Parliamentary Committee studied the Bill clause by clause and took evidence. This stage closed on 23 October and the Bill will now go to Report Stage in the House of Commons (date to be confirmed), where Parliament will consider the Bill as amended in Committee. Following a Third Reading in the House of Commons, the Bill will pass to the House of Lords for their review.
- More information on the Bill can be found in the House of Commons Library briefing [here](#).

1.3 Further comment

The Bill aims to simplify and standardise the devolution framework in England and reform the local government sector. The proposals follow those in the December 2024 [English Devolution White Paper](#) which we covered in our [December 2024/January 2025](#) newsletter.

The goal is for new SAs to cover every area of England, which will ultimately be responsible for producing the SDSs introduced by the P&I Bill, as summarised in section 1 of our [March/April 2025](#) newsletter.

The impacts of the Bill are potentially far reaching. While the government outlined the intended benefits of the proposals in the English Devolution White Paper, there could be unintended impacts as the new system beds in:

- Although the government has made it clear that plan-making should continue, some local planning authorities have halted work on their local plans pending further information on the implications of the local government reorganisation and introduction of SAs.
- Overstretched and under resourced LPAs may struggle to implement the reforms, impacting their capacity to provide development management services efficiently and effectively.
- Developers will need to consider mayoral CIL in their viability assessments, potentially increasing overall project costs whilst existing local authority CIL rates adjust.
- There may be overlap and conflict between local plan and SDS policies, as well as potential conflict between local plans and NDMPs once introduced.

However, there could also be wider long term benefits for the planning system as a whole, depending on how the government takes forward the reforms.

To increase housebuilding and speed up economic growth, Centre for Cities has encouraged the government to move away from England's existing discretionary planning regime towards a flexible zoning regime similar to those in France, Germany and Japan. Their July 2025 report "[Planorama: how the English planning system can learn from abroad](#)" proposes two approaches:

1. **Incremental approach** – expanding strategic planning across England to provide guidance for local planning and overcome the local politics of housebuilding. The SDSs, which will be the responsibility of SAs pursuant to this Bill, could be a step towards this.

2. **Comprehensive approach** – increasing the fiscal autonomy of local and strategic authorities to strengthen incentives for development. The government's June 2025 "[Integrated settlement: policy document](#)" outlines principles for Integrated Settlements fund local priorities, potentially contributing to increased fiscal autonomy.

For each route, other factors would need to be satisfied:

- The incremental approach requires a more spatial and rules-based planning system, including: (i) up-to-date local plans and stronger disincentives for councils that fail to update them; (ii) more up-front detail for allocated sites in local plans; (iii) delegation of decisions regarding allocated sites; and (iii) greater use of Local Development Orders (**LDOs**), Mayoral Development Orders (**MDOs**), and supplementary planning documents. Of these, only (ii) and (iii) are not anticipated by current planning reforms but could be easily implemented, for example in the awaited further reforms to the NPPF or in future changes to the national scheme of delegation. To implement the incremental approach, it will also need to be "easier for the public sector to intervene in large-scale and complex development". Again, the current reforms work towards this – the government has committed to activate the compulsory purchase order reforms in the Levelling Up and Regeneration Act 2023, and Part 4 of the P&I Bill standardises development corporation powers to help with public land assembly.
- The comprehensive approach requires a national framework to cover everywhere with clear rules and "maximise the frontloading of discretion". NDMPs have the capacity to fulfil this requirement – see Centre for Cities' February 2025 "[A Zoning System for England](#)" – although we wait to see what these will entail.

The ongoing reforms could therefore go further than most expect towards changing the planning system in England from the current discretionary model towards the flexible zoning model identified by Centre for Cities as essential for growth, although much depends on how committed the government is to bringing forward fundamental changes to the current system.

2. NEW TOWNS TASKFORCE – FINAL REPORT AND INITIAL GOVERNMENT RESPONSE

2.1 Summary

MHCLG published the [New Towns Taskforce's final report](#) on 28 September 2025, and at the same time published the government's [initial response to the report](#).

The New Towns Taskforce has [recommended 12 sites](#) as potential new towns of 10,000 homes or more. The recommended locations span a range of settlement types, including standalone settlements on greenfield sites, urban extensions, and city centre regeneration projects. The report also proposes that the new towns should be delivered in accordance with ten "[placemaking principles](#)", and has made recommendations regarding appropriate delivery vehicles and changes to the planning system.

The government will now undertake a Strategic Environmental Assessment (**SEA**) and other assessments (including appropriate assessments under the Habitats Regulations) into the proposed sites, and will publish its final response in spring 2026.

2.2 Key points

- The report makes [44 recommendations](#) covering a wide range of factors influencing new town delivery and subsequent management.
- New towns should be vision-led communities, designed with ambitious density targets to foster walkable neighbourhoods, well-integrated public transport, and high-quality public spaces. Each should demonstrate ten "**placemaking principles**":
 1. **Vision-led** – a clear long-term vision, masterplan and design code.
 2. **Ambitious density** – ambitious minimum densities to support amenities and sustainable travel.
 3. **Affordable housing and balanced communities** – a range of high quality housing types and tenures, with at least 40% affordable homes including half (20%) for social rent.
 4. **Social infrastructure** – early provision of social infrastructure such as schools and healthcare.

5. **Healthy and safe places** – safe, and green environments.
 6. **Environmental sustainability** – environmental resilience and climate adaptation.
 7. **Transport connectivity** – transport connections to skills, jobs, services and amenities.
 8. **Business creation and employment opportunities** – supporting the government's economic growth mission.
 9. **Stewardship** – long-term, sustainable stewardship with clear governance and funding structures.
 10. **Community engagement** – in shaping the town and building cultural identity.
- The 12 recommended locations for new towns are set out at [Appendix 1](#) to this newsletter. Site selection was based on a location's potential to deliver at least 10,000 homes, support economic growth and meet placemaking standards. The recommendations align with the government's [ten-year infrastructure plan](#) and [Industrial Strategy](#), and with government initiatives to re-introduce long-term strategic planning (see the P&I Bill at section 3 and the English Devolution and Community Empowerment Bill at section 1).
 - The government has "warmly welcomed" all twelve locations but has indicated particular interest in three sites – Tempsford in Bedfordshire, Crews Hill in Enfield and Leeds South Bank. The government wants to "get spades in the ground" on at least three new towns in this Parliament, but is prepared to take forward more if possible. It will take a final decision on locations once the results of the SEA and other assessments are available.

2.3 Further comment

One of the factors taken into consideration when choosing the potential new towns locations was the capacity for land value capture at each site. The Taskforce recommends early acquisition of land at new towns sites, to maximise the potential for land value capture to help fund later phases of development. Using development corporations as the delivery vehicle helps to increase land value capture by removing hope value from compensation calculations during compulsorily acquisition.

Recommended planning tools include new-town specific local plans prepared by the delivery body (which, if the delivery body is a development corporation, should also become the local planning authority for the development), alongside supplementary plans for targeted policies over specific areas. Planning permission could be granted through outline consents for large sites, LDOs granted by delivery bodies (or MDOs where appropriate), SDOs granted by the Secretary of State, or a hybrid of an SDO supplemented by an LDO (which the Task force recommends to secure key infrastructure, speed up delivery and secure investor confidence).

The Taskforce discusses interim measures that the government should put into effect:

- **Interim delivery models** should be used to progress planning and community engagement pending the establishment of the relevant development corporations.
- **Interim planning policy** should be put in place to protect new town locations and prevent other development coming forward which would jeopardise them. If necessary, government should call-in applications which threaten the proposed new towns development, and new town delivery bodies should use safeguarding directions to prevent inappropriate development.
- **Interim approval of planning applications** may be appropriate until new town local plans are in place to support early delivery of specific sites in accordance with wider masterplans.

What about the role of private developers and investors? The Taskforce strongly advocates development corporations as the preferred delivery vehicle for new towns, noting that "development corporations have consistently delivered higher build out rates than alternative models." The report notes the advantages that development corporations enjoy as regards land assembly, with access to tools such as compulsory purchase powers with "no-scheme" valuation rules and significant planning powers. However, the role of private partnerships, in particular joint ventures between the private and public sector, is discussed at length in the report and will clearly play an important role. Many of the proposed sites are already being progressed by private developers, often in partnership with the local authority. Whilst significant upfront government funding will be needed to get most new towns off the ground, potentially through long term loans and guarantees, close collaboration is encouraged

across central and local government, agencies such as Homes England, and private investors, with joint ventures and public private partnerships being obvious vehicles in many cases.

Note that the Taskforce proposes that 40% of dwellings delivered within new towns should be affordable, of which half should be social rent. Whilst the reasons for this are clear, the impact on viability may need further consideration – the relaxation of affordable housing requirements in the new package of support for housebuilding in London (see section 4) is relevant to conversations about whether a blanket 40% target is realistic for all new town development.

Also of interest is that, on 28 October 2025, the Housing, Communities and Local Government Committee published its report on Land Value Capture – see section 9.3. The Committee has made several recommendations to the government in relation to new towns, including:

- in addition to the ability for SAs to raise revenue through Mayoral CIL (see section 1), local leaders should be given revenue raising powers to fund infrastructure and housing, eg Tax Increment Financing as used in London;
- to protect land value capture opportunities, the government should conduct an analysis of Existing Use Values on each of the 12 proposed sites, develop the appropriate mechanisms for land value capture on each site, including using compulsory purchase powers where appropriate, and put in place arrangements for purchasing new towns sites before the final announcement on location in spring 2026;
- development corporations should be enabled to use land value capture mechanisms to negotiate a higher contribution of Social Rent homes where financially viable;
- funding to establish development corporations should be confirmed at the Autumn 2025 Budget to enable land acquisition by spring 2026;
- the government must clarify how new towns housing delivery will interact with local authority housing targets; and
- the government's spring 2026 response must include a roadmap for delivery.

Both the Taskforce report and the Land Value Capture report emphasise that quick government action is essential if new towns are to be effective in contributing to the government's housing targets.

Finally, on 3 November 2025, the House of Lords Built Environment Committee [launched](#) the second module of its inquiry into new towns, focusing on placemaking and community building. The aim of this module is to make sure that new towns "are places where people genuinely want to make their homes and raise their families." The Committee has launched a [Call for Evidence](#) which closes on 1 December 2025.

3. PLANNING AND INFRASTRUCTURE BILL UPDATE

3.1 Summary

Having completed its journey through the House of Commons, the P&I Bill passed to the House of Lords on 12 June 2025. Amendments to the Bill by a House of Lords Committee have been considered by the House of Lords during Report Stage. The Bill will progress to its Third Reading in the House of Lords on 10 November 2025 before returning to the House of Commons for consideration of the Lords' amendments. Depending on whether or not the Commons agree to the Lords' amendments, the Bill may then go through the process known as "ping pong", where the Bill passes from House to House until either the Bill is agreed or the House of Commons pushes the Bill through to Royal Assent. The government is reportedly aiming for the Bill to be enacted before the Autumn Budget on 26 November 2025. For the latest version of the Bill and proposed amendments, see [here](#).

3.2 Key points

- The government proposed amendments to Part 3 of the P&I Bill to address concerns raised about the proposed Environmental Delivery Plans and the Nature Recovery Framework, for which the OEP has expressed support – see their press release [here](#) which confirmed that "While it is our view that, even after the material amendments the government proposes, the Bill would, in some respects, lower environmental protection on the face of the law, we think that, in the round, the additional safeguards proposed today make government's intended "win-win" for nature and the economy a more likely prospect." Other environmental groups

do not agree. The House of Lords has made several amendments to the Part 3 of the Bill. It remains to be seen which amendments the House of Commons will accept.

- The government published further amendments to the Bill on 13 October (see [here](#)) which include:
 - new powers for the Secretary of State to issue a holding direction to prevent a local planning authority from refusing an application pending a decision on whether to call-in the application (currently such directions can only be issued where a planning authority proposes to approve an application);
 - new measures to "greenlight reservoirs faster", to tackle water scarcity issues which are preventing housing development;
 - allowing Natural England to select which planning applications it will respond to as a statutory consultee; and
 - extending the time limit for implementation of planning permissions which are subject to judicial review.
- Catherine Howard, partner and Head of Planning at HSF Kramer, has been [appointed](#) to advise the Chancellor on further reforms to speed infrastructure delivery. Although there have been press reports that any further reforms could include further changes to environmental regulations including the Habitats Regulations, confirmation about this, and about *how* any further reforms might be brought forward, is awaited.
- The conservation group Wild Justice has been granted permission to judicially review a ministerial statement regarding the P&I Bill, which will be heard by the High Court on 6 November 2025. A Wild Justice [press release](#) confirmed that the aim of the judicial review is to "correct a statement made in Parliament and in official guidance by Deputy Prime Minister Angela Rayner in April 2025, who said that the bill would not reduce the level of environmental protection in law". The Office for Environmental Protection (OEP) is listed as an interested party. We await the outcome with interest.

3.3 Further comment

[Lord Banner KC](#) proposed various amendments for consideration by the House of Lords Committee, including:

- a new "principle of proportionality" to give "decision-makers, applicants, consultees and the courts confidence that less can be more, so as to facilitate more focused decision-making and more effective public participation";
- a new provision which "stops the clock" for the purposes of time limits on commencement of development when a planning permission is subject to judicial or statutory review;
- the ability for PINS to operate an optional fee-paid bespoke fast track appeal process;
- a requirement for new neighbourhood plans to be consistent with (not merely to have regard to) the NPPF and Planning Practice Guidance, to avoid neighbourhood plans undermining national planning policy; and
- an amendment to address the implications of the Supreme Court's judgment in *Hillside Parks* on overlapping planning permissions. We discussed this decision in our blog [here](#).

The *Hillside Parks* amendment was of particular interest. It proposed a new section 73AA of the Town and Country Planning Act 1990, which would provide that "where there is more than one planning permission which relates to some or all of the same land, the lawfulness of both past and future development carried out pursuant to one of those planning permissions shall be unaffected by the carrying out of development pursuant to another of those planning permissions, except to the extent expressly stated in any of those permissions or in any [section 106 obligation] related to any of those permissions." There is precedent for this drafting in the NSIP regime. Given the problems caused by the *Hillside* decision, particularly for complex multi-phase schemes, this amendment could have made a significant, positive difference to developers. However, the government did not include drafting along these lines in the amendments it published on 13 October 2026, nor did the government agree to a further amendment proposed by Lord Banner KC which would have granted the Secretary of State power to make future regulations to deal with the *Hillside* issue. The government has confirmed that it will implement section 73B of the TCPA 1990, as introduced by the LURA 2023, which will provide another route to amend a planning permission, enabling the

description of development to be amended. However, whilst developers will welcome the long-awaited implementation of section 73B, this route cannot be used to amend a permission where the resultant permission is "substantially different" to the original.

We won't have clarity on which provisions introduced by the House of Lords will make it into the final version of the Bill until it has completed its passage through both Houses of Parliament and the legislation as enacted has been published.

4. HOMES FOR LONDON – A PACKAGE OF SUPPORT FOR HOUSEBUILDING IN THE CAPITAL

4.1 Summary

On 23 October 2025, Steve Reed, SoS for Housing, Communities and Local Government, made a [statement](#) in the House of Commons explaining a new package of temporary, emergency support to drive up housebuilding in London. This package has been developed jointly by the government and the Mayor of London. It is set out in full in a [Policy Statement](#) published on the same day – see [here](#). Four six-week consultations will be held in November 2025, following which the changes will be brought into effect through secondary legislation and London Plan Guidance (LPG).

4.2 Key Points

The package consists of five elements, the first four of which will be subject to consultations in November 2025:

- **Temporary CIL relief** – temporary, targeted relief from 50% of CIL charged by London Boroughs (not from Mayoral CIL) for residential floorspace in schemes or phases of schemes which comply with the following five conditions: (i) the scheme must commence *after* the relief is in place (and *before* 31 December 2028); (ii) the relief will *not* apply to student and co-living accommodation; (iii) the scheme will apply only to brownfield development – not grey or Green Belt development; (iv) the scheme must deliver at least 20% affordable housing, in line with a new time-limited planning route (see below); and (v) qualifying criteria will target developments which would otherwise remain stalled or not come forwards.
- **Temporary changes to three aspects of London Plan guidance** – to reduce constraints on development density: (i) dual aspect – new flexibility in design and mix of single and dual aspect dwellings subject to meeting requirements for passive ventilation, daylight and privacy, and avoiding overheating; (ii) dwellings per core – support for designs allowing for additional dwellings; and (iii) cycle storage – reduced requirements for cycle parking at residential developments and additional flexibility in provision of cycle storage.
- **A new time-limited planning route** – residential schemes on private land that can provide at least 20% affordable housing will be able to: (i) proceed *without* an upfront viability assessment; and (ii) access grant funding for around half of the affordable homes. This route will sit alongside the existing fast track and viability testing routes, and will be available until the earlier of 31 March 2028 or the publication of the revised London Plan. Note that:
 - The new route applies only to brownfield development, not to grey belt or Green Belt development.
 - Developments on private land need to deliver at least 20% affordable housing with a minimum of 60% Social Rent. Developments on public land and industrial land are subject to a 35% affordable housing threshold, although the 20% threshold applies to utilities sites that are subject to substantial decontamination, enabling and remediation costs. These developments will be eligible for GLA affordable housing grant above the first 10% of units.
 - BTR schemes can provide intermediate rent affordable housing, with 30% at or below Living Rent levels and 70% at a range of genuinely affordable rents.
 - Where construction has not reached a fixed milestone by 31 March 2030, a gain-share review mechanism will operate as set out in the [package of support](#). The review will not apply to schemes where the first floor of the scheme has been built out by 31 March 2028. For larger phased schemes, further reviews will not be required for phases where the first floor of buildings providing at least 200 residential units have been built by 31 March 2028.

Once this new time-limited planning route is in effect, applicants will be expected to maintain or increase the level of affordable housing required by existing section 106 agreements through seeking grant funding, but if existing consented levels of affordable housing are not viable, then the package confirms that section 106 agreements should be varied to reduce affordable housing to levels envisaged under the new planning route (see above).

- **Extended referral and call-in powers for the Mayor of London** – Boroughs will have to refer all schemes of 50 units or more to the Mayor where they are minded to refuse the application. This is in addition to the current requirement for Boroughs to refer all applications of 150 or more units. The Mayor will also be able to call-in applications for buildings of 1,000 sqm or more where they are on Green Belt or Metropolitan Open Land (MOL), and the call-in procedure will be streamlined by using the written representations procedure. The process for making MDOs will also be streamlined by removing the requirement for local authority consent.
- **City Hall Developer Investment Fund** - £322 million will be allocated from 2026-27 to enable the Mayor to take a more interventionist role including through targeted investment – further detail to follow.
- Also, the government and the Mayor will develop proposals for the potential New Town locations in London (see the [New Towns Taskforce Final Report of 28 September 2025](#)).

The government will consult for six weeks beginning in November 2025 on the temporary CIL relief and the extended referral and call-in powers for the Mayor of London, following which the government will implement these measures through secondary legislation. In the same month the GLA will consult on the temporary changes to London Plan guidance and the new time-limited planning route, and will then implement these through emergency LPG. This means that these measures are unlikely to come into effect before early-2026.

4.3 Further comment

Developers will have limited time to make the most of the temporary measures: the CIL relief will apply only to developments commenced before 31 December 2028; and gain-share reviews will apply to developments which have not met fixed milestones by 31 March 2030 (subject to exceptions as set out above). It is also questionable whether the proposed affordable housing thresholds under the proposed time-limited planning route will have the desired effect – 20% is difficult to achieve in the current market, so it will be interesting to see whether the consultation on the new time-limited planning route seeks views on reducing the affordable housing thresholds further.

To ensure that section 73 can't be used to revisit scheme viability or planning obligations, paragraph 34 of the Policy Statement states the government will update planning practice guidance to clarify when section 73 of the Town and Country Planning Act 1990 can "justifiably be used to modify obligations set out in a section 106 agreement". New national policies for decision making will also be used to achieve this. We need to see the detail of what the government is proposing, but some thoughts in the meantime include:

- It is not clear what the purpose is behind the proposed amendment to section 73 guidance – increasing costs and delays, particularly due to building safety requirements, are causing severe pressure on scheme viability resulting in a lack of development starts. There have long been calls to reinstate the power in section 106BA of the Town and Country Planning Act 1990 – introduced by the Growth and Infrastructure Act 2013 and expired on 30 April 2016 – which provided a temporary process for developers to apply to modify or discharge affordable housing requirements in a section 106 agreement where such obligations were making a development economically unviable. This measure was implemented at a time when government was concerned with high levels of stalled development and lost economic growth – which is exactly the problem that is faced now. It is not clear whether the government might be considering reintroducing section 106BA or an equivalent, but this would be very helpful.
- The government has not yet implemented section 73B of the Levelling Up and Regeneration Act 2023 which, when in force, will provide another route to amend planning permissions, allowing variations to the description of the development. As noted at 3 above, the government has confirmed that it intends to bring section 73B into force, timing to be confirmed.

It's also worth noting that the House of Commons Housing, Communities and Local Government Committee commented on these proposals in their final report following their inquiry into Land Value Capture, published on 28 October 2025 – for a more detailed commentary on the inquiry report, see 9.3. The report was finalised before the Policy Statement package was published but after the proposals had been reported in the media. The Committee expressed concerns that London's affordable housing target is being cut, having heard during evidence to the inquiry that the London model of affordable housing targets "should be replicated across England" and that, according to the GLA, reducing affordable housing requirements "could result in inflated land values and/or developer returns and slow down delivery." The Committee also expressed concern about the proposed reduction to CIL charges in London, saying "we heard that the Government should reform CIL to extend its coverage where it is viable."

5. ***C G FRY & SON LIMITED V SECRETARY OF STATE FOR HOUSING, COMMUNITIES AND LOCAL GOVERNMENT AND ANOTHER [2025] UKSC 35***

5.1 **Summary**

On 22 October 2025, the Supreme Court published its decision in *CG Fry & Son Ltd*, a case concerning the timing and scope of appropriate assessments under the Conservation of Habitats and Species Regulations 2017 (the **Habitats Regulations**), how the requirements apply to outline planning consents, and the extent to which these requirements apply to Ramsar Sites. The Supreme Court upheld one of the two issues brought before the Court. A key takeaway is that developers can now have confidence that, once planning permission is granted, the power to refuse approval of matters pursuant to conditions is limited by the terms of the condition, and changes to national policy or new scientific advice published after the date of granting permission do not affect the construction of a condition – policy changes may be considered only if they are directed to the substance of the specific condition.

5.2 **Key points**

- The Supreme Court considered two issues:
 - **Issue 1** – whether an appropriate assessment pursuant to the Habitats Regulations is required before a local planning authority decides to discharge planning conditions requiring approval of reserved matters in a grant of outline planning permission.
 - **Issue 2** – (i) the effect of the grant of outline planning permission; (ii) the impact on (i) of government policy (which in this case was paragraph 194 [previously 181] of the NPPF, which gives Ramsar sites in the UK the same protection as sites which are protected by the Habitats Regulations); and (iii) the impact on (ii) of a change of scientific advice (which in this case was Natural England's nutrient neutrality guidance).
- As regards Issue 1, the Court confirmed the Court of Appeal's decision. Lord Sales noted [at paragraph 56 of the judgment] that "It is clear that the protective purpose of the Habitats Regulations and the precautionary principle would be defeated ... if the Regulations are read as precluding any opportunity for an appropriate assessment to be carried out at later stage in a multi-stage planning process." It is therefore now established that an appropriate assessment under the Habitats Regulations can be required at *any* stage of a development where a "consent, permission or other authorisation" is required, not simply at the initial grant of planning permission.
- However, the Court disagreed with the Court of Appeal as regards Issue 2. The Supreme Court confirmed that "it is not open to a planning authority to revisit matters which have been approved in principle at the outline stage" and "it is not permitted [for a planning authority] to go back on points of principle which it has accepted by granting permission". Lord Sales noted at paragraph 60 of the judgment that "the Court of Appeal erred in giving a statement of policy the same status and force as a legal rule set out in legislation [the Habitats Regulations]" and "failed to take into account the nature of the rights conferred on the appellant by the grant of [the outline planning] permission". The rights granted by an outline planning permission are "not made defeasible depending on government policy" and "rights given by the planning legislation cannot be overridden or diluted by general policies laid down by central government, whether in the form of the NPPF or otherwise" [paragraph 62].

5.3 Further comment

We covered the Court of Appeal's decision on this case in the July 2024 issue of our Monthly TCPA Newsletter (see [here](#) at section 3), where we summarised the background to the case and the overall findings of that Court. We noted there that, although this case relates to Natural England's nutrient neutrality guidance and Ramsar sites, the impact of this case is not limited to such developments – it impacts any development to which the Habitats Regulations apply. The decision is therefore of much interest for what it says about when an appropriate assessment can be required under the Habitats Regulations.

However, this decision of the Supreme Court is of wider interest still. It clarifies the extent to which the scope of development permitted by an outline planning permission can be reconsidered at reserved matters approval or discharge of conditions stages – regardless of whether the Habitats Regulations are in play. The judgment confirms that an outline planning permission bestows rights pursuant to planning legislation that *cannot* be defeated by later changes in policy or guidance:

- A full planning permission "locks in the right of the developer to proceed with the development for which permission has been given" [paragraph 65].
- The analysis is the same for an outline planning permission albeit that the permission is conditional – "the conditions specify in binding legal form the particular areas where the developer will need to satisfy the planning authority of certain matters before the development can proceed", which enables "the developer [to know] where it stands in calculating whether it can safely incur costs in carrying the project forward" [paragraph 66]. The effect of a condition is to limit the ability of a planning authority to consider only matters "fairly related" to the subject matter of the condition when deciding whether to approve matters reserved by a condition or imposed by a reserved matters approval.
- "The planning Acts contain no general power to revoke or modify the conditions set out in the outline permission, *unless compensation is paid pursuant to section 107 of the TCPA 1990* [our emphasis]."

Finally, it is worth noting that the impact of this judgment insofar as it relates to protection of Ramsar sites will be limited once the P&I Bill come into force. Ramsar sites are not currently protected by the Habitats Regulations themselves, but by the NPPF (ie by government policy rather than by legislation). However, clause 90(1)(a) of the P&I Bill amends the Habitats Regulations to provide that, for certain purposes, Ramsar sites will be treated in the same way as European sites, granting Ramsar sites protection in legislation.

Key take aways for developers include:

- Developers and their advisors still need to be alive to whether the Habitats Regulations could apply to their development at every stage where an authorisation is required, including at the reserved matters and discharge of conditions stages, whether or not an appropriate assessment was required at the initial grant of planning permission.
- However, a change in government policy, or the introduction of new guidance, should not of itself trigger a requirement for an appropriate assessment where one was not needed at the grant of an outline permission, nor should it trigger an ability for a local planning authority to use the reserved matters approval or discharge of conditions stages to impose other requirements or restrictions which are not related to the terms of the condition.

6. **COOPER V LUDGATE HOUSE LTD AND POWELL V LUDGATE HOUSE LTD [2025] EWHC 1724 (CH)**

6.1 Summary

In early July 2025, the High Court held that the construction of the Arbor office building at Bankside Yards in London interfered with rights of light belonging to two flat owners in the neighbouring Bankside Lofts. The Court decided that it would be impractical, disproportionate and ultimately futile to grant the requested injunction, which would have required the developer to partially demolish and cut-back/alter the building so as not to interfere with the rights of light. Instead, it awarded damages to the flat owners of £500,000 and £350,000 respectively. These are believed to be the highest negotiation damages awarded in a rights of light case.

6.2 Key points

This is likely to become a leading case on rights of light. For the background to the case, see our blog post of 11 July 2025 ([here](#)).

The Court was asked to consider:

- How should light be measured to assess whether an interference has occurred?

The Court found that the correct approach was to compare the amount of protectable light going into the flats before Arbor was built with the light available after the construction. Any light over the land to which section 203 of the Housing and Planning Act 2016 applied (see below) which would be blocked by those buildings in due course was not protectable and so could not be considered as part of this analysis. As for the method for measuring interference, the Court found that the Waldram method "has stood the test of time and has the confidence of the industry."

- Should an injunction be granted if there is an actionable interference with rights of light, and what weight should the court give to factors including the waste of resources when demolishing a building, the impact on occupiers of neighbouring buildings, the public benefit in retaining a completed building and any delay in bringing the claim?

The Court held that, on the facts of this case, it would be problematic to enforce any injunction for reasons which included that, in this instance, the developer could secure a new planning permission to re-build if the building had to be demolished, which would then benefit from section 203 protection in place over the remainder of the development site. There was also public benefit in retaining the building, including that the economic and environmental advantages in not wasting construction materials outweighed the private loss suffered by the flat owners. Also, all other affected residents had already settled their claims with the developer by payment of money.

- If an injunction is refused, how should damages be calculated – on diminution in value or a release fee based on hypothetical negotiations before the rights of light were infringed?

The Court found that, in this case, the additional development value that the developer would gain through a release of the rights of light was relevant to reach the reasonable fee it would have agreed to pay the flat owners.

6.3 Further comment

Each rights of light case turns on its own facts. However, this case caught attention because, whilst over recent years there has been an increase in rights of light litigation on the issues considered here, most have reached commercial settlement before trial or judgment.

Also, the Court in this case was asked to address how land acquisition under section 203 of the Housing and Planning Act 2016 affects the established principles of rights of light. Section 203 empowers local authorities to acquire development land and transfer it back to the developer to complete the project notwithstanding that the development interferes with third party rights over the land, such as rights of light. When these statutory powers are engaged, the neighbouring owners lose the ability to enforce their rights by means of an injunction to prevent the development, but instead become entitled to statutory compensation for the interference.

In this case, Southwark Council had already acquired an interest in the Bankside Yard development in January 2022, but section 203 protection did not extend to the Arbor building which was already substantially completed at the time of the acquisition. The important question facing the court was how to treat the light currently enjoyed by the flat owners, but which would be reduced in due course once the remainder of the site was built out with the benefit of section 203.

We are seeing a trend in the modern judicial approach of granting damages – rather than an injunction – in scenarios where enforcement of an injunction would be complex, disproportionate, or contrary to the public interest. In February, we [blogged](#) about the court's refusal to grant an interim injunction to stop construction of affordable housing in Dorset where the neighbouring owner would suffer an infringement of their rights of light.

Whilst this case does not mean that damages will always (or likely) be payable in place of an injunction (which always remains a possibility), it is an encouraging judgment for developers in the rights of light context and for practitioners (including judges) who will be looking very carefully at the

comments raised in this case in any future applications. The facts of this case were very specific, meaning it was always going to be hard for the flat-owners to obtain an injunction to cut-back the Arbor in circumstances where they didn't even want the building to be demolished, but it is nevertheless a helpful reminder of the types of issues that the court will bear in mind when looking at any future applications for injunctions.

7. **WESTMINSTER CITY COUNCIL V GEMS HOUSE RESIDENCES CHILTERN STREET LTD [2025] EWHC 1789**

7.1 **Summary**

This case concerned whether a person deriving title through a mortgagee of a registered social provider (**RSP**) was entitled to the benefit of a mortgagee exclusion clause in a section 106 agreement. In this instance, the Court held that, due to the specific wording of the agreement, the purchaser was **not bound** by the relevant affordable housing restrictions. This is a reminder of the importance of precise and careful drafting in section 106 agreements.

7.2 **Key Points**

- The mortgagee exclusion clause in the section 106 agreement provided that an obligation requiring 16 residential flats to be used only as affordable housing units would not be binding upon "any mortgagee of an RSP or any receiver appointed by such mortgagee or any person deriving title through any such mortgagee or receiver". The question was whether the status of the RSP should be determined as at the date of grant of mortgage, or as at the later date of disposal of flats by the mortgagee. In this case, the RSP was registered when it entered into the mortgage, but not at the time of the disposal.
- The Court interpreted this mortgagee exclusion clause as allowing the purchaser from the mortgagee to take the property free from the affordable housing restrictions. The Court followed the usual rules of contractual interpretation and did not find it helpful to consider other examples of section 106 agreements entered into by the council. It rejected attempts to read-in additional requirements or to interpret the agreement in light of what one party might have intended, instead giving effect to the actual language agreed by the parties.

7.3 **Further comment**

In many ways, this case does not tell us anything new, but it is a helpful reminder of the importance of the precise wording of section 106 agreements. Parties should not assume that general policy aims or the public interest will override contractual wording.

The case demonstrates how even small differences in drafting can have significant commercial consequences. In this instance, inconsistency in the contract contributed to the Court's conclusion that, had the parties intended to prevent the mortgagee exclusion clause from operating if the RSP was not registered when the disposal took place, they would have done so, because another clause in the contract included drafting along these lines.

Developers and funders should therefore ensure that section 106 agreements are drafted to clearly reflect their intentions, especially regarding mortgagee protections and the circumstances in which planning obligations will or will not bind successors in title. Where a mortgagee exclusion clause is clearly drafted, funders should be assured that their security will not be unduly fettered.

8. **R (ON THE APPLICATION OF CHIDSWELL ACTION GROUP) V KIRKLEES COUNCIL [2025] EWHC 2256 (ADMIN)**

8.1 **Summary**

On 4 September 2025, the High Court handed down its judgment in a judicial review brought by the Chidswell Action Group against Kirklees Council. This case focused on the adequacy of ecological surveys, the robustness of BNG assessments, and, crucially, the legal requirement to publish section 106 agreements prior to the grant of planning permission. The Court ultimately quashed the planning permission, finding that the council's failure to publish the section 106 agreement in accordance with statutory requirements rendered the decision invalid. The judgment may be taken as an indicator as to *when* a draft agreement section 106 agreement should be published, which should be in time to allow members of the public to comment on the draft, and for such comments to be taken into account in the final version of the agreement.

8.2 Key Points

- The Court considered several principal grounds of challenge, the most interesting of which was an out-of-time ground relating to the failure of the council to publish the section 106 agreement prior to the grant of permission, contrary to article 40(3)(b) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. This issue had been considered in April 2025 by the Court of Appeal in *Greenfields (IOW) Limited v Isle of Wight Council* [2025] EWCA Civ 488, when it held that, having failed to publish the section 106 planning obligation, the local planning authority had granted the related planning permission unlawfully.
- In *Chidswell*, the council also failed to publish the draft or final section 106 agreement prior to issuing the decision notice. The judge held that this failure deprived the public and objectors of the opportunity to comment on the agreement's terms, particularly regarding biodiversity safeguards, before the decision was made. Had objectors been given this opportunity, it is possible that errors which were corrected in subsequent section 106 obligations following the launch of proceedings could have been corrected without the need for judicial review. The Court rejected arguments that the breach was immaterial or that the outcome would have been the same, noting the likelihood that public scrutiny could have led to improvements in the agreement or further committee consideration.
- Notably, the successful ground of challenge had been brought significantly out of time, but the Court exercised its discretion to allow it owing to the significance of the breach and the absence of prejudice to the Council or developer.

8.3 Further Comment

This judgment underscores the importance of transparency and procedural compliance in the planning process, particularly regarding the publication of section 106 agreements. The decision confirms that failure to publish such agreements prior to the grant of permission can, in appropriate circumstances, render the permission invalid – regardless of whether subsequent steps are taken to remedy substantive defects. The case is a clear reminder to ensure that all statutory publication requirements are met, and that draft planning obligations are made available for public scrutiny in good time.

The judgment may also give some guidance as to *when* a council should publish a draft section 106 agreement. Whereas some might be tempted to do so only once the final draft has been negotiated and just before permission is granted, in this case the judge held that the draft should have been published in time for the public and others to comment on it – had the public and committee members had a chance to see the draft section 106 agreement, then failings in the agreement could have been corrected without the need for judicial review.

As regards *how far in advance of the decision* the draft agreement should be published, this will likely be fact specific, but in this case it should have been published at least six months before the decision letter was issued – paragraph 172 of the judgment notes: "*A draft of the section 106 agreement should have been placed on the planning portal well before 23 October 2024 [when outline permission was granted], leaving sufficient time for intelligent comment from interested parties such as the claimant and other objectors. A request [to see the draft section 106 agreement] from Ms Naylor of the kind made in June 2023 and March 2024 should not have been necessary. ...*" There had also been another request for the draft section 106 agreement back in May 2023 (para 32 of the judgment), which might suggest that the draft section 106 agreement should even perhaps have been published then, almost 18 months before the date of the decision letter.

One last thing to mention is that the behaviour of the planning team seems to have been relevant in this case. They had been asked repeatedly when the draft section 106 agreement would be available to view but had resisted, insisting that they were under no obligation to publish the draft (which was incorrect).

The judgment highlights the risks of proceeding on the basis of agreements negotiated in private, and the potential for legal challenge even after supplementary obligations are entered into. It also reminds us that taking time to consider all objections can sometimes ultimately be more cost-efficient.

9. GENERAL ROUND-UP

9.1 Updated PPG on flood risk and coastal change

On 17 September 2025, the government updated planning practice guidance on flood risk to clarify how the obligation in the Sequential Test to consider "reasonably available sites" should be interpreted. For the updated guidance see [here](#).

The guidance now clarifies that the sequential test does not have to be followed where a site-specific flood risk assessment demonstrates clearly that occupiers and users would remain safe from current and future surface water flood risk for the lifetime of the development without increasing flood risk elsewhere – referred to as a "proportionate approach". A new paragraph 27a sets out how the area of search for the sequential test should be identified, clarifying that the test area will vary according to local circumstances and that the sequential test should be applied "proportionately", focussing on "realistic alternatives". Paragraph 28 clarifies that "Sites should be considered 'reasonably available' for the purposes of the sequential test if their location is suitable for the type of development proposed, they are able to meet the same development needs and they have a reasonable prospect of being developed at the same time as the proposal."

The changes represent a welcome move towards a more proportionate approach, although evidence requirements regarding suitable and deliverable alternative sites could still be substantial.

Helpfully, the Environment Agency has published a new Flood Risk Assessment [template](#) and [guidance](#), and a new [Main River consultation area data layer](#) to help identify if a proposed development is within 20 metres of a main river. For further information on this, see the October issue of the Chief Planner's newsletter [here](#).

9.2 Water neutrality – building work to restart in North Sussex on stalled developments, and consultation on amending building regulations

On 9 October 2025, the government [announced](#) that Defra, Natural England, the Environment Agency and Southern Water have entered into an agreement which should enable the delivery of thousands of homes in the Arun Valley which are currently blocked by water scarcity issues following Natural England's 2021 water neutrality position statement. Southern Water will limit water abstraction and provide funding to restore habitats, and new homes will have to adhere to higher water efficiency standards. Building was to resume on 1 November 2025. The government will hope that similar agreements could provide resolution for other areas where water scarcity is holding up development.

Defra is also [consulting](#) on amending the Building Regulations to tighten water efficiency standards. This consultation closes on 16 December 2025.

9.3 Land Value Capture Inquiry Report

On 28 October 2025, the cross-party House of Commons Housing, Communities and Local Government Committee [reported](#) on the findings of its inquiry "[Delivering 1.5 million new homes: Land Value Capture](#)" which opened on 22 January 2025. The inquiry looked into how land value capture policies can contribute to the delivery of the government's house building plans and help fund affordable housing and public infrastructure. The Committee concluded that the current systems of developer contributions need to be reformed, but that such reforms should be iterative to avoid disrupting the government housebuilding agenda through short term impacts on land supply.

Recommendations to government include:

- CIL and section 106 reforms:
 - new national template clauses for aspects of section 106 agreements, with updated guidance encouraging local authorities to adopt the templates;
 - a more strategic approach to increasing local authority skills and resources, reinstating access to funded Level 7 apprenticeships for students over the age of 21, and investing in dedicated planning officers for new SAs (see section 1), including a section 106 support service in each SA;
 - allowing local planning authorities to take account the cost of local and regional plan-making when calculating local planning fees, which is not currently envisaged by the P&I Bill;

- introducing the section 106 dispute resolution procedure envisaged by section 158 of the Housing and Planning Act 2016;
 - protecting affordable housing contributions during re-negotiations of developer contributions following viability assessments;
 - encouraging all local planning authorities to adopt affordable housing policies similar to those in the London Plan, with minimum percentage affordable housing targets for all major developments that include housing and a "fast-track" route for developments that meet it;
 - publishing indicative benchmark land values across England to inform Green Belt viability assessments, and ensuring that the updated Viability PPG contains clear advice on local material considerations that would warrant adjustments. Also, considering how the policy could be extended to development on land that is not Green Belt; and
 - publishing an interactive map of nationwide CIL coverage and support local authorities to publish annual Infrastructure Funding Statements which also consider plans for public sector investment in infrastructure, alongside new major developments, and set out how CIL receipts will be used locally.
- New Towns – see section 2.3;
 - Long Term Housing Strategy – the government must bring this forward without delay.

The Committee published this report before the Autumn 2025 Budget, perhaps with the intention of influencing resources allocated to planning services.

9.4 Request for planning permission: Entertainment Resort Complex, Bedford

In an unusual move, Universal Destinations & Experiences asked MHCLG to use an SDO under section 59 of the TCPA to grant planning permission for an Entertainment Resort Complex and associated development at the former Brickworks and adjoining land, Kempston Hardwick, Bedford. Although they were under no requirement to do so, MHCLG held a [consultation](#) on this, which ran from 3 July to 31 August 2025. An SDO is a form of secondary legislation which details the development permitted, the land to which the permission applies and any conditions and limitations that apply. The government [website](#) on SDOs indicates that only three have been granted this year, all for defence purposes. An example of one of these SDOs is the Town and Country Planning (Northwood Headquarters) Special Development Order 2025 [here](#). This move by the government has sparked debate about whether they would be open to do this for other developments which may be economically significant for the UK but hard to consent through the usual permitting channels. We wait to see how this application progresses.

9.5 Government response to December 2024 compulsory purchase consultation

On 19 December 2024, the government published the consultation [Compulsory purchase process and compensation reforms](#), which sought views on a range of proposals (for a summary, see section 5 of the December 2024/January 2025 issue of our newsletter [here](#)). MHCLG published the government's [response](#) to the consultation on 19 September 2025, noting that 12 of the consultation proposals are being taken forward through the P&I Bill, and that the Bill is bringing forward additional measures to those which were consulted on. The government and the New Towns Taskforce both regard compulsory purchase powers as an essential tool to enable the land assembly needed for local authorities and development corporations to bring forward sites for development. We are still waiting to see whether the Law Commission will recommend further reforms to the system following their separate December 2024 consultation (for which see [here](#)).

9.6 AI augmented planning decisions – AI Growth Lab and DSIT Tender Notice

The Department for Science, Innovation and Technology (DSIT) has launched a Call for Evidence to test how AI can be used to speed up decision making in planning. The AI Growth Lab proposes using AI "sandboxes" to test how changes in regulation might support growth and innovation. The planning system is one of three areas that the AI Growth Lab is focussing on, for example how AI can be used to assess and weigh material considerations and assist with Environmental Impact Assessments. The Call for Evidence can be found [here](#) and closes on 2 January 2025.

DSIT has also issued a Tender Notice seeking proposals for a planning tool that enables AI-augmented decision making for planning applications (see [here](#)). The intention is to focus initially on

householder developments with a view to then expanding the tool to "other" development types (not including "major" developments"), but if the tool is successful it will presumably be rolled out further in due course. The objective is "to dramatically reduce planning application processing times ... with a long term vision of near-instant decisions for straightforward applications", although the government recognises that the tool cannot reduce time required for statutory consultations, site visits, consultee responses, etc. The estimated contract dates are January 2026 to May 2028, with a possible extension to May 2029. Going by this timetable, the government is working towards implementing a workable AI tool by the end of this Parliament.

9.7 ***Somani Hotels v Epping Forest District Council* [2025] EWCA Civ 1134**

The action by Epping Forest District Council to stop the government housing asylum seekers in the Bell Hotel, Epping has caused quite a stir owing to the political implications. However, as Matthew White explained in his [blog post](#) of 26 August 2025 and in Planning Resource [here](#), the case does not raise new points of law from a planning point of view. The substantive planning issue is whether the use of a hotel to accommodate asylum seekers represents a material change of use such that planning permission is required. As it stands, the Use Classes Order is not clear whether the use of a hotel to house asylum seekers falls within Use Class C1 (hotels) or not. Whether there has been a change of use needs to be assessed on a case-by-case basis, taking into account the specific facts, local planning policies and wider land use planning circumstances. For now, the Court of Appeal has overturned the temporary injunction granted by the High Court, but this is not the end of the matter – the full hearing to determine whether a permanent injunction will be granted came before the High Court on 15 October 2025, the decision of which will be keenly awaited.

9.8 **Planning (Wales) Bill**

On 15 September 2025, the Welsh Government (**WG**) introduced the [Planning \(Wales\) Bill](#) to the Senedd. The Written Statement accompanying the Bill is [here](#), and the Explanatory Memorandum is [here](#). The WG produced an overview of the Bill when it was published in draft in June 2025 – see [here](#). The aim of the Bill is to bring together the main (and some subordinate) planning legislation in Wales to create a single bilingual Act, modernising the structure and wording to make it easier to understand and use. The WG notes that "Consolidation is a technical process to improve clarity, not to change policy or reform planning law." This consolidation is part of a series of measures being implemented to streamline planning processes, speed up infrastructure decisions and address resource challenges, more information on which can be found [here](#).

9.9 **The UK's Modern Industrial Strategy 2025**

On 23 June 2025, the Department for Business and Trade published the government's [Industrial Strategy](#), "a 10-year plan to increase business investment and grow the industries of the future in the UK". The aim of the strategy is to "make it quicker and easier for business to invest and will provide the certainty and stability needed for long-term investment decisions." The Strategy identifies eight "high growth" sectors, known as the IS-8, which are: advanced manufacturing; creative industries; clean energy industries; digital and technologies; professional and business services; life sciences; and financial services. Growth in these sectors will be supported by the planning framework, in particular the expected NDMPs which are awaited. Planning processes in "industrial strategy zones" will be streamlined.

9.10 **Chief Planner updates of interest**

The [August 2025 issue](#) of the Chief Planner's newsletter to Chief Planning Officers had some interesting updates on the new local plan system, statutory consultees and digital design codes:

9.10.1 **New local plan system**

The letter re-iterates that MHCLG wants full coverage of up-to-date local plans as soon as possible and has said that local government re-organisation and emerging strategic planning reforms should not delay plan-making. However, the letter also confirms that new primary and secondary legislation is required to implement the new system, but there is no further information on when this can be expected. The Chief Planner confirms that "plans prepared under the new system will need to comply with the new legal requirements from start to finish", and that LPAs cannot start the process under the old system and complete it under the new.

9.10.2 Statutory consultee system

We learn that we can expect a consultation "shortly" on the impacts of removing statutory consultee status from Sport England, the Theatres Trust and the Gardens Trust. Also that we can expect a new performance framework for statutory consultees, in addition to appropriate funding (which is part of the P&I Bill).

9.10.3 Digital design codes

The Chief Planner notes work being done by MHCLG with planning teams, developer and consultants "to understand how design codes, design guidance and local plans are used day-to-day and the challenges of engaging with the paper-based and PDF elements of planning policy and procedures". For these purposes, MHCLG have created a survey [here](#). It's not clear when this survey closes.

Herbert Smith Freehills Kramer LLP

5 November 2025

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Appendix 1

NEW TOWNS TASKFORCE FINAL REPORT – PROPOSED NEW TOWNS LOCATIONS

	Location	Type	Potential # new homes	Associated development	Opportunities from New Town designation
1.	Adlington (Cheshire East)	New standalone settlement. Greenfield.	14,000 – 20,000	Housing would serve existing employment opportunities.	Unlikely to develop unless designated as a New Town
2.	Brabazon and the West Innovation Arc (South Gloucestershire, Bristol)	Group of sites – connected corridor of development – with high density core at Brabazon. Three urban centres, at Brabazon (former Filton airfield), Bristol Parkway Station and Bristol, and Bath Science Park.	> 40,000	Transport links, student accommodation, retirement village and hotel rooms. Housing would serve existing and growing employment opportunities.	Existing planning permission, but New Town designation could deliver four times as many homes currently planned for.
3.	Chase Park and Crews Hill (Enfield, London)	New community on poor quality Green Belt land.	21,000	Woodland and nature restoration. Housing would serve existing employment opportunities. Also new commercial space and employment opportunities.	Without New Town designation unlikely to develop at this scale or pace.
4.	Heyford Park, Cherwell (Oxfordshire)	Brownfield development – redevelopment of former airbase.	> 13,000	Hotel, primary school, local shops and commercial facilities (already developed). New Town designation would catalyse development of a green and clean technologies hub with potential for 7,000 jobs onsite.	Existing planning permission and masterplan with some delivery already. New Town designation could maximise density, support transport provision, speed up delivery and provide certainty.
5.	Leeds South Bank (Leeds, West Yorkshire)	New urban community to the south of Leeds city centre.	13,000	3 million square feet new commercial space.	Homes would be additional to those to delivered on allocated sites or represent unlocked development on allocated sites which are currently unviable. New Town designation will aid viability and ensure mix and type of housing meet local need.
6.	Manchester Victoria North (Manchester)	Brownfield inner city development and densification, north-east of Manchester city centre. Sustainable "new town within a city".	15,000	Regeneration of Collyhurst area, currently one of Manchester's most deprived areas.	Delivery currently underway. New Town designation would offer clear support and supporting infrastructure.
7.	Marlcombe (East Devon)	Standalone greenfield site, with potential future expansion into brownfield sites in Exeter.	>10,000	New housing would unlock existing barrier to economic growth.	8,000 homes already allocated. New Town designation would deliver a town centre and help prevent piecemeal development.

	Location	Type	Potential # new homes	Associated development	Opportunities from New Town designation
8.	Milton Keynes (Buckinghamshire)	Renewed town.	40,000	Proposed Mass Rapid Transit System.	New Town designation could accelerate land assembly and housing delivery. Infrastructure investment would improve sense of place and unlock neighbouring sites for large scale development.
9.	Plymouth (Devon)	Densified development	10,000 across multiple sites	Housing would serve skilled labour for planned investment by Ministry of Defence and other economic development.	Central government intervention needed to deliver the current proposals.
10.	Tempsford (Central Bedfordshire)	Standalone greenfield settlement	>40,000	Housing would serve existing employment opportunities, and relieve housing pressure on Cambridge. Potential development of life sciences and other employment. Also health infrastructure including potential new regional hospital.	New Town designation would ensure development delivered – strong leadership by central government and proactive collaboration across local government needed to realise full potential of the site.
11.	Thamesmead Waterfront (Greenwich, London)	New settlement on brownfield land.	15,000 Plus potential for additional 7,500 homes in existing Thamesmead area and 10,000 homes at Beckton.	DLR extension required to deliver full potential.	New Town designation would realise full capacity of original post-war development of Thamesmead and provide additional housing to current targets. New Town status could aid placemaking and faster delivery.
12.	Worcestershire Parkway (Wychavon)	Greenfield site, expanded development.	>10,000	High quality infrastructure and proposed transport links. Site of proposed Midlands Rail Hub (see July 2025 Spending Review).	New Town designation would bolster speed and scale of delivery, deliver more homes than planned, avoid piecemeal development, and ensure quality of placemaking and sustainability.