

CLIENT BRIEFING NOTE

November 2023

LEVELLING UP & REGENERATION BILL - SUMMARY

On 27 October 2023, the Levelling Up and Regeneration Bill became law. Below is a summary of the Guidance Note by Olivia Stapleford, Chair National Association of Planning Enforcement.

103: Temporary Stop Notices in relation to Listed Buildings

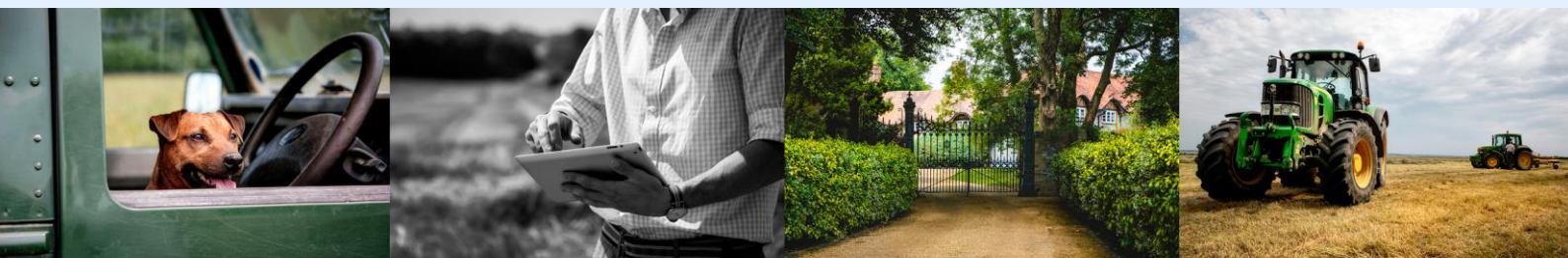
This change gives the LPA power to serve a TSN in relation to unauthorised works to a Listed Building. The works which the LPA require to cease, must not have Listed Building Consent (LBC), or they breach the conditions attached to an LBC. The LBTSN can be in force for up to 56 days.

111: Development Commencement Notices

This applies where a planning permission has been granted. Before the development has begun, the person proposing to carry it out must give notice (a 'commencement notice') to the LPA, specifying when they propose to commence the work. Once a person has given the LPA a commencement notice, they may vary the date of the commencement of development and must do so if the development is not commenced on the date previously given. Where it appears to the LPA that a person has failed to comply with the requirements set out above, they may serve a notice on any relevant person, requiring the relevant information to be submitted to the LPA. If a notice is served by the LPA, requiring the information to be provided to it, and the relevant person fails to give that information within 21 days, they shall be guilty of an offence.

112: Completion Notices

This applies where a planning permission has been granted for development and is subject to the 'commence within 3 years' condition, that condition was complied with, but the development has not been completed. If the LPA are of the opinion that the development will not be completed



within a reasonable time period, then they may serve a notice ('completion notice') stating that the planning permission will cease to have effect at a specified time ('the completion notice deadline'). An appeal against can be made on grounds: (a) that the appellant considers that the development will be completed within a reasonable period; (b) that the completion notice deadline is an unreasonable one and; (c) that the notice was not served on the persons on whom it was required to be served.

115: Time limits for enforcement

Section 171B of the TCPA has been amended to delete the words 'four years' and to substitute with 'ten years' (England). This means that all breaches of planning control can only become immune from enforcement action after 10 years. This includes those breaches which were previously 4 years – such as change of use of a building to residential and operational development. LPAs no longer have to consider whether operational development is 'part and parcel' of a change of use (Murfitt principle) and all breaches of planning control carry the 10 year immunity rule.

116: Duration of Temporary Stop Notices TSN

This applies to Listed Building and other TSN to be in force for 56 days – an increase from 28 days. You do not have to require that all of the activities/uses must cease in a TSN (only the most harmful) and it does not have to be in force for 56 days, that is the maximum.

117: Enforcement Warning Notices

LPAs can issue an EWN where it appears to them that there has been a breach of planning control and that there is a reasonable prospect that, if an application is made, permission would be granted. The EWN must state that, unless an application for planning permission is made within a period specified in the notice, further enforcement action may be taken. Issuing an EWN 'stops the clock' on immunity and can reduce the number of appeals for 'acceptable' developments, when an enforcement notice has been issued.

118: Restrictions on Appeals Against Enforcement Notices

If planning permission for what is alleged in an enforcement notice has been refused by the LPA and that refusal was appealed and dismissed, then an appellant in an enforcement appeal cannot appeal underground (a). There are some restrictions, however. The refused planning permission



must have been appealed under s78 to the Secretary of State and the enforcement notice must have been issued within 2 years of the appeal decision to which the development relates. This change effectively removes the possibility of a '3rd' bite at the cherry. Whereas previously, an applicant could apply for planning permission, appeal a refusal, then receive an enforcement notice and have 'another go' at obtaining planning permission through ground (a), this is now barred at the 3rd attempt.

119: Undue Delays in Appeals

Secretary of State to dismiss appeals where it appears to them that the appellant is responsible for undue delays in the progress of the appeal. This change applies to both s176 enforcement appeals and s195 certificate of lawfulness appeals.

120: Penalties for Non-Compliance

The level of fine has been increased for non-compliance with 187A of the TCPA (breach of condition notices) and for non-compliance with a S215 notice. This means that, on conviction, the fine for breaching a breach of condition notice is now unlimited and the fine for breaching a S215 notice can now be higher than previously.

121: Power to Provide Relief from Enforcement of Planning Conditions

The Secretary of State may, by regulations, provide that an LPA may not take, or is subject to specified restrictions in how it may take, relevant enforcement measures in relation to any actual or apparent failure to comply with a relevant planning condition.

The majority of these provisions are likely to come into force over the next 6 months and many by 26 December 2023.

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