

**EXPLANATORY MEMORANDUM TO
THE REGIONAL STRATEGY FOR THE SOUTH EAST (PARTIAL
REVOCATION) ORDER 2013**

2013 No. 427

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instruments**

- 2.1 This Order revokes the Regional Strategy for the South East, with the exception of policy NRM6: Thames Basin Heaths Special Protection Area from the South East Plan Regional Spatial Strategy for the South East of England (May 2009).
- 2.2 The Order also revokes all remaining saved structure plan policies in the region, with the exception of policy H2 (Upper Heyford) of the Oxfordshire Structure Plan 2016.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 None.

4. **Legislative Context**

- 4.1 The Localism Act 2011 provides for the removal of the regional planning tier in a two-stage process. The first stage, to remove Part 5 of the Local Democracy, Economic Development and Construction Act 2009, which contains the regional planning framework, including Leaders' Boards, took effect when the Localism Act received Royal Assent on 15 November 2011. This prevents further strategies being created. The Act also provides the Secretary of State with an enabling power to revoke or partially revoke by order regional strategies outside London and directions preserving saved structure plan policies, constituting the second stage of the process.
- 4.2 This instrument relates to the second stage of the process in respect of the South East region by partially revoking the Regional Strategy for the South East, which comprises The South East Plan Regional Spatial Strategy for the South East of England (May 2009) and The Part A Statement of the Milton Keynes & South Midlands Sub-Regional Strategy (March 2005); and the Regional Economic Strategy 2006-

2016: A Framework for Sustainable Prosperity (2006). It is made under powers in section 109 of the Localism Act 2011.

5. Territorial Extent and Application

5.1 This instrument applies to England only.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- What is being done and why

7.1 The Coalition Government commenced a planning reform programme, which included measures to decentralise the planning system so that powers are passed down to local councils and the local communities that they represent. The Coalition Agreement makes clear the Government's wish to promote decentralisation and democratic engagement and to end the era of top-down government by giving new powers to local councils, communities, neighbourhoods and individuals.

7.2 The removal of the regional planning tier is an integral part of decentralisation and was a clear commitment in the Coalition Agreement, which stated that:

“We will rapidly abolish Regional Spatial Strategies and return decision-making powers on housing and planning to local councils”.

7.3 Currently, regional strategies provide the statutory regional framework for development and investment across a region, including setting targets for housing delivery that apply to constituent local councils. Since their creation by the Planning and Compulsory Purchase Act 2004, regional strategies, sitting alongside local plans prepared by local councils and any saved county structure plan policies, form the statutory development plan for an area. This means that they set the framework for local plan-making and local councils in the region must ensure that their local development documents are in general conformity with the regional strategy at the time their local development documents are submitted for examination. It is also important because planning applications should be determined in accordance with the development plan (which includes the regional strategy for the local planning authority's region) unless material considerations indicate otherwise.

- 7.4 The abolition of the Regional Strategy for the South East would enable a locally led planning system comprising local and neighbourhood plans and giving local councils responsibility for strategic planning in the region. To support a locally-led approach to strategic planning, section 33A of the Planning & Compulsory Purchase Act 2004 (inserted by section 110 of the Localism Act 2011) introduces a statutory duty to co-operate. The duty requires local councils and other public bodies to work together constructively, actively and on an ongoing basis when planning for cross-boundary matters in their local plans and with marine plans.
- 7.5 The abolition of regional strategies reinforces the local plan as the keystone of the planning system. In the absence of regional strategies, the statutory development plan comprises any saved county structure plan or local plan policies and adopted development plan documents. The statutory development plan may in future include any adopted neighbourhood plans that are prepared under the powers inserted into Part III of the Town and Country Planning Act 1990 by the Localism Act 2011.
- 7.6 This Order fulfils the Coalition Agreement commitment for this region by partially revoking the Regional Strategy for the South East.

8. Consultation outcome

- 8.1 Regional strategies are plans for the purpose of the European Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment, known as the Strategic Environmental Assessment (SEA) Directive. In accordance with the Directive, the Secretary of State carried out two consultations on the environmental impacts of the revocation of the Regional Strategy for the South East. The consultations ran from 20 October 2011 until 20 January 2012 and again from 11 October 2012 until 6 December 2012.
- 8.2 The statutory consultees on this proposal included English Heritage, Environment Agency and Natural England and their equivalent bodies in the Devolved Administrations. The environmental reports were published for consultation on the Department's website and the Department also emailed organisations such as local authorities, Parish Councils, NGOs and professional bodies which have expressed an interest in the proposal to revoke regional strategies, to inform them that the environmental reports were out for consultation.
- 8.3 The Secretary of State received 74 combined responses specifically on the proposed revocation of the South East Regional Strategy in response to the two consultations which took place on:

20 October 2011 until 20 January 2012

11 October 2012 until 6 December 2013

- 12 from statutory consultation bodies
- 20 from local planning authorities and public agencies
- 1 parish council
- 21 from NGOs and local pressure groups
- 3 industry representative bodies
- 11 developers and planning consultants
- 6 individuals

8.4 Of these 74 responses, 16% were statutory consultation bodies (the three English statutory consultation bodies and their equivalent bodies in the Devolved Administrations), 27% from local planning authorities and public agencies, 1% from parish councils, 28% from NGOs and local pressure groups, 4% from industry representative bodies, 15% from developers and planning consultants and 8% from individuals.

8.5 The responses to the two environmental reports on the environmental impact of the proposed revocation of the Regional Strategy for the South East identified the following issues to be of strategic significance:

- Imbalance between water demand and supply
- Flooding, coastal erosion and climate change, CO₂ emissions and renewable energy
- Historical reductions in biodiversity and natural and semi-natural habitats
- Erosion of historic assets including landscapes
- Air quality, especially on main transport routes
- Pressures on landscape character
- Waste and mineral management
- Scale and distribution of housing development
- Issues associated with planning around the boundaries of the New Forest and South Downs National Parks
- Strategic planning for the accommodation needs of Travelling Show people and Gypsy and Travellers communities
- Need to revoke regional strategies rapidly so to deliver the localism agenda
- The importance of policy H2 (Upper Heyford) of the Oxfordshire Structure Plan 2016
- The importance of policy NRM6 (Thames Basin Heaths Special Protection Area) of The South East Plan Regional Spatial Strategy for the South East of England (May 2009)

8.6 In reaching a decision to revoke the Regional Strategy for the South East, the Secretary of State took into account an assessment of the environmental considerations in the environmental reports and opinions expressed in response to consultation on the reports and how

these could be taken into account in the proposed Plan to Revoke the Regional Strategy.

- 8.7 The Strategic Environmental Assessment found that there are no policies where the act of revocation will cause a significant negative effect whilst retaining the same policy will maintain significant environmental benefit. Taking this into account, and the responses received to consultation on the two environmental reports, the Secretary of State has decided to partially revoke the Regional Strategy for the South East, retaining the policy on the Thames Basin Heaths Special Protection Area for the reasons set out below.
- 8.8 Responses received to consultation on the environmental report published on 11 October 2012 showed considerable concern about the impact of revocation until the Thames Basin Heaths Special Protection Area Delivery Framework (a non-statutory document endorsed by the Thames Basin Heaths Joint Strategic Partnership Board) is incorporated into all relevant Local Plans. Taking account of the importance of the Thames Basin Heaths Special Protection Area, the consultation responses on this issue, and the intentions of all relevant local planning authorities to bring forward local plans that are in line with policy NRM6 (Thames Basin Heaths Special Protection Area) of The South East Plan Regional Spatial Strategy for the South East of England (May 2009), the Secretary of State has decided that this policy will be retained. This approach reflects the fact that the policy is an agreed multi-authority approach which has been subject to significant joint working, and where a joint structure is in place (the Joint Strategic Partnership Board) which requested that the policy be saved. No responses specifically supporting revocation of this policy were received although six responses specifically asked for the whole of the Regional Strategy for the South East to be revoked.
- 8.9 The environmental report published on 11 October 2012 set out that the Government was proposing to revoke all remaining saved structure plan policies in the region, with the exception of policy H2 (Upper Heyford) of the Oxfordshire Structure Plan 2016. It was noted that retention of this saved Structure Plan policy regarding development of land at the former RAF base at Upper Heyford in Oxfordshire will safeguard the site and its heritage value in the interim until the Proposed Submission draft of the Cherwell Local Plan (which includes reference to the conservation of the heritage interest of the site) is adopted. A number of consultees expressed the same reasons for supporting retention of this policy. No comments were received on the proposal to revoke the other saved structure plan policies in the region. Taking account of the findings of the environmental report and responses to the consultation, the Secretary of State has also decided to revoke all remaining saved structure plan policies in the region, with the exception of policy H2 (Upper Heyford) of the Oxfordshire Structure Plan 2016.

- 8.10 A Post Adoption Statement summarising how environmental considerations have been integrated into the plan as adopted, in light of other reasonable alternatives, and information on monitoring has been prepared. Details of the consultation and representations received, and the Department's response to them are also set out in the Post Adoption Statement which will be available on the Department's website shortly:

<https://www.gov.uk/government/consultations/strategic-environmental-assessment-about-revoking-the-south-east-regional-strategy-environmental-report>.

9. Guidance

- 9.1 The legislation relates to the partial revocation of the Regional Strategy for the South East and does not make new provision for which guidance is necessary. The abolition of regional strategies forms part of a new, localised approach to strategic planning, which is set out in the National Planning Policy Framework.

10. Impact

- 10.1 The Government believes that the impact of this policy will fall upon local councils. The abolition of the Regional Strategy for the South East (with the exception of policy NRM6 as set out above) places the responsibility for strategic planning upon local councils. As such, the impact of the legislation is likely to be felt by local planning authorities and other public bodies prescribed under regulations¹. The role of businesses, charities and voluntary bodies in the plan-making process is unaltered by this legislation.
- 10.2 As discussed, the impact on the public sector is likely to be felt by local planning authorities and other public bodies prescribed under the regulations as subject to the duty to co-operate. Local councils in the region are now responsible for planning for cross-boundary, strategic matters in local plans through the duty to co-operate. This means that they will need to take leadership by actively co-operating with other authorities when planning for strategic matters. While this gives local councils new responsibilities, these responsibilities respond to new freedoms for councils. The new responsibilities for local councils should in practice reflect work that they already undertake to work with other councils and public bodies when preparing their local plans.

¹ Regulation 4 of the Town and Country Planning (Local Planning) (England) Regulations 2012/767, as amended by the Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2012/2613.

Similarly, other public bodies prescribed under the duty to co-operate will also be required to engage with local planning authorities in the plan-making process and again, this reflects work they already undertake. While there may be costs incurred by these bodies it is considered that this will be offset by a shift in the balance of engagement activity towards the start of the plan preparation/review process rather than at the end.

- 10.3 The Department has further assessed the impacts of the revocation of the Regional Strategy for the South East and reasonable alternatives to revocation, including partial revocation, through the Strategic Environmental Assessment process. A Post Adoption Statement, covering that process, will be published on the Departmental website shortly.
- 10.4 In accordance with section 149 of the Equality Act 2010, the equality impacts of the partial revocation of the Regional Strategy for the South East have also been examined by an Equality Statement assessing the potential impacts of abolition on groups with protected characteristics, as defined under the Equality Act 2010, in particular Gypsies and Travellers. Due to the mitigation within the planning system, provided by planning policy and legislation alongside the local plan preparation and examination process, the Equality Statement concludes that there would be no adverse impacts on those with protected characteristics.

11. Regulating small business

- 11.1 The legislation does not apply to small business.

12. Monitoring & review

- 12.1 The Post Adoption Statement on the environmental assessment process conducted on the Regional Strategy for the South East sets out onward monitoring procedures for:
 - i. significant effects identified in the assessment that may give rise to irreversible damage, and where appropriate, relevant mitigating measures that can be taken; and
 - ii uncertain effects where monitoring would enable preventative or mitigating measures to be undertaken.
- 12.2 Further details on the monitoring proposed is set out in section 6 of the Post Adoption Statement, which will be available on the Departmental website shortly.
- 12.3 Data is available from the Planning Inspectorate on the submission, examination and adoption of development plan documents. This is enabling any review of the success of a localised approach to strategic

planning, including the effectiveness of the duty to co-operate, to take place.

13. Contact

- 13.1 Sharmila Meadows at the Department for Communities & Local Government can answer any queries regarding the instrument. Tel: 0303 4441673 or email: Sharmila.Meadows@communities.gsi.gov.uk