cornerstone barristers

Will we have a “Plan-led” system anytime soon?

Michael Bedford KC and John Fitzsimons

© Cornerstone Barristers · cornerstonebarristers.com · @cornerstonebarr

01

“Never Do Today…”

© Cornerstone Barristers · cornerstonebarristers.com · @cornerstonebarr

A cautionary tale on meeting deadlines

"Never ever do today a task you can usefully put off until tomorrow..." (Anon KC)

The written paper in the delegate packs was produced on time in September 2026.

But since then...

- On 23 October 2026, the Housing & Planning Minister extended the deadline for the submission of 'legacy plans' which had reached Regulation 19 from 31 December 2026 to 31 March 2027.

- On 29 October 2026, the Minister for Local Government Devolution & Regional Growth issued letters on the initial results of the 'rapid review' of LGR.

The Legacy Plans Deadline

- The original Legacy Plans deadline of 31 December 2026 for S.20 PCPA 2024 submission to independent examination by PINS is discussed at paras 18 and 28 of the written paper.

- Its formal status derived from para 4(4) of Schedule 1 to the Levelling-up & Regeneration Act 2023 (Commencement No. 11 & Saving & Transitional Provisions) Regulations 2026 (SI 2026/169).

- Those Regulations were made on 2 March 2026, and Schedule 1 took effect on 25 March 2026.

- The nine months deadline was always a big ask, given local elections in May 2026, local govt calendars of meetings, especially for Full Council decisions, and the PINS' desire for pre-submission scrutiny of compliance with its new pre-examination checklist.

© Cornerstone Barristers · cornerstonebarristers.com · @cornerstonebarr

The Legacy Plans Deadline

The **Oxford Local Plan Judicial Review** then added a further uncertainty.

For SEA reasons, was it necessary to go back to Full Council *after* Regulation 19 to report on the Reg.19 representations (or at least on representations relating to the pre-submission SA/SEA)? That was certainly not the established practice for many LPAs.

Mould J considered the position "arguable" when granting permission in **R (Friends of the Fields Iffley) v Oxford City Council** (AC-2026-LON-001592) on 22 May 2026. However, a subsequent consent order on 26 June 2026 meant that the point was not litigated and there was no final adjudication. The legal point therefore remains unanswered.

Building in sufficient time to go back to Full Council for a further decision *after* the Regulation 19 representations period would mean that many well-advanced LPAs would be at risk (or even greater risk) of missing the 31 December 2026 deadline for submission.

The Legacy Plans Deadline

Fortunately, the Minister's 3 months extension to 31 March 2027, as announced on 23 October 2026, using the powers in paragraph 4(5) of Schedule 1 to the Commencement No. 11 & Saving & Transitional Provisions Regulations 2026, has provide a useful margin or cushion to allow time for such further decision-making by Full Council, and so de-risking a draft local plan from the potential 'Oxford' point.

It also allows time for completion of 'loose ends' in the local plan evidence base prior to submission.

However, it is unlikely to be sufficient to allow for any radical rethinks of the Regulation 19 Pre-Submission Local Plan.

© Cornerstone Barristers · cornerstonebarristers.com · @cornerstonebarr

The Legacy Plans Deadline

The time extension (and also its timing) is, however, too short to allow those LPAs who chose to pause plan-making due to the uncertainties of LGR in their areas enough time to get back on track with a plan they could progress under the legacy plan-making regime.

Given the decisions made on LGR (announced six days after the revised legacy plan deadline was announced), that might not be a just coincidence.

Thus, some LPAs will have been pushed into the new plan-making regime earlier than they might have wished.

© Cornerstone Barristers · cornerstonebarristers.com · @cornerstonebarr

02

The LGR “Rapid Review”

© Cornerstone Barristers · cornerstonebarristers.com · @cornerstonebarr

Where are we now?

In Surrey, the 28 October 2025 decision to abolish all Surrey councils and create two new unitaries, East Surrey and West Surrey, is proceeding unchanged. Local elections to the new local authorities have happened and they will come into existence on 1 April 2027.

The new unitary council for East Surrey will have to decide what to do with such thorny planning problems as Elmbridge and Tandridge.

The new unitary council for West Surrey will have to grapple with similar planning challenges at Guildford and Waverley.

In Hampshire, Essex, Suffolk, and Norfolk, there is still no decision. These were the areas where there were judicial review challenges. The abolition decisions announced on 25 March 2026 have been withdrawn and there have been, as yet, no replacement decisions.

© Cornerstone Barristers · cornerstonebarristers.com · @cornerstonebarr

Where are we now?

In Oxfordshire, Warwickshire, Worcestershire, Gloucestershire, and East Sussex, *“minded to”* decisions have been announced, which are very similar to the decisions made on 16 July 2026, but there are to be further consultations and no final decisions have yet been made. However, new local government geographies are now highly likely in all of these areas.

In all other areas, no decisions have been made and the decisions announced on 16 July 2026 have been withdrawn.

© Cornerstone Barristers · cornerstonebarristers.com · @cornerstonebarr

But… what about plan-making?

The key problem is that under the new plan-making regime there can only be a single Local Plan in place for any LPA area at any one time:s.15C(2).

No LPA can make a Local Plan for an area for which it is not the LPA.

Joint plans are permissible, but only if they relate to the *totality* of the combined areas of each participating LPA: s.15I(1) PCPA 2004.

Putting these points together means that if the local government geography is changing at the same time as plan-making is underway… you have a big headache!

© Cornerstone Barristers · cornerstonebarristers.com · @cornerstonebarr

But… what about plan-making?

Looked at narrowly and purely legalistically, plan-making can continue on the existing geographies for as long as they exist, and if the promoting LPA is abolished before adoption and the new LPA comes in to being prior to adoption, the new LPA (or new LPAs if the geography is different) can choose to adopt that new local plan, or not, as they see fit.

However, this legalistic answer does not grapple with the spatial realities of plan-making.

All plan-making is about choices, many with a spatial dimension. How much growth needs to be planned for? Where should growth go and where should development be restrained? Where are the opportunity areas? Where are the constraints?

Without a fixed geography, it is incredibly difficult to make (and to justify) the spatial choices.

Plan-making is also expensive and resource-intensive. Why make a plan you cannot adopt?

But… what about plan-making?

In addition, compiling a sound and robust evidence base for a geography that is expected to change before a local plan is adopted will also be challenging.

What are the affordable housing needs of an area which is expected to undergo a significant change to its administrative area (and so its resident population) before the local plan is adopted?

What are the needs for gypsy and traveller accommodation in such an area?

What are the needs for new educational provision in such an area?

At present there is a complete absence of guidance on how to address this.

© Cornerstone Barristers · cornerstonebarristers.com · @cornerstonebarr

But… what about plan-making?

If LGR is not to derail the Government’s desire for universal plan-coverage as soon as possible, there is an urgent need for guidance to be issued to LPAs faced with changing geographies, which will have taken effect before their new local plans are adopted, on how they should plan for those changes, both in terms of the appropriate canvas for their evidence base and in terms of the appropriate approach to the spatial choices they will have to make in the light of that evidence base.

In the absence of such guidance, there is a real risk of plan-making simply stalling in areas faced by new geographies.

There is also a need for adequate resourcing of a very complex process.

© Cornerstone Barristers · cornerstonebarristers.com · @cornerstonebarr

03

But never fear: we are here to help! Thank you

Michael Bedford KC

© Cornerstone Barristers · cornerstonebarristers.com · @cornerstonebarr