EXPLANATORY MEMORANDUM TO

THE REGIONAL STRATEGY FOR THE EAST MIDLANDS (REVOCATION) ORDER 2013

2013 No. 629

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 East Midlands.

2.2 The Order also revokes remaining structure plan policies in the region.

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 in the region, constituting the second stage of the process.

4.2 This instrument relates to the second stage of the process in respect of the East Midlands region by revoking the Regional Strategy for the East Midlands, which comprises the Regional Spatial Strategy (the East Midlands Regional Plan published in March 2009 together with the Part A Statement of the Milton Keynes & South Midlands Sub-Regional Strategy published in March 2005 so far as that relates to the East Midlands region) and the Regional Economic Strategy for the East Midlands 2006-2020 ('A Flourishing Region') published in 2006.

4.3 The instrument also revokes the remaining saved structure plan policy in the region, policy SDA1 of the Northamptonshire County Structure Plan 1996-2016.

4.4 The instrument is made under the 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, and where they exist, 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 plan is in general conformity with the regional strategy at the time their local plan is 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 East Midlands 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 and Compulsory Purchase Act 2004 (inserted by section 110 of the Localism Act 2011) introduced 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 and 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, adopted development plan documents and any made neighbourhood plans.

7.6. This Order fulfils part of the Coalition Agreement commitment for this region by revoking the Regional Strategy for the East Midlands.

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 East Midlands. The consultations ran from 20 October 2011 until 20 January 2012 and again from 23 October 2012 until 19 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 47 combined responses specifically on the proposed revocation of the Regional Strategy for the East Midlands in response to the two consultations which took place on:

20 October 2011 until 20 January 2012

23 October 2012 until 19 December 2012

- 12 from statutory consultation bodies
- 9 from local planning authorities and public agencies
- 9 from NGOs and local pressure groups
- 3 from Solicitors and Barristers
- 9 developers and planning consultants
- 3 industry representative bodies
- 2 individuals

8.4 Of these 47 responses, 26% were from statutory consultation bodies (the three English statutory consultation bodies and their equivalent bodies in the Devolved Administrations), 19% local authorities and public agencies, 19% NGOs and local pressure groups, 6% Solicitors and Barristers, 19% developers and consultants, 6% industry representative bodies and 4% 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 East Midlands identified the following issues to be of strategic significance:

- Imbalance between water demand and supply
- Policy vacuum created by absence of regional strategies, role of National Planning Policy Framework and duty to co-operate
- Green Belt protection
- Flooding and climate change, CO_2 emissions and renewable energy
- Historical reductions in biodiversity and natural and semi-natural habitats
- Air quality
- Provision of public transport infrastructure
- Pressures on the natural and historic landscape
- Waste and mineral management
- Poor rural service provision
- 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

8.6 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 revoke the Regional Strategy in its entirety and to return decision making powers to local communities.

8.7 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/organisations/department-for-communities-and-local-government

9. Guidance

9.1 The legislation relates to the revocation of the Regional Strategy for the East Midlands 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 East Midlands 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 regulations[1]. 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. 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

[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.

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 East Midlands 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 East Midlands 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 East Midlands 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 Chapter 6 of the Post Adoption Statement, which will be available on website shortly.

12.3. Data will be 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.