

**Committee and Date**

**Cabinet**  
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Item

Public



# Levelling-up and Regeneration Bill: reforms to national planning policy – Shropshire Council Response

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## 1. Synopsis

- 1.1 Government is currently consulting on changes to national planning policy, and specifically to changes to the National Planning Policy Framework (NPPF). This report summarises the key areas of the consultation and outlines the proposed Council response.

### Executive Summary

- 1.2 Government is currently consulting on changes to national planning policy. The consultation seeks views on the proposed approach to updating the National Planning Policy Framework (NPPF), as well as seeking views on a proposed approach to preparing National Development Management Policies. This is of relevance to Shropshire Council as national policy must be taken into account when preparing a Local Plan (although transitional arrangements would mean that

there are not any significant implications for the Shropshire Local Plan currently subject to Examination in Public) and is a material consideration when determining planning applications. Changes to national policy have the potential to impact on the achievement of the Shropshire Plan - it is generally considered that the changes proposed in this instance can positively contribute, particularly to the 'Health Environment' and 'Healthy Economy' objectives. Indeed, both of these objectives recognise the role of the Local Plan (including through the delivery of high-quality housing and employment development, the protection of our natural environment and responding to our changing climate) in their achievement.

- 1.3 The consultation is part of wider proposed reforms to the Planning system currently being considered as part of the Levelling-Up and Regeneration Bill (the Bill), currently at the Committee stage in the House of Lords, although, the scope of the Council's proposed response is solely on the current consultation. In broad summary the consultation sets out how the Government is seeking to improve aspects of the national planning policy to deliver the wider changes envisaged through the Bill.
- 1.4 The consultation prospectus distinguishes between those specific immediate changes to the NPPF which, subject to outcome of the consultation, will come into effect from spring 2023, and a range of wider proposals to the Planning system, which will require further consultation once the Bill has received Royal Assent. The consultation prospectus also sets out the envisaged role for National Development Management Policies (NDMPs) and asks for initial feedback on their implementation.
- 1.5 The proposed immediate changes to the NPPF, as well as those wider proposals being consulted on, continue to be framed against the Government's objective of delivering 300,000 homes per year by the mid-2020s. It also clarifies the Government's commitment to promoting a Plan-led system as the best and most efficient mechanism to deliver a localised approach to supporting sustainable growth and to avoid speculative development.
- 1.6 The consultation proposals which can be viewed here [Levelling-up and Regeneration Bill: reforms to national planning policy - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/levelling-up-and-regeneration-bill-reforms-to-national-planning-policy) cover a range of themes within the context of developing the Government's following policy objectives (set out in Chapter 2 of the consultation): Building beautiful and refusing ugliness; securing the infrastructure needed to support development; more democratic engagement with communities on local plans; better environmental outcomes; empowering communities to shape their neighbourhoods; and delivering more homes in the right places, supported by sustainable and integrated infrastructure for local communities and the economy. The proposals go on to set out the proposed changes in separate chapters and are covered by 58 questions.
- 1.7 Appendix 1 to this report sets out the proposed response to the Consultation prospectus and responds, where appropriate, to the specific questions asked. In responding, it has been important to reflect upon the implications for Shropshire, especially considering the characteristics of the County, the aspirations set out in the Shropshire Plan, and, of significant importance, the stage of Plan making with the Council's Local Plan review. In drafting the proposed response set out in Appendix 1, officers have engaged Shropshire Council members through a virtual

briefing session on 8<sup>th</sup> February, with all Members invited. There has also been a meeting of the cross party Local Plan Member Group to discuss the response.

- 1.8 In broad summary, the proposed responses to the consultation seek to provide positive feedback to both the principle and detail (where known) to the proposed changes to national planning policy. It is considered the changes proposed would provide additional protection for Councils against unplanned speculative development, and provide a positive evolution of thought around the implementation of the Housing Delivery and Supply tests. Wider proposed changes around clarification on the use of the ‘Standard Methodology’ for housing need in defining local housing targets are also broadly welcomed, although it should be stressed these changes would not impact on Shropshire’s proposed approach to positive plan-making. Inevitably, there are some areas which would benefit from greater detail and explanation, and there would appear to be some element of internal inconsistency within the NPPF as a result of some of the changes proposed.
- 1.9 It should be stressed that as detailed within the proposed transitional arrangements set out in the consultation prospectus, it is not considered there are any significant implications for the Shropshire Local Plan currently subject to Examination in Public.
- 1.10 In view of the urgent need to submit the Council’s consultation response on 2 March 2023, to meet the deadline for responses, the Call in and Urgency Mechanism in paragraph 17 of the Overview and Scrutiny Procedure Rules will need to be applied to ensure that the response can be submitted within the required timescale i.e. on 2 March 2023.
- 1.11 The consequence of this, is that this decision will not be able to be “called in” in accordance with the Overview and Scrutiny Procedure Rules.

## **2. Recommendations**

- 2.1. To approve the response to the Government’s consultation on reforms to national planning policy as set out in Appendix 1 to this report.
- 2.2. That authority be given to the Executive Director of Place to agree, in consultation with the Portfolio Holder for Highways and Regulatory Services any additional minor changes to the Council’s response to the consultation ahead of its submission to the Government on 2 March 2023.

# Report

## 3. Risk Assessment and Opportunities Appraisal

- 3.1. The consultation prospectus sets out a series of proposed immediate and wider changes to the plan-making system, including changes to the National Planning Policy Framework (NPPF). As with the current system, there is a significant risk to the Council of not following nationally prescribed processes for plan-making. It therefore continues to be particularly important for the Council to understand and respond appropriately to this current consultation and to future consultations on wider aspects of planning reform.
- 3.2. Importantly, the consultation prospectus outlines a series of transitional arrangements to minimise the risk to local authorities of moving to a new system for plan making. Having considered these arrangements, it is considered there is limited risk to the Council in the immediate term in continuing to progress the Local Plan Review through the examination process, which is already well advanced. Indeed, it is considered not to proceed as a result of the proposed changes, would inherently increase the risk to the Council by increasing the prospect of unwanted and unplanned speculative development.
- 3.3. It is considered the consultation prospectus opens up several future positive opportunities, so long as the Council continues to engage positively in plan preparation as currently envisaged. This includes the prospect of being able to prepare Supplementary Plans and Design Codes for covering specific themes and geographical areas, and for these documents to be given increased weight in decision making.

## 4. Financial Implications

- 4.1. Ensuring that Shropshire Council responds positively to national requirements for plan-making is essential in order to provide sustainable and planned growth strategies for our communities, does and will continue to require a significant and sustained financial undertaking. Significantly, this includes the commissioning of necessary evidence to support the Plan's preparation, and funding the cost of an Examination in Public, e.g. paying for the costs of the Planning Inspectorate.
- 4.2. The consultation prospectus outlined in this report sets out the transition to a new, more streamlined planning system over the coming years. This includes a proposal for authorities to be more proportionate in their evidence collection (whilst continuing to provide necessary information to support the Plan); for Local Plans to be shorter, with a proposals to establish a national suite of Development Management policies; and for Examinations to be shorter and more targeted.
- 4.3. In theory, these factors will reduce some of the current financial burden on authorities preparing local plans. However, and importantly, the detail around many of these measures is not yet known, especially those relating to the wider changes to the plan making system forecast to be introduced in late 2024, and

which will require further consultation with local authorities. In addition, there is a lack of clarity as to the need for other forms of public examinations, such as the newly proposed Supplementary Plans, and the likely extent of the additional financial burden this will produce for local authorities.

- 4.4. It is therefore considered it is too early to tell what level of financial implications the proposed changes will have on local authorities, and the Council will continue to engage and respond constructively to the future rounds of consultation by the government on this matter.
- 4.5. Setting aside the specific changes proposed as part of the consultation prospectus, the overriding intention of the planning system to be plan-led in nature remains, as is the overall ambition for Councils to adopt up-to-date Plans as soon as possible and to keep Plans up-to-date into the proposed new system. The alternative to this would inevitably lead to additional speculative development on unplanned sites, and the increased likelihood of costly appeals and legal challenges to the Council's decisions.

## 5. Climate Change Appraisal

- 5.1. The pursuit of sustainable development is at the heart of plan-making process and this core principle is maintained in the consultation prospectus. Shropshire Council, along with all other local planning authorities, will need to prepare Plans in accordance with the National Planning Policy Framework and wider planning legislation.
- 5.2. Specifically, Chapters 7 and 8 of the consultation prospectus addresses the issue of securing increased opportunity for energy security, including proposals relating to providing greater flexibility for responding effectively to onshore wind proposals. The Council's response to this section of the consultation prospectus is set out in questions 37-44 of Appendix 1 to this report, and are largely encouraging of the Government's proposals.
- 5.3. The Shropshire Local Plan review, currently at Examination in Public, reinforces existing support for climate change and carbon reduction by supporting energy efficiency, renewable energy generation including as part of new residential development, carbon offsetting and climate change resilience. The proposals in the Government's consultation prospectus are therefore in line with the Council's approach

## 6. Background

- 6.1 On 22 December 2022 the Department of Levelling Up, Housing and Communities (DHLUC) launched a consultation on a consultation prospectus on reform to national planning policy. The consultation runs until 2 March 2023. The consultation seeks views on government's proposed approach to: updating the National Planning Policy Framework (NPPF); preparation of National Development Management Policies; developing policy to support levelling up; and how national planning policy is currently accessed by users.

- 6.2 There are 58 questions in the consultation. The proposed Shropshire Council response is at Appendix 1. Officers recommend Cabinet supports the proposed response as set out, which provides a generally positive response to the key principles and objectives set out in the consultation, as well as specifically supporting some more detailed elements, including those relating matters of the application of the housing delivery and supply tests.
- 6.3 The following sections summarise the most pertinent aspects of the consultation prospectus as they relate to Shropshire.

### ***Providing Certainty through Local and Neighbourhood Plans***

- 6.4 Chapter 3 of the consultation prospectus sets out the Government's intentions to ensure that Local Planning Authorities have a simple, clear Local Plan in place to ensure housing delivery in a sustainable way. This part of the consultation reflects the changes proposed through the Levelling Up and Regeneration Bill (the Bill) to increasing the weight given to adopted plans in decision making, and conversely reducing the amount of speculative development proposed in areas.
- 6.5 Key aspects to the consultation relate to the following areas:
- Reforming the 5 year housing land supply (5YHLS) – The proposal is to remove the requirement for local authorities with an up-to-date Local Plan to demonstrate continually a deliverable 5 year housing land supply, with this change to take effect in spring 2023.
  - Removing the need to provide a 'buffer zone' as part of the five year supply calculations;
  - Allowing Councils to consider a previous over-supply of homes in a plan period to be taken into account in the calculation of five year housing land supply;
  - Boosting the status of Neighbourhood Plans in decision making;
- 6.6 The Council's response to this Chapter is set out in questions 1-5 in Appendix 1 to this report. In summary, the Council are broadly supporting of the proposals, as they provide for additional simplification and clarity, and place added importance on the Development Plan (Local Plan and Neighbourhood Plans) as a starting point for decision making.
- 6.7 It is not considered there are any immediate implications for Shropshire given that the draft Local Plan is at an advanced stage of plan preparation being at Examination, and that the Council currently has a healthy housing land supply and delivery rates. The changes do, however, further clarify the importance of Council's moving positively towards getting Local Plans in place.

### ***Planning for Housing***

- 6.8 Chapter 4 of the consultation prospectus sets out the Government's intentions to ensure enough land is allocated to provide the right homes in the right places that communities need, alongside other economic, social and environmental needs, and seeks views on potential changes to the Framework and planning practice guidance.
- 6.9 Key aspects to the consultation relate to the following areas:

- Introducing flexibilities to areas meeting housing needs. This includes the use, in exceptional circumstances, of an alternative approach to the nationally defined ‘standard methodology’ of housing need, but also clarifying that the ‘standard methodology’ is an advisory starting point to inform plan making – a guide that is not mandatory;
- In defining whether a local area can meet all of its housing need, the following changes to the framework are proposed:
  - o Building at densities that would be significantly out of character may outweigh the benefits of meeting need in full;
  - o Making it clear that local planning authorities are not required to review and alter Green Belt boundaries if this is the only way of meeting need in full (although authorities would still be able to review Green Belt boundaries if they wish);
  - o Allow authorities to take past ‘over delivery’ of housing into account in setting local requirements in a new local plan
- Introducing a more proportionate assessment for Local Plans, but removing the current requirement for Plans to be ‘justified’ (although there remains an expectation that plans will be supported by evidence to inform and explain the plan)
- Clarification that the Bill will remove the current Duty to Cooperate and replace this with a new “alignment policy” as part of future revisions to the Framework, which will be subject to additional consultation in due course;
- Areas where a Local Plan is well advanced in preparation (including Shropshire), will be subject to a reduced requirement to demonstrate a four year housing land supply for a time limited period of 2 years from the point the changes to the Framework

6.10 The Council’s response to this Chapter is set out in questions 6-21 in Appendix 1 to this report. In summary, the Council are broadly supporting of the proposals, as they provide for additional simplification and clarity to application of the ‘standard methodology’ for housing need, and recognise the need to provide local authorities with additional protections against speculative development as they develop their Local Plans. However, there are some concerns expressed that the proposed changes regarding Green Belt may lead to an increased need for some local authorities to seek to displace their housing need on to neighbouring and closely related areas.

6.11 It is not considered there are any immediate implications for Shropshire given that the draft Local Plan is at an advanced stage of plan preparation being at Examination, and that the Council currently has a healthy housing land supply and delivery rates. The changes do, however, further clarify the importance of Council’s moving positively towards getting Local Plans in place in a timely manner.

### ***A Planning System for Communities***

6.12 To support the delivery of different types of homes, including more genuinely affordable housing for communities, the consultation prospectus proposes some modest changes to the NPPF from 2023 as well as seeking views on wider proposals. In summary the consultation prospectus proposes to provide great weight to social rent as an affordable housing tenure in decision making; provide more explicit reference to providing specialist accommodation for older people; and strengthening the emphasis in the NPPF to the role of community-led groups in delivering affordable housing. In addition, the consultation prospectus sets out



new proposals to encourage increased rates of build out on sites with planning permission.

- 6.13 The Councils proposed response to this section of the consultation prospectus is within questions 26-32 of Appendix 1. Whilst providing broad support for the proposals, the Councils proposed response highlights the continued need to reflect upon local evidence of need in considering decisions on the most appropriate affordable housing tenure to support local communities.

### ***Asking for Beauty***

- 6.14 Section 6 of the consultation prospectus reiterates the Government's broad proposals to encourage better design in new development, and in particular through the use of Design Codes for setting minimum standards for on development in an area, as well as embracing opportunities to build upwards in managed ways, to support gentle increases in density.
- 6.15 The Council's proposed response to this section are set out in paragraphs 33-36 of Appendix 1 to this report.

### ***Protecting the Environment and Tackling Climate Change, and Onshore Wind and Energy Efficiency***

- 6.16 Chapters 7 of the consultation largely reiterates the Government's existing proposals around delivering biodiversity net gain and local nature recovery; recognising the food production value of farmland; and climate change mitigation and adaptation. Chapter 8 sets out the Government's proposals to amend current planning policy around the consideration of onshore wind, both for repowering existing turbines and introducing more flexibility to planning for new onshore wind deployment.
- 6.17 The Council's response to these chapters are set out in questions 37-44 of Appendix 1 to this report. With regard to the new proposals for amending national policy related to onshore wind development, the Council recognises that there would be a necessity to ensure community support for such proposals, and that in line with the draft proposals contained in the Shropshire Local Plan, it continues to be considered that Neighbourhood Plans provide a good avenue in order to demonstrate such support.

### ***Preparing for the new System of Plan-Making***

- 6.18 To support the intentions of the Levelling Up and Regeneration Bill of producing more simplified plans more quickly, the consultation prospectus provides additional clarity on the timeline for local authorities to continue to prepare Plans under the current system whilst preparing for the proposed changes. This proposes that all local authorities must submit their Plans for examination by 30<sup>th</sup> June 2025 under the current system. Under the proposed reformed planning system, as set out in the Bill and expected to go live in late 2024, there will be a requirement on local authorities to start work on a new Local Plan at the latest 5 years after the adoption of their previous Plan, and to adopt that new Plan within 30 months.



- 6.19 Shropshire is currently at Examination on the Local Plan review and it is anticipated, subject to the outcomes of the Examination, that the Council could be in a position to adopt the Plan by late 2023 or early 2024. Within this context, it is therefore not considered the proposed clarifications to the timeline impact Shropshire in the immediate term. They will however, impact upon the timing and content of future local plan reviews.
- 6.20 In addition, it is proposed that Neighbourhood Plans submitted for Examination after 30<sup>th</sup> June 2025 will be required to comply with the new legal Framework. Given there is currently a significant amount of interest from local communities in Shropshire to progress Neighbourhood Plans, the Council will continue to liaise closely with these groups in order to understand their timeframes for preparation and if the proposed national changes will have an impact.
- 6.21 The consultation prospectus also establishes that local authorities will no longer be able to prepare Supplementary Planning Documents (SPDs), and instead will be able to prepare Supplementary Plans. Importantly, it is proposed these Supplementary Plans will be afforded the same weight as a local plan in decision making. Transitional arrangements are proposed to support this change. Whilst not explicitly set out in the consultation, it is anticipated that this change will require an additional independent examination phase for Supplementary Plans. Given the potential importance of Supplementary Plans to provide further clarity and guidance towards the application of Local Plan policies, it is considered this proposed change will have some immediate implications for Shropshire and future work programmes, especially following the adoption of the Local Plan review.
- 6.22 The Councils response to this section is set out in questions 45-48 of Appendix 1.
- 6.23 Chapter 10 of the consultation prospectus deals with the broad principle of introducing new National Development Management Policies (NDMPs), currently being proposed in the currently within the draft Levelling Up and Regeneration Bill, to have statutory weight in decision making locally. It is made clear that additional consultation with local authorities will take place on any detailed draft NDMPs in due course following the path of the Bill.
- 6.24 Whilst broadly supportive of the principle of NDMPs principally to enable the production of shorter more concise Local Plans, the Councils response (set out in questions 49 and 50 of Appendix 1 to this report), argues that such an approach should not undermined either the primacy of the locally prepared Development Plan for decision taking, nor should it undermine the ability of local authorities to expand upon NDMPs to reflect local circumstances.

**List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)**

None

**Local Member:** *All members*

**Appendices**

**Appendix 1 – Shropshire Council Response: Consultation on Levelling-Up and Regeneration Bill: Reforms to National Planning Policy**