

Summary of the Levelling-up and Regeneration Bill: Consultation on implementation of plan-making reforms

September 2023



Introduction

Government has published a consultation seeking views on their proposals to implement the parts of the Levelling Up and Regeneration Bill (the Bill) which relate to plan-making (for both Local Plans and Mineral & Waste Plans). The stated intention of these reforms are to make plans simpler, faster to prepare and more accessible.

The Bill is currently undergoing Parliamentary scrutiny and as such proposals are subject to the Bill receiving Royal Assent. The proposals would apply to England only.

The consultation itself consists of 15 chapters addressing a range of issues from the content of Local Plans, process and timescales for their preparation (including proposed 'gateway' checks and refinement of the examination process), the use of 'digital' means to consult and present Local Plans, the role of other public bodies in informing plan making, the role of new 'Supplementary Plans' in complementing Local Plans, monitoring the effectiveness of Local Plans, and transitional arrangements between the current and new proposed plan making process. In total, some 43 questions are posed across these various issues.

The full consultation document can be viewed at:

www.gov.uk/government/consultations/plan-making-reforms-consultation-on-implementation

Background

In August 2020, Government published the Planning for the Future White Paper. This introduced and tested with the sector proposals for long term structural changes to the English planning system, including with regard to plan-making.

Following consideration, Government proposed to take forward a proportion of these proposals within the Levelling Up and Regeneration Bill (the Bill). The reforms proposed within the Bill are intended to improve the planning system and further empower local leaders to regenerate their local area. The intention is that these reforms would be introduced through primary and secondary legislation, and through non-legislative measures.

The Bill was introduced to Parliament in May 2022. It has now progressed through the various stages of consideration within the House of Commons (1st reading, 2nd reading, Committee stage, Report stage and 3rd reading). The Bill is currently progressing through the various stages of consideration within the House of Lords (1st reading, 2nd reading and committee stage have been undertaken and the report stage is now ongoing with the 3rd reading to come). Following completion of the consideration within the House of Lords, the final stages will likely involve consideration of amendments and then consideration of suitability for Royal Assent.

Shropshire Council issued a response to the Planning for the Future White Paper in 2020 and has also responded to a series of related consultations regarding reforms to the planning system. This includes recent consultations on reforms to the National Planning Policy Framework and the technical consultation on the proposed Infrastructure Levy.

Summary of the Key Proposals

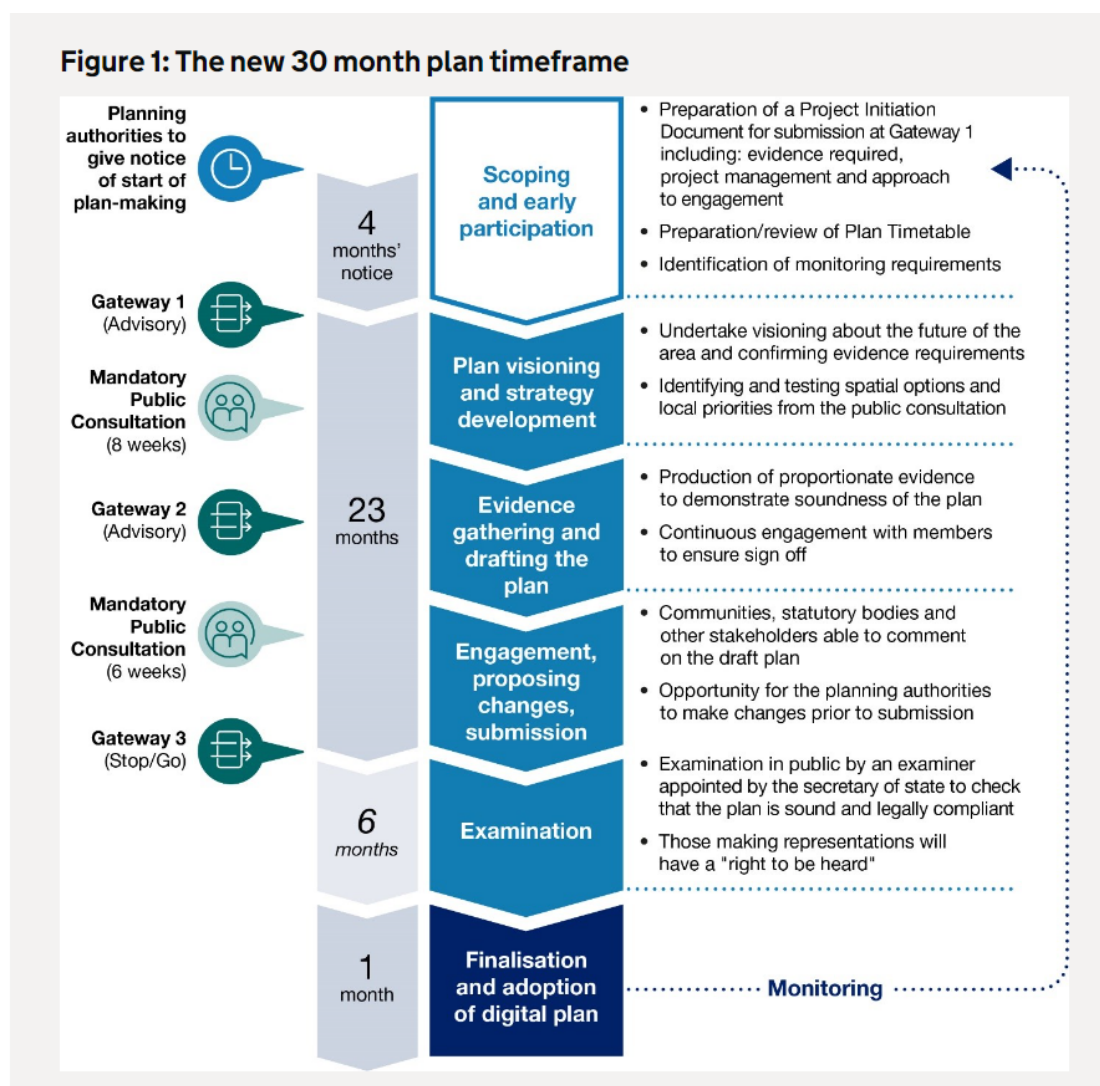
1. Local Plans would need to be updated at least every 5 years.

Within the consultation document, Government is proposing that *“there will be a requirement for planning authorities to commence an update of their plans every 5 years.”* Currently the requirement is to review the need for an update at least once every five years.

Furthermore, Government also proposes that in *“certain circumstances”*, they could require Local Planning Authorities to commence these updates earlier.

2. The Local Plan making process would be amended to consist of six stages.

Within the consultation document, Government proposes that the new Local Plan making process will consist of six key stages, these are summarised with the following Figure:



3. The Local Plan making process to be completed within a 30-month timescale.

As also documented within the above Figure, Government is also proposing that a **new Local Plan would then be prepared in just 30 months**, through a process that is *“more standardised and front-loaded”*.

Prior to the 30 month period commencing, Local Planning Authorities would need to provide 4 months' notice, during which they undertake scoping and early participation.

The 30 month process does however include three newly proposed 'gateway checks', two periods of consultation, and examination. Government proposes that the examination process will become *"more efficient"* and should take no longer than six months.

4. Draft Local Plans will have to pass three gateway checks.

Within the consultation document, Government proposes that during the Local Plan making process, three gateway checks can/must be undertaken.

The **first gateway check** would be undertaken in the early part of the process, following the first scoping stage and *"may involve"* Planning Inspectors. The purpose is to ensure the plan *"sets off in the right direction"*.

The **second gateway check** would be undertaken between the two mandatory consultations in the middle of the plan making process and will involve Planning Inspectors. The purpose is to ensure *"compliance with legal and procedural requirements and (wherever possible) supporting early resolution of potential soundness issues"*.

The **third gateway check** will take place at the point just before submission and will involve Planning Inspectors. It is designed to *"monitor and track progress"*.

5. Two mandatory consultation periods will be required. These should be longer and "more clearly defined".

Within the consultation document, Government is proposing two mandatory stages of consultation, which would be set out in regulation.

These mandatory consultations would take place following the conclusion of the first and before the third gateway assessments and would last for a minimum of eight and six weeks respectively - *"longer than the current statutory minimum and is in addition to early participation that would be required during the scoping phase"*.

These consultations would be *"more clearly defined and strengthened through regulations to increase their impact"*.

6. Examinations should take "no longer than six months".

Within the consultation document, Government proposes that Local Plan examinations should take *"no longer than six months"*. In order to achieve this, it proposes a number of changes to the existing process, including appointing examining inspectors when the Local Planning Authority commences the third gateway assessment, using panels of two or more inspectors *"by default"* to increase efficiency and *"revising the way the Matters, Issues and Questions (MIQs) stage of the process works, so that only the relevant planning authority is invited to submit responses"*.

Planning Inspectors would still be allowed to pause examinations for a limited period of time but it is proposed to be *"set out in regulations that the pause period may not be longer than 6 months"*. If the *"relevant matters"* responsible for the pause cannot be *"dealt with to the necessary degree before the end of the pause period"* the inspector will be required to recommend that the Local Planning Authority withdraw the plan.

7. New approaches to engagement.

Within the consultation document, Government states that *“existing practices of engagement and consultation in plan-making are widely perceived to be narrow and ineffective”* as loosely defined regulations *“create confusion”* and result in consultations which often feel *“too technical and difficult to engage with”*.

As such, Government is proposing a series of changes to the approach to engagement, including through the use of two new *“key levers to drive improvements to the quality of engagement”*.

Firstly, Government proposes to introduce in regulations, a new requirement for Local Planning Authorities to *“notify”* stakeholders and *“invite”* early participation on matters that might shape the direction of the plan. This requirement would *“sit within the scoping stage, prior to commencement of the 30 month process and before the first mandatory consultation window”*, and would place a *“stronger emphasis on early participation during the initial stages of plan-making”*.

Secondly, Government is proposing to replace the statement of community involvement - where authorities document how the public, statutory bodies and other interested parties will be involved in the plan’s preparation - with a new *“project initiation documents”* which would be required to set out what engagement is planned and what resources and skills would be required to deliver it.

These measures are intended to complement the two mandatory consultations proposed.

8. Government will publish a new series of ‘core principles’ setting out what Local Plans should contain.

In order to *“support the approach outlined in the Levelling Up and Regeneration Bill”*, within the consultation document Government is proposing to *“set out, through policy and supported by guidance, a series of additional core principles around what plans should contain, to ensure plans are focused on the right things and users are able to understand clearly the ‘story’ of how the planning authority’s area will develop”*.

Government is proposing that this will be achieved by requiring Local Plans to *“contain a locally distinct vision which will anchor the plan, provide strategic direction for the underpinning policies and set out measurable outcomes for the plan period”*.

9. New regulations will require that a plan’s ‘vision’ should serve as a ‘golden thread’ through the strategy.

Within the consultation document, Government is proposing that the Local Plan ‘vision’ should *“serve as a ‘golden thread’ through the entire local plan, with policies and allocations linking directly to delivering the outcomes set out in the vision”*.

Specifically, Government has indicated that they want to *“strengthen the role of the vision in new-style local plans, ensuring they are more focused and specific than those prepared for plans in the current system”*. They propose to achieve this by introducing regulations that require it to be the *“golden thread”* through the entire strategy, with policies and allocations linking directly to delivering *“measurable outcomes”* set out by the Local Plan strategy. The vision should be supported by a key diagram.

Government also proposes *“to encourage planning authorities to make links more explicitly between the vision and other relevant corporate or thematic strategies produced by other authorities, public bodies and partnerships, to help secure more buy-in for local plans as vehicles of change”*.

10. New *“digital templates”* to be used to help Local Planning Authorities.

Within the consultation document, Government specifies that *“through engagement with the sector”* it has *“consistently heard that nationally-defined digital templates would support planning authorities in drafting their plans and doing so within the proposed 30 month timeframe”*.

As such, they propose to *“produce a series of templates, setting out standardised approaches to specific parts of the plan.”* They are also proposing to include an *“expectation that any templates provided ... will be used in the preparation of plans.”*

11. Old-style PDF plans should be replaced with digital versions that are shorter and *“more visual”*.

Within the consultation document, Government proposes that *“plans will wherever possible make the best use of modern technology and be produced digitally, rather than as “analogue” (PDF or paper)”*.

They have also specified that Local Plans will be *“shorter, more visual and map-based, enabling communities to engage more easily with their content”*.

12. Digital support for Local Plans will be provided via a new *“pick and mix toolkit”*.

Within the consultation document, Government specifies that it intends to provide a *“set of tools that can be used by different types of planning authorities, at different stages of the plan cycle, to make the process more efficient, more cost effective and more accessible”*. This toolkit would *“evolve over time as more best practice emerges”*, but might include such things as search tools, dashboards, digital checklists and step-by-step guides.

13. Requirement to assist in plan-making

The Levelling Up and Regeneration Bill sets out a *“Requirement to Assist with Certain Plan Making”*. This will give plan making authorities the power to legally require that *“prescribed public bodies”* provide assistance to develop or review the Local Plan (and certain other policy documents). Within the consultation document, Government identifies the proposed list of public bodies to which this requirement will apply. This includes the Environment Agency, Historic England, Natural England, and Sport England.

14. Local development schemes would be scrapped and replaced by new *“timetable”* documents.

Within the consultation document, Government proposes to replace local development schemes (which constitute the formal Local Plan timetable) with *“a new, simpler*

requirement to prepare and maintain a local plan timetable or minerals and waste plan timetable”.

15. Local Planning Authorities to produce Annual Monitoring Reports reporting on a series of new “nationally prescribed metrics” with a “fuller analysis” four years after adoption.

To support a “clearer, more focused approach to monitoring”, within the consultation document Government is proposing a new system of monitoring that would have “two distinct elements”.

Firstly, Local Planning Authorities would have to produce “a light touch annual return” which would “report on a small number of nationally prescribed metrics... to assess the implementation of key policies against the output of the plan”.

Secondly, “by 4 years after adoption of a local plan”, Local Planning Authorities would need to prepare a “fuller analysis of how planning policies and designations are being implemented, and the extent to which the plan is meeting the overall vision for their area”. This would represent a “detailed return to inform updates to the plan”, the scope and content of which would be “left to individual planning authorities but should be designed to inform the forthcoming update of the plan, which will need to commence five years after adoption, at the latest”.

16. A “phased roll-out” focusing initially on ten ‘front runner’ authorities would be undertaken to the plan-making system, from autumn 2024.

Government has indicated that it wants to “ensure a smooth transition to the new system for planning authorities, but have heard concerns about the impact on the sector of a large group of authorities commencing plan-making at exactly the same point”.

A previous Government consultation (to which Shropshire Council responded in February 2023) proposed transitional arrangements to the new Local Plan making system, to begin in November 2024. Reflecting this, within the consultation document Government has now “proposed options for phasing the roll-out of the new local plan-making system from autumn 2024”.

To achieve this, Government has proposed to “provide expert plan-making support to a first, small cohort of around ten ‘front runner’ authorities to prepare new-style local plans”, this will ensure “a strong foundation of learning and best practice for other authorities to draw upon”. This cohort could start plan-making in 2024 and should have completed all three gateway assessments by June the following year.

All remaining authorities would be ranked chronologically by the date that they adopted their current Local Plan. Groups of 25 authorities at a time would then be allocated a “six month plan-making commencement window”.

17. New Supplementary Plans

The Levelling Up and Regeneration Bill provides for the creation of new supplementary plans, which will replace current supplementary planning documents.

The key distinction between these documents is:

- Current supplementary planning documents do not form part of the Development Plan (alongside the Local Plan) and as such cannot introduce new policy, rather they provide guidance on the application of policies within the Local Plan. For this reason, they are not the subject of examination.
- New supplementary plans would form part Development Plan (alongside the Local Plan) and as such they can introduce new policy. However, they would also need to be the subject of examination.

Within the consultation document, Government provides further information on the proposed process for preparing and intended role of supplementary plans. In summary, supplementary plans are not intended to be routinely utilised (with the Local Plan remaining the key document for local policies), rather they are intended to be prepared at pace, in order to respond positively to unanticipated change such as a regeneration opportunity, between plan review cycles. Furthermore, their geographic scope should be limited to a specific site / cluster of sites.

The exception to the above is supplementary plans that provide 'design codes' - setting out high level strategic design parameters to apply to development across a specified area. These can apply to either the entire geography or a sub-geography of a Local Planning Authority area and would be viewed as complementary to the policies in the Local Plan.

18. Community Land Auctions

The principle of Community Land Auctions was introduced within the Levelling Up and Regeneration Bill, which provides for time-limited pilots of Community Land Auctions (CLAs), expiring ten years after the date the first CLA regulations are made. The intention of a CLA's is that it allows landowners to identify the price at which they will sell their land, which can then inform the site allocation process and assist in securing more of the subsequent land value uplift for infrastructure provision.

Within the consultation document, Government provides further information on the proposed CLA process. This includes details of:

- The site identification process.
- Site assessment process.
- Interface with the Local Plan making process, including consultation and examination.
- Process following adoptions of the Local Plan (and land allocation).

Assuming sites identified through this process are allocated, Government proposes that there are 3 options for the Local Planning Authority. In summary, these are:

1. LPA sells the option to a developer.
2. LPA exercises the option and then sells the land.
3. LPA exercises the option and then develops the land.

Within the consultation document, Government explains that areas that use CLA would still be able to require other forms of developer contributions to secure infrastructure and affordable housing.