

Levelling Up and Regeneration Bill:

Proposed response to consultation on implementation of plan-making reforms

(published 25 July 2023)

Chapter 1: Plan content

Core content

Question 1: Do you agree with the core principles for plan content? Do you think there are other principles that could be included?

The proposed core principles do not include reference to the need for strategic planning across administrative boundaries. There is a need to plan across the Housing Market Area and/or functional economic area to ensure homes and jobs are provided in a balanced way and to maximise economic, environmental and social aspirations for growth in a sustainable manner. In this context, it is noted that proposals to replace the Duty to Cooperate are not yet publicly available making it more difficult to comment on the proposed reforms. It is also noted that the Levelling Up Bill provides the option of two or more local planning authorities to produce a joint Spatial Development Strategy. The core principles should therefore clarify that local planning authorities are encouraged to prepare joint or aligned local plans across Housing market/functional economic areas wherever practical.

Concerns are raised about the proposals to prepare a single local plan for each authority which will undermine a strategic approach across areas like Greater Nottingham, where common planning issues and solutions are covered in a Part 1 Local Plan, with locally distinct matters being covered in Part 2 Local Plans.

Plan visions

Question 2: Do you agree that plans should contain a vision, and with our proposed principles preparing the vision? Do you think there are other principles that could be included?

Agree in principle and support the need for visions to be more focused and specific than those prepared for plans in the current system. The principle of encouraging 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 is also supported. In this context, the proposed duty "Requirement to Assist with Certain Plan Making" in the Bill is strongly supported as lack of engagement, particularly from utilities providers, has often been a weakness of the current system.

Local development management policies

Question 3: Do you agree with the proposed framework for local development management policies?

Clear guidance is needed on what appropriate justification underpinning local development management policies will look like.

Templating and digital efficiencies

Question 4: Would templates make it easier for local planning authorities to prepare local plans? The use of standard templates would ensure consistency between authorities and enable developers to more easily navigate local plans across the geographical areas within which they operate. Templates would provide a useful starting point for local authorities preparing local plans who could then focus their resources on those elements which are distinct to their own local authority area as well as limiting the time spent needing to consider matters that are purely presentational. As such, templates should be presented on this basis ie with scope to be amended as necessary. Which parts of the local plan would benefit from consistency? Where national guidance does not allow for much flexibility e.g. Environment agenda (carbon reduction and biodiversity net gain). The template could set the layout of the local plan, the chapter headings and the broad content of each chapter but probably not be more detailed than that. Response is limited without an example template to understand fully what the template approach will look like and how detailed it will be.

Question 5: Do you think templates for new style minerals and waste plans would need to differ from local plans? Yes. If so, how? There is a lot less content to cover in the minerals and waste plans and subject of content widely differs. Mineral and waste development is likely to only apply to a few areas within the authority.

Chapter 2: The new 30 month plan timeframe

Question 6: Do you agree with the proposal to set out in policy that planning authorities should adopt their plan, at the latest, 30 months after the plan preparation process begins?

This would be an extremely challenging time frame and probably unrealistic. The levels of public engagement are not dissimilar to the current plan making with added emphasis on early participation which is time consuming and with new Gateway checks potentially adding more to the work load. It is therefore difficult to see local planning authorities speeding the plan making process to the extent proposed without additional resources for plan making coming from Government.

Whilst giving 4 months' notice of the start of plan preparation is reasonable local planning authorities should have flexibility to commence the initial engagement process earlier if they so choose for example up to a year prior to the start of plan making allowing more time for meaningful early participation.

A particular concern is the lead in times for Council decision making which typically takes between one to two months particularly where joint or aligned local plans are being prepared by more than one authority. The proposed timetable appears too short and inflexible to accommodate the political dimension of decision taking and political discussions necessary especially in the context of authorities undertaking joint or aligned plans.

There is a particular issue with preparing the evidence base within the proposed timescale with transport modelling in particular taking around 12 months and can only be informed once site details are known for modelling purposes.

The examination phase again looks short especially if the Inspector recommends modifications. Examination of Part 2 Local Plans adopted by the Greater Nottingham Partnership Councils took an average of 17 months each. Allowing one month for adoption is also problematic given the likely lead in times for Council approval requiring consent from both Cabinet and Full Council which in practice requires 2 - 3 months.

The Gateway Assessments are welcome in principle although there is a concern about costs (see response to question 21). However, each Gateway is expected to last one month (meaning 3 months in total out of 30 months) and whilst it is not as yet clear how resource intensive these would be, the assessments preparatory work and response is likely to be considerable.

The scoping and early participation stage

Question 7: Do you agree that a Project Initiation Document will help define the scope of the plan and be a useful tool throughout the plan making process?

In principle, yes.

Chapter 3: Digital plans

Question 8: What information produced during plan-making do you think would most benefit from data standardisation, and/or being openly published?

It would be useful if evidence base requirements could be listed out in a checklist format to enable local authorities to select which documents are applicable to their area. The key parameters for each evidence document could be set out, which is particularly important for those evidence documents which are long and complex, such as town centre studies, transport modelling and sustainability appraisal. Setting clear expectations for these studies would help local authorities procure consultants, which can often be a time consuming and complex process and would also serve to minimise discussion around the scope of evidence through the consultation and examination stages. In addition, there would be merit in standardising text and documents prepared by local authorities, including broad templates for the vision, SHLAA and site selection work, for use as a starting point.

Question 9: Do you recognise and agree that these are some of the challenges faced as part of plan preparation which could benefit from digitalisation? Disagree that enhancing digitalisation will increase engagement due to hard to reach groups struggling with internet accessibility themselves.

Are there any others you would like to add and tell us about?

Question 10: Do you agree with the opportunities identified? Visualisation is already used, to extend its use would require expertise that would be costly to the council. Templates could be useful to an extent but concerned that it will simplify information

and not allow for diversity between authorities. Can you tell us about other examples of digital innovation or best practice that should also be considered?

Question 11: What innovations or changes would you like to see prioritised to deliver efficiencies in how plans are prepared and used, both now and in the future? It would be useful if evidence base requirements could be listed out in a checklist format to enable local authorities to select which documents are applicable to their area. The key parameters for each evidence document could be set out, which is particularly important for those evidence documents which are long and complex, such as town centre studies, transport modelling and sustainability appraisal. Setting clear expectations for these studies would help local authorities procure consultants, which can often be a time consuming and complex process and would also serve to minimise discussion around the scope of evidence through the consultation and examination stages. In addition, there would be merit in standardising text and documents prepared by local authorities, including broad templates for the vision, SHLAA and site selection work, for use as a starting point.

Also, the introduction of national planning policies will be an important first step in streamlining local plan preparation and to allow local authorities to focus on those issues that are specific to their area.

Chapter 4: the local plan timetable

Question 12: Do you agree with our proposals on the milestones to be reported on in the local plan timetable and minerals and waste timetable, and our proposals surrounding when timetables must be updated?

Agreed

Question 13: Are there any key milestones that you think should automatically trigger a review of the local plan timetable and/or minerals and waste plan timetable?

A change to parliamentary and political leadership could trigger a review of the local plan timetable.

Chapter 5: Evidence and the tests of soundness

Question 14: Do you think this direction of travel for national policy and guidance set out in this chapter would provide more clarity on what evidence is expected? Are there other changes you would like to see?

In principle, yes. See responses to questions 8 and 11 above.

Question 15: Do you support the standardisation of evidence requirements for certain topics? What evidence topics do you think would be particularly important or beneficial to standardise and/or have more readily available baseline data?

Yes, strongly support the standardisation of evidence, including for:-

- Housing and economic need assessments
- SHLAAs and SELAA

- Retail needs and town centre assessments
- Site selection methodology and criteria
- Transport assessments

It would be useful if evidence base requirements could be listed out in a checklist format to enable local authorities to select which documents are applicable to their area. The key parameters for each evidence document could be set out, which is particularly important for those evidence documents which are long and complex. Setting clear expectations for these studies would help local authorities procure consultants, which can often be a time-consuming and complex process and would also serve to minimise discussion around the scope of evidence through the consultation and examination stages.

Greater Nottingham authorities have agreed a standard SHLAA methodology and informed by agreed datasets. This is proving to be helpful in terms of responding to issues relating to housing supply through the local plan preparation process as well as minimising the number of comments raised.

In addition, there would be merit in standardising text prepared by local authorities, including a broad template for the vision, for use as a starting point.

Question 16: Do you support the freezing of data or evidence at certain points of the process? If so which approach(es) do you favour?

Yes support. All three approaches should be followed. As a minimum, the freezing of data and evidence at the point of publication of the plan and submission may well reduce delays and lead to a shorter examination.

Question 17: Do you support this proposal to require local planning authorities to submit only supporting documents that are related to the soundness of the plan?

Yes, agreed.

Chapter 6: Gateway assessments during plan-making

Question 18: Do you agree that these should be the overarching purposes of gateway assessments? Are there other purposes we should consider alongside those set out above?

Agree, but gateway assessments should also be used to ensure consistency between authorities, tackling problems prior to examination reduce time spent at examination, avoid surprises at examination and help to present the journey of the examination process better. It is important to ensure that meaningful feedback is provided. Gateway assessments should provide clear and specific recommendations rather than be presented as a list of matters to consider further. As such, changes made in accordance with the recommendations should not be revisited at the examination stage unless circumstances have changed.

Question 19: Do you agree with these proposals around the frequency and timing of gateways and who is responsible?

It is important to clarify what is included within the 4 week timescale, whether this includes preparation time required by the local authority and feedback will be received within this timescale. It is important to clarify in what circumstances the duration of the gateway check will be extended to 6 weeks as this extension may be at no fault of the authority but eat into the 30 week plan preparation time. There is concern that the 4 (or 6) week duration will be used as a guide and gateway checks will extend rather than shorten plan preparation. It is important that the same examiner is involved for all gateway checks for a particular plan, wherever possible, to prioritise consistency and avoid unfamiliarity.

See response to question 18 above - the intention of gateway checks should be to iron out any issues that might otherwise be raised at the examination stage in order to reduce the time/cost of the examination.

Question 20: Do you agree with our proposals for the gateway assessment process, and the scope of the key topics? Are there any other topics we should consider?

The gateway checks should include a review of the vision, as proposed to be such a significant element of the new local plan process.

Question 21: Do you agree with our proposal to charge planning authorities for gateway assessments?

No, as a mandatory procedure for all authorities to now follow it would be unfair to charge without providing additional funding. If planning authorities are to be charged, then the scope and purpose of the gateway assessments would need to be such that there is a clear reduction in the time and cost of the examination stage.

Chapter 7: Plan examination

Question 22: Do you agree with our proposals to speed up plan examinations?

Concerns that using 2 or more inspectors might actually have the opposite affect as collaborative working can increase delays where there are disagreements and inconsistencies. Are there additional changes that we should be considering to enable faster examinations?

Question 23: Do you agree that six months is an adequate time for the pause period, and with the government's expectations around how this would operate?

The six month period seems like an arbitrary timeframe with a lack of evidence to justify it. Also, the timeframe not being prescribed through regulations gives it no weight. The length of pause period should depend on the reason for the pause. If a local authority needs to undertake additional work or commission evidence and then take a revised document to members for approval then six months is likely to be too tight.

Chapter 8: Community engagement and consultation

Question 24: Do you agree with our proposal that planning authorities should set out their overall approach to engagement as part of their Project Initiation Document? What should this contain?

Yes agreed. It is important to retain flexibility to allow local planning authorities to tailor their approach to the local community context and to ensure engagement is appropriate to the type of plan being prepared. In essence, the local authority will expand on the approach set out in their Statement of Community Involvement for the purposes of local plan preparation.

Question 25: Do you support our proposal to require planning authorities to notify relevant persons and/or bodies and invite participation, prior to commencement of the 30 month process?

Agree, but the scoping stage should not be limited to four months. Flexibility should be provided to local planning authorities to commence this exercise up to 12 months prior to the start of plan making.

Question 26: Should early participation inform the Project Initiation Document? What sorts of approaches might help to facilitate positive early participation in plan-preparation?

There is a concern that the new proposals may not improve on the current regulation 18 where responses from key stakeholders are often of a general nature, lacking detail or containing ambiguity. There needs to be guidance on the likely content and detail of engagement documentation such as the scope and draft content of the proposed plan, identification of issues and supporting evidence. A requirement that statutory bodies respond clearly setting out their views on the scope of the plan, issues and providing evidence where necessary.

Question 27: Do you agree with our proposal to define more clearly what the role and purpose of the two mandatory consultation windows should be?

Yes, agree.

Question 28: Do you agree with our proposal to use templates to guide the form in which representations are submitted?

Agree, strong support. A particular problem at the present time is the need to process large PDF documents which developers often attach to standard forms and the regulations should be strict in terms of ensuring forms contain the text of the representation.

Chapter 9: Requirement to assist with certain plan-making

Question 29: Do you have any comments on the proposed list of prescribed public bodies?

Strong support for this proposal and the list of proposed prescribed public bodies, in particular for the inclusion of private utilities companies which have been difficult to engage with in the past.

Question 30: Do you agree with the proposed approach? If not, please comment on whether the alternative approach or another approach is preferable and why.

Agree.

Chapter 10: Monitoring of plans

Question 31: Do you agree with the proposed requirements for monitoring?

Reducing the frequency of reporting will not necessarily improve efficiency. Rather it will increase the amount of work at one point rather than breaking it down into more regular updates. The 2nd element, comprising a detailed monitoring return, will be helpful when it comes to updating the local plan however the bill does not provide much guidance at this stage.

Question 32: Do you agree with the proposed metrics? Do you think there are any other metrics which planning authorities should be required to report on?

It is suggested that other metrics which planning authorities should be required to report on are:-

- Housing – allocated vs non allocated, specialist accommodation, empty homes, homelessness and house prices.
- Economy – Employment rates.
- Environment – Homes within flood zones.
- Low carbon agenda.
- Other – development in the green belt.

Chapter 11: Supplementary Plans

Question 33: Do you agree with the suggested factors which could be taken into consideration when assessing whether two or more sites are 'nearby' to each other? Are there any other factors that would indicate whether two or more sites are 'nearby' to each other?

For site based supplementary plans, when assessing whether two or more sites are nearby to each other, account should be taken of the relationship of the sites to access points, whether they make use of the same town centre, whether they share links to public transport and services and whether they share other infrastructure.

Question 34: What preparation procedures would be helpful, or unhelpful, to prescribe for supplementary plans? e.g. Design: design review and engagement event; large sites: masterplan engagement, etc.

Preparation procedures should be kept as light touch as possible, as the benefit of SPDs has been that they can be progressed to adoption within 6 months if needed.

This means that they can respond to a new need for policy and be more easily kept up to date.

Question 35: Do you agree that a single formal stage of consultation is considered sufficient for a supplementary plan? If not, in what circumstances would more formal consultation stages be required?

Agree, unless significant changes are made at any point and as long as the consultation lasts for an appropriate amount of time to give people adequate time to engage and all relevant parties have been consulted. However, it may be that the examination stage identifies changes to the supplementary plan and the regulations should be clear as to whether these need to be consulted on or whether the inspector/examiner's recommendations are binding.

Question 36: Should government set thresholds to guide the decision that authorities make about the choice of supplementary plan examination routes? If so, what thresholds would be most helpful? For example, minimum size of development planned for, which could be quantitative both in terms of land use and spatial coverage; level of interaction of proposal with sensitive designations, such as environmental or heritage.

Agree, thresholds would help local authorities understand the timescales for preparing supplementary plans and the level of resourcing required. Thresholds should relate to the complexity of the issues addressed.

Question 37: Do you agree that the approach set out above provides a proportionate basis for the independent examination of supplementary plans? If not, what policy or regulatory measures would ensure this?

Agree. Clarity should be provided on the level of detail to be included in the statement for examiners to demonstrate that the supplementary plan has addressed the points listed.

Chapter 12: Minerals and waste plan

Question 38: Are there any unique challenges facing the preparation of minerals and waste plans which we should consider in developing the approach to implement the new plan-making system?

N/A

Question 39: Do you have any views on how we envisage the Community Land Auctions process would operate?

It is noted that the provisions of the Bill set out a legislative framework for pilot Councils to test the concept of Community Land Auctions (CLA) for a time limited period of ten years. However, the process raises a number of concerns particularly the issue of "selling planning permissions" although in this context it is recognised that the Bill requires the local plan to be examined in more or less the same way as local plans prepared without going through the CLA route. It is likely to place the

Council in an invidious position in choosing between competing sites where an option would be to accrue financial gain which is likely to be highly contentious to some of the local community and question the legitimacy of the local plan process.

Other concerns relate to how this CLA process would work in connection with the local land market and skills and resource capacity of local authorities. Turning to the local land market there is a concern that in certain locations land owners may have in effect a local monopoly which would not facilitate the competing bids envisaged in the Bill. Conversely, it is often the case that large strategic sites may have several owners, meaning it is less likely to get the necessary legal agreements of all parties within the local plan preparation window. The process outlined would be heavy in terms of conveyancing and litigation and it is questionable whether local planning authorities would have sufficient legal and financial expertise in house. Costs including potential land purchases are likely to be high and needed up front.

A critical issue is differences in land values across the Country with high value areas having potentially most to gain which would tend to contradict the purpose of the Bill and lead possibly for a need for some sort of redistribution mechanism.

Question 40: To what extent should financial considerations be taken into account by local planning authorities in Community Land Auction pilots, when deciding to allocate sites in the local plan, and how should this be balanced against other factors?

There is a concern that the key objective of planning for sustainable development could potentially be undermined by financial considerations being part of the planning balance and lead to concerns about “selling planning permissions” which are outlined above. The forthcoming regulations will need to clarify that criteria for site selection should be governed by sustainability factors with financial considerations only used to “tilt” the balance in favour of equally assessed sites.

Chapter 14: Approach to roll out and transition

Question 41: Which of these options should be implemented, and why? Are there any alternative options that we should be considering?

The cohort approach to roll out would seem sensible. However, it should be flexible to accommodate Councils who are preparing “aligned” plans within the same housing market area.

Chapter 15: Saving existing plans and planning documents

Question 42: Do you agree with our proposals for saving existing plans and planning documents? If not, why?

Agree

Equalities impacts

Question 43: Do you have any views on the potential impact of the proposals raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010?

No.