

# Implementation of plan-making reforms

## Briefing Note

27/07/2023

Ref No : 386

### Overview

As part of a raft of announcements relating to proposed changes to the planning system, and a commitment to deliver 1 million houses over the current Parliament, the Department for Levelling Up, Housing and Communities (DLUHC) have launched a further consultation on the implementation of plan-making reforms.

The consultation seeks views of current proposals to implement parts of the Levelling Up and Regeneration Bill (LURB) which relate to plan-making, to make plans simpler, faster to prepare and more accessible.

### Consultation Details

The consultation on implementation of plan-making reforms opened on 25th July and runs until 18th October 2023. It remains unclear if the Government will await the end of this consultation and assessment of the outcome before publishing the anticipated changes to the NPPF (and response to the December 2022 consultation proposals).

This Briefing Note provides a factual summary of the proposals currently forming part of the live consultation and identifies the key areas covered by the consultation. We anticipate this being followed up with a detailed briefing, prepared by the DLP team, covering the wider announcements from the Government over the week commencing 24th July 2023. This will include a wider discussion on the impact and deliverability of such changes.

For further information, or to discuss the consultation proposals and any assistance in formulating a response with us please contact:

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### Plan Content

Aligned to previous proposals set out in the consultation on revisions to the National Planning Policy Framework (NPPF), the Government propose to require Local Planning Authorities (LPA's) to clearly define and set out a 'locally distinct vision' that will anchor their Local Plan. A Key Diagram, visually displaying the spatial strategy aligned to this vision should be a central planning tool used throughout the Plan making process.

### 30 Month Plan Timeframe

With evidence suggesting that on average the Local Plan process takes circa 7-years, DLUHC are proposing targets to accelerate the process and will require Local Plans (and mineral and waste Plans) to be prepared and adopted within 30 months. This reconfirms the ambitions set out in the May 2022 LURBI Policy Paper.

In addition to the requirements set out in the LURB, it is further proposed to establish additional requirements in regulation, based on the following key stages;

- A scoping and early participation stage - including a requirement to notify public and stakeholder bodies. A minimum of 4-months' notice should be given to stakeholder and statutory bodies of the intention to commence preparation of a Local Plan ahead of the 30 month timeframe for adoption.
- Plan visioning and strategy development - As set out above, LPAs will be required to define a locally distinct vision for the future of their area and commence the first formal consultation on the Plan, including the first gateway assessment (discussed below).
- Evidence gathering and drafting the Plan - including the second gateway assessment.
- Engagement, proposing and changes and submission of the Plan - including the second formal public consultation and the third gateway assessment.

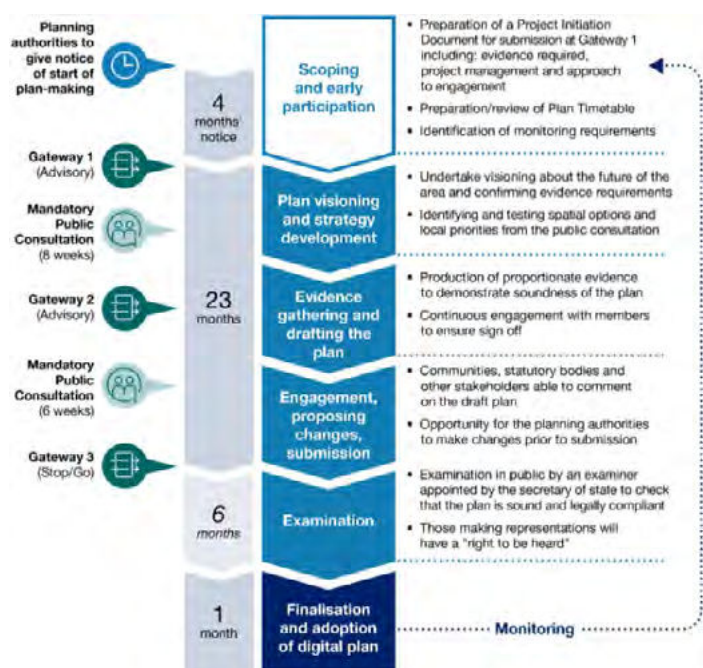
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Figure 1: The new 30 month plan timeframe



The Government does not intend to prescriptively impose timescales for the 30-month process (or individual stages) by Regulations, but will make clearer its expectations via Policy and Guidance.

The consultation seeks views on the introduction, again through Regulations, of a requirement for LPAs to undertake a total of 3 gateway assessments in addition to two formal public consultation exercises (potentially retaining the current use or format of Regulation 18 and Regulation 19 consultations).

For the purpose of the scoping stage, the government will provide LPAs with a digital template for the purpose of preparing a Project Initiation Document (to be discussed at the proposed first gateway assessment).

Figure 2 below sets out the role and purpose of each of the three identified gateways, with the government anticipating that Gateway one is undertaken at the very beginning of the 30 month process.

Gateway 2 is undertaken partway through plan preparation (between the two mandatory consultations).

Whilst noting the stated intent to speed up the plan-making process, and limit the requirement for the same level of evidence underpinning policies that is required at present, the Government are proposing that LPAs will need

to prepare a report detailing progress against a series of key topics at each gateway. Gateway 3 sitting at the end of the plan-preparation process at the point the LPA is expecting to submit their Plan for Examination in Public (EiP).

Figure 2: Gateway Assessments

	Gateway 1 (Advisory)	Gateway 2 (Advisory)	Gateway 3 (Stop/Go)
<b>Focus</b>	<ul style="list-style-type: none"> <li>Ensuring the plan sets off in the right direction</li> <li>Supporting early diagnosis of potential issues – legal and procedural requirements and soundness</li> </ul>	<ul style="list-style-type: none"> <li>Supporting early resolution of potential soundness issues, where possible</li> <li>Ensuring legal and procedural compliance</li> <li>Monitoring and tracking progress</li> </ul>	<ul style="list-style-type: none"> <li>Checking the plan is ready to proceed to examination</li> <li>Ensuring legal and procedural compliance</li> <li>Monitoring and tracking progress</li> </ul>
<b>Role</b>	<ul style="list-style-type: none"> <li>Advising, observing and supporting</li> </ul>	<ul style="list-style-type: none"> <li>Advising, observing and supporting</li> </ul>	<ul style="list-style-type: none"> <li>Validating that key requirements have been met (a "stop/go" check)</li> </ul>
<b>Duration</b>	<ul style="list-style-type: none"> <li>4 weeks (up to 6 by exception)</li> </ul>	<ul style="list-style-type: none"> <li>4 weeks (up to 6 by exception)</li> </ul>	<ul style="list-style-type: none"> <li>4 weeks (up to 6 by exception)</li> </ul>
<b>Assessor</b>	<ul style="list-style-type: none"> <li>Independent, specialist hands-on support</li> <li>May involve Planning Inspectors (as required)</li> </ul>	<ul style="list-style-type: none"> <li>Planning Inspectors</li> <li>Optionally supported by technical specialists</li> </ul>	<ul style="list-style-type: none"> <li>Planning Inspectors</li> </ul>

At the first and second gateway, LPAs should identify up to five issues that will pose risks to the soundness, or legal or procedural compliance of the Plan. At the final gateway, LPAs will be required to complete a Statement of Compliance with Legislation and Nation Policy. A template for this will be provided.

The extent to which these 'issues' would include constraints to achieving strategic priorities in current policy (for example meeting housing need) is not specified. Outstanding uncertainties with the proposed reforms, for example the scope for Community Land Auctions to inform land identified for allocation (see Chapter 13) and future support for Infrastructure Delivery Strategies, could all clearly influence the scope of future Plans and scale of future 'issues'.

To ensure consistency in the gateway process, the Government propose that there should be a 'gate-keeper' organisation that manages the end-to-end gateway process, including appointment on behalf of the Secretary of State (Planning Inspectorate).

Noting the additional financial implications of the gateway process, the government proposed that gateways are fully funded through cost recovery from the planning authority, with a standard fee for each gateway defined in Regulations.

## Local Plan Consultations

In addition to the proposed mandatory gateways, the government proposes to retain two mandatory public consultation exercises. The first, siting between the first and second gateway assessment and running for a period of 8 weeks and the second sitting between the second and final gateway assessment and running for a period of 6 weeks.

LURB replaces the existing requirement to adopt an LDS with a simpler requirement to prepare and maintain a Local Plan timetable. It is proposed through Regulations, that LPAs will be required to update their timetable at least once every six months.

## Evidence and the tests of soundness

Arguably amongst the most significant and controversial proposals set out in the proposed changes to the NPPF was the removal of the requirement for Plans to be justified as part of the tests of soundness. The current consultation document provides little clarity in this regard, and notes that DLUHC are reviewing comments received. They note that as part of previous consultation responses, LPAs have requested further clarity on what evidence will be expected and what 'proportionate' evidence looks like. As such further announcements are expected to follow within the Government's response to the December 2022 proposals.

The consultation document does however set out further detail on proposals to standardise key evidence and data, with the intention being that discussions and objection to methodologies applied in evidence are removed from the process. The document makes specific reference to the standardisation of the following types of evidence base reports;

- Economic Development Needs Assessment
- Housing and Employment Land Availability Assessment
- Transport Assessments

Additionally, the government propose to identify suitable points during the Plan making process where data and evidence being relied upon can be frozen.

To support these changes, the government are proposing to amend the requirement for the submission and publication of evidence set under secondary legislation.

When implementing the plan-making reforms, DLUHC are proposing a requirement to submit only such supporting documents as the planning authority considers strictly necessary to show whether the Plan is sound.

## Plan Examination

In line with the overall drive to speed up the plan-making process, the government propose to implement measures to speed up the Examination process. It is expected that this will be achieved by implementing the following measures:

- Appointing an Inspector at the point of the third gateway assessment;
- Using panels of two or more Inspectors by default;
- Revising the Matters, Issues and Questions (MIQs) stage of the process and removing the opportunity for third parties to make written submissions at this point. Third parties will be invited to make oral submission at the relevant hearing sessions only. For those unable to attend the relevant hearing session, a brief written submission can be made.
- MIQs will focus on questions only relating directly to matters of soundness.
- Shortening the minimum notification for hearings to three weeks by default
- Streamlining the Main Modification stage so only the most significant amendments are consulted on.

Inspectors will be given the ability to activate an Examination pause where they have identified a significant issue that cannot be reasonably resolved without further work by the LPA.

## Community Engagement and Consultation

With community engagement being front and centre of the Government's proposed reforms, the consultation documents set out proposals for opening up and encouraging engagement in the Local Plan process. Broadly, the government expects that this will be achieved by implementing the following measures:

- The role of digital – minimising long, technical reports, and utilising interactive maps and plans to display policies and allocations for local residents to better understand what is being proposed;
- Planning and monitoring the engagement process – through the Project Plan aligned with the gateway assessments;



- Placing greater emphasis on important infrastructure providers amongst a list of proposed prescribed bodies
- introducing the new requirement (set out above) to notify and 'invite' participation in plan-making;
- A more standardised approach to consultation – retention of two mandatory consultations – with additional weight being afforded, through Regulations, to the representations received.

Aligned to community and stakeholder engagement, statutory consultees should be advised prior to the 30-month countdown commencing of the LPA's intention to commence preparation of a Plan. Where the relevant statutory bodies fail to engage with the Council promptly, the LPA will retain a right to issue a 'requirement to assist'. This will be set out in further detail through Planning Practice Guidance (PPG).

### Monitoring Plans

Additional measures to strengthen the existing requirement to monitor Plans are being proposed and comprise a requirement for a light touch annual return, where LPA's will be required to consider progress of Plan making activities against their timetable together with a series of standardised metrics. By 4 years after adoption of a Local Plan, at the very latest, the LPA should prepare a fuller analysis of how planning policies and designations are being implemented and accord with their vision for the locality. The proposals do not, however, directly address whether the prescribed role of monitoring may trigger a need for earlier review.

Elements of the proposed arrangements are not materially dissimilar to the previously abolished use of 'Core Output Indicators' for reporting purposes and guidance to distinguish regular 'outputs' from development versus longer-term outcomes.

The proposals do not, however, make reference to whether there will be ongoing requirements to report engagement with neighbouring authorities following any abolition of the Duty to Cooperate (or its replacement) nor any specific intended relationship with reporting either proposed Infrastructure Delivery Strategies or the Infrastructure Levy.

In line with current requirements, the government propose to make the requirement to commence a Plan

update within 5-years from adoption, much clearer to local planning authorities.

### Supplementary Plans

LURB provides for the creation of new supplementary Plans that will enable LPAs to respond to unexpected changes in their area without the need to review their Plan as a whole. The intention is not for these to be routinely used.

This would remove the role of Supplementary Planning Documents and Area Action Plans. Supplementary Plans will have the same weight as a Local Plan and other parts of the Development Plan to give communities and applicants much more certainty about the documents that applications are determined in line with. They will therefore also be subject to consultation and an independent Examination.

Precise details of the Examination process are being considered as part of this consultation, with respondents being asked about options that include submission to the Secretary of State for Examination, as with Local Plans or submission to an independently appointed Examiner (selected by the LPA) similar to the current Neighbourhood Plan Examination process.

### Proposed Roll Out and Transitional Arrangements

With regard to the proposed roll out and transitional arrangements, the government propose to provide expert plan-making support to a first, small cohort of authorities to prepare new-style Local Plans. This first cohort could start Plan making from Autumn 2024.

Beyond this, the next key milestone is expected to be 30th June 2025, with authorities expected to be ranked chronologically by the date that they have most recently adopted a Plan and grouped together sequentially into groups of 25 authorities. Each group will be allocated a plan-making commencement window.

Responses are sought on this roll out and potential options for authorities wishing to commence work on a new Local Plan ahead of their window. Subject to the effect of other proposed changes to the planning system this could impact upon LPAs whose existing Plan contains requirements for early review.