

## **East Herts Council Non-Key Decision Report**

**Date:** 26 September 2023

**Report by:** Councillor Vicky Glover-Ward – Executive Member for Planning and Growth

**Report title:** Levelling-up and Regeneration Bill: consultation on implementation of plan-making reforms

**Ward(s) affected:** All

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### **Summary**

- This report proposes East Herts Council's response to the Levelling-up and Regeneration Bill: consultation on implementation of plan-making reforms.

**RECOMMENDATIONS FOR DECISION: that the Department for Levelling Up, Housing and Communities be informed that East Herts Council:**

- (A) Welcomes the opportunity to comment on the consultation on implementation of plan-making reforms; and
- (B) Submits the responses to the consultation questions included at Appendix A to this report as its detailed response to the Levelling-up and Regeneration Bill: consultation on implementation of plan-making reforms.
- (C) Would like to be considered as a 'front runner' authority to drive successful plan delivery under the new plan-making system.

## **1.0 Proposal(s)**

- 1.1 The purpose of this report is to advise Members of the implications of the plan-making reforms for East Herts and to agree this Council's response to the consultation.

## **2.0 Background**

- 2.1 The consultation seeks views on the government's proposals to implement the parts of the Levelling-up and Regeneration Bill which relate to plan-making, to make plans simpler, faster to prepare and more accessible.
- 2.2 The government's vision is for local plans to be simpler to understand and use, and to be positively shaped by the views of communities. Plans should be prepared more quickly and updated more frequently to ensure that more authorities have up-to-date plans that reflect local needs.
- 2.3 The government also wants to make the best use of new digital technology as a way of speeding up the production of plans whilst making it easier for communities to get involved.
- 2.4 The Levelling-up and Regeneration Bill sets out changes to the legislation that governs how local plans are produced. Through the consultation, the government is asking for views on the proposals to implement these changes. The Bill is currently undergoing parliamentary scrutiny and the government's proposals are subject to the Bill receiving Royal Assent.
- 2.5 The consultation last for 12 weeks from 25 July to 18 October 2023.
- 2.6 The government intends to have in place the required regulations, policy and guidance by Autumn 2024 to enable the preparation of the first new-style local plans.

## **3.0 Reason(s)**

### **Consultation document**

- 3.1 The consultation document sets out the government's proposals and direction of travel for the implementation of a new plan-making system and seeks views on these proposals.
- 3.2 The document also confirms, subject to Royal Assent of the Levelling-up and Regeneration Bill, various key plan-making transitional milestone dates.
- 3.3 The proposals are summarised below and **Appendix A** to this report contains the Council's response to the 43 specific consultation questions raised.

### **Plan content**

- 3.4 The government's ambition is that new-style local plans (and minerals and waste plans) will be simpler, shorter, and more visual. They will focus on local specific matters and will have more weight in decision making.
- 3.5 To help achieve this the Levelling-up and Regeneration Bill sets out parameters for the content of a new-style local plan. It requires the local plan to set out the local planning authorities' policies for the 'amount, type and location of, and timetable for development' in its area. Plans may also include policies which are designed to achieve objectives and relate to particular characteristics or circumstances of their area; and details of any infrastructure requirements, affordable housing requirements and design requirements. In addition, a policies map and key diagram should be included.

3.6 The Bill establishes an overarching requirement that the use and development of land contributes to the mitigation of, and adaptation to, climate change.

3.7 To support the approach the government is proposing to set out, through policy and supported by guidance, a series of core principles. Sustainable development will run as a golden thread throughout plans and there will be a requirement that plans contain a locally distinctive vision (see below).

3.8 Plans should do the following:

- Contain ambitious, locally distinctive policies which meet key economic, social, and environmental objectives, linked to the vision;
- Foster beautiful places and recognise the importance of design; and
- Set out a detailed approach to monitoring and ongoing review of the plan.

### **Plan visions**

3.9 The government proposes to strengthen the role of the vision in new-style local plans, ensuring that they are genuinely shaped by the views of communities, and informed by other stakeholders through early participation.

3.10 Authorities will have to have regard to the following principles when preparing their vision:

- the 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;
- the vision should set out measurable outcomes for the plan period, underpinned by an evidence base, which are actively monitored; and

- the vision should be supported by a key diagram which sets out the vision spatially for the plan area.

### **Local development management policies**

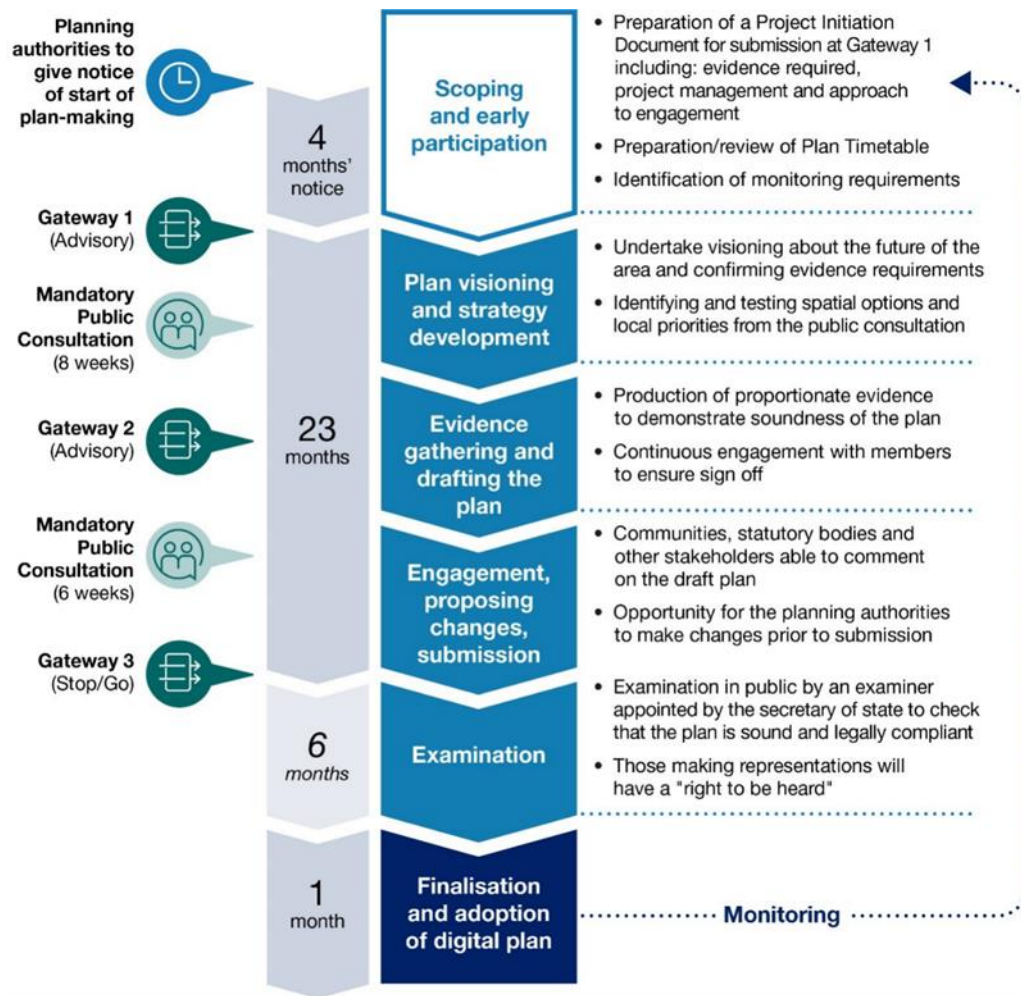
- 3.11 The Levelling-up and Regeneration Bill allows for local development management policies to be included in local plans. These must relate to the use or development of land and should enable delivery of the plan's vision. They should not in substance repeat any of the national development management policies.
- 3.12 A suite of national development management policies will be consulted on separately.

### **Templating and digital efficiencies**

- 3.13 The government will be producing a series of templates, setting out standardised approaches to different parts of the plan. There will be an expectation that any templates provided by the government will be used in the preparation of plans.

### **The new 30-month plan timeframe**

- 3.14 New-style plans will be prepared over a 30-month period, as set out in the below flow diagram:



3.15 Further details on the proposed stages are set out below.

### The scoping and early participation stage

3.16 This stage will take place before the 30-month process begins. Authorities will be required to prepare a Project Initiation Document (PID), using a digital template provided by the government.

3.17 The PID should:

- Define the scope of the local plan and identify the evidence required to create a sound plan;
- Set out the project management, governance, risks to delivery and resourcing arrangements; and
- Outline the overall approach to community and stakeholder engagement.

3.18 Planning authorities will need to 'notify' and 'invite' views on what the plan should contain. A range of relevant persons and bodies, which might include communities, statutory bodies and neighbouring authorities will be invited to participate at this stage.

### **Plan visioning and strategy document**

3.19 This is the first stage at the beginning of the 30-month timeframe. The purpose of this stage is to: establish the vision, aims and objectives of the local plan; to confirm the evidence required to support this; and the spatial options and topics to be covered in local policies.

3.20 There will be an eight-week mandatory consultation period. This will be the first opportunity for all stakeholders to formally comment on the issues an area is facing and how these may be tackled.

### **Evidence gathering and drafting the plan**

3.21 This is the second stage within the 30-month timeframe. The aim of this stage is to decide on an appropriate strategy for the local plan.

## **Engagement, proposing changes and submission**

- 3.22 This is the final stage before the submission of the local plan. It is expected that issues are resolved with statutory consultees and stakeholders during a further mandatory consultation period, with an opportunity to make modifications to the plan before submission.

## **Examination and amendments**

- 3.23 The government intends to set out in guidance that this stage should last a maximum of six-months. The new gateway assessment process (further information below) will be key to achieving this, by ensuring that any issues are picked up earlier in the process and resolved prior to examination.

## **Digital plans**

- 3.24 The government's ambition is to bring planning and plan-making into the digital age; to provide faster, simpler, more accessible plans. To achieve this ambition, legislation has been introduced which will allow the government to prescribe a common format based on standardised data across plan-making.

## **The local plan timetable**

- 3.25 Local planning authorities will be required to prepare their proposed timetable consistently, reporting against the same milestones in the same way, with an expectation that the process is completed within a 30-month timeframe.
- 3.26 All authorities will need to report on when they expect to meet the following milestones:
- Commencement of Gateway 1

- First mandatory consultation window (8 weeks)
- Commencement of Gateway 2
- Second mandatory consultation window (6 weeks)
- Commencement of Gateway 3
- Submission for independent examination
- Anticipated adoption date

3.27 The Bill replaces the existing requirement to adopt a Local Development Scheme with a new, simpler requirement to prepare and maintain a local plan timetable. It is proposed that planning authorities will no longer need to go through full Council sign-off each time their timetable is revised. There will be a requirement for timetables to be reviewed at least once every six months.

### **Evidence and the test of soundness**

3.28 A number of changes are being considered which will reduce the amount of evidence required to develop a plan and defend it at examination. Proposed changes include

- Setting clearer evidence expectations through national policy
- Providing guidance on what good evidence looks like, including what 'proportionate' and 'adequate' looks like, what constitutes up to date and how evidence should be communicated and published
- Standardisation of key evidence and data
- Freezing of data or evidence

3.29 To help meet the 30-month timeframe for local plan preparation, the test of soundness, which holds up many plans at examination, is set to be changed to ensure that the evidence prepared by local authorities is proportionate.

## **Gateway Assessments**

- 3.30 Gateway assessments are intended to:
- Ensure that plans set off in the right direction
  - Ensure compliance with legal and procedural requirements and (wherever possible) supporting early resolution of potential soundness issues
  - Monitor and track progress
- 3.31 The role of the first and second gateways will be advisory, and the appointed person will have no power to halt or delay the plan preparation process.
- 3.32 The third gateway will have a binding role, as planning authorities will be required to submit their draft local plan for examination where the appointed person has advised that the prescribed requirements are met. These requirements will focus on legal and procedural requirements.

## **Plan examination**

- 3.33 The examination will remain a critical part of the plan preparation process. It is proposed that examinations will take no longer than six months. If a consultation on proposed modifications to the plan is needed, this should add no more than three months to the process.
- 3.34 The Levelling-up and Regeneration Bill also provides a new power for Inspectors to pause a local plan examination for a timebound period. The government proposes to set out in regulations that the pause period will be no longer than 6 months. The pause could be activated, for example, by a significant issue with the evidence base.

## **Community engagement and consultation**

- 3.35 The government wants to increase the amount of engagement that takes place during plan-making and the opportunities for communities to influence their plan.
- 3.36 Proposals are focused on four themes:
- The role of digital
  - Planning and monitoring the engagement approach
  - A focus on early participation
  - A more standardised approach to consultation
- 3.37 The Levelling-up and Regeneration Bill removes the requirement to prepare a Statement of Community Involvement. Instead, the government is proposing that authorities will need to outline their overall ambitions and approach to engagement and consultation through their Project Initiation Document (see paragraph 3.16 above). For example, the PID may include how a local planning authority intends to connect with groups who have had traditionally low levels of engagement, and how the use of hybrid approaches to engagement might contribute to overcoming this.

## **Requirement to assist with certain plan-making**

- 3.38 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. The organisations that fall within the definition of 'prescribed bodies' will be set out in regulations.

## **Monitoring of Plans**

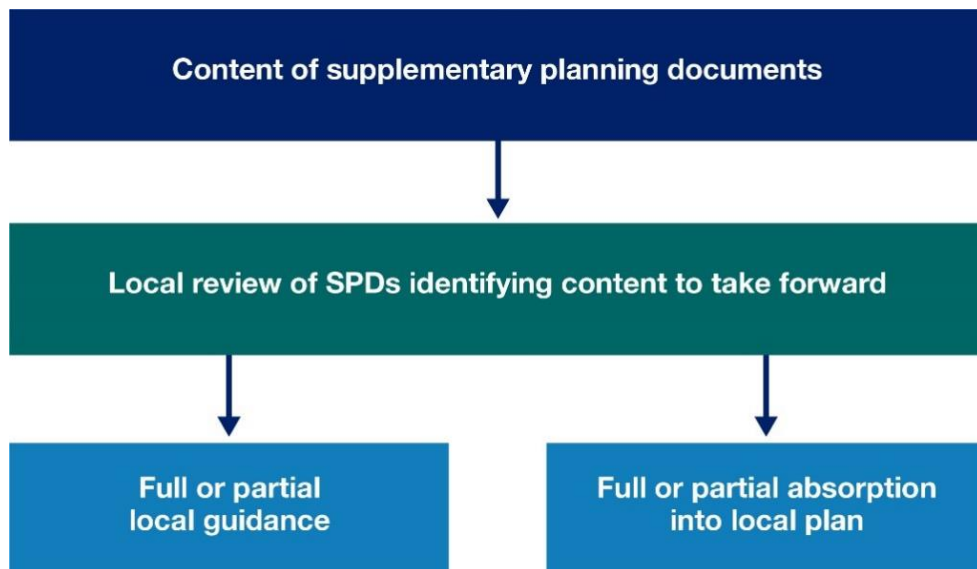
- 3.39 Under the current system, local planning authorities are

required to produce an Authority Monitoring Report (AMR). Under the proposed new system, there will be a more focused approach to monitoring which will have two distinct elements:

- A light touch annual return – this will include a small number of nationally prescribed metrics to assess the implementation of key policies, and other locally significant metrics identified by the local planning authority.
- A detailed return to inform updates to the plan – this will take place 4 years after adoption and will be a fuller analysis of how planning policies and designations are being implemented, and the extent to which the plan is meeting the overall vision of the area.

### **Supplementary Plans**

- 3.40 The reforms will remove the role of Supplementary Planning Documents (SPDs). These will be replaced by new supplementary plans which will have the same weight as a local plan. Unlike an SPD, supplementary plans will be subject to consultation and an independent examination (similar to existing arrangements for neighbourhood plans). As they are optional, they will not have a defined preparation time. Supplementary plans should not be used routinely, instead local planning authorities should make every effort to include policies and allocations in their local plans.
- 3.41 Planning authorities will be required to review their existing SPDs to identify whether the guidance is still relevant and consider whether the content should be revised and remain as guidance or should be integrated in to their new-style local plan.



## Community Land Auctions

- 3.42 Part 5 of the Levelling Up and Regeneration Bill provides for time-limited pilots of Community Land Auctions (CLAs), expiring ten years after the date the first CLA regulations are made. CLAs provide an alternative approach for identifying land for allocation for development which seeks to improve land value capture for the benefit of local communities.
- 3.43 DLUHC expects that CLS arrangements will be put in place and run in a small number of planning authorities, who will put themselves forward to participate in the pilot.
- 3.44 In piloting authorities, as part of the site identification and selection process, landowners will 'bid' to have their land selected for allocation in an emerging local plan by stating the price at which they would willingly sell their land for development. The offer from the landowner becomes a legally binding option once an option agreement has been entered into.
- 3.45 The local planning authority then decides which land to allocate in the emerging plan, giving consideration to a range of factors which will be set out in guidance by the government.

Unlike the conventional local plan making process, piloting authorities will also be able to consider financial benefits that are likely to accrue from each site.

- 3.46 Any options over land that is not formally allocated in the adopted local plan will cease to have effect.

### **Approach to roll out and transition**

- 3.47 The government has confirmed that the latest date for plan-makers to submit local plans for examination under the current system will be 30 June 2025. These plans will need to be adopted by 31 December 2026. These dates are contingent upon Royal Assent of the Levelling-up and Regeneration Bill, as well as parliamentary approval of the relevant regulations.
- 3.48 Where an authority fails to meet the adoption deadline, or if their plan were to fail at examination or be withdrawn, they would be required to commence preparation of a new-style plan immediately.
- 3.49 The government intends to have in place the regulations, policy, and guidance by autumn 2024 to enable the preparation of the first new-style local plans. Again, this is contingent upon Royal Assent of the Levelling-up and Regeneration Bill, as well as parliamentary approval of the relevant regulations.
- 3.50 To ensure a smooth transition to the new plan-making system, the government are seeking views on options for a phased roll out.
- 3.51 Under the roll out options, the government are proposing a first small cohort of around ten “front runner” authorities to prepare new-style local plans. This first cohort could start plan-making from autumn 2024. Details of who can apply and how

will be confirmed in due course (see also paragraph 3.61 and 3.62 below).

- 3.52 The next key milestone would be the 30 June 2025. The remaining authorities would be ranked chronologically by the date that they have most recently adopted a plan containing strategic policies. There would be up to 25 authorities in each group. Each group would be allocated a 6-month plan-making commencement window (a 'wave') within which plan making should start.
- 3.53 The government is interested in hearing alternative suggestions on other ways to group authorities e.g., via housing market areas, county boundaries or based on their rural or urban compositions.

### **Proposals around protection from speculative development**

- 3.54 To support the roll-out of new Local Plans, and protect LPAs against speculative development, the Government proposes to extend the period of the adopted Local Plan being considered up to date until 30 months after the point that the LPA is required to commence preparation of their new Local Plan.

### **Saving existing plans and planning documents**

- 3.55 When the new plan-making system comes into force, existing Development Plan Documents (DPDs) and saved policies will remain in force until the local planning authority adopt a new-style local plan. When that new-style plan is adopted, those existing DPDs and saved policies will cease to have effect.

### **The Council's response to the consultation**

- 3.56 **Appendix A** to this report contains the Council's response to

the 43 specific consultation questions raised.

- 3.57 Whilst the Council is generally supportive of many of the proposed changes, including the prioritisation of a plan-led system and the protection from speculative development, there are several areas where more clarity is required.
- 3.58 The Council is also concerned that the consultation fails to address some of the current main barriers to local plan progress. These include, but are not limited to, how housing needs will be addressed in areas of constraint, especially in areas with Green Belt designations; where there are major challenges around nutrient or water neutrality; or where new/improved infrastructure is needed to unblock barriers to development opportunities.
- 3.59 Moreover, there are significant cross-boundary matters in the plan-making system that are linked to process; however, the consultation document contains no specific information regarding the future of Duty to Co-operate under the new system or the previously proposed 'alignment test'. This policy area will be key in setting a strategic planning approach, so it is crucial that this should be addressed going forward.
- 3.60 It is also important to acknowledge the significant gap that currently exists in resourcing and skills which will continue to be a barrier on progress and quality in plan-making. This is especially important given the expansion of areas of expertise that will be required under the new system, such as digital technology, design codes, etc.

### **“Front Runner” Authorities**

- 3.61 As noted above, the consultation proposes to provide plan-making support to a first, small cohort of around ten “front runner” authorities to prepare new-style local plans. This is

seen as a very sensible approach in helping to bed in the new system in a concentrated way and where key players can work together proactively in achieving the most positive outcomes. A limited cohort will enable the experience of the first wave authorities to help identify where systems can be improved and streamlined and assist in positively influencing procedures going forward.

- 3.62 It is recommended that the Council considers putting itself forward to be one of the 10 'front runner' authorities preparing a new-style local plan under the new planning system. Given the proposed timeline for the District Plan update the Council would be in an excellent position to drive successful plan delivery in the first cohort. Being in the first phase of the new plan-making system will enable the Council to proactively maintain its delivery of planned development to ensure that it can continue to meet the accommodation and other needs of its communities in the right locations in a timely manner.

### **Next steps**

- 3.63 The Council will submit the response at **Appendix A** to the Department for Levelling Up, Housing and Communities, before the consultation closes on 18 October 2023.

## **4.0 Options**

- 4.1 The Council could choose not to respond to the consultation.

## **5.0 Risks**

- 5.1 Not responding to the consultation would mean that the Council misses the opportunity to respond to the government in relation to key concerns about the proposed plan-making reforms.

## **6.0 Implications/Consultations**

6.1 This report sets out the Council's proposed response to the government's consultation on the implementation of plan-making reforms.

### **Community Safety**

No

### **Data Protection**

No

### **Equalities**

The consultation asks a specific question on the potential impact of the proposals on people with protected characteristics as defined in section 149 of the Equality Act 2010.

### **Environmental Sustainability**

No

### **Financial**

There are no financial implications of responding to the consultation.

### **Health and Safety**

No

### **Human Resources**

No

### **Human Rights**

No

### **Legal**

No

### **Specific Wards**

All

## **7.0 Background papers, appendices and other relevant material**

- 7.1 The Levelling-up and Regeneration Bill: consultation on implementation of plan-making reforms document can be viewed online -  
<https://www.gov.uk/government/consultations/plan-making-reforms-consultation-on-implementation>

### **Contact Member**

Vicky Glover-Ward – Executive Member for Planning and Growth  
[vicky.glover-ward@eastherts.gov.uk](mailto:vicky.glover-ward@eastherts.gov.uk)

### **Contact Officer**

Sara Saunders – Head of Planning and Building Control. Tel: 01992 531656. [sara.saunders@eastherts.gov.uk](mailto:sara.saunders@eastherts.gov.uk)

### **Report Author**

Claire Sime – Service Manager (Planning Policy, Design and Conservation). Tel: 01992 531626. [claire.sime@eastherts.gov.uk](mailto:claire.sime@eastherts.gov.uk)