

East Herts Council: Consultation Response

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



Introduction:

East Herts Council welcomes the opportunity to comment on the proposed reforms to plan-making. 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.

The Council is 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.

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 the 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.

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 germane given the expansion of areas of expertise that will be required under the new system, such as digital technology, design codes, etc.

The Council's response to the 43 specific consultation questions is set out below.

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

East Herts Council agrees that plans should:

- contain ambitious locally distinctive policies which meet key economic, social and environmental objectives, linked to a vision;
- foster beautiful places and recognise the importance of design, linking to design codes where appropriate; and
- set out a detailed approach to monitoring and ongoing review of the plan.

It should be made clear that sustainable development is the key underpinning principle throughout plans, to ensure that growth is directed to suitable locations and is supported by required infrastructure and good design.

The Council also recommends that, following the recent amendment to the Levelling Up and Regeneration Bill (Amendment 191), a further core principle should be added to ensure that plans have special regard to the mitigation of and adaptation to climate change.

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?

East Herts Council agrees that local plans should be vision-led, with visions specific to the place and running as a “golden thread” linking all the policies and site allocations.

It is agreed that visions should include measurable outcomes which link to wider corporate plans and strategies supported by a more robust monitoring framework. This means that local plans should be the spatial articulation of what a council’s priorities are, rather than simply focussing on where housing and other development uses will be provided.

Whilst the Council also agrees that communities should be given a stronger voice in the visioning process, it is important recognise that this will require the right skills, especially to reach out and engage those that do not normally get involved or respond to planning matters. Effective and positive

engagement will also require additional resources to facilitate this role and, whilst the Council welcomes the new funding proposed through increased application fees, this won't provide funding for plan-making. With extreme current pressures on local authority finances, where maintaining existing services is a very real challenge, it is unclear how local authorities will be able to effectively provide the additional engagement role without an increase in budget. Likewise, the funding for clearing planning application backlogs, and the availability of skills funding will only have a limited effect given the serious capacity issues that planning authorities are facing.

Given the role of the vision in setting the wider context and detailing an authority's key aims and priorities, it will be vital that it is not diluted during the examination process.

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

East Herts Council agrees that local development management policies should be underpinned by appropriate justification and should enable delivery of the plan's vision. This should strengthen the role of plan's vision and ensure that local standards and policies are well targeted.

The consultation document suggests strengthening the role of the plan's vision may assist in reduce the amount of additional justification required to substantiate local development management policies. Whilst this approach is welcomed, it is not currently clear what level of evidence will be required at Examination. PINS will need to be provided with clear guidance to ensure a consistent approach to examining plans so that the expectations of all parties involved in the plan-making process are the same and will not lead to unnecessary expense or delays during Examination.

4. Would templates make it easier for local planning authorities to prepare local plans? Which parts of the local plan would benefit from consistency?

East Herts Council agrees that templates could make it easier for local planning authorities to prepare local plans. A standardised approach would benefit the community and other stakeholders. Templates should however

be designed to provide sufficient flexibility to allow for individual local circumstances to be reflected. They should also be compatible with format requirements of the various publishing programmes that are currently commonly utilised by local authorities in producing their plans and which also enable efficient processing of responses to consultations.

A standardised approach to presenting housing trajectories would be particularly welcomed.

5. Do you think templates for new style minerals and waste plans would need to differ from local plans? If so, how?

East Herts Council has no specific comments to make on this 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?

East Herts Council agrees that the plan-making process could benefit from being streamlined, and whilst the proposed 'scoping period' before the 'clock starts' could provide some wriggle room, the Council is concerned that the 30-month timeframe for plan preparation simply isn't achievable.

During this timeframe there is an expectation that two public consultations and three Gateway Assessments are undertaken, alongside visioning work, evidence gathering and the Examination. This will have significant resource implications for the Council and relies, for the Gateway Assessments and Examination, on the availability of independent specialists/planning inspectors. Across the country LPA's are experiencing significant resource and capacity issues reflecting national recruitment and retention difficulties. Similarly, it is not clear whether PINS will have the capacity to respond to the proposed reforms and how they will be held accountable if timelines slip. Other factors beyond the control of local authorities also need to be considered in the setting of any timeline, such as the ability of external statutory consultees to respond within specified timelines given that they often work within limited resources.

Furthermore, where there are complex issues to be understood on larger proposed allocations these may not necessarily be resolvable within such a short period which could result in sites that might have the potential to deliver significant amounts of development not being selected for inclusion in a development plan purely because time constraints do not allow uncertainty to be overcome. Allowing for greater flexibility in the plan-making timetable could therefore lead to a greater amount of development in the right places being able to be brought forward.

The current tabled proposals involve various stages of assessment and consultation, all of which will involve the production of documents that will need to be agreed by local authorities prior to publication and it is considered that insufficient time has been allowed for these democratic processes to be followed; particularly taking into account internal lead in times and ensuring that documents are available to both Members and the public suitably in advance of decision making meetings.

Following the Council's Regulation 18 consultation on its current District Plan over 3,000 representations were received, and the Council is very concerned that there is no scope in the proposed timeframe to properly consider or respond to any consultation feedback.

The proposed timeframe becomes even more unrealistic if it is considered that six months out of the 30 are set aside for Examination and a further month to adopt a plan, which would mean the timeframe available to local authorities to actually produce the plan would be limited to just 23-months.

Given the likelihood for modifications to be needed in many local plans, it is considered that, for clarity, the additional period of up to 3 months for this process (detailed at paragraph 118) should be added into the Figure 1 flowchart as a potential further stage.

It is also not clear from the consultation document whether there will be consequences for councils who do not achieve the 30-month timeline. The government already has a range of sanctions available to address slow plan-

making and it is not clear whether additional interventions are being proposed.

The consultation document refers to recent examples of planning authorities making a plan in just over 30 months within the current system. However, most authorities have taken far longer (the consultation document acknowledges seven years on average). The focus on speeding up the mechanics of local plan making, while important, does not directly address the reality of preparing a local plan that both meets local housing needs and is met with local support, particularly in areas where historically there has been conflict between these two objectives.

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?

East Herts Council agrees that a Project Initiation Document (PID) could help define the scope of the plan and could be a useful tool throughout the plan making process. The proposed digital template will ensure a consistent approach to the information required.

It is helpful that there is no time-limit on this stage, as the likely scope of the document will vary according to local circumstances and the views of communities and key stakeholders. However, in order that the scoping and early participation stages can be most effectively planned it is important that sufficient notice is given to local authorities regarding their assigned wave and likely 30-month commencement date.

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

The majority of data and information used to support the plan-making process is publicly available and openly published, however the standardisation of certain datasets and specifically spatial data, could benefit the wider-public.

Clauses 79 and 80 are welcomed – in particular, the standardisation of the various metrics will benefit the plan-making process, and also the monitoring of the performance of policies within the plan.

There does need to be clear guidance around data sharing, in particular in relation to spatial data, as, for example OS licencing will still need to be considered for all OS derived data for non-PSGA members. Likewise, the speed with which data changes, or becomes out-of-date, would need to be factored into the benefits of having data available for sharing.

9. Do you recognise and agree that these are some of the challenges faced as part of plan preparation which could benefit from digitalisation? Are there any others you would like to add and tell us about?

East Herts Council agrees that further digitalisation of the plan-making process could be an opportunity to help address some of the challenges and barriers set out in the consultation document. It is noted that the consultation document states that because plans are static and PDF based, they go out of date quickly. However, it is unclear how digital planning will solve this issue in practice because Local Plans will still only be reviewed/updated in accordance with the formal processes outlined in the legislation. Likewise, it is doubtful that digitalisation will reduce uncertainty around evidence requirements needed at examination, or the political nature of local decision making. As such, it needs to be recognised that some of the challenges and barriers identified might be a reflection of the plan-making process rather than a perceived lack of digitalisation.

In addition to the list provided, the Council suggests that the following areas might also require consideration alongside an increase in digitalisation:

- Digital exclusion
- Accessibility
- Demographic targeting
- Standardisation

It should be acknowledged that not everyone will have the necessary digital capabilities and therefore it will be important to identify 'hybrid' approaches

that can work with different communities to offer alternative routes to engage with plan-making, alongside traditional forms of engagement.

10. Do you agree with the opportunities identified? Can you tell us about other examples of digital innovation or best practice that should also be considered?

East Herts Council agrees with the opportunities identified.

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?

East Herts Council would like to see the visualisation of plans, policies and spatial data prioritised alongside the sharing of best practice.

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?

East Herts Council agrees that the milestones set out present the logical steps to report and set out a timetable on. It is noted that a plan timetable is expected to be produced during the non-time-limited 'scoping and early participation stage'. Clarity would be welcomed around when timetables are expected to be published and whether that is in advance of or following the preparation of a Project Initiation Document.

Whilst a more flexible approach to reporting on timetables is welcomed, and it is appreciated that proposed delegated arrangements are expected to be set out in guidance in due course, it should be noted that local authorities may have constitutions in place which mandate certain reporting processes, or member expectations are that matters of such importance will go through a formal reporting process. Given the above and cognisant of political sensitivities at a local level around transparency of the plan-making process, it may be hard to amend such procedures. Therefore, irrespective of national ambitions to streamline the reporting process, decisions over whether a

published timetable goes through a Council sign-off process or not, are therefore likely to lie with the relevant authority.

With regard to proposals for when timetables need to be revised; a requirement to revise the timetable every 6 months or when key milestones occur could be arduous for the Council, especially if any formal sign-off is required and this could also divert officers away from expediting plan-making. It should also be recognised that if regular revisions occur without scrutiny, this could potentially undermine the credibility of the timetable being set out. Therefore, the Council would prefer that key milestones or a material change in circumstances should be the triggers for updating the timetable rather than an arbitrary 6 monthly approach.

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?

As outlined in response to question 12, East Herts Council considers that the trigger for updating the timetable should relate to key milestones, not a 6 month time-period, which is likely to be too onerous. East Herts Council suggests that a pragmatic starting point for the revision of a local plan timetable, could be at each gateway stage, as these are clear, identifiable and measurable periods of the process.

To take account of any material changes that may impact on the timetable, the government may like to add flexibility and consider if certain circumstances will trigger revision to the timetable outside of the gateway stages. East Herts Council suggests that these circumstances could include changes to the matters the development plan is seeking to address or the geographical area of the local plan. For example, if local circumstances necessitate that the local plan incorporates a new policy area, or if an unanticipated development opportunity comes forward late in the plan-making process, which would need to be delivered via a supplementary plan.

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?

East Herts Council agrees that clearer expectations set through national policy and guidance should provide more clarity on what evidence is expected. The most important consideration for the Council is what the requirements for evidence production will actually be going forward and the prescribed level of detail that will be necessary for soundness purposes. Therefore, while a reduction in unnecessary detail would be welcome, it is important that the strategy and policies of a local plan are built on firm evidential foundations that are proportionate for their circumstances. Far more information regarding the actual details of what would be required is necessary before the Council can appropriately assess whether the current proposals would ensure that a reduced evidence base would be fit for soundness purposes.

The Council does, however, question the proposed ambition to reduce the production of topic papers as the use of these documents significantly streamlined the Examination of the Council's current adopted District Plan. Having key information in one place, which could be easily referred to and provided a single point of reference with signposts to all relevant documents in one place was invaluable. This approach was welcomed by the Inspector and other participants as it saved a significant amount of sitting time, and undoubtedly helped expedite the Examination process. It is not considered that the production of a 'statement of compliance with legislation and national policy' document would of itself serve to replace the usefulness of topic papers.

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?

East Herts Council supports the principle of the standardisation of evidence-requirement for certain topics where appropriate. Standardisation, inclusive of detailed guidance, standard methodologies or tools would be welcomed on topics where the methodology or the gathering of data forms the basis for objection or challenge.

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

While the Council would support the freezing of high-level data or evidence in terms of providing a fixed point to assist in expediting the plan-making process, flexibility should remain for Inspectors to consider allowing finer grain information to be submitted later in the process, such as for proposed site allocations where important late evidence is submitted e.g., from statutory consultees that may not have the resources to respond within the new timelines proposed.

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?

While the Council supports the submission of supporting documents relating to the soundness of the plan as key, consideration should also be given to allowing the submission of other evidence and background information where it would be helpful in providing useful contextual understanding.

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?

The purposes of the gateway assessments should be revised to ensure that they only cover details in relation to the tests of soundness and successfully negotiating an examination. For example, the ability of the scope of the plan and the supporting evidence to meet the tests of soundness would be a sensible purpose for a gateway assessment, but a gateway assessment that only looks generally at the scope of the plan itself is not advised. It is also questioned whether a gateway assessment, and indeed an Inspector, is best placed to review matters relating to a plan being on-track to deliver to timetable and how informed the community and other parties are about this. It would seem that regulations and policy/guidance can successfully deliver advice on these matters, whereas an Inspector's opinion is best placed to review matters of soundness.

East Herts Council therefore suggests that the purpose of the gateway review should be amended to focus solely on the ability of a plan to meet the tests of soundness and the ability of a plan to successfully negotiate an Examination.

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

Generally, the Council supports the timing and frequency of the gateway assessments within the proposed 30-month timeframe.

Whilst noting the proposed roll-out options, the Council is concerned about the availability and resourcing of planning inspectors, specialists, the new 'gatekeeper' organisation, and other support staff to meet the demands of the gateway assessments. Further clarity is required on the expected experience and specialism of the appointed Inspector/independent specialist.

The role of the planning Inspector at the third gateway will be particularly important given that their procedural recommendations will be binding and issues relating to soundness can be flagged. It is unclear if the same Inspector will then be able to/encouraged to formally examine the plan at the Examination stage. If different Examiners are involved during the third gateway and Examination, the government will need a clear framework to ensure consistency and a joined-up approach.

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?

East Herts Council welcomes the overall principle behind gateway assessments which will ensure that advice and guidance can be incorporated throughout the plan-making process.

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

Whilst East Herts Council understands that there is a need to put the gateway assessments on a '*sustainable financial footing*', it is difficult to take a view at this stage on whether this will be a significant financial burden without

knowing what the potential cost will be. If a cost is going to be incurred then PINS will have to demonstrate quality, accountability and value for money. Currently Inspectors are not held accountable for delays in Examinations.

A new burdens assessment of the proposed planning reform measures will need to be carried out.

22. Do you agree with our proposals to speed up plan examinations? Are there additional changes that we should be considering to enable faster examinations?

Examination is a critical part of the plan preparation process providing independent assurance that a plan is 'sound'. East Herts Council agrees that currently examinations frequently take too long, often lasting several years. The proposals to speed up examinations are therefore welcomed in principle.

It is noted that the proposed six-month timeframe will not be prescribed in regulations, recognising that some plans can deal with particularly contentious or complex matters, and this approach is supported.

The main area of concern is the around the capacity of PINS to respond to the proposed procedural changes. If examinations are to have two or more Inspectors appointed by default, and these would need to have sufficient expertise and experience to undertake that function, is PINS set up to deal with the increase in staff resource? What impact could this have in terms of a local authority's failure to meet its 30-month timeline if PINS were not able to provide the necessary number of Inspectors to meet the anticipated demand across the country?

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?

East Herts Council agrees that six months is a reasonable period of time to allow issues to be addressed. This would ensure that examinations don't become unduly protracted. There is of course a risk that if matters cannot be

addressed during this timeframe, then there could be an increase in the number of plans being withdrawn.

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?

Given the proposal to remove the requirement to prepare a Statement of Community Involvement (SCI), East Herts Council agrees that authorities should outline their approach to engagement and consultation as part of their Project Initiation Document (PID). It is appropriate that this is done at the outset of the plan-making process to ensure a stronger emphasis on early participation.

The PID should clearly set out the approach to consulting and engaging the community and stakeholders on the local plan and should include:

- The methods of engagement proposed at each stage of the plan-making process (including the use of digital engagement tools alongside traditional methods of engagement);
- The communities and key stakeholders that will be engaged;
- The approach to engaging with 'hard to reach' groups and underrepresented groups;
- The scope of the engagement and consultations; and
- The desired key outputs for each stage of the process.

The PID should also set out the resources and skills required to deliver the engagement strategy.

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?

If, following this consultation, the government maintains that the 30-month process is achievable, then East Herts Council would support the proposal to require planning authorities to notify relevant persons and/or bodies and invite participation on matters that might shape the direction of the plan, *prior* to commencement of the 30-month process. It is agreed that this will

enable increased transparency and provide an opportunity for communities to influence the plan-making process.

This stage will be essential to managing risks in local plan making, enabling early engagement with Members, the public and other stakeholders, and providing opportunities to discuss key challenges. It is noted that this stage has no time limit which is welcomed.

If this participation does not take place prior to formal commencement, then it is very unlikely that planning authorities would be able to meet the proposed 30-month timeline.

Similarly, if appropriate notice isn't provided to relevant persons, then this could result in resourcing and capacity issues later in the process with consequent time delays.

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

Given that the role of the Project Initiation Document (PID) includes defining the scope of the local plan, identifying any local issues and setting out the approach to community engagement, East Herts Council considers that it is important that the PID is informed by participation. This will be an important factor in engaging stakeholders and the wider community early in the process to help front-load local plan consultation and ensure transparency. It is important that any proposed approaches to facilitate positive early engagement are flexible to allow local authorities to consider and refine locally appropriate engagement.

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

Despite the challenges posed by the 30-month timeframe, East Herts Council agrees that it is appropriate to retain two rounds of formal consultation. The Council welcomes the proposal to define more clearly the role and purpose of these consultation windows. It is noted that the first window is likely to focus on validating the vision and testing the broad spatial options for the

plan; and the second window will seek views on the draft plan that the authority intends to submit for examination.

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

East Herts Council supports the use of templates to make it easier for planning authorities to analyse responses more effectively and agrees that these should be designed to support the adoption of digital approaches. Templates should also be flexible to allow authorities to include local information, for example privacy notices. It is also important that the use of templates is not so prescriptive that it prevents representations being submitted in other formats.

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

The Council notes that the list of prescribed public bodies refers to 'Local Enterprise Partnerships' (LEPs). Given the government's decision to withdraw core funding for LEPs from April 2024, it is anticipated that they will need to be taken off the list of prescribed public bodies. It will, however, be important that bodies responsible for local economic development should continue to be represented in some way.

To help authorities implement good walking, wheeling and cycling infrastructure Active Travel England should be added to the list of prescribed bodies.

The Council also notes that Highways England has currently been excluded from the list and questions this approach given the invaluable role that the agency plays in providing evidence and advice during the plan-making process.

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

East Herts Council agrees that prescribed public bodies should be engaged from the outset of plan-making. This is good practice and should hopefully avoid either late provision of information or unexpected issues.

However, if there is to be a 'requirement to assist' for prescribed public bodies to respond to consultations (assumed to be within the fixed consultation period), what measures would be introduced to ensure that these relevant bodies would have sufficient resources in place to carry out that function within the required timescale? It is important that support is in place and processes clearly outlined to ensure that meaningful, appropriate, responses can be delivered through this mechanism.

31. Do you agree with the proposed requirements for monitoring?

East Herts Council supports the proposed new system which includes a light touch annual return and a more detailed return 4 years after adoption. It is agreed that a clearer, more focussed approach to monitoring will ensure that planning authorities have a better understanding of how their plan is performing. The Council agrees that monitoring information should be made available digitally.

It is noted that monitoring templates will be made available to LPAs. This is welcomed; however, it will be important that these templates also have flexibility to capture locally specific metrics. The use of templates should ensure a consistent approach to monitoring activities and enable easier comparisons between the performance of plans in different areas.

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?

East Herts Council supports the proposed metrics.

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?

It is noted that site specific supplementary plans are only meant to be used in exceptional circumstances, to address unanticipated development opportunities. It is made clear in the consultation document that these must be in conformity with the development plan spatial strategy.

The Council is concerned that the suggested factors which could be taken into account when assessing whether two or more sites are 'nearby' to each other are too vague to provide clarity for local authorities seeking to progress supplementary plans for multiple sites. Whilst geographical distance is a clear criterion, the Council is unsure how the 'relationship to sites in other similar sized settlements or neighbourhoods', or 'for the delivery of planning obligations' would be interpreted in practice. For example, could it be sites anywhere in the district if planning obligations were used to help fund a strategic facility/project?

Given the resource implications of delivering supplementary plans, if East Herts Council decides that multiple unanticipated development sites comply with the development plan's spatial strategy and need to be delivered via a supplementary plan, perhaps to address a housing shortfall, the Council would prefer the flexibility to deliver sites anywhere in the district in one supplementary plan if necessary.

Therefore, it is suggested all sites in a relatively small district such as East Herts should be able to meet the definition of 'nearby'.

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.

East Herts Council welcomes the use of design review and masterplan engagement. The Council has successfully used these processes to masterplan the allocated sites in its adopted District Plan.

Paragraph 191 of the consultation document implies that given the possible diversity and flexibility of supplementary plans, different preparation procedures may be suitable for different types of supplementary plans. East Herts Council recognises that different engagement events and stakeholder processes (including design review) will be appropriate for different types of supplementary plans. As such, a range of good practice processes should be

set out in national policy, but with flexibility to allow LPAs to choose the appropriate engagement processes for their local circumstances. It is not considered necessary for regulations to prescribe different preparation processes for different supplementary plans as this is likely to be overly complex and prescriptive.

More generally, East Herts Council is concerned that the focus of the new supplementary plans either on district-wide design or site-specific issues means there will no longer be a mechanism for providing technical guidance on a range of strategic policies in the Local Plan. Supplementary Planning Documents (SPDs) in East Herts currently provide useful guidance to support the implementation of the District Plan and once these are removed there will be a policy vacuum on a range of topics. It is recognised that the Government's aim is to incorporate the information in the new Local Plans instead, but this appears to contradict the principle to deliver shorter, streamlined plans and East Herts Council is concerned that significant, useful guidance will be lost.

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?

Yes, East Herts Council agrees that a single formal stage of consultation is sufficient for supplementary plans.

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.

East Herts Council welcomes an examination process similar to the neighbourhood planning process, which prioritises written examinations, unless a hearing is deemed necessary. The Council considers that most

supplementary plans could be examined using independent examiners appointed by the LPA. However, it is recognised that in some cases it may be appropriate for an examiner to be appointed by the Secretary of State.

Given the resource constraints that PINS have, which will be exacerbated by the new plan-making system, the Council considers only very significant supplementary plans should be examined via this route. The suggested thresholds relating to the scale of development and significant environmental and historical designations are supported.

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?

East Herts Council considers that the approach broadly provides a proportionate basis for the independent examination of supplementary plans. However, the Council suggests that the following should also be considered:

- A criterion could be added to address the contribution of supplementary plans to the principle of sustainable development. Whilst conformity with the spatial strategy, contribution to climate change mitigation and adaptation and regard to government guidance are welcomed as they will mean that sustainable development will be an implicit requirement, the Council considers it should be made a stronger consideration.
- Criterion (f.) refers to government guidance, but this should also state that plans should have regard to government policy, to make clear that plans must have regard to the NPPF and national development management policies.
- Reference should also be made to environmental screening, to ensure this has been robustly considered in the process and an Environmental Outcomes Report is prepared if necessary.

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?

East Herts Council has no specific comments to make on this question.

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

East Herts Council considers that Community Land Auctions are potentially an exciting policy idea. The approach has various benefits; not least that the local authority can capture much more of the value uplift, which could then be spent on local priorities, such as improved infrastructure and better public services.

The process set out in the consultation document appears straightforward. The Council is, however, concerned that the consideration of financial benefits when deciding which sites to allocate in the local plan could be seen as a conflict of interest (see question 40).

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?

East Herts Council is concerned that the consideration of financial benefits when deciding which sites to allocate in the local plan could be seen as a conflict of interest for the local planning authority. Sustainable development should be the key underpinning principle to ensure that growth is directed to the most suitable location. If more than one site is assessed as a sustainable location for development, then financial benefit could potentially be taken into account, but this should not override the key planning considerations.

If financial benefits are taken into account, it will be important that councils are required to be completely transparent in their dealings with the landowner when the option is agreed and subsequently with the housebuilder who buys the site.

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

East Herts Council is supportive of a “front runner” cohort to assist in establishing best practice prior to rolling out to other authorities. 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 to assist in positively influencing procedures going forward. Should any unforeseen negative consequences of the new system be identified as part of this work, the effects of amelioration would be experienced by the front runners only, which would be beneficial in limiting the impact that might have been occasioned if a large number of authorities were to embark on implementing the new system simultaneously.

East Herts Council would like to be considered as one of the 10 “front runner” authorities preparing a new-style local plan under the new plan-making system. The Council is keen to 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. Being in the first phase of the new plan-making system will enable the Council to proactively achieve that goal. In anticipation of the approaching 5-year expiration of its current local plan, the Council has recently confirmed its intention to update the East Herts District Plan. Work will be commencing during this (2023/24) financial year on updating the evidence base and other preparatory work needed to support an update to the District Plan, which, amongst other workstreams will include a Call for Sites. Such evidence gathering will enable work on updating the District Plan to progress quickly when the new plan-making system formally commences from Autumn 2024.

While supportive of the “front runner” approach and taking groups of up to 25 authorities together within 6-month plan-making commencement windows to ensure that sufficient resources are available to facilitate the process, the Council questions whether further thought needs to be given to the practicalities of the mechanism suggested for the ranking of the remaining authorities.

While it would appear desirable on paper to take authorities in chronological order to ensure greatest up-to-date coverage across the country, there are factors to be taken into consideration which could mean that a hybrid method would be a more sensible approach to be adopted.

In this respect, it is firstly important to note the hugely successful impact in delivery of development that can be achieved through joint working between local authorities. Councils working together within joint Housing Market Areas can currently benefit from bringing forward cross-boundary schemes that deliver significant large-scale sustainable developments. However, where there would be a disconnect in future plan-making timelines between partnering authorities under a new ranking based solely on chronology, this may negatively impact the ability of both authorities to bring forward much needed development in a timely manner, especially where adoption of current plans has been some years apart. This could leave one or both authorities disadvantaged if agreements between them are delayed, or stymied altogether, because of unfavourable rigid working timetables imposed externally.

Therefore, as part of the final confirmed arrangements, it is suggested that the continuation of successful joint delivery mechanisms could be better facilitated going forward if partnering authorities were able to be included within the same wave groupings so that their relevant policies and proposals can be brought forward within similar timescales. In such cases, the priority should be towards expediting a review of the first partnering plan to expire.

Secondly, there should be recognition that development pressures experienced in some geographical areas are much stronger than in other parts of the country, so a balance should be struck between maintaining nationwide, up-to-date plan coverage and the need to bring forward much needed homes and jobs in a timely manner. Local political appetite to bring forward a review of local plans can also vary between authorities, so ensuring that mechanisms are in place to expediate local plan adoption within allocated waves will also be important so as to avoid delays and enable future waves to progress as soon as possible within PINS resource capabilities.

Whichever approach is taken to allocating authorities into waves, it would be extremely helpful for the phasing to be published as soon as possible so that local authorities can time their evidence gathering at an appropriate stage that would ensure it is relevant and does not waste scarce resources through premature work.

The protection of plans as being considered up to date for 30 months after the new system starts is fully supported, but it should be made more explicit that not only does the 30 months period commence from the start date of the required timeline within the relevant wave, but also that any plan which may expire prior to the new system coming into force should likewise be protected in the interim.

East Herts has an enthusiastic approach to plan-making and partnering with its neighbours to bring forward sustainable site allocations while facing significant development pressure to meet local needs going forward, these factors combine to make the authority an ideal candidate to be one of the “front runner” choices or to be assigned within a very early wave shortly thereafter.

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

East Herts Council agrees that existing Development Plan Documents and saved policies should remain in force until the local planning authority adopts a new-style local plan to take its place. This continuation of current arrangements allows for certainty for all participants involved in the development process until new plans are confirmed.

Likewise, East Herts Council supports the remaining in force of Statements of Community Involvement and Local Development Schemes relating to “old-style” plans until those plans are adopted or the deadline for their adoption passes.

The Council notes the requirement to review their existing Supplementary Planning Documents (SPDs) to identify whether the guidance is still relevant

and to consider whether the content should be revised and remain as guidance or should be integrated into their new-style local plan. This is potentially a significant piece of work for the Council, with time and resource implications, but is recognised to be an important part of the new plan-making process. Given the currently proposed guidance in this respect, it is likely that updated contents of many current SPD areas will be subsumed into new local plans or will be covered by national policy; nonetheless, it is still anticipated that other areas will require the preparation of new supplementary plans, and this clearly cannot take place until after the adoption of a new local plan, as they will be subsidiary documents to it.

However, while paragraph 265 comments that separate saving provisions are proposed in Chapter 11, it is clear from the narrative in that section of the consultation that the method of undertaking supplementary plan preparation is not going to be an instant process and no specific timeline is set out for their completion. Beyond that process being outlined, it is currently unclear what, if any, mechanisms will be in place to protect SPD subject areas that cannot be incorporated into a new style local plan on its adoption.

So, while the Council fully agrees that SPDs should remain in force until planning authorities adopt a new-style local plan, it is important that, where a need exists to introduce supplementary plan/s to take the place of existing SPD/s and given that such supplementary plans will take time to prepare, a grace period should be introduced in the interim in order that a policy vacuum is not created before the relevant supplementary plan can be finalised. This arrangement should be confirmed through appropriate regulations.

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?

East Herts Council has no specific comments to make on the potential impact of the proposals raised in the consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010.