

## Draft Response

### Levelling-up and Regeneration Bill: consultation on implementation of plan-making reforms

#### Chapter 1: Plan content

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

We agree with the core principles, although we would suggest that our emerging Local Plan, guided by the existing NPPF and NPPG, already incorporate them and we question whether reforms are needed to make local plans incorporate them.

##### **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?**

We consider that Local Plans should contain a locally distinct vision as is currently required by Part 9 of the Town and Country Planning (Local Planning) (England) Regulations 2012, NPPF and NPPG.

We note the aspiration for the vision to be the golden thread of plan making but have some concerns about how this would be implemented given the proposed process for producing a Local Plan as set out in Figure 1, specifically the fact that the diagram identifies that developing the vision becomes before the evidence gathering stage.

In contrast, we note that paragraph 26 (bullet 2) states that '*the vision should set out measurable outcomes for the plan period, underpinned by the planning authority's evidence base, which are actively monitored following adoption of the plan*'.

Paragraph 32, bullet 2 goes on to state that '*the vision itself will need to be linked to the planning authority's evidence base*'.

We consider that clarity needs to be provided on the role of evidence base in informing the vision as the local plan progresses. We consider that there is a high level of risk that visions developed with the community (prior to the production of evidence base) may conflict with evidence base produced at a later stage of plan making. It is currently unclear how this would be addressed if the regulations were to require '*the vision to 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*'.

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

In principle, we do, however, it is difficult to say much more without seeing more detailed proposals and having a clearer understanding of the likely content and wording of national development management policies. However, we consider that the proposed principles which underpin the local DM policies seem to reinforce principles we already adhere to and come under the test of soundness in the NPPF (i.e., reasonable and justified).

We note that the national development management policies, the scope, and content of which have previously been consulted on will be subject to further consultation.

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

We consider templates would have limited impact on the ability of local authorities (such as EEBC) to prepare Local Plans, but we can see the benefit for the government's desire for a standardised approach. We are re-assured by the statement in paragraph 36 that *'templates will be designed to provide sufficient flexibility, for example to allow for individual local circumstances and to enable local innovation, whilst ensuring that key standards are met'*. We consider that a future consultation should be held on the contents of the templates.

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

We are not responsible for minerals and waste planning and therefore we have no comments to make on this matter.

**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?**

We welcome the aspiration to speed up the development of local plans and note that scoping and early participation stage are excluded from the 30-month timeframe. However, we wish to highlight that the proposed timeframe fails to consider a number of variables that can impact progress with plan making, such as staffing, election cycles, changes of leadership, planning reform proposals, sufficient time/resources/capacity of key stakeholders (including statutory consultees) or local communities to respond during the formal consultation periods.

In addition, the timeframe of the examination stage would, to a large degree, be out of LPAs control.

We would also welcome further information on the potential consequence of not meeting the 30-month timeframe would be if there were genuine reasons for delay (such as those detailed above).

**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?**

We do agree that project initiation documents could be a useful tool to support the plan making progress. We expect that most planning authorities prepare detailed project plans supported by project initiation documents to support the development of their local plans which are used internally.

We note that this stage is to be commenced before the 30-month time limit for plan making commences in the scoping and early participation stage and that the PID will effectively replace the Statement of Community Involvement that local authorities are currently required to prepare.

There is a risk that that developing the PID and refining it post consultation will take longer than envisaged and could delay commencing the work on the local plan itself. It is unclear, as to whether the PID should be updated as the plan progresses or whether it will remain 'static' following the 1<sup>st</sup> Gateway check for the rest of the plan development cycle.

### **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?**

We consider that there is the opportunity to standardise data required for the following documents:

- Land Availability Assessments
- Green Belt Assessments
- Strategic Flood Risk Assessments (SFRA) - Level 1

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

We wish to emphasise that Digitisation/automation/standardisation should not be seen as a panacea to speed up plan making, and it is questionable whether all of the

challenges identified could benefit from digitisation (such as the political nature of plan making).

There are clear benefits to digitisation which Epsom and Ewell have embraced in our early consultation on the Epsom Town Centre Masterplan, the obvious areas of digitisation in plan making is through the use of public consultation / consultation platforms and through the digitisation of evidence base documents (see response to Q8).

Consultation Platforms (including those developed by Prop-Tech providers) can be utilised during public consultations, however, currently this is an additional cost burden placed on LPAs. Once systems are in place, there is usually annual fees/renewals. In addition, some consultees may prefer to use more traditional formats of communication or do not find digital formats accessible.

We consider that interactive mapping is beneficial although we wish to highlight that there can be issues with copyright that need to be considered.

**Question 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?**

We agree with opportunities identified, some being more effective than others depending on what the goal is – e.g. transparency, accessibility or efficiency. We welcome the opportunities to utilise digital technology in plan making and we have recently utilised prop tech funding (see response to Q9).

There are a wide range of tools that exist both in the UK and overseas, which will meet their aims of improving the efficiency of local plan making, and it is just a matter of choosing or signposting. We consider that there may be opportunities for using remote area sensing for Local Plan evidence base development.

**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?**

We consider that the development of open-source consultation platforms would be beneficial in addition to AI platforms to process comments received during Local Plan consultations. The processing of local plan comments can take a significant amount of time and delay progress with work on the Local Plan.

## **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?**

We agree with the milestones that are to be reported on and consider that this will provide interested parties with the core information they need.

The proposal to review the timetable at least every 6 months or once a key milestone is reached is welcomed, in addition to the removal of the current requirement for the Local Plan timetable (currently the Local Development Scheme) to be formally adopted through the democratic process which will enable more timely updates to be undertaken. We consider that it is important that members are kept updated on amendments to the Local Plan process and note that there is discretion for local authorities to put in place the governance and / or delegation arrangements in place for this.

**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?**

This would be dependent on local circumstances but could include where the responses received during consultations require additional information to be sought or unforeseen delays in evidence base development (such as the transport assessment).

## **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?**

We agree, though are disappointed that there is not more detail in this consultation document. We do however note that further consultation on these matters will be undertaken in the future.

**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, we consider that the following evidence could be standardised:

- Land Availability Assessments
- Green Belt Assessments

- Strategic Flood Risk Assessments (SFRA) - Level 1

**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, we consider this will provide greater certainty for planning authorities in progressing their Local Plans.

We consider that the three options for 'freezing' could work in different circumstances dependent upon the type of evidence base being produced. For example, the freezing of input data could benefit evidence relating to development needs and this may be beneficial early in the process alongside defining the methodology for evidence relating to development needs.

**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, we would support regulations for this alongside clearer guidance on the evidence that is required to support the examination of a Local Plan.

## **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?**

Yes, we are supportive of the core principles.

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

Yes, we are supportive of the introduction of the three gateways, the first two of which are advisory, however we have some reservations about these requirements being introduced through regulations which could result in plan development becoming too process driven.

In addition, we consider that it would be beneficial if all three gateways could be undertaken or overseen by a planning inspector(s) to ensure continuity through the process as far as reasonably possible.

**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?**

We note that further work is planned to develop a detailed working model for gateways and we are generally supportive of the preparation of a short report on a digital template for each Gateway stage. However, we consider that there is the risk that the approach as defined may be too prescriptive, such as identifying up to five issues which pose a soundness issue and or legal or procedural issues at Gateways 1 and 2. It may be better to remove the size limit or if it is to remain provide flexibility for more than 5 issues in exceptional circumstances.

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

The current Local Plan examination process is expensive for local authorities, specifically in a time of reduced local authority budgets alongside the increased costs of delivering services. We are concerned that the costs of the three gateway assessments, alongside the examination could be a significant burden for local authorities, specifically small authorities such as Epsom and Ewell.

We consider that government funding should be available to support the gateway process, preferably to cover all of the associated costs.

## **Chapter 7: Plan examination**

**Question 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?**

We agree with the aspiration to speed up Local Plan examinations and the emerging proposals are generally supported; however, we wish to emphasise that adequate resourcing of the planning inspectorate is crucial to the timely examination of Local Plans.

We consider that the proposals for examination could be seen to demonstrate double standards, by not requiring a 6 month turn around examination on the one hand and mandating a 30-month local plan preparation period on the other. The justification that there may be complicated matters that come up at Examination is just as valid at the Local Plan preparation stage, if not more so.

**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?**

We agree.

## **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?**

We note that the Bill removes the requirement to prepare a Statement of Community Involvement and that the proposal is that the approach and ambitions towards engagement are to be set out in the Project Initiation Document which will be considered at the first Gateway.

We are generally supportive of detailing how the council will consult on the plan making as part of the PID process to replace the SCI but consider that any national requirements to be contained within in a future digital toolkit and guidance should not be prescriptive and should provide flexibility for planning authorities select appropriate consultation methods. There is the risk that prescribing how planning authorities undertake consultation could increase the risk of challenge.

We consider it is unclear whether the PID contents, relating to engagement will be subject to examination in addition to the proposals for them to be reviewed at Gateways 2 and 3.

**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?**

We are generally supportive of the proposals to notify stakeholders (specifically statutory consultees) early in the plan making process to obtain information that could help shape the Local Plan, we are concerned that introducing a requirement in regulations could delay plan making with local authorities becoming stalled at this 'scoping and early participation stage' prior to the 1<sup>st</sup> Gateway assessment.

The proposals will result in three formal consultation stages within a relatively tight period which could run the risk of consultation fatigue and will have resource implication for local authorities.

We wish to highlight that the current system enables local authorities to undertake multiple regulation 18 consultations to develop their plans, often starting with a high-level options consultation before moving onto a more detailed draft Local Plan.

We note that para 144 of the consultation states that this consultation stage '*could include, as a minimum, seeking views on drafting a vision which will be required to anchor the local plan, initial principles, or other matters such as overall approaches*



*to engagement*. We wish to reiterate our concerns raised in Question 2, about developing a vision at this stage prior to the production of evidence base.

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

Under the current system Statements of Community Involvement are subject to public consultation and we consider that the engagement components of the PID could be subject to consultation, for example identifying individuals or organisations preferred consultation method, for example digital consultation platforms or more traditional in person drop in events. However, from experience limited responses are received to consultations on draft statements of community involvement (in effect we are consulting on how we will consult). In addition, the comments received on draft SCIs tend to focus on development management consultations as opposed to local plan consultations.

As noted in an earlier response, it is unclear how frequently the PID will be updated, a written it appears that the PID will be fixed following the first Gateway.

We consider that the messaging will be key during an early consultation stage, for example what is it that stakeholders can influence or what are they being asked to provide.

**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?**

We agree that that the role and purpose of the two consultations falling within the 30-month plan making period should be clearly defined.

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

We agree.

**Chapter 9: Requirement to assist with certain plan-making**

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

No comment.

**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.**

We consider that the approach seems reasonable given the occasional difficulties in obtaining information from public bodies and utilities providers at the early stages of plan making. We consider that the government should clearly set out the implications of an organisation failing to comply with a 'require to assist request'. If there are no penalties, there is no incentive to provide information in a timely manor (if at all).

## **Chapter 10: Monitoring of plans**

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

We agree.

**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?**

We agree with the proposed metrics which are minimum requirements and provide planning authorities with the option to do more. From experience the quantitative components of Local Plans (such as housing delivery) are those that can be monitored effectively.

## **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?**

Yes, we agree with the proposed considerations as to whether two sites are located 'nearby' to each other, including the geographical distance between sites.

**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.**

The consultation stages for Design Codes are detailed in the Nation Model Design Code – Part 1 and therefore we do not consider additional information is required. In

terms of other supplementary plans, the type of engagement would depend upon the content and therefore we do not consider any requirements should be prescribed and that these should be left to local discretion.

**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?**

We agree that a single formal stage of consultation is sufficient for a supplementary plan. The national model design code – Part 1 may need to be reviewed to reflect such a change coming into force in the future.

**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.**

We consider that guidance would be welcomed on the examination route to follow, however rather than defined thresholds, the decision could be made by the examiner having regard to the issues raised during the formal consultation stage.

**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?**

Yes

## **Chapter 12: Minerals and waste plans**

**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?**

No comment

## **Chapter 13: Community Land Auctions**

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

Whilst we note the intention for local authorities to volunteer to pilot the CLA process for a time limited period and that the draft CLA regulations on will be consulted on in future. It is unclear how the CLA process will work alongside traditional site selection methods, for example will every site being promoted for development in a pilot authority be required to 'bid' to have their site selected in a Local Plan? If not, it is unclear how site selection could be undertaken consistently or how a planning authority could assess a highly sustainable development site where the site owner as un-willing to set out the price they will sell their land for.

**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?**

The current process requires planning authorities to consider social, environmental, and economic impacts when assessing sites for allocation through the sustainability appraisal process. In addition, viability studies are key pieces of evidence base to support Local Plan policy requirements by ensuring that local plan policies do not make development unviable.

Whilst we recognise the aim of CLAs is to capture uplift in land values, which in turn could enable local authorities to deliver additional infrastructure, we are concerned that adding in a financial measure to the site selection may tip the balance away from selecting the most sustainable locations to those where the authority will capture the most uplift.

It is also unclear how the CLA process would apply to local authorities that own land which they are promoting for development, specifically given the need to secure best value for disposals of public land.

## **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?**

We have no preference on the options at this time, but the capacity of the planning inspectorate to support local authorities in their plan making is critical, specifically given the proposed introduction of the three Gateways in addition to the Examination Stage.

## **Chapter 15: Saving existing plans and planning documents**

### **Background**

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

Yes.

### **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 comment