

SDNPA Draft Response to DLUCH consultation on implementation of plan-making reforms

Introduction

This consultation seeks views on the Government's proposals to implement the parts of the Levelling Up and Regeneration Bill which relate to plan-making. The stated intention is to make plans simpler, faster to prepare and more accessible. The vision is for local plans (and minerals and waste plans) to be simpler to understand and use, and positively shaped by the views of communities about how their area should evolve. The Government wants them to clearly show what is planned in a local area – so that communities and other users of the plan can engage with them more easily, especially while they are being drawn up. It wants them to be prepared more quickly and updated more frequently to ensure more authorities have up-to-date plans that reflect local needs. It also wants them to make the best use of new digital technology, so that people can get involved without having to go through hundreds of pages of documents at council offices and to drive improved productivity and efficiency in the plan-making process.

The deadline for responses is 18 October and can be sent to planmakingconsultation@levellingup.gov.uk

Overall Messages

The South Downs National Park Authority generally supports the intent of the proposals and includes in its consultation response suggestions on how they could be implemented in practice in the South Downs National Park in its Local Plan Review and the minerals and waste plans that the authority prepares jointly with county and unitary authorities.

However, it is concerned that the proposed 30 month timescale does not allow sufficient time to procure or prepare the necessary evidence base and it does not allow time to properly engage with the community or members or get formal signoff to plan stages. This is particularly the case with joint plans (including many minerals and waste plans) where the stages need to be signed off by multiple authorities.

This is exacerbated by the introduction of additional requirements such as the PID; early community engagement on the vision; and the gateways. Whilst these are good ideas in themselves they take time to do properly and imposing a 30 month timescale will not allow this.

The reasons why plan-making has been very slow relate to the lack of a strategic level plan for infrastructure (especially transport, water supply and wastewater) and resolving the appropriate level of development for each LPA, and the political and practical difficulties this causes. This has been exacerbated recently by the uncertainty caused by multiple Government announcements of planning reforms. The examples quoted of planning authorities making a plan in just over 30 months within the current system demonstrate that it is not the process itself that is the problem, so changing it may well not resolve the delays. None of the changes proposed in the Bill or this consultation address the real reasons for delays in plan-making.

The South Downs Local Plan was adopted on 2nd July 2019 and will therefore be over 5 years old on 2nd July 2024. Whilst work has started on the Local Plan Review, it would not be possible to get it to submission stage by 30 June 2025 due to the size of the area and the

complexities of planning in a nationally designated landscape. There is also a strong desire to avoid abortive work especially in relation to Development Management policies if many of these are to be 'nationalised'. However, because the existing South Downs Local Plan will be over 5 years old before the start of the new planning system in Autumn 2024, it would not explicitly benefit from the protections from speculative development offered to those whose plans become out of date after Autumn 2024. Notwithstanding this our designated status and slightly different approach to housing allocation does provide a degree of protection from such development.

It is recommended that the protection against speculative development be extended to all those LPAs with a plan over 5 years old (even if it went out of date before Autumn 2024) provided that they have confirmed the intention to and shown some clear progress in preparing a local plan under the new planning system. This could be secured by temporarily extending the 4 month notice period to reflect the wave that they have been allocated to. For instance, a plan allocated to the second wave could serve a 10 month notice in September 2024 to confirm their intention to start the 30 month timetable as part of the second wave in July 2025.

Questions

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

Yes we agree that plans should include a locally distinct vision; promote sustainable development; include locally distinctive policies; recognise the importance of design; set out monitoring measures; and include a key diagram and digital policy maps.

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?

Yes we agree that plans should include a vision and with the proposed principles including that there should be a link with the corporate vision for the authority. In the case of the South Downs National Park there should be a clear link with the purposes and duty of the National Park and its overarching vision to 2050 as well as the priorities set out in the current Corporate Plan: climate action, re-nature and a National Park for all. The vision could also reference agreed targets and measures where they relate to land-use planning and the lifespan of the plan. Similarly, this would also apply to the minerals and waste plans that the authority prepares jointly with county and unitary authorities.

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

Yes we support the creation of statutory National Development Management Policies to cover matters that are common across the country so that local plans can focus on matters that are genuinely local. We agree that these local policies should be justified by evidence and linked to the vision. We would encourage Government to publish the draft NDMPs without delay so that those preparing plans under the new system know which policy areas will not be covered by them.

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?

Yes templates for preparing local plans would be useful provided that they have sufficient flexibility to allow for individual local circumstances and to enable local innovation.

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

No the broad layout of the plans will be the same, it's just the content that would be different. If the templates are intended to include standard text then this would need to be tailored to minerals and waste plans.

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?

No, this timescale is completely unrealistic. It does not allow sufficient time to procure or prepare the necessary evidence base and it does not allow time to properly engage with the community or members or get formal signoff to plan stages. This is particularly the case with joint plans (including many minerals and waste plans) where the stages need to be signed off by multiple authorities.

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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?

Yes the PID is a useful document and we will be preparing one shortly to inform the South Downs Local Plan Review. It is notable that this is proposed to be carried out before the 30 month timescale starts, presumably to inform the timing of the 4 month notice. It would be helpful if authorities could be supported to start work on PIDs as soon as possible so they are in position to give the required notice in Autumn 2024. Allowing authorities to "notify" the public and stakeholders including statutory bodies and "invite" participation in the local plan ahead of this 4 month notification would also help to ease the timetable and the transition to the new system, especially if it could include early engagement on a draft vision. In reality evidence base procurement and preparation will also need to start before the 4 month notice is served due to the time needed to comply with procurement rules and to gather the necessary evidence.

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

Data should be standardised and openly published as much as possible. National Park Authorities face a particular challenge because data is normally produced to local authority

boundaries rather than National Park boundaries which makes it difficult to apply to National Park local plans. It should also be noted that environmental data has the following challenges:

1. Funding – there is a resource implication for collecting, managing, holding and presenting environmental data. For example, the Biodiversity Record Centres across the country are a valuable resource the provision of this data and rely on being able to operate a charge for making this data available.
2. Digital capacity – technical capacity for holding, downloading and viewing datasets, considering file sizes and accessibility of data in the context of a digital roll out. Raw data alone is not very accessible and there will be a need to consider how this is presented to be user friendly.
3. Sensitivity of data – For example. due to vulnerability of certain species, it is not always appropriate to make location data available publicly.

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?

It is recognised that local plan evidence is often lengthy, disproportionate to the policies it is intended to inform, inconsistent between authorities and difficult for people to understand and scrutinise. Along with digitalisation there needs to be clarity about the evidence needed to support different policies and how this should be presented.

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?

Yes the main opportunities are around the visual presentation of plans, their useability and the potential for AI to assist in the efficient and accurate processing of representations.

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?

There has been a lot of work carried out in this area, the priority must now be to share that to all authorities to avoid duplication of effort or unnecessary or unsuccessful procurement of digital solutions.

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?

The replacement of Local Development Schemes with proposed timetables is supported and the milestones required are appropriate. The requirement for planning authorities to revise their timetable at least once every six months is odd as it suggests that there is an expectation that the timetable will need to be changed during the preparation of the plan. It is suggested that the word 'review' would be more appropriate than 'revise' as there may be instances where the original timetable is still accurate. It is noted that the consultation states there will be no need for member signoff of these, but local delegation arrangements are for each authority to determine not central Government. It is likely that local members will want to know and agree the significant resource commitment required by the preparation of a local plan rather than leaving this to officers.

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?

The gateways would seem to be a likely time that would prompt a review of the plan timetable, especially where they identify further work necessary before moving to the next stage.

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?

It is agreed that national policy should set clearer expectations for what a proportionate evidence base looks like and how it should be examined, but the consultation paper does not provide sufficient detail to comment further.

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?

Standardisation of common evidence base documents such as needs assessments and land availability assessments would be useful to both authorities and those scrutinising evidence. However, this must allow for some flexibility. For instance, in a National Park which is designated for its natural beauty, it is likely that land availability assessments will have a stronger emphasis on landscape impact than in non-designated areas.

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 evidence gathered during the 30 month period should not be expected to be updated during the preparation or examination of the plan. There should be no ability for Inspectors at examination to require this evidence to be updated. If this ability is retained it will prompt authorities to be risk-adverse and update evidence every time new data is released, adding to plan-making delays.

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, but that is the case now.

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?

The purposes of gateway assessments is supported, especially ensuring compliance with legal and procedural requirements and supporting early resolution of potential soundness issues.

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

The requirement for three such assessments, taking 4-6 weeks each, will impact on the timetable and make the 30 month period very challenging, especially when combined with member signoff requirements. It is also doubtful that PINs has the resources to service these, especially during 2025-2027 when there will be a significant number of authorities working to similar timetables. An alternative could be for a body such as the Planning

Advisory Service to carry out Gateways 1 and 2 with PINs only being responsible for Gateway 3, but this would require close working between PAS and PINs to avoid conflicting advice. It is also considered that Gateway 1 and 2 could be combined and carried out between the two mandatory consultation windows.

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?

Yes subject to the response to question 19. The limit to 5 soundness issues to be raised at Gateways 1 and 2 is artificial and unhelpful.

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

No, this is a new burden for authorities already struggling financially and operationally. The gateway assessments should be funded by central Government.

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?

Yes these are good suggestions, especially restricting written responses to the Inspectors' 'Matters, Issues and Questions' to authorities and consultation on modifications only required where these propose new sites.

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?

Yes.

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

Yes, although it is not clear whether this would replace the whole Statement of Community Involvement or whether a partial SCI would need to be retained to cover community engagement in development management and LPA support to neighbourhood plans. We look forward to the publication of the digital toolkit to identify more effective ways of engaging the community in local plans.

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?

Yes.

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

Yes. Experience tells us that it is difficult to get communities engaged without some clear proposals that they can comment on that are of interest to local people and organisations. Including a draft vision and outcomes may help to make the engagement more successful as well as giving an early steer on the direction of the plan.

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?

The current system allows flexibility about the content of the Regulation 18 consultation, with some authorities choosing an ‘issues and options’ approach whereas others go straight to a draft plan. The proposal is for this to be more standardised with the Regulation 18 consultation focusing on validating the vision for the area and testing the broad options for the plan, including the key spatial choices. The Regulation 19 consultation would seek views on the draft plan which the planning authority intends to submit for examination.

It is notable that, under the current system, those authorities that carry out an issues and options consultation at Regulation 18 often repeat this stage with a draft plan consultation. This is because leaving the draft plan to Regulation 19 means that any detailed concerns about policy wording or allocations are not raised until very late in the process which makes them difficult to address. Representations at Regulation 19 stage are limited to comments about the legality or soundness of the plan which can frustrate those who want to offer alternative solutions. The LPA is not required to respond to these representations, but merely to summarise the issues raised and provide this to the examining Inspector. There is therefore no mechanism in the current regulations for the LPA to amend the Regulation 19 version of the plan in response to the representation other than via modifications during the examination.

It is recommended that the vision and broad options for the plan should be included in the PID / early participation stage to make this more engaging and interesting for participants, and that the Regulation 18 consultation should include a draft plan which can then be modified in response to comments before publishing at Regulation 19 stage. This will then narrow the remaining issues for consideration at the examination.

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

Yes.

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

National Park Authorities are listed as prescribed public bodies that must provide assistance to develop or review the local plan, but NPAs are local planning authorities in their own right that will be preparing their own local plans, so it is unclear how they would be expected to assist other LPAs. This is in effect retaining a ‘duty to cooperate’ that will no longer apply to district and borough councils. National Park Authorities should therefore be removed from this list.

Local Nature Partnerships are also listed, which makes sense given the requirements for local plans to have regard to local nature recovery strategies, as LNPs are likely to be critical partners in producing these. However, these bodies are currently unfunded by central Government and their levels of resource often mean they are unable to respond to local plan consultations. A robust central funding mechanism should be put in place to ensure that LNPs can meet these requirements.

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 support the intention that the requirement to assist will be reserved for cases where the planning authority is not getting the engagement and/or information that it needs, and that this notice can be served at any point in the plan preparation process.

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

We agree that there should be a 'light touch' annual return for a small number of nationally prescribed metrics and a more detailed return four years after adoption of a plan to inform its review.

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?

Yes these measures seem reasonable.

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, geographic proximity should be the main determiner.

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.

It would be helpful to understand the expectations for consultation on supplementary plans and what criteria they will be examined against. For Design Codes further advice is needed on how these should differ from Design Guides when prepared on a whole LPA area basis, and the timescale when these need to be in place.

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?

Yes one formal stage of consultation should normally be sufficient.

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.

No, there should not be any difference between the validity of a supplementary plan examined by PINs or by any other appropriately qualified examiner. The independent examiner system works fine for neighbourhood plans which have a broader remit than supplementary plans.

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. Should clarify whether supplementary plans need to be in general conformity with the strategic policies of the local plan – 'have regard to' is too vague. The name implies they should be 'supplementary' not setting a new strategic direction.

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?

The main difference is that minerals and waste plans are commonly produced on a joint basis. The South Downs National Park Authority prepares minerals and waste plans for three areas: East Sussex in partnership with East Sussex County Council and Brighton & Hove City Council; West Sussex in partnership with West Sussex County Council and Hampshire in partnership with Hampshire County Council, Portsmouth City Council, Southampton City Council, and New Forest National Park Authority. These have complex governance arrangements which require signoff at each statutory stage of plan-making by each local planning authority. This would be impossible to fit into the 30 month timeframe.

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

In piloting authorities, as part of the site identification and selection process, landowners '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 financial benefits of sites could be taken into account as part of the land allocation process for a local plan. The South Downs National Park Authority does not intend to participate in these pilots as it is already well advanced with site identification for the Local Plan Review and such a site selection method may conflict with the purposes of the National Park.

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 overriding consideration should be whether the site is in a sustainable location and delivers the vision and outcomes of the local plan. In a National Park we would also need to consider if the allocation met National Park purposes. Any financial benefits should be secondary to these factors.

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

Under the proposed transitional arrangements the South Downs Local Plan Review should be prepared under the new planning system. It is Government's intention to have in place the regulations, policy and guidance for this new system by autumn 2024. Concerns have previously been raised about the implications of around 90 authorities starting to prepare new-style local plans at the same time. Options for roll-out are as follows:

- A first wave of 10 LPAs could start in Autumn 2024 with subsequent waves of 25 LPAs allocated a 6 month commencement window based on the date of their most recently adopted plan;
- Or base the waves on housing market areas, county boundaries or whether they are urban or rural;
- Or give later waves a 'backstop' by which they have to commence, but allow them to start earlier if they want to.

It is also proposed that plans that will become more than 5 years old during the first 30 months of the new system (i.e. while the local planning authority is preparing their new plan), will continue to be considered 'up-to-date' for decision-making purposes for 30 months after they are required to start making their new-style local plan.

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

Yes we agree that existing local plans and SPDs should remain in force until the local planning authority adopts a new-style local plan, at which point they will automatically cease to have effect.

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.