

Report to: Strategic Planning Committee



Date of Meeting 3 October 2023

Document classification: Part A Public Document

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## Response to Government consultation on plan-making reforms

### Report summary:

This report provides feedback on the consultation that the Government are undertaking on proposed new style local plans. These proposed changes are linked to and have their legislative basis in the Levelling-up and Regeneration Bill (which is currently progressing through Parliament). The proposed changes seek to speed up the plan making process while seeking to engage communities more in their production. The closing date for responses is 11.59pm on Wednesday 18 October.

### Is the proposed decision in accordance with:

Budget Yes  No

Policy Framework Yes  No

### Recommendation:

That Committee endorse the proposed response to the consultation as set out in this report and that these be submitted as the Council's response to the consultation.

### Reason for recommendation:

To ensure that feedback is provided by East Devon District Council to reflect and highlight concerns and considerations raised by this council.

Officer: Ed Freeman – Assistant Director, Planning Strategy and Development Management, email – [efreeman@eastdevon.gov.uk](mailto:efreeman@eastdevon.gov.uk), Tel 01395 517519

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### Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Communications and Democracy
- Economy
- Finance and Assets
- Strategic Planning
- Sustainable Homes and Communities
- Culture, Leisure, Sport and Tourism

**Equalities impact** Low Impact

## Climate change Low Impact

**Risk:** Low Risk;

**Links to background information** The consultation can be viewed at: [Levelling-up and Regeneration Bill: consultation on implementation of plan-making reforms - GOV.UK \(www.gov.uk\)](https://www.gov.uk/levelling-up-and-regeneration-bill-consultation)  
Links to other background documents are contained in the body of this report.

**Link to [Council Plan](#)**

Priorities (check which apply)

- Better homes and communities for all
  - A greener East Devon
  - A resilient economy
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### **1. Consultation on changes to the local plan making system and timing issues**

- 1.1 On the 25 July 2023 the Government started consultation on proposed changes to the local plan making system. These proposed changes are linked to and have their legislative basis in the Levelling-up and Regeneration Bill (which is currently progressing through Parliament). The consultation closes on 18 October 2023.
- 1.2 The consultation sets out a new way of producing local plans that the Government consider will make plan making simpler and quicker. In part this lies in the form and format of plans becoming more standardised across England with set templates being established for use in production. Also the consultation sets out proposals for a more consistently applied structured approach to local plan making.
- 1.3 The overall impression (from an officer interpretation) through the consultation is that there will be less flexibility for planning authorities to identify matters they regard as appropriate for inclusion in a plan, with more emphasis on complying with defined process and matters set by Government. But there is an expectation of there being less stringent evidence requirements in the future.
- 1.4 The local plan making consultation places a lot of weight on the importance of plans setting out, and starting with, a locally defined vision that should be endorsed through public engagement. Whether in reality a vision can or will be largely or fully endorsed, especially if it contains challenging proposals (for example building a new town), will no doubt be a matter for debate. However, the consultation sets out a case for greater public engagement in plan making and places weight on a case that through active engagement, that captures and reflects public and consultees views, people will sign up to the vision and this will then be logically translated into policy and land development allocations (that are supported). Those challenging might question, however, if this is really going to happen and can it be so easy - especially so when a plan puts lines or boundaries on a map, say around a green field in East Devon, and says this is where new houses are going to be built!
- 1.5 The Government advise that under the new system there will be a four month period during which early scoping of plan content and participation takes place before the clock

formally 'starts ticking' on plan making. This then leads into a defined programme of plan making that stretches over (up to) 30 months (2½ years) through to final plan adoption. It should be noted that currently the bulk of local plans take much longer than this to produce (at least seven years on average) - perhaps the Government are being overly ambitious in their expectations? Under the proposed new timetable arrangements there will be what are termed 'Gateway' stages where plan making is checked against defined process/content assessments. The first two 'Gateways' are less formal but the third and last one directly informs plan examination.

- 1.6 Through the consultation there is increasing emphasis placed on use of new technology and standardised ways of recording information and data and making it accessible. Use of new technology is seen as essential to gain wider public buy-in and making plans more accessible and engaging and also to ensure timely (if not speedy) production.
- 1.7 The consultation advises that the current existing plan making system will remain in place and operational for emerging plans that are:
- submitted for examination up until 30 June 2025; and
  - which will then be adopted by 31 December 2026.
- 1.8 For our emerging East Devon Local Plan these dates look critical. We could move ahead under the current plan making system or wait for the new system to be in place. To run to the current plan making system we would, however, need to avoid any lengthy delays to ensure we submit before the 30 June 2025 (ideally well before). Then, amongst the unknowns, is how long the plan will stay at Examination, a lengthy Examination could push adoption to a point where it would not be possible until after 31 December 2026. Though there may ultimately be flexibility to adopt after this date.
- 1.9 It might be possible to start formal preparation of a plan under the new system in late 2024. But based on the consultation wording there will be a phasing in of dates that selected planning authorities can start at and an actual possible formal start, for many planning authorities, could well be some time later. There could also be timetabling challenges that the Government (or perhaps a future one) faces with introduction of the new system and maybe it won't be introduced at the times outlined or could be somewhat different from that envisaged at present. For our thinking about timetables seeking to get in early on new ventures and systems may have some attractions, but it's not without unknowns and risks.

## **2. How we have set out proposed response**

- 2.1 The consultation issued by the Government includes explanatory text about the new proposed plan making system and asks a series of questions around this text, 42 in total. It should be noted that the consultation covers local plan making (as falls to East Devon District Council) as well as mineral and waste plans. But as minerals and waste planning is not the statutory responsibility of East Devon District Council (for us Devon County Council is the relevant authority) we do not comment on waste and minerals plan matters, other than briefly responding to specific questions about waste and mineral plans.

- 2.2 In the text in the next section of this report we use the key headings found in the consultation and under these provide a succinct summary of key themes in the consultation and in some cases some comments about issues, concerns and matters that may be relevant in an East Devon context. The questions asked are shown in shaded text as is a suggested response to the consultation question asked.
- 2.3 This report sets out a flavour of the consultation material though it is not fully comprehensive, officers of the Council have, however, sought to give a fair and balanced overview of the consultation highlighting what are seen to be the key points it raises. Also the intent has been to make it explicitly clear what the government are consulting on and what is comment made by officers of the Council around matters raised and their potential relevance to East Devon and the Council.
- 2.4 **It is stressed that to understand the Government consultation fully, and the full context of the questions asked (and as such the suggested responses) the consultation document from Government should be read in full alongside this committee report.**
- 2.5 The recommendation is that the answer text in the shaded boxes (in the next section of this report) is submitted as the East Devon District Council consultation response to the consultation.
3. **Summary comments about the consultation and proposed response by East Devon District Council**

### **Chapter 1: Plan content**

- 3.1 The consultation advises that local plans play an important role in directing development and providing local communities with certainty over their areas. The government set out that their ambition is that new-style local plans are simpler, shorter and more visual, showing more clearly what is planned in local areas so users can engage more easily.
- 3.2 The Government advise that they want local plans to tell the 'story' of how the planning authority's area will develop, what is needed to ensure development achieves the right outcomes, and how this will contribute positively to good place making and environmental enhancement. The government say plans should have a locally distinct vision which will anchor the plan, provide strategic direction for the underpinning policies and set out measurable outcomes for the plan period.

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

East Devon District Council welcomes principles around local plans being accessible and clear, setting out issues around how an area will develop. These, of course, are considerations that can be readily applied to plan making under the current system and as such, going forward, the Government will need to more fully articulate how the principles will work in practice and therefore how they will be an enhancement and improvement on the system of plan making that exists at present. Lack of detail in proposals at this stage limit the degree to which comment can be made, suffice to say that making changes that actually make the plan making system better (rather than making changes for the sake of making changes) will be a challenge for Government.

## Plan visions

- 3.3 The consultation advises that visions can be an important means of setting the wider context and detailing the planning authority's key aims and priorities, in a way to be clearly understood by communities and other stakeholders. They advise, however, that visions in existing plans are often too long, generic and high level, and do not sufficiently capture the uniqueness of the places they describe or the views of the communities that they serve.
- 3.4 The Government see focussed and specific visions as a tool to give communities a much stronger voice in the plan-making process which should:
- serve as a "golden thread" through the entire local plan, with policies and allocations linking directly to delivering the outcomes set out in the vision;
  - 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
  - be supported by a key diagram which sets out the vision spatially for the plan area.
- 3.5 The Government propose to provide a user-tested digital template which can be used by authorities during plan-making.
- 3.6 Members of Strategic Planning Committee will recall that there has been recent committee debate around revisiting the vision of the draft East Devon Local Plan and a subsequent workshop session. The consultation on the vision aspect of the new local plan making system does not provide detailed guidance on what the Government necessarily see a vision containing, but it intends to provide a user-tested digital template which can be used by authorities in plan-making.

### **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?**

East Devon District Council supports the inclusion of a vision in local plans which clearly and concisely articulates how the local authority area will look by the end of the plan period. A challenge for Government will be, however, to establish a plan making system where this development of a vision can genuinely take place that accords with Government expectations whilst still providing flexibility for planning authorities to capture what is truly relevant and important for their own local circumstances and situations.

## Local development management policies

- 3.7 The Levelling Up and Regeneration Bill provides for the creation of National Development Management Policies which will be consulted on separately. By dealing with nationally important matters, the Government advise that local plans will be more streamlined and focus on matters that are considered to be genuinely local.
- 3.8 The proposed approach for local development management policies is they should be underpinned by appropriate justification and, wherever possible, enable delivery of the plan's vision.

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

East Devon District Council support the principles for local development management policies, to enable locally-specific issues and challenges to be considered effectively when determining planning applications. For example, East Devon requires local policies relating to development in coastal areas, clearly not applicable to 'inland' local authorities. There should, therefore, be sufficient flexibility built into the new system to ensure that planning authorities can identify matters that are specifically relevant or important for their area to enable local policies to be developed.

### **Templating and digital efficiencies**

- 3.9 The Government express concern that local plans lack standardisation and consistency across planning authorities in respect of text and maps. They consider that it can be challenging for users to navigate and engage with different plans to understand what matters to them, resulting in wasted time and effort.
- 3.10 The government are seeking consistency in plans, using defined national data standards and a series of templates, setting out standardised approaches to specific parts of the plan. Though they advise that templates will be designed to provide flexibility, for example to allow for individual local circumstances and to enable local innovation.

### **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?**

East Devon District Council support the use of templates to prepare local plans, to save time and provide consistency in the structure and content of local plans. We support a templated contents page and approaches to drafting and presenting specific policies. However, there is a danger that local plans could become formulaic, so sufficient flexibility should be provided so that locally-specific issues can be included within the template. For example, the spatial strategy for development will vary between local authorities, so the template should enable flexibility to reflect this.

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

East Devon District Council are not a minerals and waste planning authority and as such would leave it to responsible waste and mineral planning authorities to comment in detail. However, whether through the proposed new plan making system, and indeed through the plan making system that exists at the present time, we welcome legible and easy to understand plans.

## **Chapter 2: The new 30 month plan timeframe**

- 3.11 The Government propose that local plans are to be prepared and adopted within 30 months, with this time length striking a balance between needing plans to be made more quickly and kept up to date more effectively, with a realistic view on what is achievable. Stages are:
- **A scoping and early participation stage** – including requirements to “notify” the public and stakeholders and “invite” participation with a minimum of four months’

notice before they intend to formally commence the 30 month plan preparation timeframe.

**Then over the next 30 months:**

- **Plan visioning and strategy development** including a requirement to undertake visioning about the future of the area and the first formal public consultation on the plan.
- **Evidence gathering and drafting the plan**
- **Engagement, proposing changes and submission of the plan** including a requirement for the second public consultation.
- **Examination**
- **Finalisation and adoption of the plan**

**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?**

Whilst East Devon District Council agree with the principle of speeding up the process for preparing a plan, and agree it is useful to specify a time period, we do not consider it possible to adopt a local plan 30 months after the plan preparation process begins. Whilst the consultation proposals simplify the plan-making process to a degree, we do not believe it will result in the necessary reduction in timescale from a current average of seven years, to just two and a half years. Should the government wish to retain this 30 month time frame (or define what we would suggest should be a longer reasoned time frame) then considerable thought and attention should be applied to examining how it can be made to work in practice and what the wider implications may be. We would also highlight that part of the plan making process, and therefore timetabling concerns, fall to the Planning Inspectorate (that is after the submission of plans). We would trust the Planning Inspectorate will be free to comment on the timetabling issues and implications from their perspective, including such simple matters as do they have the staff and resources to meet deadlines.

**The scoping and early participation stage**

- 3.12 During this stage the Government advise that planning authorities should define what will be included in the plan and what is not within scope. They see it as essential to help balance the time and resources available and establish support from elected Members on the main messages that will shape the local plan.
- 3.13 The Government see project planning as essential and authorities should resource the necessary project management skills so that planning teams can focus on shaping the plan content and engaging with stakeholders. There will be a need for a Project Initiation Document, using a digital template provided by government. This stage should:
- define the scope of the local plan and identify evidence required to create a sound plan;
  - identify any local issues likely to be relevant to the plan or environmental assessment;



iii. set out the project management, governance, risks to delivery and resourcing arrangements; and

iv. outline the overall approach to community and stakeholder engagement.

3.14 The project plan should also consider introducing the Infrastructure Levy and Infrastructure Delivery Strategy (a consultation on this recently closed) and the project plan should tie in with the authority's wider corporate strategies.

**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?**

East Devon District Council agree that a Project Initiation Document (PID) will help define the scope of the local plan. However, given the specialist nature of such a document, project management training will be required. It also needs to be made clear if, how and when the PID will be updated, as necessary, throughout the plan making process.

**Plan visioning and strategy development**

3.15 This is the first stage that happens at the beginning of the 30 month timeframe. The Government advise that the purpose of this stage is to establish the vision, aims and objectives of the plan. It builds on work done at the scoping stage; to confirm the evidence required to support this; and the spatial options and topics to be covered in local policies as part of the plan.

3.16 There is a proposed eight-week mandatory consultation window and it will be the first opportunity for all stakeholders to formally comment on the issues an area is facing and how they may be tackled in the local plan.

**Evidence gathering and drafting the plan**

3.17 This is second stage within the 30 month timeframe and marks the mid-point between scoping and examination. The aim at this stage is to decide on an appropriate strategy for the local plan in terms of the spatial options and policies that will best meet the planning authority's vision, aims and objectives.

**Engagement, proposing changes and submission**

3.18 This is the final stage before the submission of the plan and consultation advises it needs to be as focused as possible. The Government expect that issues are resolved with statutory consultees and stakeholders during the mandatory consultation window, with an opportunity to make modifications to the plan prior to the submission.

**Examination and amendments**

3.19 Examination is expected to last a maximum of six months, to move away from the current situation where examinations can potentially last for several years.

**Monitoring and updates**



- 3.20 The Government advise that following adoption of the plan there will be a need to monitor how the plan is performing, to ensure that key objectives are being met and that policies are effective. A proposed detailed monitoring return, which planning authorities would be expected to complete within four years of the plan being adopted, is designed to ensure that updates to plans can be more targeted and focused.

### **Chapter 3: Digital plans**

- 3.21 The Government advise that their ambition is to bring planning and plan making into the digital age and transform, they advise, how things are done for the better; to provide faster, simpler, more accessible plans and policies to deliver better outcomes, informed by up-to-date data and shaped more actively by communities and other stakeholders.
- 3.22 A common format based on standardised data across plan-making is proposed to help to ensure that open, standardised data can drive an improved local plans system leading to greater efficiency and transparency in the plan-making process.

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

East Devon District Council consider the greatest need for data standardisation in plan-making relates to: the receipt, publication and consideration of public consultation responses; and the identification of sites being considered in plan-making. We would suggest that it is a far from simple task to create systems for undertaking these tasks in a time efficient and effective manner. Therefore it is an area that is worthy of serious further investigation by Government, based on a full practical understanding of complexities involved (rather than a theoretical or abstract review), in order to ensure systems exist to undertake relevant tasks and efficiently manage data.

#### **Listening, understanding and removing barriers**

- 3.23 The Government identify the following challenges and barriers where they advise digitalisation could help:
- lack of clear guidance on how to make plans leads to inconsistency and delays
  - lack of standard formats and terminology makes plans inconsistent, time consuming to develop and hard to use
  - uncertainty about evidence requirements and fear of challenge at examination drives over production of evidence which is resource intensive and leads to delays
  - lack of clear communicable timelines and updates prevents users from understanding and getting involved
  - plans are static and PDF-based meaning they go out of date quickly
  - poor monitoring and feedback loops make it difficult to understand if the plan and its policies are working well
  - the majority of people do not engage in plans, or know why and how they can be involved
  - plans often involve making difficult local decisions but the political nature of local decision making and how it shapes plan content is often not understood

**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?**

East Devon District Council recognises these challenges in preparing local plans. However, it is not clear how some of them can benefit from digitalisation, for example how can the political nature of local decision making and how it shapes plan content benefit from digitalisation.

**Learning and building on best practice, innovations and investment**

3.24 The Government highlight the importance of using the very best digital tools, technologies and innovations and apply and adapt these. Technology is seen as relevant by Government to:

- visualisation of plans, policies and spatial data
- templates, checklists and step-by-step guides to provide clarity and efficiencies
- standardisation of data for consistency, access and use
- dashboards and platforms for transparency and communication
- search tools to better access information
- automation tools and AI to process and report
- the sharing of best practice via case studies and blogs

**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?**

East Devon District Council agrees with these opportunities and does not have any other suggestions. We are concerned, however, that it is one thing to make generalised observations about how things could be better, but another to ensure systems exist in reality and will actually work. The Government need to consider the real practicalities of systems and their operations. The introduction of new technologies will require additional resourcing and the upskilling of planners when qualified planners are in short supply and those who are practicing are extremely busy and will have little time to be involved in such changes.

**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?**

The processing, analysis of, and responding to, public consultation responses is a significant aspect of the work required to prepare a local plan, so East Devon District Council consider this area is a priority to deliver efficiencies in the plan-making process. But we would reiterate the complexities that continue to exist around establishing and implementing systems to ensure efficiency of working.

**Chapter 4: The local plan timetable**

3.25 In the current system the Government consider it can be challenging for communities and other stakeholders to understand when a local plan will come forward and when they can get involved. They consider that Local Development Schemes (the project plan for plan

making) are typically long, complex and technical documents which are not updated often enough and therefore do not accurately reflect the stage of preparation local planning authorities are at.

- 3.26 The Levelling Up and Regeneration Bill sets out that the local plan timetable must include:
- the matters the local plan is seeking to address
  - the geographical area of the local plan
  - what (if any) supplementary plans the local planning authority is looking to prepare, as well as the subject matter and geographical area or sites these supplementary plans relate to
  - how the authority seeks to implement its authority-wide design code
  - details of joint plan-making (including any joint committees), where relevant (including for supplementary plans)
  - a timetable for the preparation of the local planning authority's local plan and any supplementary plans they are seeking to prepare
- 3.27 The Government propose to set out in regulations a requirement for planning authorities to revise their timetable at least once every six months, or earlier upon reaching a key milestone in the preparation of the plan. The government propose to set out in guidance an expectation that planning authorities should put in place the governance and delegation arrangements needed to enable this to happen, stating that planning authorities will no longer need to go through full Council sign-off each time the local plan timetable is revised.

**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?**

East Devon District Council agrees with the proposals for more regular updating on the local plan timetable, and a more simplified and standardised process for doing so.

**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?**

No – East Devon District Council consider that a six month review of the timetable, or earlier if appropriate, provides sufficiently regular updates on plan-making progress, without being too burdensome on the council.

## **Chapter 5: Evidence and the tests of soundness**

- 3.28 The Government highlight that the amount of evidence produced to support a local plan takes a significant amount of time and resource to produce and can often feel disproportionate. It is advised that ensuring that evidence is proportionate is seen as a key component in meeting a 30 month end-to-end plan-making timeframe, as well as allowing planners to focus on activities such as community engagement.
- 3.29 The Government advise that they favour clearer expectations set through national policy and guidance with:

- Increased standardisation of key evidence and data
- Freezing data or evidence at particular points of plan making
- Streamlined, focused new style plans
- Support on evidence provided through gateway assessments

### **Changes to national policy and guidance**

- 3.30 The Government advise that planning authorities will need to produce evidence to inform and explain their plan in a proportionate manner with more clarity given on what evidence is expected and what 'proportionate' evidence looks like. The consultation document presents a direction of travel to achieve these aims, the majority of these changes would be brought forward through the next review of the National Planning Policy Framework, and so there will be an opportunity to comment on detailed proposals at that stage.
- 3.31 The Government are proposing to simplify evidence required and tested at Examination to greater certainty for those involved over what is needed. Under proposals Planning authorities are to complete a new, light touch and templated 'statement of compliance with legislation and national policy' – which would set out where in the suite of evidence each national policy has been considered, acting as a signposting document.

### **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?**

East Devon District Council agree that ensuring a proportionate evidence base is key to meeting the 30 month timescale to prepare a local plan. Evidence gathering on particularly technical subjects can take a significant amount of time (1-2 years in some cases), so the Government will need to be very clear on what proportionate evidence looks like. The council supports the direction of travel to set clearer expectations on evidence and provide guidance on 'what good evidence looks like', noting that further consultation will be undertaken on the detail through the next review of the NPPF.

### **Standardisation of key evidence and data**

- 3.32 The Government favour standardisation of evidence which they consider would help provide greater clarity on what is expected and reduce discussions around specific methodologies at examination. Standardisation is also identified by government as presenting opportunities to make better use of data and digital processes and tools.
- 3.33 Topics identified that might benefit from standardisation and/or more readily available baseline data are cited as: development need; sites identification, assessment and selection; and impact assessments (for example, transport assessments). There is also an emphasis on seeking to strengthen monitoring processes and a new requirement to prepare Infrastructure Delivery Strategies with a more unified approach to identifying the infrastructure that is required to support growth.

### **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?**

East Devon District Council supports the standardisation of evidence requirements, an important aspect of preparing proportionate evidence to complete a local plan in 30 months. The council consider it would also be beneficial to standardise evidence requirements for local plan viability assessments. We also have experience of confusion arising during the preparation of a Strategic Flood Risk Assessment due to consultants receiving different advice from Environment Agency regional offices and would welcome standardisation of the detailed advice arising from national guidance. There would also be benefit in standardising the approach to calculating housing requirements for designated neighbourhood areas as this is hugely complicated and very hard to engage communities in. However, whilst standardisation can have benefits there is a danger of evidence documents becoming too formulaic failing to really unpick locally important or significant matters and issues or underlying local nuances. So there does need to be flexibility to choose to do more in evidence gathering, and more importantly associated assessment and interpretation, where it would add value to plans and plan making.

### **Freezing of data or evidence**

3.34 The Government consider that there is a case for 'freezing' data or evidence at certain points in the plan-making process to reduce iteration and delay, as well as the resources required to update. It is advised this would be established through national policy or guidance rather than regulations, and Inspectors at examination would still be able to request up-to-date evidence if needed to properly assess soundness.

### **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?**

East Devon District Council support the freezing of data or evidence at certain points to enable plan-making to progress rather than keep revisiting it, which will likely lead to delay beyond the 30 month timescale for producing a local plan. The council favour agreeing the scope of evidence or the methodology followed earlier in the process, which is then not changed or only changed under limited prescribed circumstances. This provides greater certainty to the council and the community on evidence requirements from the outset of preparing a plan, reducing uncertainty and allowing plan preparation to progress more swiftly. Though if or where circumstance have changed, and new evidence shows a different picture or pattern emerging that may suggest or require alternative policy approaches, then flexibility does need to exist. Through any new plan making system the Government will need to give careful consideration around how this can be best made to happen.

### **Regulations**

3.35 The Government are proposing to amend the requirement for the submission and publication of evidence set under secondary legislation. Currently local planning authorities are required to submit 'such supporting documents as in the opinion of the local planning authority are relevant to the preparation of the local plan'. When implementing the plan-making reforms, the Government are proposing a requirement to submit only such supporting documents as the planning authority considers strictly necessary to show whether the plan is sound.

- 3.36 It is advised that this would not prevent planning authorities choosing to publish wider materials to help to explain decisions taken. It would also not preclude the Inspector from requesting additional evidence at examination if they felt it was necessary.

**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?**

East Devon District Council support this proposal, as long as guidance makes clear which supporting documents are related to the soundness of the plan. This will ensure only strictly necessary evidence documents are submitted.

**Chapter 6: Gateway assessments during plan-making**

- 3.37 The Government contest that a challenge in the current system is the number of local plans that are submitted for examination with deficiencies. At best, they consider, this results in delays during examinations, but may also result in plans failing late in the preparation process. This can be frustrating for all of those with an interest in the plan, wasting resources and leaving authorities more vulnerable to speculative development.
- 3.38 The Levelling Up and Regeneration Bill requires authorities to seek observations and advice from a person appointed by the Secretary of State at times which will be prescribed in regulations - mandatory gateway assessments ('gateways') into the new local plan process. These, the government advises, will ensure a more supportive approach to plan-making, and provide greater visibility to key stakeholders and the wider community about how their local plan is progressing.

**Purpose of the gateway assessments**

- 3.39 The consultation sets out that gateways should:
- **ensuring the plan sets off in the right direction** – that the planning authority has the right tools and resources to deliver, that the scope of the plan and associated supporting information and evidence is appropriate, and that key risks are identified with suitable mitigation proposed
  - **ensuring compliance with legal and procedural requirements and (wherever possible) supporting early resolution of potential soundness issues** – that the plan has met all the necessary legal and procedural requirements to progress to examination in public, and as far as is possible prior to examination that potential soundness issues have been addressed
  - **to monitor and track progress** – that the planning authority is having regard to the observations and advice provided through the gateways, and that the plan is on track against its timetable, and communities and other interested parties have information about how plans are progressing

**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?**



East Devon District Council agree with the overarching purposes of gateway assessments but are concerned that the focus of the gateway assessments seems to be more about process rather than the content of local plans. Therefore, the council feels that gateway assessments should have greater emphasis on plan content and whether the vision and aspirations of the plan are in themselves positive and achievable.

- 3.40 The Government propose to introduce, via regulations, a requirement for planning authorities to undertake 3 gateways:
1. at the very beginning of the 30 month process, following work undertaken at the scoping stage
  2. part-way through plan preparation (between the two mandatory consultation windows)
  3. at the end of the plan-preparation process (following the second mandatory consultation window), at the point the local planning authority intends to submit the plan for independent examination in public
- 3.41 The role of the first and second gateways will be advisory, and the appointed person will have no power to halt or delay the plan preparation process. However, planning authorities will be required to have regard to their observations and advice in preparing their plan.
- 3.42 The third gateway will have a binding role, as planning authorities will be required to submit their draft plan for examination where the appointed person has advised that the prescribed requirements are met. The proposal is that such requirements would be focused on legal and procedural requirements.
- 3.43 It's advised that each gateway should ordinarily last no more than four weeks and it is proposed that there should be a 'gatekeeper' organisation that manages the end-to-end gateways process, including appointments on behalf of the Secretary of State. By default, it's expected that planning Inspectors will routinely conduct gateway assessments (and would always do so at the third gateway) but with scope for alternative or additional assessors to support the gateway assessment process.

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

East Devon District Council agree with these proposals, but greater emphasis should be made on the content of local plans, as opposed to the current focus on process. For example, Gateway 1 should include assessment of the vision.

Considerations needs to be given to the impact of 3 gateways of 4 – 6 weeks in length on the overall timetable for production of the plan. It would further suggest that a 30 month overall timetable is unrealistic.

- 3.44 The Government advise, in order to be successful, there needs to be flexibility in how the different gateways are delivered. Further work is planned to develop a detailed working model for gateways but the government propose that the following key topics would be explored through each gateway:



## **Gateway 1**

- Review the Project Initiation Document, including:
  - Proposed scope of the plan and identifying the evidence required to create a sound plan
  - Project management, governance, risks to delivery and resourcing to deliver against the local plan timetable
  - The overall approach to engagement with communities and stakeholders, including statutory bodies throughout the plan preparation process
- Data and digital approach
- Early scoping of relevant SEA (and subsequently EOR) requirements
- Scoping out topics where local specific development management policies may be required.
- Headline position on delivering new homes based on the standard method and recent Housing Delivery Test (HDT) results and, where possible, describe the high-level options available to deliver development needs in the area.
- Headline positions on how plan will reflect any relevant Local Nature Recovery Strategy

## **Gateway 2**

- Progress against Project Initiation Document and programme
- Progress against observations or advice received at Gateway 1
- Topic-specific advice based on planning authority and appointed person identified issues (around emerging plan and evidence)
- Data and digital requirements (including policies map)
- Progress with relevant SEA (and subsequently EOR) requirements
- Engagement with communities and statutory bodies
- Compliance with the requirement to have regard to certain matters, including any relevant Neighbourhood Priorities Statements

## **Gateway 3**

- Procedural and legal requirements met
- Regard had to observations and advice at Gateways 1 and 2
- Evidence prepared as proposed and any previously identified gaps addressed
- Relevant SEA (and subsequently EOR) published, including explanation of compliance with national requirements
- Summary of representations available
- Digital and data requirements met (including policies map)
- Nationally defined templates used, where appropriate
- Engagement activities undertaken in line with Project Initiation Document with regard to national guidance
- SDS general conformity statement prepared (where relevant)
- Practical readiness for examination (e.g. venue identified for hearings etc.)

3.45 Other interested parties will not be invited to participate in workshops or contribute to reports. Under the provisions within the Levelling Up and Regeneration Bill, planning authorities must publish the final report as soon as is reasonably practicable and it is expected that the report will detail where the involvement of third parties will be required to

resolve issues, acting as a key 'sign-posting' document for those with an interest in the plan.

**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?**

East Devon District Council broadly agree with the gateway assessment process and the scope of key topics. However, as other interested parties are not invited to participate in the assessment, additional issues could be raised by these parties subsequent to publication of the assessment, for example issues which go beyond a local authority's boundary. Gateway 3 should also cover the requirement to appoint a Programme Officer as part of practical readiness for examination.

## **Funding**

3.46 It is proposed that there will be a standard fee for each gateway defined in regulations with charges developed in close partnership with the Planning Inspectorate taking into consideration wider sectoral views.

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

Planning authorities are already charged for local plan examinations, so East Devon District Council do not agree with charging planning authorities for gateway assessments in addition. Charging could also put off authorities from undertaking the Gateway 1 and Gateway 2 assessments which are 'only' advisory. The Government should identify and provide funding, or otherwise address cost matters, for these Gateway assessments.

## **Chapter 7: Plan examination**

3.47 The government advise that Examination is a critical part of the plan preparation process and will remain so in the reformed plan-making system. The government set out that they believe that the overall examination process, in its current form, broadly continues to provide a good basis for testing local plans but that they frequently take too long, in extreme cases lasting several years. This does not align with the government's aim for plans to be prepared and adopted in 30 months.

3.48 The government propose that examinations should take no longer than six months and if consultation on proposed modifications to the plan is needed, this should add no more than three months to the overall examination process, though recognising that some plans can deal with particularly contentious or complex matters and can cover significant geographies so timeframes are not intended to be prescribed in regulations.

3.49 The government's emerging proposals include:

- appointing an Inspector when the planning authority commences the third gateway assessment, to reduce delays at the beginning of the examination process
- using panels of two or more Inspectors by default, to allow for more parallel working and increase efficiency at key stages of the process;

- revising the way the Matters, Issues and Questions stage of the process works, so that only the relevant planning authority is invited to submit responses to questions posed by the examiner and these will relate directly to the soundness of the plan.
- providing the opportunity for third parties to submit a short statement in writing which can be considered by the Inspector, where they do not wish to attend a hearing
- streamline the main modifications stage so that only the most significant amendments are consulted on, and then for only three weeks by default, and longer by exception only.

**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?**

East Devon District Council broadly agrees with proposals to speed up plan examination, and do not suggest any additional changes. However, even with the best of wills the examination process can become lengthy and complex, this can be especially so where Inspectors apply natural justice in respect of providing scope for all to be involved, including the technical experts and laypersons. Therefore, the Government should give very careful and detailed consideration on if and how the proposals can be made to work. This should draw on the experience of parties directly involved on the plan examination process.

It will also be important to ensure that the examination is appropriately resourced. The doubling up of inspectors will have significant resource implications for the planning inspectorate. Inspectors will have to work more quickly to hear and consider all of the issues in good time and it is suggested that the resources do not currently exist to do this.

There also needs to be some realism on the timetables for examination with nearly all examinations involving consultation on main modifications it is unrealistic to think that any will be concluded within 6 months.

**Examination pause**

- 3.50 The Levelling Up and Regeneration Bill provides a new power for Inspectors to pause the local plan examination for a time bound period for up to 6 months.
- 3.51 The government anticipate that the pause may be activated by the Inspector if a significant issue was identified that could not reasonably be resolved without further work by the planning authority. The Inspector would write to confirm the problem and the work required and may ask for an overall timetable and regular progress reports.
- 3.52 If the relevant matters have been dealt with to the necessary degree before the end of the pause period, then the examination will resume. If not, the Inspector will be required to recommend that the authority withdraw the plan.

**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?**

Whilst greater clarity on the pause period is welcomed, to prevent plans becoming stuck in an examination process that lasts for years, however six months is considered to be too short

particularly if there are significant issues to resolve. East Devon District Council consider that a slight extension to at least a nine month pause period would provide greater opportunities for issues to be addressed, before the drastic step of withdrawing the plan. The end goal has to be to get a sound plan in place as quickly as possible. The withdrawal of a plan in order to meet a timetable requirement when a further few months pause would resolve the issue seems contrary to the overall objectives.

## Chapter 8: Community engagement and consultation

- 3.53 The government advise that the English planning system gives communities a key role in planning, so they can take an active part in shaping their areas, and to build local pride and belonging.
- 3.54 However, the government consider that existing practises of engagement and consultation in plan-making are widely perceived to be narrow and ineffective. They suggest that for many consultations on plans can feel too technical and difficult to engage with, discouraging people from having their say whilst disproportionately drawing views from people from a narrow set of demographic groups. The government consider that those voices who may benefit most from new development are often the quietest in the planning process.
- 3.55 The government advise they have heard from statutory bodies that they face challenges identifying the resources needed to feed in their technical expertise, with little warning and limited time to comment.
- 3.56 The government are clear that communities must remain at the heart of the plan-making process, and that local people must have a meaningful say on planning policies that will affect them and their local areas. They want to encourage open dialogue between authorities, communities, and other key stakeholders such as statutory bodies about key local decisions and trade-offs, to help influence the production of genuinely local plans at the earliest stages of plan-making.
- 3.57 To encourage engagement the government have grouped proposals around the following 4 themes:
- **the role of digital** –to improve the quality, quantity and diversity of participation within the local plans process, when used in combination with traditional methods;
  - **planning and monitoring the engagement approach** – supported by proposals for a new Project Initiation Document requirement and gateway assessments;
  - **a focus on early participation** – introducing a proposed new requirement to “notify” and “invite” participation at the start of the plan-making process, to complement the scoping stage and to encourage early and increased quality of engagement; and
  - **a more standardised approach to consultation** - two mandatory consultation windows.
- 3.58 The Government advise that digital has the opportunity to play a transformative role in the way that planning authorities engage people during the plan preparation process, improving both the quality and quantity of responses, and how efficiently those responses are analysed and incorporated into the plan making process. Modern digital engagement tools, combined with more consistent data, could reduce the time it takes to process

representations, remove barriers to engagement and improve planning authorities' abilities to understand community views.

- 3.59 In the current system, planning authorities are required to produce a Statement of Community Involvement (SCI), which is typically produced outside of the plan process. These are used to set out how the public, statutory bodies and other interested parties will be involved in the preparation of the local plan and other parts of the development plan.
- 3.60 However many SCIs are out-of-date and most go no further than reiterating basic legal requirements on consultation preventing authorities from expressing creative solutions for engaging with communities because of legal compliance concerns.
- 3.61 The levelling up bill removes the requirement to prepare an SCI, instead authorities will need to outline their overall ambitions and approach to engagement and consultation through their Project Initiation Document which will form the basis for discussion at Gateway 1. The Project Initiation Document may include how a planning authority intends to connect with groups who have had traditionally low levels of engagement, and how the use of hybrid approaches to engagement might contribute to overcoming this.

**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?**

East Devon District Council agrees with including the overall approach to engagement within the Project Initiation Document, as that is when the scope, evidence and project management relating to the local plan is agreed. The approach to engagement should specify the consultation methods that will be used in preparing the plan, rather than a "wish list". For example, the use of online consultation software, public consultation events, and workshops with specific stakeholders (such as town/parish councils). The council agree that the PID should set out how consultation will aim to connect with groups who typically engage less in plan-making. But the Government need to recognise that local plans can, by their very nature, get into technical matters, often relating to complex matters such as in respect of legal considerations and financial viability. They will also frequently have no choice but to promote policies that can be unpopular, including in respect of such matters as addressing housing requirements that many in our communities believe are being imposed on them from Central Government rather than being a local response to local assessment and understanding of need.

The way in which we consult also needs to take into account the fact that not all communities have access to high-speed broadband and not everyone has access to or is able to access on-line consultation materials. Consultations have to be accessible and inclusive.

**A focus on early participation**

- 3.62 The government advise that they have frequently heard from communities and statutory bodies that they are involved too late in plan making and that they have been given insufficient notice to comment on the plan. To ensure communities have a stronger role in shaping the vision and strategy for their area, the government advise of a stronger emphasis on early participation during the initial stages of plan-making will be key. New requirements will sit within the scoping stage, prior to commencement of the 30 month process and before the first mandatory consultation window.

3.63 In addition to informing plan options, the government also propose that early participation should inform the Project Initiation Document, providing an important opportunity for planning authorities to test how the community would wish to be engaged later on in the process. They suggest outputs of such questions could feed into the ambitions and overall approaches to consultation during the 30 month timeframe, which the planning authority would be expected to include here.

**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?**

East Devon District Council supports this proposal. However, good plan making can and should already be supported by early engagement work. We would, therefore, suggest that the Government needs to give very careful consideration to matters around how early engagement can genuinely be made better in the future and what process can be put in place to ensure that effective early engagement leads on to better final plans.

There is also concern that communities generally only engage in plan making when there are clear proposals be consulted on that directly affect people and engaging communities in high level principles and strategic visions is very challenging. It is therefore suggested that it is not in fact engagement at the early stage of plan making that is key here.

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

East Devon District Council consider that early participation should inform the Project Initiation Document, as this will ensure that the scope, evidence requirements, and approach to consultation can be agreed and documented at the beginning of the plan preparation process. A relatively simple approach setting out some key baseline evidence, a draft vision, initial principles, and approaches to engagement should facilitate early participation. Sufficient detail should be included to make early participation more meaningful. But also, the system should have an element of flexibility built in so that approaches can be adapted over time if circumstances or considerations change or evolve as plan making progresses.

**A more standardised approach to consultation**

3.64 The government propose two rounds of consultation: the first for a minimum of eight weeks after scoping following the first gateway assessment; and the second for a minimum of six weeks shortly before the final gateway assessment, prior to submission of the plan for examination. Regulations will:

- define the role and purpose of these windows more clearly, reflecting where these sit within the wider end-to-end local plan process; and
- enable the submission of representations in a form which maintains and strengthens accessibility for communities, but makes it easier for planning authorities to process.

3.65 The Government proposes that:

- The first window should build on outputs from the early participation carried out in the scoping phase. To ensure that communities can meaningfully influence the plan, we



expect that questions asked at this consultation will focus on validating the vision for the area and test the broad options for the plan, including the key spatial choices.

- The second should seek views on the draft plan which the planning authority intends to submit for examination.

3.66 To make representations easier for planning authorities to analyse, the government propose to develop a series of templates that authorities should use to collect responses. Templates have the ability to support planning authorities in analysing responses more effectively and can be used to ensure that submissions are 'machine readable' wherever possible and not submitted in PDF format by default.

**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?**

Yes, East Devon District Council agrees that this proposal will provide greater clarity on the role and purpose of the two mandatory consultation windows. However this means that communities will only have one opportunity to comment on the substantive content of a draft plan. At the moment the Reg 18 and Reg 19 consultation gives two opportunities to comment on the draft content of a plan and these proposals mean this would be reduced to 1 opportunity and therefore they will have less input in reality than under the current system.

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

Yes, the council agrees that templates will assist in analysing responses. However, it should be recognised that not everyone has access to the technology that will enable ready use of templates that are 'machine readable'. Recent experience of consultation in East Devon that was focussed around an interactive online portal was that many respondents were either unable or unwilling to make comments online. Many submissions were made through email, physical letters or signed petitions, possibly reflecting the demographic profile of East Devon and certainly requiring extensive staff time to 'process'. More guidance would be welcomed on whether the proposed approach would compel responses to be made in a particular format together with due consideration to the 'trade-offs' between wanting as many to contribute as possible and enabling effective use of consultation responses.

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

3.67 The Levelling Up and Regeneration Bill sets out a "Requirement to Assist with Certain Plan Making". This will give plan making authorities the power to legally require that "prescribed public bodies" provide assistance to develop or review of plans. The government plan to set organisations within the definition of prescribed public bodies within regulations, The initial proposal is that the list will include:

- Environment Agency
- Historic Buildings & Monuments Commission for England (Heritage England)
- Natural England
- Civil Aviation Authority
- Homes & Communities Agency
- Integrated Care Boards



- Office of Road and Rail
- Highway Authority, Local Transport Authority, Integrated Transport Authority or Transport for London
- Local Enterprise Partnership
- Local Nature Partnerships
- Local Nature Recovery Strategy responsible authorities
- Health & Safety Executive
- Lead Local Flood Authority
- National Health Service Commissioning Board
- Rail Infrastructure Managers or Rail Network Operators
- Sport England
- Energy Undertakers
- Telecommunications Undertakers
- Water & Sewerage Undertakers
- Other bodies, where relevant – those applicable in East Devon are:
  - Marine Management Organisation
  - County Councils
  - Crown Estate Commissioners
  - Forestry Commission

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

No comment.

3.68 The Government proposed approach is that at the beginning of the plan preparation process, in other words during the four months initiation period before the 30 month timeframe begins, plan making authorities notify all relevant interested parties when they commence work on a new plan or revised plan. They consider that in the majority of cases this should result in engagement from those bodies at appropriate stages in the plan-making process. But earlier contact could also be made.

**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.**

East Devon District Council agree with notifying the prescribed bodies at the beginning of the plan preparation process, to ensure we are aware of key issues arising from development proposed in the local plan. Although the council already notify such bodies early on when preparing a local plan, we welcome the additional powers to assist in the Bill in cases where engagement from such bodies is not forthcoming. It will be useful to confirm that prescribed bodies are not able to charge local authorities for their time in engaging in the plan process. Whilst it might be going too far to compel all such bodies to actively engage there should be greater encouragement for them to do so noting that some organisations are far more active to be involved than others and some may be not forthcoming at all.

The government also needs to address the resourcing of statutory consultees so that they have the capacity and resources to engage actively in supporting the plan making work of local authorities.

## Chapter 10: Monitoring of plans

3.69 The overall purpose of monitoring and reporting is identified as being to ensure that plans are meeting their key objectives, policies are effective and that updates to the plan are effective. This will be more important with the clear requirement for a plan update to commence, at the latest, 5 years from adoption. Monitoring is also seen as a powerful tool to build more trust in the planning process, by showing transparently how well plans are delivering.

3.70 It is suggested that a clearer, more focused future approach to monitoring will ensure that planning authorities have a better understanding of how the plan is performing, and the impact of development on the local environment to ensure that subsequent updates to plans can be more targeted. To support this, the Government propose that monitoring in the new system will have two distinct elements:

1. **a light touch annual return.** This will include progress against plan making activities proposed in the plan timetable, and as a minimum it will also report on a small number of nationally prescribed metrics to assess the implementation of key policies against the output of the plan – set out in the table below. These are intended to remain stable to enable the identification of trends over a longer period. Planning authorities will be free to supplement this list with any locally significant metric that they choose; and
2. **a detailed return to inform updates to the plan.** By 4 years after adoption of a local plan, at the latest, planning authorities should prepare a fuller analysis of how planning policies and designations are being implemented, and the extent to which the plan is meeting the overall vision for their area. This may also consider where policies are no longer relevant. This detailed monitoring return should inform a forthcoming update of the plan, which will need to commence five years after adoption, at the latest.

### Proposed monitoring metrics (for local plans)

### Detail of metrics

Housing	Net additional dwellings completed (including conversions)
	Net affordable units completed
	Proportion of new homes permitted on brownfield land
	Net additional pitches & plots for gypsies and travellers
Economy	Net change in employment floorspace
Environment and Open space	Net change in designated open space
	Net change in designated habitats due to development
	Delivery of 10% Biodiversity Net Gain
	Progress toward net zero emissions from buildings (to be developed)

## Proposed monitoring metrics (for local plans)

## Detail of metrics

Environmental Outcome Reports (EORs)

Assessment of the contribution to meeting Environmental Outcomes and identification of any remedial action that needs to be undertaken

3.71 To ensure that monitoring is meaningful and tailored to local circumstances, the government also propose that on top of the minimum requirement for reporting, planning authorities should monitor against the success of implementation of their specific vision for the local plan. The vision set out by each authority will be underpinned by evidence and based on measurable outcomes that authorities can monitor and report against.

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

A common occurrence under the existing plan-making system is for numerous monitoring indicators of local plans, which cannot actually be measured in practice, and sometimes have limited relevance to planning decisions (for example, crime levels). Therefore, the council supports a more focussed approach to monitoring, comprising a light touch annual return, and a detailed return to inform updates to the plan.

### **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?**

The Government should ensure that the metrics are capable of being monitoring by all local authorities. For example, is “net change in designated open space” and “net change in designated habitats due to development” capable of being measured? It is unclear as to whether the “delivery of 10% Biodiversity Net Gain” relates to the number of approved planning applications, or as a whole across the local authority area.

As the intention is for a light touch annual return, East Devon District Council do not consider any other metrics should be required to report on.

## **Chapter 11: Supplementary plans**

3.72 The Levelling Up and Regeneration Bill provides for the creation of new supplementary plans. These plans are intended to be produced at pace to enable planning authorities to react and respond positively to unanticipated changes in their area separate from the local plan or minerals and waste plan preparation process. This could include allocating and shaping an unexpected regeneration opportunity or introducing new site-specific policies including in relation to design, infrastructure or affordable housing. The government advise that Supplementary Plans are not intended to be used routinely; planning authorities should prioritise including all policies in their local plan, leaving supplementary plans only for exceptional or unforeseen circumstances that need resolving between plans.

3.73 It is advised that the exception to this is where local planning authorities will also be able to use supplementary plans to discharge the new Bill requirement to produce an authority-wide design code which will be used to provide, or reinforce an authority’s overarching design vision, setting out high level strategic design parameters to apply to development.

- 3.74 The Government advise that reforms will remove the role of Supplementary Planning Documents and Area Action Plans. Supplementary plans will have the same weight as a local plan and other parts of the development plan, giving communities and applicants much more certainty about the documents that applications are determined in line with. They will therefore also be subject to consultation and an independent examination.
- 3.75 The Government advise that the Bill places certain limits on the allowable scope of supplementary plans (either by subject matter or geographically), so that they do not subvert the role of the local plan as the principal planning policy framework for the local planning authority's area. Supplementary plans prepared by planning authorities are limited geographically to matters relating to a specific site or two or more nearby sites. However, a supplementary plan prepared by a local planning authority may set out a design code, which may cover a wider area. This will allow supplementary plans prepared by planning authorities to address site-specific needs or opportunities which require a new planning framework to be prepared quickly.
- 3.76 It's advised that planning authorities need to set out any supplementary plans which they are to prepare and certain details including: the subject matter and geographical area, site or sites to which each of those supplementary plans is to relate and whether the authority is to prepare a joint supplementary plan. Supplementary plans will not have a defined preparation time such as the 30 months proposed for local plans and minerals and waste plans.
- 3.77 The Bill sets out that supplementary plans must be in general conformity with a relevant operative spatial development strategy and the relevant plan-making authority must have regard to any other part of the development plan which has effect for the area or a site to which the plan relates when preparing a supplementary plan. They can be prepared prior to the adoption of a new style local plan.
- 3.78 For site based supplementary plans, when assessing whether two or more sites are 'nearby' to each other, the Government suggest important factors could include: geographical distance between sites; relationship to sites in other similar sized settlements or neighbourhoods; or for the delivery of planning obligations.

**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?**

Given that supplementary plans should only be used in exceptional circumstances, there should be a limited number of factors when assessing whether two or more sites are 'nearby' to each other. Geographical distance is obviously the key point, and it would be useful to the Government to clarify what distance between sites constitutes 'nearby'.

- 3.79 Government advise that depending on content, supplementary plans may be subject to Environmental Assessment (or subsequent Environmental Outcomes Reports) obligations, expecting planning authorities to use an environmental screening approach for supplementary plans similar to that used for neighbourhood plans.
- 3.80 Given the possible diversity and flexibility of supplementary plans, different preparation procedures may be suitable for different types of supplementary plans.

**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.**

East Devon District Council consider it would be overly prescriptive to specify such detailed preparation procedures in regulations. Instead, planning practice guidance should give examples of preparation procedures, which can reference, and be informed by, best practice and updated accordingly.

## **Consultation**

- 3.81 The government set out that Supplementary plans will undergo formal consultation with communities and stakeholders, including statutory bodies and independent examination. The consultation continues by stating that a key objective for planning reform is to enhance opportunities for public involvement,
- 3.82 The government state they remain committed to support planning authorities on plan-making engagement and intend to set out in guidance that informal engagement will be encouraged throughout the supplementary plan-making process. They plan to set out in regulations that supplementary plans should have a minimum of one formal consultation stage, the timeframe for which will be set out in the local plan timetable or minerals and waste plan timetable.

**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?**

The relatively limited focus of supplementary plans (on a particular topic, or site(s)) compared to a local plan, means they should be simpler to prepare and undertake consultation on. Therefore, East Devon District Council agrees that a single formal stage of consultation is sufficient though there should be flexibility to allow for more consultation should new issues arise or become relevant as the plan making work progresses.

## **Examination**

- 3.83 The Bill's approach to the independent examination of supplementary plans is broadly modelled upon the existing arrangements for neighbourhood plans (which already form part of the development plan once brought into force). The consultation advises that the general rule is that the independent examination is to take the form of written representations. However the examiner has scope to consider oral representations.
- 3.84 The Bill provides two options for the independent examination of supplementary plans. Plan-making authorities may submit their draft supplementary plan to the Secretary of State, for the examination to be carried out by a person appointed by the Secretary of State, or to an examiner of the authority's choosing who is an independent, impartial person and who is suitably qualified.

3.85 The government believes that the examination process for neighbourhood plans remains fit for purpose. However, they have heard views that, for especially large, complex, or locally contentious supplementary plans, it might be more appropriate for the examination to be carried out by a person appointed by the Secretary of State.

**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.**

East Devon District Council believe it will be too complex to set thresholds to guide the decision about the choice of supplementary plan examination routes. There are too many potential inter-relating factors that could be considered, including the examples highlighted in the question. The complexity involved will make setting thresholds rather arbitrary.

- 3.86 The Bill sets out that an examiner cannot recommend that a supplementary plan is adopted until they consider that the relevant procedural requirements have been met. These include consideration of whether the authority or plan:
- a. has had regard to, where necessary, to other parts of the development plan when preparing their supplementary plan
  - b. is in general conformity with an operational strategic development strategy
  - c. secures that local development and use of land contribute to the mitigation of and adaption to climate change
  - d. if the supplementary plan includes sites that are “nearby” to each other
  - e. have complied with any requirements relating to the preparation of supplementary plans set out in regulations, including requirements in relation to consultation with the public
  - f. has had regard to government guidance that may be relevant.

**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?**

East Devon District Council agrees that this is a proportionate approach.

### **Supplementary Planning Document transition**

3.87 Supplementary Planning Documents (SPDs) provide advice or guidance which covers a wide range of topics, local detail and evidence and are an expression of a planning authority’s position on how this is expected to be treated in decision taking. The Government confirm that SPDs will remain in force until planning authorities adopt a new style local plan. East Devon District Council currently has four adopted SPDs:

- Affordable Housing (adopted 2020)
- Planning Obligations (adopted 2017)
- Gypsy and Traveller Site Design and Layout (adopted 2017)



- University of Exeter Science Park (adopted 2008)

3.88 The government advise that planning authorities should review their SPDs to identify whether the advice or guidance is still relevant and consider whether the content should be revised and remain as guidance, or should be integrated into their new-style local plan.

## Chapter 12: Minerals and waste plans

Chapter 12 of the consultation relates to mineral and waste planning and matters highlighted in the consultation document are not summarised in this report.

### **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?**

East Devon District Council, not being a mineral or waste planning authority has no comments to make other than to note the importance of waste and mineral plans, and policies within, being compatible with broader planning and development objectives of planning authorities producing local plans.

## Chapter 13: Community Land Auctions

- 3.89 The government set out that Part 5 of the Levelling Up and Regeneration Bill provides for time-limited pilots of Community Land Auctions (CLAs), expiring ten years after the date the first CLA regulations are made. CLAs are a longstanding idea for capturing uplift in land value, akin to competitive tendering, and are a process of price discovery. They provide an alternative approach for identifying land for allocation for development which seeks to improve land value capture for the benefit of local communities.
- 3.90 The consultation sets out that the value of land typically increases at numerous points in the development cycle. For example, land value increases when land is allocated in a local plan, and when planning permission is granted (with 'hope value' increasing in relation to the likelihood of either of these events). The current system of developer contributions captures a proportion of this value uplift via negotiated agreements between the local planning authority and the developer (section 106 planning obligations) or through a local levy mechanism such as the Community Infrastructure Levy (CIL), or the proposed Infrastructure Levy (IL) as introduced through the Levelling Up and Regeneration Bill. Both section 106 and CIL rely on local planning authorities making assumptions about the premium required by a landowner to release their land for development. Under this system there is a risk that developer overpay for land and then seek to negotiate down the planning obligations to ensure development remains viable. A CLA seeks to ensure that the Local Planning Authority understands the actual price that a landowner would release their land for development rather than making these broad assumptions and then make more informed decisions about which sites should come forward informed by this information.
- 3.91 The consultation advises that CLA arrangements provide the opportunity to pilot a further innovative approach in certain areas, which may support increased land value capture. DLUHC expects that CLA arrangements will be put in place and run in a small number of local planning authorities, who will put themselves forward to participate in the pilot,



referred to throughout the remainder of this section as ‘piloting authorities’. The detailed design of CLA arrangements will be set out in CLA regulations, and it is government intention to pilot CLA arrangements in different areas with different characteristics, to ensure that their effectiveness can be measured across a variety of geographical areas. In piloting authorities, land will be brought forward and allocated for development in the local plan through the CLA arrangement.

3.92 The proposed government approach for Community Land Auctions is:

- **Identification of land for allocation in a local plan** - 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 offer from the landowner, once an option agreement is in place with the piloting authority, becomes a legally binding option.
- **Assessment of land put forward for allocation** - Once the piloting authority has acquired options over land put forward in the site identification phase, they will then decide which land to allocate in their emerging local plan by considering a range of factors that will be set out by the government. Unlike the conventional local plan-making process, the Bill sets out that when CLA-piloting authorities are making decisions surrounding site allocation, they will also be able to consider the financial benefits that they are likely to accrue from each site.
- **Consultation and examination** - Piloting authorities will be required to consult on the proposed land allocations in their draft local plan, before the plan is submitted and independently examined in public, in accordance with the local plan preparation procedures.

3.93 The examination of local plans where a CLA arrangement is in place will be the same as the examination of local plans in areas where CLA arrangements are not being piloted. With the difference that an Inspector will also be permitted to take into account any financial benefits that the piloting authority has, will or could derive from a CLA option when deciding whether or not the plan is sound.

3.94 Consultation advises that once the local plan is adopted and sites are allocated, the piloting authority can sell the CLA options over the land the piloting authority has allocated for development. Local plans will need to include policies setting out the type of development that will be acceptable on allocated sites and may also set out on-site infrastructure requirements, or requirements relating to affordable housing, and how other local and national policies will be applied.

3.95 If the CLA option is sold, the piloting authority keeps the amount the successful bidder paid for the option (the “CLA receipts”). The successful bidder owns the option and can exercise the option (to purchase the land) by paying the price set out by the original landowner in the option agreement to the landowner. Piloting authorities can also exercise options themselves to buy the land, and either sell the land to a successful bidder, or develop the land themselves. Planning permission will not be granted automatically on sites that have been allocated in the local plan through the CLA arrangement, and planning permission will need to be sought in the usual way.

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

East Devon District Council would advise that the Government should test the introduction of Community Land Auctions as set out in the consultation. We are fully aware, from very real practical experience, of the challenges that can arise from not being able or allowed to capture sufficient value from land in order to deliver necessary and often essential infrastructure to support and facilitate high quality development. These factors significantly affected the planning and delivery of Cranbrook new town and could potentially have been addressed through the Community Land Auctions process. In principle therefore Community Land Auctions would be welcomed.

As a Council we have considerable experience of bringing forward and delivering major new development. This particularly includes the new town of Cranbrook. Whilst development started more than a decade ago, issues that trace back to initial land transactions and the associated setting of values, are still impacting delivery today, notably in relation to the town centre. Greater visibility and transparency around land values coupled with the ability to ensure that highest possible proportion of the uplift from agricultural value is channelled back in to securing community infrastructure is something that the Council would welcome.

The proposed Community Land Auction would certainly provide an additional and welcome addition to the mechanisms available to the Council in this respect. But we are mindful also of the need for such a mechanism to reinforce rather than subvert established planning principles that are core to the achievement of sustainable development. This is vital to ensuring wider confidence of communities in the planning process. Whilst we believe that land values can also have a significant influence on the form that development takes, the CLA approach should only be used to differentiate between proposals that are of comparable planning merit.

**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?**

It will be important to have safeguards in place to ensure that site selection is not too heavily influenced by this and used to override other considerations such as impacts on the landscape, bio-diversity etc. However ensuring that the infrastructure required to support development is delivered and in good time is vital to delivering genuinely sustainable development. If one site can achieve this and another cannot then this should clearly weigh in favour of the site that can, however this should not be at the expense of all other factors. The key will be to ensure that the most sustainable form of development overall is brought forward having due regard to all issues.

## **Chapter 14: Approach to roll out and transition**

3.96 The government advise that they are committed to ensuring a smooth transition from the current to the future plan-making system. Key milestones are identified as:

- plan makers will have until 30 June 2025 to submit their local plans, neighbourhood plans for independent examination under the existing legal framework and

- all independent examinations must be concluded, with plans adopted, by 31 December 2026. These plans will be examined under the current legislation.
- 3.97 The consultation advises that this would mean that if an authority were to fail to meet the adoption deadline, or their plan were to fail at examination or be withdrawn, they would, in general, be required to commence preparation of a new-style plan immediately.
- 3.98 The consultation advises that authorities that have prepared a local plan which is more than 5 years old when the new system goes live (and are not proactively working towards the 30 June 2025 submission deadline under the current system) will be required to begin preparing a new style local plan, spatial development strategy or minerals and waste plan straight away.
- 3.99 Authorities that have prepared a local plan when the new system goes live will not be required to begin preparing a new-style plan until their existing plan is 5 years old. The period of 5 years applies from the date of adoption. Authorities can begin preparing a new plan sooner if they wish.
- 3.100 The government propose to provide expert plan-making support to a first, small cohort of around ten “front runner” authorities to prepare new-style local plans. This will ensure there is a strong foundation of learning and best practice for other authorities to draw upon. The first cohort of local planning authorities, the “front runners” could start plan-making from autumn 2024. The next key milestone would be 30 June 2025. This would be seven months after the first cohort had started, so all the first gateway assessments should have been completed and there will be learning and best practice for other authorities to draw on.
- 3.101 The consultation advises that remaining authorities would be:
- ranked chronologically by the date that they have most recently adopted a plan containing strategic priorities
  - grouped together sequentially into groups of up to 25 authorities
  - each groups allocated a 6 month plan-making commencement window (a “wave”), within which plan making should start
- 3.102 The consultation advises that this approach provides an even distribution and avoids a large bulge of authorities starting plan-making shortly after the new system in in place. It will also help ensure that sufficient resources are available to deliver gateway assessments and independent examinations.
- 3.103 An alternative option identified in the consultation would be to allow authorities to begin plan-making earlier than these dates should they wish to, with the waves acting as a final ‘back stop’ by which authorities should have begun preparing their new plan. This however raises a risk of losing some of the benefits of putting authorities into waves, if high numbers decide to start in the same time period (i.e. a larger number than can be managed by the professional capacity in the sector).

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

East Devon District Council prefer the option to rank local planning authorities chronologically by the date they have most recently adopted a plan, as this will ensure that the oldest plans are updated first (assuming that is the intention of the chronological order). However, we would

question the overall logic for phasing and would see merit in leaving it to planning authorities to come forward earlier and to timing that suits their needs and circumstances with any new style plans, rather than being held back by Government scheduling. This consideration highlights the importance of appropriate Government funding to support any new plan making system and this, in particular, will include ensuring that the Planning Inspectorate is appropriately resourced to meet needs and expectations of planning authorities for plan examinations.

- 3.104 The consultation advises that government have introduced a Capacity and Capability programme, which will seek to provide direct support to local planning authorities that is needed now. This comprises direct funding now, delivering upskilling opportunities for existing planners, and further developing the future pipeline into the profession in order to continually improve the resilience of local planning authorities.
- 3.105 The programme consists of a number of interventions, including a new 2-year graduate programme delivered through the Local Government Association, funding to support the national roll out of Public Practice, a social enterprise in the built environment sector, to support their work in helping local authorities to recruit and develop skills planners and built environment professionals, and an extension to the bursary scheme through the Royal Town Planning Institute (RTPI) which increases the size of the bursary from £2,000 to £5,000 for over 50 students.
- 3.106 The Government have also launched the Planning Skills Delivery Fund to support local authorities to help clear the backlog of planning applications as well as providing funding to support the development of core skills needed for the implementation of the measures contained in the Levelling Up and Regeneration Bill.

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

- 3.107 This chapter of the consultation document sets out what will happen to existing Development Plan Documents, adopted under the Planning and Compulsory Purchase Act 2004 and historic polices saved under Schedule 8 to the 2004 Act, following the implementation of the reforms set out in the Levelling Up and Regeneration Bill.
- 3.108 The Government are proposing that when the new plan-making system comes into force, existing Development Plan Documents and saved policies will remain in force until the local planning authority adopt a new-style local plan. When that new-style plan is adopted, in line with the current arrangements, those existing Development Plan Documents and saved policies will automatically cease to have effect.
- 3.109 To clarify, East Devon District has adopted three Development Plan Documents:
- East Devon Local Plan 2013-2031 (adopted 2016)
  - East Devon Villages Plan (adopted 2018)
  - The Cranbrook Plan (adopted 2022)

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

Yes, East Devon District Council agrees that existing Development Plan Documents remain in force until new-style local plans are adopted.

## 4 Conclusions and what happens next

- 4.1 Following consideration and agreement by Strategic Planning Committee, the consultation response will be submitted to the Government by the closing date of 11.59pm on Wednesday 18 October 2023. The Government will then analyse all consultation responses, and confirm or otherwise the proposed plan-making reforms.

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### **Financial implications:**

There are no financial implications at this consultation stage.

### **Legal implications:**

The legal implications are set out in the report.