

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

26th September 2023

Report of: Chief Planning Officer

Report to: Development Plan Panel

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

What is this report about?

Including how it contributes to the city's and council's ambitions

- This report outlines the proposals by the Government, which are presently out for consultation between 25 July to 18 October 2023, on implementation of plan-making reforms. Plan-making sets out the planning strategy and priorities for an area and is used to help decide on planning applications and other planning related decisions. This consultation seeks views on proposals to implement the parts of the Levelling Up and Regeneration Bill which relate to plan-making, to make plans simpler, faster to prepare and more accessible.
- All authorities must prepare a local plan and in Leeds this plan (currently comprising saved parts of the Unitary Development Plan, the Core Strategy, Site Allocations Plans and Minerals and Waste Plan) aims to deliver against the Council's priorities as established through the Best Council Plan, particularly the Council's key pillars on Health and Well-being, Net Zero and Inclusive Growth. It is important that the Council responds to the Government consultation so as to let Government know how changes to plan-making reform impact on the ability to meet these priorities and ensure that the rules and regulations around local plans are aligned with the specific opportunities and challenges faced by Leeds as a large metropolitan northern city.

Recommendations

Development Plan Panel are requested to:

- (i) note the contents of the report and provide comments for the Councils consultation response, which will be sent by the Chief Planning Officer following further consultation with the Executive Member for Sustainable Development & Infrastructure

Why is the proposal being put forward?

1. The purpose of this report is to inform Members of Development Plan Panel of the Government's technical consultation on proposed plan-making reforms¹. There are a total of 42 questions being asked across the 15 chapters of the consultation.
2. The consultation seeks views on implementing parts of the Levelling Up and Regeneration Bill (LURB) relating to plan-making, to make plans simpler, faster to prepare and more accessible. This follows on from previous consultations and the direction of travel set out in the Government's White Paper 'Planning for the Future' 2020 and further consultations through 2021 and 2022.
3. The Government states that its vision is for local plans to:
 - be simpler to understand and use,
 - be positively shaped by the views of communities about how their area should evolve,
 - clearly show what is planned in a local area – so that communities and other users of the plan can engage with them more easily, especially while they are being drawn up,
 - be prepared more quickly and updated more frequently to ensure more authorities have up-to-date plans that reflect local needs, and
 - make the best use of new digital technology, so that people can get involved without having to go through hundreds of pages of documents at council offices and to drive improved productivity and efficiency in the plan-making process.
4. It is important to note that the consultation is purely on implementation of plan-making reforms with other consultations due on 'other' planning reforms in the future. This consultation does not include provisions in the LURB (reliant on Royal Assent).

What impact will this proposal have?

Wards affected: All

Have ward members been consulted? Yes No

5. In general, there is much to welcome in this consultation: the Government shows that it has listened to some of the long-standing issues that Local Planning Authorities (LPAs) have with plan making and is highly positive about the importance of preparing local plans, consulting with the public and the key role of the planning profession in delivering sustainable development. This is a welcome change of tone from some recent consultations where LPAs themselves have been criticised for the failings of the system. The key proposed changes are summarised below, and Members' views are sought on these.

Plan Content and vision

6. The Government seeks to make new local plans simpler, shorter and more visual, so users can engage more readily and proposes to establish 'core principles as summarised below:
 - the plan role of locally distinct visions which will be regulatory required, as well as required by national policy to act as a "golden thread" through the Local Plan and tested

¹ <https://www.gov.uk/government/consultations/plan-making-reforms-consultation-on-implementation/levelling-up-and-regeneration-bill-consultation-on-implementation-of-plan-making-reforms>

- the use of digital Local Plan templates, moving away from using PDFs to ensure a consistent structuring, drafting and appearance and enhancing accessibility and flexibility
- streamlined Local Plan content through limiting local Development Management (DM) policies through the Government producing National Development Management Policies (NDMP)
- “to encourage planning authorities to make links more explicitly between the vision and other relevant corporate or thematic strategies produced by other authorities, public bodies and partnerships, to help secure more buy-in for local plans as vehicles of change”

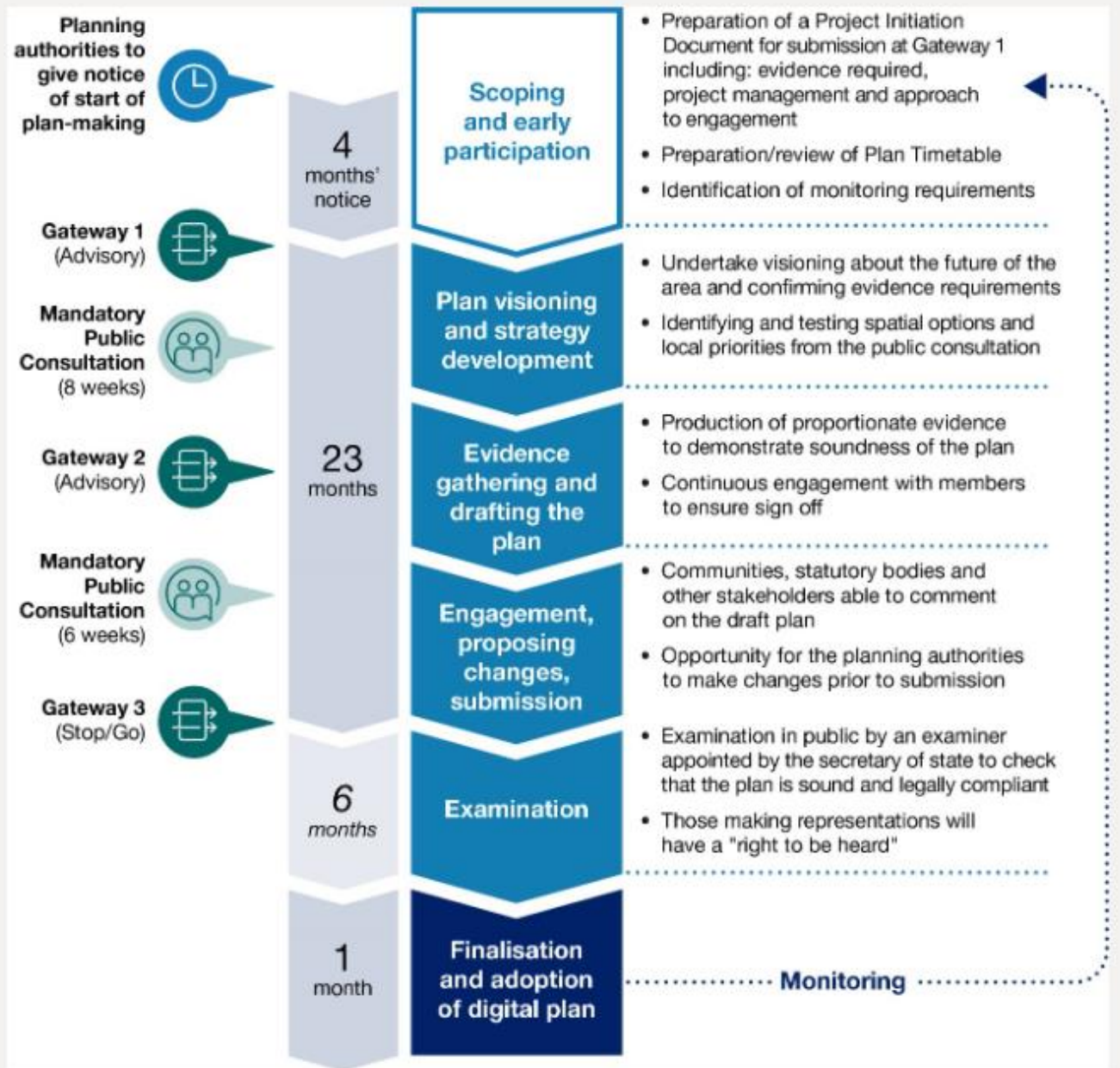
The new 30-month plan timeframe

7. Evidence suggests that local plan production takes an average of 7 years. The risk is that by the time of adoption policies may already be out of date. The new process is proposed to be more standardised, front-loaded and more efficient within a proposed 30-month plan timeframe, which is shown in Figure 1 below:
8. This consultation provides more detail on this timeframe and sets out 6 preparation stages for local plan preparation:
 - Stage 1 - Scoping and early participation
 - Stage 2 - Plan visioning and strategy development
 - Stage 3 - Evidence gathering and drafting the plan
 - Stage 4 - Engagement, proposing changes, submission
 - Stage 5 - Examination
 - Stage 6 - Finalisation and adoption of the plan.

Stage 1 does not have a statutory time frame and will be carried out prior to the 30-month period of plan-preparation formally commencing. Local Planning Authority's (LPA's) would be required to give 4 months' notice prior to preparation and adoption of a Local Plan within the timeframe.

Stages 2, 3 and 4 are to be carried out during a 23-month period. Examination (Stage 5) is proposed to take six months, with one month proposed to then finalise and adopt the plan - Stage 6.

Figure 1: The new 30 month plan timeframe



9. Matters to consider in the Council's consultation response

- The Council does not consider, as a result of its experiences of taking 5 plans through the post 2012 planning system under the NPPF, that 30 months is a realistically achievable target to set. The plan-making process is significant and complex and attempts to curtail it would necessarily limit the focus that could be given to ensuring that requirements set out in the NPPF and its tests of soundness were all adequately addressed.*
- 30 months is a target that applies to all LPAs, whether they be small districts or large metropolitan authorities, which would seem to ignore the range and complexity of issues that spatial scale brings to plan-making.*
- It is not clear what failure to meet the target would mean in practice. If the Government retains the target it is suggested that a meeting with DHLUC be held at the 20 month stage (or relevant gateway) to agree a future timetable and any necessary extension of time.*
- On a practical level the proposals do not take local authority governance for plan-making*

into account. This has a significant impact on timetables, especially around periods of heightened political sensitivities in the run up to local elections. In addition, consultation constraints such as Christmas and Summer holiday periods often limit the timeframes for effective and speedy consultation and the 30-month end to end period – when solely taking them into account – seems too rigid and too short.

- e) *It is highly likely that in order to meet a 30-month end to end period significant front loading outside of that formal period would be required including evidence base and some form of engagement e.g. with key partners, such as infrastructure deliverers to ensure that their buy in can be secured – which calls into question the purpose of the formal period.*
- f) *Achievement of the target will also depend on consideration of the following factors:*
 - o *Upskilling staff to deal with a totally new system for the first time is required both in terms of staff (it is nationally recognised that there is currently a lack of qualified planners nationally) and physical resources (such as new digital technology).*
 - o *A need to clarify how neighbourhood planning would be integrated with the plan making process (not raised in this consultation) and consideration that resourcing of an LPAs duty to support neighbourhood planning is likely to be impacted by a focus on plan-making*
 - o *Dependencies on bodies external to the LPA, such as the Planning Inspectorate and local and regional statutory consultation bodies, are in the Council’s experience likely to slow the process down and these agencies would also need to be adequately skilled and resourced to support LPAs.*
 - o *It is suggested that at the start of the plan-making process a clear statement of common ground, including performance expectations, be agreed with relevant bodies. The Government should require this for those bodies most likely to engage with LPAs so that LPAs are not dependent on their availability or time taken to respond.*

Scoping and Early Participation

- 10. The Consultation proposes a scoping stage to front-load engagement, to be completed prior to the formal commencement of the 30-month preparation of the Local Plan. As part of this, a templated Project Initiation Document (PID) will be prepared, which will define the scope of the Local Plan and contain information on the approach to project management, governance, engagement, and local issues.
- 11. It is proposed that the scoping stage and the outputs will need to be informed by early participation by “notified” and “invited” stakeholders, with the PID setting out the main messages of this to inform the development of the vision and strategy of the Local Plan.
- 12. Matters to consider in Council’s consultation response
 - a) *Custom and practice of the current system in Leeds indicates that a formal scoping stage is supported as it enables early engagement and clear objective setting in advance of more complex policy setting. It also gives an opportunity to hear from local people as to the nature of the plan.*

Consultation

- 13. Similar to the current Regulation 18 and 19 stages of consultation in plan preparation, the Consultation proposes retaining two rounds of mandatory, formal public consultation but will

be “more clearly defined and strengthened through regulations to increase their impact”.

- The first stage, to last eight weeks as a minimum, will focus on validating the vision and testing the spatial strategy and broad options.
- The second stage, to last six weeks as a minimum, will seek focussed views on the draft Local Plan for submission. It is noted that there will be opportunity for LPAs to make modifications prior to submission following this consultation.

14. It is proposed that representations and responses will be made with templates produced by the Government. A new “project initiation documents” (PID) will be required to set out what engagement is planned and what resources and skills will be required to deliver this.

15. Matters to consider in Council’s consultation response

- a) Further clarity on the PID is needed to understand how much legitimate consultation “front loading” an authority may achieve prior to the beginning of the 30 month period as in some authorities needs will be different to others.*
- b) It is anticipated that the PID will be where authorities will identify and notify external bodies key to the local plans preparation and ultimate implementation. In our experience such bodies are often unwilling or unable to engage in plan making sure to their work pressures. Or where engagement is done it is often slow. The Government should consider further how to encourage their involvement, potentially through a duty to be involved.*
- c) Corporate buy-in for planning differs across the country, with Leeds being fortunate to have a dedicated Chief Planning Officer who can engage at a senior level. This should be the norm for all authorities to help fulfil the statutory planning responsibilities. Clear corporate buy in is a key pre requisite for successful engagement, especially through and involving members.*
- d) Further clarity is sought on whether the PID is a replacement to the Statement of Community Involvement or an additional document. It is recommended that an overall SCI remains a requirement to guide consultation with individual PIDs supplementing the SCI where needed – depending on the scale and nature of the local plan being prepared. Otherwise debates about signing off the PID without the benefit of an agreed SCI framework are likely to slow the process.*

Gateways

16. The Consultation details the use of three ‘gateway assessments’ throughout the preparation of the Local Plan to be conducted by independent advisors and Planning Inspectors, with each assessment lasting up to four weeks.
- Gateway 1 - will be advisory and will take place after the scoping phase, on commencement of the Local Plan process, to review the initial scoping work and diagnose possible issues.
 - Gateway 2 - will also be advisory, taking place after the first round of consultation, to ensure ongoing compliance and supporting the early resolution of soundness issues.
 - Gateway 3 - a “Stop/Go” check, will take place after the second round of consultation and before submission, used to ensure the Local Plan is compliant and ready to proceed to examination.

17. Matters to consider in Council’s consultation response

- a) *The gateways are welcomed as a means of ensuring that authorities are “on the right lines” and to de-risk lengthy/costly examination processes. However, it is recommended that the Inspector for all gateways and the examination should be the same for consistency purposes. This will enable the Planning Inspectorate to align its resources towards local authorities and ensure that Inspectors are alert to timetabling issues that may arise. In so doing PINS will more readily share some of the responsibility for progression against the 30-month target.*
- b) *It should be made clear how gateways would deal with substantive issues (such as changes to Government guidance or household and population projections) being introduced just before submission of a plan.*
- c) *The reforms are silent on key pieces of evidence base that may be subject to separate examinations e.g. the Government should clarify whether it is their intention that 5-year supply evidence and Design Codes (each potentially under the current system able to be subjected to separate examinations) should be set in advance of the local plan process or be an integral part of them.*
- d) *There is an opportunity for public briefings on the outcomes of the gateways, either through a report produced by the Gateway Inspector or through a gateway session being held in public to facilitate participation in these key stages.*

Examination

- 18. The consultation document proposes that plan examinations should take “no longer than six months”. It is proposed using panels of two or more inspectors “by default” to increase efficiency and revising the way the Matters, Issues and Questions (MIQs) stage of the process works, so that only the relevant planning authority is invited to submit responses.
- 19. The LURB would allow inspectors to pause examinations for a limited period of time. If the “relevant matters” responsible for the pause cannot be “dealt with to the necessary degree before the end of the pause period” the inspector will be required to recommend that the authority withdraw the plan.
- 20. Matters to consider in Council’s consultation response
 - a) *The Council welcomes a shorter examination process; as in its experience examinations are where the chief delays in local plan making occur. The examinations are also costly and so attempts to limit the costs of plan making are welcome especially as other parts of the 30-month process will now be more costly e.g. focussed public engagement.*
 - b) *The examination Inspector should be the same as the Gateways Inspector for consistency purposes.*
 - c) *The Examinations should expect all participants to ‘follow the rules’ that the process has placed on local authorities i.e. no late surprises such as last minute site submissions, fixing of key data and clarity over evidence outputs, their applicability to local areas and the ability to use national wider evidence more locally without a need for primary evidence gathering. To that end denying engagement from individuals who have not been involved throughout the process from the start, including the gateway stages, so as to avoid spoiling tactics being deployed needs more consideration.*
 - d) *It would be helpful to be consulted on the regulations and ‘relevant’ matters that a paused*

period may trigger as the details of these proposals will warrant local authority comment and scrutiny.

Monitoring

21. Authorities will be required to produce annual monitoring reports outlining how their plans have met a series of new “nationally prescribed metrics” and a “fuller analysis” four years after adoption. This will include “two distinct elements”: -
- authorities would have to produce “light touch annual return[s]” which will “report on a small number of nationally prescribed metrics... to assess the implementation of key policies against the output of the plan”.
 - within four years of the plan’s adoption, 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”, a “detailed return to inform updates to the plan”, the scope and content of this report will be “left to individual planning authorities but should be designed to inform the forthcoming update of the plan, which will need to commence five years after adoption, at the latest”.
22. The Government may in “certain circumstances”, require planning authorities to commence these updates earlier.
23. Matters to consider in Council’s consultation response
- a) *This is supported and in the Council’s experience an evidence-led approach to plan-making and monitoring is essential to ensure that policies are delivered. It will, in the Council’s opinion, greatly assist in the updating and review of plans to have a consistent monitoring process in place. However, it is noted that monitoring is a timely activity and is often not adequately resourced especially when matters of quality are being assessed and measured or where new issues are being tackled such as net zero and carbon. The Government or Planning Advisory Service should consider sharing good practice on measuring design, net zero, health and well-being and lived experiences of places to enable more rounded evidence bases for plans.*
- b) *Further clarity is requested on what is meant by “certain circumstances” and why these may occur.*

Local Plan Timetable

24. The LURB replaces the requirement to produce a Local Development Scheme (LDS) with a Local Plan timetable, to be revised at least once every six months, or upon meeting a key milestone. The Consultation proposes that the timetable will need to be prepared and reported on consistent with the following milestones as the 30-month timeframe.
25. Matters to consider in Council’s consultation response
- a) *The Council supports this proposal and notes that it will be important for the public to be engaged in the Gateways and their outcomes.*

Digital Plan

26. The consultation document states that “through engagement with the sector” the government has “consistently heard that nationally-defined digital templates would support planning

authorities in drafting their plans and doing so within the proposed 30 month timeframe, setting out standardised approaches to specific parts of the plan”. According to the document, new policy will set out the government’s “expectation that authorities use the new “user-tested digital template[s]” to draft and present their plan.

27. The consultation document states that “plans will wherever possible make the best use of modern technology and be produced digitally, rather than as “analogue” (PDF or paper)”. It adds that the documents will be “shorter, more visual and map-based, enabling communities to engage more easily with their content”.
28. The consultation document states, this will include a “set of tools that can be used by different types of planning authorities, at different stages of the plan cycle, to make the process more efficient, more cost effective and more accessible” and would “evolve over time as more best practice emerges”. It says the toolkit might include search tools, dashboards, digital checklists and step-by-step guides.
29. Matters to consider in Council’s consultation response
 - a) *Leeds is already making use of interactive mapping and database software in its plan making. The Council has developed a number of advanced mapping and database systems to assist with plan preparation. However, in our experience this takes time and the presence of a digital map does not necessarily ensure its use. So time also needs to be taken to upskill plan users.*
 - b) *Assessment of consultation responses is one of the most resource intensive periods of plan making (with the Leeds Site Allocations Plan receiving over 25,000 individual responses). Whilst the Council was able to digitally process 25% of these through its software at the time we would recommend the use of software to interpret and report on all representations.*
 - c) *In terms of moving toward improved standardisation it would be useful for Government to set out clear parameters for system requirements and outputs, so that local authorities can set up systems that work best for the outputs expected from Government and produce standardised outputs useful to building a national picture.*
 - d) *The Government should also be alert to what is currently a very limited and constrained market in providing such products to local planning authorities – there is a case here for the Government to work closely with a provider to ensure that products are right first time*
 - e) *The guidance and templates promised by the Government need to be made available soon with opportunity for comment and input from local authorities.*
 - f) *Sufficient funding and resourcing needs to be made available and Council’s need to understand that investment in this area is risk free – i.e. that the system will not change again and that the digital outputs will be acceptable to Inspectors.*
 - g) *Digitisation / simplification proposals are welcomed but whilst they will improve communication, they will not automatically improve engagement, so consideration must be given to this important aspect of consultation. The Council aims to be inclusive and there is concern that those who do not have access to or are able to access new local plans will be unable to engage fully. Qualitative opportunities must therefore be built into the process with the understanding that these are time consuming and costly.*

New Supplementary plans (SPs) saving existing plans and planning documents

30. The LURB proposes the creation of new supplementary plans (SP). The reforms will remove the role of Supplementary Planning Documents (SPDs) and Area Action Plans (AAPs). Supplementary Plans are not intended to be used routinely; planning authorities should prioritise including all policies in their local plan or minerals and waste plan, leaving supplementary plans only for exceptional or unforeseen circumstances that need resolving between plans.
31. The introduction of supplementary plans will help to provide clarity and simplify the development plan framework. 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.
32. 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.
33. Matters to consider in Council's consultation response
 - a) *Existing supplementary documents provide a fundamental current role for local authorities as part of the existing development plan. Sufficient transition time is essential to enable authorities to ensure that these SPDs are transferred to local plan policy. For authorities who are progressing plans now and submit before transition arrangements the opportunity to incorporate SPDs may be many years away so the guidance should "save" those SPDs.*
 - b) *Government should be clear as to whether it will still allow for detailed technical guidance, which speeds up planning decision taking by providing clarity, good practice and implementation experiences often impossible to include when policies are set. Whilst these may have less weight depending on how they are prepared, they remain an important factor.*

Transitional arrangement

34. The consultation states 30th June 2025 is the deadline for the submission of emerging, current Local Plans for examination under the existing system and adoption by December 2026. There is limited flexibility regarding Local Plans post this date, LPAs will have to submit exceptional circumstances to Government.
35. The consultation proposes to provide expert plan-making support to a small cohort of around ten 'front runner' authorities to prepare new-style local plans", it states, adding that this will ensure "a strong foundation of learning and best practice for other authorities to draw upon". This cohort could start plan-making in Autumn 2024, when the Governed envisage the regulations and guidance for the new system will be in place. Front runners should have completed all three gateway assessments by June the following year.
36. All remaining authorities would be ranked chronologically by the date that they adopted their local plan, before groups of 25 authorities at a time are allocated a "six-month" plan-making commencement window".

37. Matters to consider in Council's consultation response

- a) *Leeds's Local Plan Updates are progressing through the present system and on-track to submitting both Leeds's local plans prior to the transitional arrangements deadline. However, there is an issue around whether the new NPPF will have the same transitional arrangements.*
- b) *In terms of rolling out the arrangements more clarity is needed on whether LPAs will be denied the ability to produce Plan if they are not in the early waves or whether local circumstances e.g. a need to amend housing numbers due to be evidence may be more important than the age of their existing plan.*

Community Land Auctions

38. The consultation proposes a measure that would allow LPAs to invite landowners to put their sites forward for a community land auction as part of the local plan preparation process. The LPA could then take out an option on those sites and, if an allocation is secured in the local plan, under the auction process it would seek a developer for them. The aim would be for the LPA, if they sell the option, to capture the increased value that would result from allocation for development, which can then be used to support development of the area.
39. A proposed new system for public capturing for the public purse the increase in land value generated by a site being allocated for development in a local plan. Local Plans would still ask for other forms of developer contributions to secure infrastructure and affordable housing, green space, BNG, etc.
40. Matters to consider in Council's consultation response

- a) *The general ambition to secure land value uplift is supported, but it is too early to tell whether this proposal will be effective. The Council welcomes the Government's intention to test the CLA as this will be a new approach which both landowners, the LPA and developers will not be used to. To that end, it will only work well if all parties engage in it as the Government intends – so clear guidelines must be set on all parties not just the LPA.*
- b) *The approach would only seem to work as part of the allocation of land through a plan. Therefore, it is recommended that the Government accompany the CLA process with a robust approach to denying speculative development in locations which should be steered through a plan – generally those greenfield sites where there is value to capture. But this should also apply to sites that may benefit from value uplift through infrastructure provision.*

Overall conclusions

41. The key points are:
- *Broadly welcome the proposals as being a positive set of measures to streamline and improve the plan-making process which are attentive to many of the failings of the system that have been pointed out to Government in recent years*
 - *Specifically raise concerns that the 30 month timetable is unachievable and unrealistic for all LPAs and whether the Government needs to consider how its ambitions for the core cities will be delivered via these policy amendments*
 - *LPAs and partner bodies would require more resourcing to deliver the new proposals*

- *LPAs would need to upskill in certain areas e.g. project management and it would be helpful if the proposals were accompanied by focussed training sessions by the Planning Advisory Service*
- *A Digital Planning system is supported but one which involves each individual LPA developing a different system and engaging in what is still a limited market place is wasteful and will not deliver the stated ambitions – consultation on a standardised digital approach that supports all LPAs should be carried out*
- *The proposed changes follow on from many consultations and changes to the NPPF, with more to come, this present consultation forms a small part of the overall proposed changes put forward by the Government and does not provide the full picture, which remains a concern and an impediment to thinking about wider implications.*
- *Additional consultation on these documents will be needed and time should be allowed for all reforms to be brought together and how they collectively may impact upon local planning authorities.*

What consultation and engagement has taken place?

42. The proposed responses to the consultation have been considered within the Planning and Sustainable Development Service and where appropriate in liaison with other services e.g. regeneration.

What are the resource implications?

43. There are no specific implications to this report.

What are the legal implications?

44. There are no legal implications arising from the recommendations in this report. Future changes to the planning system will raise a number of legal issues.

What are the key risks and how are they being managed?

45. No issues of risk are identified within the recommendations in this report. Future changes to the planning system will raise a number of risk issues.

Does this proposal support the council's three Key Pillars?

- Inclusive Growth Health and Wellbeing Climate Emergency

Options, timescales and measuring success

What other options were considered?

46. There is an option to not engage with the consultation, but as the second largest planning authority in the Country outside of London and with considerable experience of plan-making in recent years it is important for the Council to engage with Government on these issues.

How will success be measured?

47. Amendments to Government policy that take on board the Council's comments

What is the timetable for implementation?

48. This is a technical consultation by Government which ends 18th October 2023. No date has been given for consultation feedback. It is noted in the consultation proposes options for phasing the roll-out of the new local plan-making system from autumn 2024.

Appendices

49. None

Background papers

50. None.