



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

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The CLA is the membership organisation for owners and managers of land, property and businesses in rural England and Wales. Our 27,000 members own or manage around half the rural land in England and Wales and operate more than 250 different types of businesses. We help safeguard the interests of owners of land, and all those with an economic, social, and environmental interest in rural land.

General Comments:

1. The CLA welcomes the consultation on plan making. The current process for preparing local plans is not optimal and local plans take on average 7 years to prepare. They become out of date quickly and are difficult for many to understand at both preparation and adoption stage. According to the consultation, only approximately 35% of Local Planning Authorities have adopted a Local Plan in the past 5 years with many more halting the process due to the forthcoming changes to plan-making set out within the Levelling Up and Regeneration Bill (proposed changes that form this consultation). Delays to the adoption of local plans can affect local economies because new development is halted whilst a plan is in limbo, which leads to stagnation in spending growth.
2. The CLA broadly support the proposals contained within the consultation but fundamentally, we have concerns regarding their implementation. Local Planning Authorities are currently navigating various elements of planning reform, much of which is important and required to ensure the planning system is fit for purpose. It is difficult to ascertain how the proposals forming this consultation will be implemented effectively without further funding and training.
3. There is a focus throughout the consultation on simplification and the use of templates. We agree that these methods shall result in the speeding up of what is a drawn out and overly complicated process but it is important that a focus on sustainable place-making and planning for the future is not lost.
4. The proposed pilot of community land auctions is not considered to be an appropriate method for the allocation of land for sustainable development and the proposed approach does not appear to address the issue of unspent developer contributions.

Chapter 1: Plan Content

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

5. Yes. The core principles will set out structure that local plans can expand on whilst ensuring they can be tailored to suit an individual authorities area.

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?

6. Yes, many local plans contain a vision that is based on the need for a plan to promote sustainable development. The consultation states that explicit links need to be made between visions and other corporate or thematic strategies produced by other authorities, public bodies and partnerships but no further information on these has been provided. Firstly, the links that are needed need to be defined by central government. Secondly, this information needs to be available to plan-makers via an appropriate mechanism such as regulation or planning guidance.

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

7. Yes. It is sensible that policies are underpinned by appropriate justification that has been scoped and adequately assessed. Alongside the future introduction of National Development Management Policies, this will ensure that policies contained within local plans are not only specific and streamlined but appropriate for the development in which they seek to enable/control.

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?

8. Yes but it is important that templates still allow for individual Local Planning Authorities to tailor templates/plans to an individual area's circumstances and promote the right development in the right places for an area.

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

9. Yes, these plans differ to local plans and seek to control development in a local area in a different context. The treatment of planning applications related to minerals should not fall under the local development management remit but should be elevated to have National Development Management Policy (NDMP) status when these are introduced. A new NDMP should be clear that applications for mineral extraction should be assessed against mineral reserves (those that can be economically mined) and not mineral resource (the total mineral available).

Chapter 2: The new 30 month plan timeframe

Question 6: Do you agree with the proposal to set out in policy that planning authorities should adopt their plan, at the latest, 30 months after the plan preparation process begins?

10. Yes. The plan-making system needs to be sped up to reduce the time it takes to prepare a plan. Plans take on average 7 years to prepare which results in them being out of date by the time they are adopted. There are examples of local authorities that have managed to prepare local plans within a 30 month timeframe (Broxbourne, Northumberland, Maidstone and Crawley)¹ and so there is proof that it can be done.

Chapter 5: Evidence and the tests of soundness

Question 14: Do you think this direction of travel for national policy and guidance set out in this chapter would provide more clarity on what evidence is expected? Are there other changes you would like to see?

11. Within the CLA's response² to the Levelling-up and Regeneration Bill: reforms to national planning policy consultation (1st March 2023), at Question 11, we disagreed with the removal of the requirement for plans to be 'justified'. Our concern is that if plans do not meet need but are considered 'up-to-date', the presumption in favour of sustainable development will not apply. This would mean that rural exception sites which deliver affordable housing in rural areas would not be granted planning permission. Sites not allocated in local plans are hugely important for rural delivery; for example, in Cornwall between 2016 and 2019, 800 homes were delivered on rural exception sites.
12. Removing the requirement for a plan to be 'justified' could allow local authorities to adopt plans which are unambitious for housing delivery, as they could be "effective and deliverable" but have low numbers of new housing and fail to satisfy demand. If the presumption in favour of sustainable development does not apply, then these authorities will not deliver enough homes to meet need and rural areas would be put at a greater disadvantage as they are less likely to be allocated sites in a local plan.
13. Justification of plans is an important stage for scrutinising the Local Planning Authority's commitment to delivering new homes in the right locations to meet need. Considering whether a plan will be "effective and deliverable" is not sufficient to protect against authorities which may be unambitious to deliver much needed housing.

¹ [Lichfields: The Power of LURB: the future of plan making](#)

² [CLA's response to the Levelling-up and Regeneration Bill: Reforms to national planning policy consultation](#)

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?

14. Yes, housing needs assessment and land availability assessments (such as Housing and Economic Land Availability Assessments) should be standardised but these need to be reflective of the differing needs of urban and rural areas.
15. Following on from the Levelling-up and Regeneration Bill: reforms to national planning policy consultation earlier this year, should carbon impact assessments be required, these need to be standardised and appropriate guidance provided. This would streamline the application process, ensuring it is fair and transparent.
16. However, it needs to be acknowledged that every aspect of plan-preparation cannot be standardised due to the conflicting interests, constraints and landscapes of individual local authority areas. Each area has its own needs which will require an alternative approach to evidence gathering.

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?

17. Yes but there needs to be exceptions provided within regulations to allow for exceptional evidence that could have a significant impact on future development such as evidence relating to human health or natural disasters (such as flooding) or project viability whereby it could have an impact on local economy.

Chapter 6: Gateway assessments during plan-making

Question 18: Do you agree that these should be the overarching purposes of gateway assessments? Are there other purposes we should consider alongside those set out above?

18. Yes, gateway assessments should enable plan-making to take place in a more robust manner with issues (if any) identified earlier in the process. Plans that comply with regulations will reduce the risk of legal challenge at examination stage and thus reduce the risk of costly delays in plan adoption. However, the frequency and timing of the assessments could lead to additional delays on the proposed 30-month timetable.

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

19. No, we don't agree with the proposals for three additional assessments throughout the plan-making process. In addition to the existing final examination stage the proposal for three gateway assessments seems excessive and regardless of the proposal to ensure plans are prepared in 30-month timeframes, will result in further delays to plan-making.

20. Whilst the assessments provide the opportunity to resolve issues early, there is a risk that addressing any issues could result in delays if not managed effectively. The frequency of the assessments will also add to the existing issue of resources and whilst the overall preparation of plans is set to reduce, the cost burden could increase.
21. The CLA support the simplification of the plan-making process but the proposal to introduce three gateway assessments as currently framed will add further complexity to the process. Prior to the introduction of gateway assessments into the plan-making process, a pilot of 10 local authorities (30% of which should be rural authorities) should be undertaken. The pilot should focus on the introduction of the first and second gateway assessment and ascertain if their introduction (and the associated resource requirement) is worthwhile. If it becomes apparent that only one gateway assessment is suitable (the first assessment, for example) then only one should be introduced.

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

22. No, this proposal is concerning. Planning application fees are set to increase by 25% (35% for major applications) shortly, but these fees will not be ringfenced³. This comes at a time when Local Authorities are already grappling with shortfalls with budgets and are projected to have an average deficit of £33m⁴ in 2025/26. An additional cost burden of gateway assessments could result in the planning service being stuck in its current position of being under funded and under resourced and will hinder possible opportunities for planning system improvement.
23. The CLA has discussed an alternative approach with members and suggests that Local Planning Authorities are offered the opportunity to charge for the submission of call for sites submissions at the earlier stage of the plan-making process. This could be a nominal fee per submission or calculated per unit. These fees would project additional income that would support the assessment of sites and also support the overall plan-making process. The payment of a fee at the time of submission will also ensure that more sites with a good potential for allocation are submitted as it will involve an initial input cost that some may be unwilling to pay if the submission is being made at risk.

Chapter 7: Plan examination

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

24. Yes, we agree with the proposals to speed up plan examinations. The overall plan-making process has become protracted and plans are often out of date by the time they are adopted.

³ [Planning Application Fees Consultation – Government Response](#)

⁴ [BBC Investigation – predicted deficits of Local Authorities](#)

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?

25. Yes but further clarity is required through regulations. It is unclear if any public consultations would form part of the proposed 6-month period and the causes for a pause period may require such an exercise.

Chapter 12: Minerals and Waste Plans

Question 38: Are there any unique challenges facing the preparation of minerals and waste plans which we should consider in developing the approach to implement the new plan-making system?

26. As per our response to Question 9, minerals and waste plans differ to local plans and seek to control development in a different context. The treatment of applications for mineral related development should be elevated to National Development Management Policy (NDMP) status (when these are introduced). It needs to be clear that a new NDMP requires applications for mineral extraction to be assessed against mineral reserves (those that can be economically mined) and not mineral resource (the total mineral available). Elevating minerals development to NDMP status will also ensure cross-border collaboration/collective thinking across local authority areas.
27. A challenge of sites for mineral extraction is the issue of ownership. The ownership of minerals rights is frequently separated from freehold ownership. When considering sites, ownership and rights to minerals must be considered. This is not dissimilar to considering the ownership complexities of a site for allocation within a local plan. It is an important factor and one that could impact the deliverability of the site and in the case of minerals, a vital resource.
28. Although not a unique challenge and reiterated throughout this response, it should be acknowledged that the proposals forming this consultation and any changes in the approach will require additional resource and training of Local Authority planning departments which are already under-resourced and working against budget deficits.

Chapter 13: Community Land Auctions

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

29. The CLA is concerned about the proposed community land auctions process. It is not clear whether landowners will want to take part in the process. The incentive for the landowner to involve themselves with the process is the desire for their site to be allocated for development and sold and therefore, would-be sellers will be incentivised to offer their land at competitive prices. We assume that where community land auctions are in place, there would be no other route to getting land allocated for development within a plan. The alternative would be to submit the site as a 'windfall site' which may

have a lower chance of success in obtaining planning permission and thus comes further incentive and/or need to partake.

30. In addition, many landowners are interested in the longevity of land in their ownership and are interested in ensuring legacy through development proposals. The proposed community land auctions process seems likely to take away the option for involvement of the landowner in not only deciding which developer and/or housebuilder develops their site but also to ensure that development is akin to the ethos of their estate or legacy. It is unclear from the proposals if landowners will be able to make conditional offers when making a submission to the local authority.
31. It is also unclear how the community land auctions process will work for land that is in a consortium and has two or more landowners.
32. Another concern is that community land auctions may result in Local Planning Authorities planning for best return rather than best places and this could have significant impacts on place-making. For example, two sites could be put forward for alternative locations for the expansion of a town and one may be less sustainable in terms of access to services and public transport than the other. If the landowner of the less sustainable site offers a lower price, the Local Planning Authority could take into account the additional money that will be extracted at a time of sale rather than the suitability of the site in planning terms. The risk is allocated sites within a plan that are closed off from nearby towns and cities become hubs for social and economic problems in the future as they are poorly planned. This could result in the process undermining the overall objectives for sustainable development which is the purpose of the planning system⁵.
33. It needs to also be acknowledged that within the existing mechanisms (Section 106 contributions, Community Infrastructure Levy (CIL) and capital taxation), a large proportion of the land value following the granting of planning permission is captured by the local authority rather than the landowner. Section 106 contributions and CIL payments go to the local authorities whilst capital taxation (namely Capital Gains Tax and Corporation Tax) goes to Central Government.
34. A 2019 CLA survey revealed that Government, at both local and national level, captured on average 57% of uplift. When considering overall profits of development, it is possible to see that landowners receive approximately 12% of the project, developers receive 44% and the Government (local and central) captures 39%. Therefore, the evidence is that land value capture already takes place. The view that community land auctions will multiply the existing provision is over-optimistic.
35. There is no denying that the current system is providing an inadequate supply of infrastructure, but unspent developer contributions do not help and this issue should be priority. Research from the House Builders Federation has found that local authorities sit on average over £8m in unspent developer contributions⁶. The proposed mechanism in

⁵ [Chapter 2, NPPF 2023](#)

⁶ [Section 106 agreements and unspent developer contributions in England and Wales Report \(House Builders Federation\)](#)

which community land auctions will operate is unclear on what will happen to any unspent uplift and whether it will be folded into wider local authority budgets.

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?

36. Further to paragraph 30 above, there is a risk that financial considerations will take precedent when Local Planning Authorities decide to allocate sites. This will result in sites that are chosen based on the additional monies that can be extracted at the time of sale to a developer but results in a site that is less suitable in planning terms. Financial considerations must be weighed up and appropriately set against the matters for planning approval such as accordance with planning policies and compliance with the objectives for sustainable development. In addition, project viability must be considered at an early stage to ensure that development is possible and will come forward.

Chapter 14: Approach to roll out and transition

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

37. We support limited overlap of old plans and new plans so that there are not arbitrary disadvantages of dealing with an authority using an older style plan. However, it should be clear that National Development Management Policies apply to old and new style plans.
38. As per our response to the Levelling-up and Regeneration Bill: reforms to national planning policy consultation (1st March 2023), we support a transitional arrangement. However, it should be noted that under the proposed timeline, a planning authority could technically have an old-style plan in place until 2033: if preparation of a new plan can begin until December 2031 and plans are anticipated to take two years to implement. A transitional period of ten years is too long and will be of little comfort to those living in Local Planning Authorities which have consistently failed to deliver through their planning process and who are disadvantaged by the existing system. There is also a conflict with the requirement for planning authorities to start updating plans within 5 years of adoption of their previous plan.

Chapter 15: Saving existing plans and planning documents

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

39. Yes. Existing adopted local plans should remain until replaced by new style local plans to ensure that planning applications are appropriately assessed as per local plan policies. Any other plans forming the local development management plan (such as Supplementary Planning Documents) should also remain in place until replaced.



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