

REPORT TO:	ENVIRONMENTAL AND DEVELOPMENT SERVICES COMMITTEE	AGENDA ITEM: 12
DATE OF MEETING:	21 SEPTEMBER 2023	CATEGORY:
REPORT FROM:	STRATEGIC DIRECTOR (SERVICE DELIVERY)	OPEN
MEMBERS' CONTACT POINT:	AMANDA VERNON, 07919 897691 amanda.vernon@southderbyshire.gov.uk	DOC:
SUBJECT:	THE DEPARTMENT FOR LEVELLING UP, HOUSING AND COMMUNITIES CONSULTATION ON IMPLEMENTATION OF PLAN-MAKING REFORMS	
WARD(S) AFFECTED:	ALL	TERMS OF REFERENCE: (

1.0 Recommendations

- 1.1 For Members to approve the submission of a response to the consultation in line with officer recommendations (detailed in Appendix 1).

2.0 Purpose of the Report

- 2.1 To present the details of the current Department for Levelling Up, Housing and Communities consultation on the implementation of plan-making reforms. To consider the implications of the proposed amendments to South Derbyshire District Council and to approve a response for submission to the consultation (detailed in Appendix 1).

3.0 Executive Summary

- 3.1 The consultation outlines proposed radical changes to the way in which Local Plans will be undertaken in the future. These changes are not proposed to be implemented until a year from now, and further delays are possible, therefore these changes are unlikely to have a significant negative bearing on the timescales of the current local plan process. The consultation includes the ambition to make the process more user-friendly, standardise the outputs, streamline the process and introduce statutory timeframes for plan production. The consultation also includes more details of the proposed Community Land Auction process and Supplementary Plans which are proposed to replace Supplementary Planning Documents.
- 3.2 The key concerns for the Council relate to the resources required to produce a new style Local Plan and the realism of producing a plan within the proposed statutory timescales.

4.0 Detail

- 4.1 The government Department for Levelling Up, Housing and Communities is currently consulting on reforms to the plan-making system. Their aim is to make the Local Plan simpler, quicker to prepare and update and move the system of production and consultation to have a digital focus. The consultation will close on the 18th October 2023.
- 4.2 The new system of plan-making outlines six key stages of plan-making:
- scoping and early participation;
 - plan visioning and strategy development;
 - evidence gathering and drafting the plan;
 - engagement, proposing changes, submission;
 - examination; and
 - finalisation and adoption of the plan
- 4.3 Local Plans will be required to be produced as a single document. South Derbyshire District Council currently undertake a two-part plan process with strategic policies included in the part 1, and non-strategic policies included within part 2. The Council is currently updating its Part 1 Local Plan which will be submitted prior to the requirement for the new-style plan to be prepared. However, the Part 2 Local Plan will fall under the new (single plan) system and therefore it is unclear how these arrangements would dovetail together. The Council may potentially need to take the decision to start a new style Local Plan early (potentially as a government front-runner gaining assistance from the government to produce the plan), to proceed as currently planned and potentially have the Part 1 Local Plan re-Examined as part of a comprehensive single Local Plan when we are ready to produce the Part 2 or to rely on the Part 1 Local Plan subsidised by a suite of new Supplementary Plans to allocate sites in advance of a new style single part plan being prepared. It is considered that the option to prepare Local Plans in two parts should be retained.
- 4.4 To streamline the contents of the Local Plan the government is proposing to introduce a suite of National Development Management Policies covering topics that occur nationally (e.g. flooding and heritage). The government expect that this will replace the need to include many of the existing local Development Management policies within the plan which should largely focus on site allocations and specific local issues. The detail of the National Development Management Policies is not yet known and will be subject to further consultation at a later date. The lack of any further detail on the proposed National Development Management Policies makes it difficult for the Council to respond comprehensively to the consultation at this stage but this is a key issue that would determine if the Local Plan process could be streamlined in the way envisioned.
- 4.5 The government intend to set out a series of core principles in policy and guidance, around what plans should contain, to ensure plans are focused on the right things and to ensure that users are able to understand clearly the 'story' of how the planning authority's area will develop. Local Plans will be required to contain a locally distinct vision which would be used as the 'golden thread' with policies and allocations linking directly to delivering "measurable outcomes" set out by the strategy. Links should be made 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.
- 4.6 Local Plan production will be required to take 30-months from start to adoption. Under the current system there is no time limit for Local Plan production and the average time to produce a Local Plan is 7 years. This is a significant change which

will require substantial streamlining of the process and content of the Local Plan. There are concerns regarding the achievability of meeting these timescales particularly when considered against the proposed indicative timescale for plan-making including 3 gateway checks (which will consume between 3 and 4.5 months of this timescale), statutory consultation (which will consume 4.5 months of this timescale), Examination with modifications (which will consume 9 months of this timescale) leaving between 12 and 13.5 months to undertake all other local plan-making activities. There is concern that within these timescales there seems to have been no consideration of the time implications for cross-boundary working, particularly where Local Plan production between different authorities is misaligned. The consultation is largely predicated on the assumption that Councils work independently however, the proposed new 'alignment policy' (details of this have not yet been released) retains the requirement to work with neighbouring authorities on strategic issues.

- 4.7 There also seems to have been no consideration as to how the process fits within the political timeframes and this is something that will need to be managed by the Council to ensure cross-party engagement and ideally agreement on key issues. The government have not been clear about the penalty for not meeting the statutory timescale, however it could have implications for the need to demonstrate a five-year land supply position.
- 4.8 There will be a new requirement for authorities to start updating their Local Plans within five years of adoption, and in certain circumstances (details have not yet been provided), the government intends to require planning authorities to commence these updates earlier. The government previously consulted upon proposals to remove the need to demonstrate a five-year land supply where a Council has a recently adopted (within 5 years) Local Plan. This incentivises the Council to constantly review/update the Local Plan but this could lead to consultation apathy with stakeholders or could create uncertainty/erode confidence as development parameters are constantly changing/evolving.
- 4.9 The government are proposing three mandatory 'gateway' tests during Local Plan production to resolve issues prior to Examination. The checks will take between four and six weeks and will be undertaken by Planning Inspectors or independent specialists. The government will charge for these gateway checks on a 'cost recovery' basis from Local Planning Authorities to ensure a consistency of service. During these checks it is considered that the thirty-month time limit 'clock' should stop and that the cost of adhering to the mandatory checks should not be passed on to the Local Authority.
- 4.10 The government are also proposing a maximum timescale of six months for Examination by the Planning Inspectorate (with an additional three months if changes need to be consulted upon). Currently there are no Local Plans that go through Examination without any modifications and therefore the Council should assume a 9-month Examination. To achieve this Examiners will be appointed at commencement of the third gateway check, using panels of two or three Inspectors to increase efficiency. There will also be changes to the Matters, Issues and Questions (MIQs) part of the Examination whereby only the relevant planning authority is invited to submit responses. Examiners will have the capacity to pause Examinations for limited periods of time (maximum of six months). The Council has concerns regarding the capacity of the Planning Inspectorate to adhere to these timescales. At the current time the governments most recently updated [procedure guide for local plan examinations](#) (February 2023) states that Local Plan examinations "*will tend to last around a year, and sometimes longer*". The length of time taken for Examination

is not within the control of the Council however, it could have a significant impact on the Councils ability to achieve the overall 30-month timescale.

- 4.11 The Council will be required to 'notify' stakeholders and 'invite' participation prior to the commencement of the 30-month period. In addition, there will be two formal stages of consultation during plan production which will increase in length from the existing two six-week consultations to one eight-week and one six-week consultation (an increase in two weeks overall). The Council will be required to produce a new "project initiation document" setting out what engagement is planned and what resources and skills will be required to deliver this, this replaces the current Statement of Community Involvement. Changes to consultation process are not currently a concern however, in the context of the overall 30-month timescale there are insufficient allowances for the preparation and administration of consultations or the analysis of responses. Whilst the process is not linear it should be recognised that consultations are resource hungry which has implications for the ability of the team to undertake other work.
- 4.12 The government are also keen to standardise plan production with new requirements to populate user-tested digital templates to draft and present the Plan (and policies map), and introduce a requirement to publish standardised data in set formats throughout the process. Plan will be required to be produced digitally, rather than as "analogue" (PDF or paper). Local plans should be shorter, more visual and map-based, enabling communities to engage more easily with their content. It is proposed that Plan production will be supported by a digital 'pick and mix tool-kit' with a suite of tools that can be used by different types of authority 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. The move towards digitisation and a more engaging Local Plan is supported, however the skills and tools required to produce a standardised document should be available from the outset.
- 4.13 The government is also looking to reduce the evidence burden on Local Authorities to ensure that evidence is proportionate and appropriate. The details of how this is to be achieved is yet to be revealed and it is unlikely to be finalised until it has been tested through Examination and through the Courts. There will be a new requirement to produce a 'statement of compliance with legislation and national policy'. The government are proposing the 'freezing' of certain evidence at certain points in the process and will produce set methodologies for data production (to be consulted on further). It is proposed that only certain evidence can be questioned during Examination. The government are also proposing to amend the tests against which a Local Plan is examined.
- 4.14 The current Local Development Scheme which sets the formal local plan timetable will be replaced by a new, simpler requirement to prepare and maintain a local plan timetable. Local Plans will be supported by new Environmental Outcomes Reports and Infrastructure Delivery Strategies both of which were the subject of consultation earlier in the year.
- 4.15 A new system of monitoring is proposed that would have two distinct elements. Firstly, the Council will have to produce "*light touch annual return[s]*" which will report on several nationally prescribed metrics to assess the implementation of key policies against the output of the plan, similar to the current requirement to produce an Authority Monitoring Report. Secondly, within four years of the plan's adoption, the Council will have to 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 the area. The scope and content of this report will be determined by the Council, but should be designed to inform the forthcoming update of the plan.

- 4.16 To support the local plan reforms new regulations, policy and guidance is proposed to be in place by autumn 2024. Transitional arrangements to the new system would begin in November 2024 with ten frontrunner authorities being chosen to receive support for the new system which would then be used as a template for other authorities. Following this it is proposed that all authorities would be ranked chronologically based on when then adopted their Local Plans and groups of 25 authorities will be allocated a six-month windows to commence plan-making so as to stagger the roll out of the new system. The Council considers that this system of roll-out should be revised to ensure that neighbouring authorities (particularly those forming a single Housing Market Area) should be on the same timescale.
- 4.17 The government are also consulting on a new avenue for Councils to adapt to change or add detail to existing policies via Supplementary Plans. These are proposed to carry the same weight as the Development Plan (i.e. the Local Plan) but be limited in scope to cover only a small geographic area of no more than two nearby sites or a specific policy issue with the exception of a Design Code which could cover the whole authority area. They will be subject to an independent examination which is currently envisaged to take the form of written representations unless the Examiner considers that hearing sessions are required. These would replace the existing Supplementary Planning Documents (SPDs) that provide guidance on how existing policies should be implemented. This replacement is not considered to be suitable as whilst SPDs carry less weight than Supplementary Plans they do not need to be examined and so can be produced quickly and make the Council more responsive to change. New Supplementary Plans are proposed to be subject to a single public consultation which given the weight of the final document does not seem to be adequate.
- 4.18 The government are also consulting on a new approach for Councils to capture the uplift in land value through the planning process through 'Community Land Auctions' (CLA). This is a process whereby Landowners provide the Council with the price that they would be willing to accept for their land. This forms part of a bidding process which the Council would then take into account as part of the development/site selection strategy. The Council would take out legally binding 'options' on sites which if/when allocated could be sold off to developers with increased certainty of development and the Council could capture the value difference between the site prior to allocation and the value of the site after it is allocated for development. The uplift gained by the Council would be ringfenced for spending on funding infrastructure (or administering the CLAs). The Council would also have the choice to develop the land themselves should they so wish. The potential financial gain would be considered as a matter of Soundness during Examination. Councils can still gain section 106 planning contributions for the land. It is not considered appropriate for financial gain to form part of the Councils considerations for site allocation.
- 4.19 In summary, changes to the plan-making system which have been subject to this and other consultations in recent months, are likely to be significant. The ambitions set out in the consultation are cautiously supported however, it is imperative that the government implement them in such a way that the process is genuinely streamlined for the Council, and timescales remain realistic given the current national climate of resource and skills shortages.
- 4.20 To achieve the governments ambitions set out in this and other consultations and to be able to undertake other planning policies duties the Council will need to undertake

a wholesale review of its planning policy resources and processes to support a streamlined plan-making process. This will include the need to ensure that the team have access to new digital technology and the skills to deploy the technology, sufficient resources (staff, budget etc.) to produce a plan within the timescale envisioned and procedures are put in place to allow this to happen (including cross-party sign-off, consultation and procurement processes).

5.0 Financial Implications

5.1 None directly arising from this report.

6.0 Corporate Implications

Employment Implications

6.1 None directly arising from this report.

Legal Implications

6.2 None directly arising from this report.

Corporate Plan Implications

6.3 None directly arising from this report.

Risk Impact

6.4 None directly arising from this report.

7.0 Community Impact

Consultation

7.1 None.

Equality and Diversity Impact

7.2 None directly arising from this report.

Social Value Impact

7.3 The Councils response to this consultation and subsequent influence over changes to the plan-making process has the potential to influence the effectiveness of the Local Plan including the level of engagement with residents and businesses and what and how they can influence the future development within their communities.

Environmental Sustainability

7.4 The Councils response to this consultation and subsequent influence over changes to the plan-making process has the potential to influence the way in which plans are presented in the future. The consultation is proposing a move towards digital technology as the predominant way to prepare and present the Local Plan in the future. This should reduce the level of printing required to be undertaken by the Council and should reduce the level of physical resources utilised.

8.0 Conclusions

- 8.1 The move towards a more streamlined Local Plan process supported by proportionate evidence and standardised requirements would be supported by the Council. However, at the current time the lack of information regarding the National Development Management Policies means that it is hard for the Council to determine if the process could be streamlined or whether the additional requirements would simply add to the burdens of the requirements making them unrealistic.

9.0 Background Papers

Appendix 1: Consultation Questions and proposed Council response.