

**CABINET MEMBER FOR
PLANNING, INFRASTRUCTURE
AND ECONOMIC DEVELOPMENT**

6 October 2023

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

Timetable	
Meeting	Date
Planning, Infrastructure & Economic Development Policy Advisory Committee	4th October 2023
Cabinet member for Planning, Infrastructure and Economic Development	5th October 2023

Will this be a Key Decision?	No
Urgency	Not Applicable
Final Decision-Maker	Cabinet member for Planning, Infrastructure and Economic Development
Lead Head of Service	Karen Britton – Head of Spatial Planning & Economic Development
Lead Officer and Report Author	Tom Gilbert (Principal Planner), Jennie Cullern (Principal Planner)
Classification	Public
Wards affected	All

Executive Summary

On 25 July 2023 the Department for Levelling-Up Housing & Communities launched a public consultation into proposals to implement the parts of the Levelling Up and Regeneration Bill which relate to plan-making in England.

This report outlines the key changes proposed, specifically highlighting key matters which are of relevance to Maidstone Borough Council. It recommends that the draft responses at appendix 1 be agreed as (appendix 1) formal responses to the consultation.

The consultation closes at 11.59pm on 18 October 2023.

Purpose of Report

Recommendation to Cabinet Member

This report makes the following recommendations to the Cabinet Member for Planning, Infrastructure and Economic Development;

1. The proposed response to the consultation at Appendix 1 of this report be agreed.

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

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> • Embracing Growth and Enabling Infrastructure • Safe, Clean and Green • Homes and Communities • A Thriving Place <p>We do not expect the recommendations will by themselves materially affect achievement of corporate priorities.</p>	Karen Britton – Head of Spatial Planning & Economic Development
Cross Cutting Objectives	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> • Heritage is Respected • Health Inequalities are Addressed and Reduced • Deprivation and Social Mobility is Improved • Biodiversity and Environmental Sustainability is respected <p>The report recommendations support the achievements of the four cross cutting objectives by ensuring that plans from a neighbouring authority do not materially harm the council’s ability to achieve these objectives.</p>	Karen Britton – Head of Spatial Planning & Economic Development
Risk Management	Already covered in the risk section	Karen Britton – Head of Spatial Planning & Economic Development
Financial	<p>The cost of the consultation response is managed within current resource and budget.</p> <p>Future changes to the local plan setting process will need to be assessed fully once</p>	Section 151 Officer & Finance Team

	recommendations are known and implications will be managed through the budget setting process.	
Staffing	Future changes to the local plan setting process will need to be assessed fully once recommendations are known and implications will be managed through the budget setting process.	Karen Britton – Head of Spatial Planning & Economic Development
Legal	There are no legal implications arising.	Cheryl Parks Mid Kent Legal Services (Planning)
Information Governance	The recommendations do not impact personal information (as defined in UK GDPR and Data Protection Act 2018) the Council Processes.	Information Governance Team – Georgia Harvey
Equalities	The recommendations do not propose a change in service therefore will not require an equalities impact assessment	Equalities & Communities Officer
Public Health	We recognise that the recommendations will not negatively impact on population health or that of individuals	Housing and Inclusion Team Leader
Crime and Disorder	There are no implications to Crime and Disorder	Head of Service or Manager
Procurement	The recommendation has no immediate impact on budget headings or expenditure in the current year.	Head of Service & Section 151 Officer
Biodiversity and Climate Change	The implications of this report on biodiversity and climate change have been considered and several aspects of the Levelling Up and Regeneration Bill will look to improve environmental consultation and management. Namely, a number of the legally required prescribed bodies to help develop a Local Plan will support wider environmental considerations, inclusion of environmental assessment as part of the PID, and improved minerals waste plans and the timeline for their preparation.	James Wilderspin - Biodiversity and Climate Change Officer

2. INTRODUCTION AND BACKGROUND

- 2.1 The Levelling Up and Regeneration Bill was introduced to Parliament in May 2022 and currently is at the report stage in the House of Lords.
- 2.2 The Government has previously consulted on proposed changes to the planning system in England that would be made because of the Levelling Up and Regeneration Bill. These include proposed changes to the national planning policy (December- March 2023), to which the Council responded.
- 2.3 On 25 July 2023 the Department for Levelling-Up Housing & Communities launched a public consultation into proposals to implement the parts of the Levelling Up and Regeneration Bill which relate to plan-making in England. The consultation closes at 11.59pm on 18 October 2023.
- 2.4 The consultation consists of 15 chapters and 43 questions relating to the proposed changes and this material can be found via the weblink provided in background document 1.
- 2.5 This report has been structured into two parts. Part one to highlight the changes proposed. Part two a summary of proposed responses.

Part 1. Proposed changes to Plan Making

- 2.6 The proposed changes are separated into 15 chapters. These are outlined below:
 - Chapter 1: Plan content
 - Chapter 2: The new 30-month plan timeframe
 - Chapter 3: Digital plans
 - Chapter 4: The local plan timetable
 - Chapter 5: Evidence and the tests of soundness
 - Chapter 6: Gateway assessments during plan-making
 - Chapter 7: Plan examination
 - Chapter 8: Community engagement and consultation
 - Chapter 9: Requirement to assist with certain plan-making
 - Chapter 10: Monitoring of plans
 - Chapter 11: Supplementary plans
 - Chapter 12: Minerals and waste plans
 - Chapter 13: Community Land Auctions
 - Chapter 14: Approach to roll out and transition
 - Chapter 15: Saving existing plans and planning documents
- 2.7 Broadly the changes proposed consist of the following elements: plan content and evidence, speeding up the plan making process, better engagement, and digital technology.

Plan content & evidence

- 2.8 It is proposed that there is a clearer set of expectations for what a local plan must contain. To do this it is proposed a plan must contain: a vision that is measurable, local development management policies, design policies linked to design codes, designations/spatial strategy, policies on economic social and environmental elements, and a monitoring approach, so that will enable the effective review of the plan.
- 2.9 To achieve this the evidence, base that supports Local Plans is to be amended. The Government does not set out exactly what evidence is to be required, but an approach to evidence, to streamline it. This is outlined in figure 1.



Figure 1. Approach to evidence

- 2.10 Alongside the changes Local Plans, the Government would like to reform supplementary planning documents (SPDs) This is to be replaced by a system of supplementary plans. The content of which will be any subject matter which may be in a local plan or minerals and waste plan but must be site specific or relate to two or more sites which an authority considers nearby to each other; except for design related supplementary plans which may be authority area wide (see figure 2). They are to have one formal stage of consultation and, they are to be examined and this is proposed to follow the model used for Neighbourhood Plans presently. SPDs will remain in force until planning authorities adopt a new style local plan or minerals and waste plan.
- 2.11 Local Development Schemes are to be replaced by Local Plan Timetables. These will no longer need to go through full Council sign-off each time their local plan timetable is revised. Instead, they will be required to make available key information about the future shape of local plans, supplementary plans and minerals waste plans and the timeline for their preparation. However, these timetables will need to be revised every 6 months.

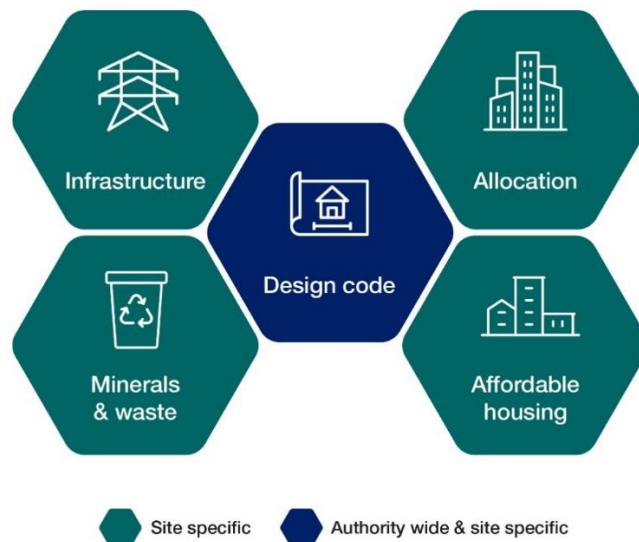


Figure 2: Proposed Supplementary Plan Topics

2.12 The current monitoring process associated with the annual Authority Monitoring Report will be replaced. The new system will have two parts:

- **a light touch annual return.** This will include progress against plan making activities proposed in the local plan or minerals and waste plan timetable, and as a minimum it will also report on a small number of nationally prescribed metrics.
- **a detailed return after 4 years from plan adoption to inform updates to the plan.** The scope and content of this monitoring report is proposed to 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.

2.13 The Government is also proposing to pilot Community Land Auctions. These are a new way to bring in infrastructure funding to the Council and assess sites to become Local Plan site allocations. Details are set out in figure 7 of the Consultation document, however details are limited at present. . In summary Council's would be given the ability to enter into an option agreement with landowners and then if those sites are selected for allocations the options can be used and the land purchased by the Council, or the option sold and the money spent on necessary infrastructure.

2.14 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.

Speeding up the process

2.15 The Government would like to speed up the process of plan making. They are suggesting a timeframe of 30 months (two and half years) to prepare and put in place (adopt) a plan. This will consist of 6 stages, with 3 gateways checks during these and a shortened examination period of 6 months. See figure 3 for further details.

- 2.16 Not included within the 30-month timeframe will be a scoping and early participation phase. This stage will see the development of a Project Initiation Document (PID). This will 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; set out the project management, governance, risks to delivery and resourcing arrangements; and outline the overall approach to community and stakeholder engagement. A PID will also replace the need for a Statement of Community Involvement, the requirement for which shall be removed.
- 2.17 Local Plan examinations will be amended as previously stated. The main amendments are with regards to the: the examination period, number of planning inspectors, the matters issues and questions (MIQs) and main modifications changes. Firstly, an examination period will be set at 6 months. However, there will be the allowance of 6 month pause to examinations, activated by the Planning Inspector, to be used once in relation to a particular plan. Secondly it is proposed that Local Plans will be assessed by panels of Planning Inspectors of at least 2. Thirdly MIQs will be amended so that only the Local Planning Authority will respond and no third parties. Lastly the main modifications process is to be used for the 'most significant amendments', for example site specifics.

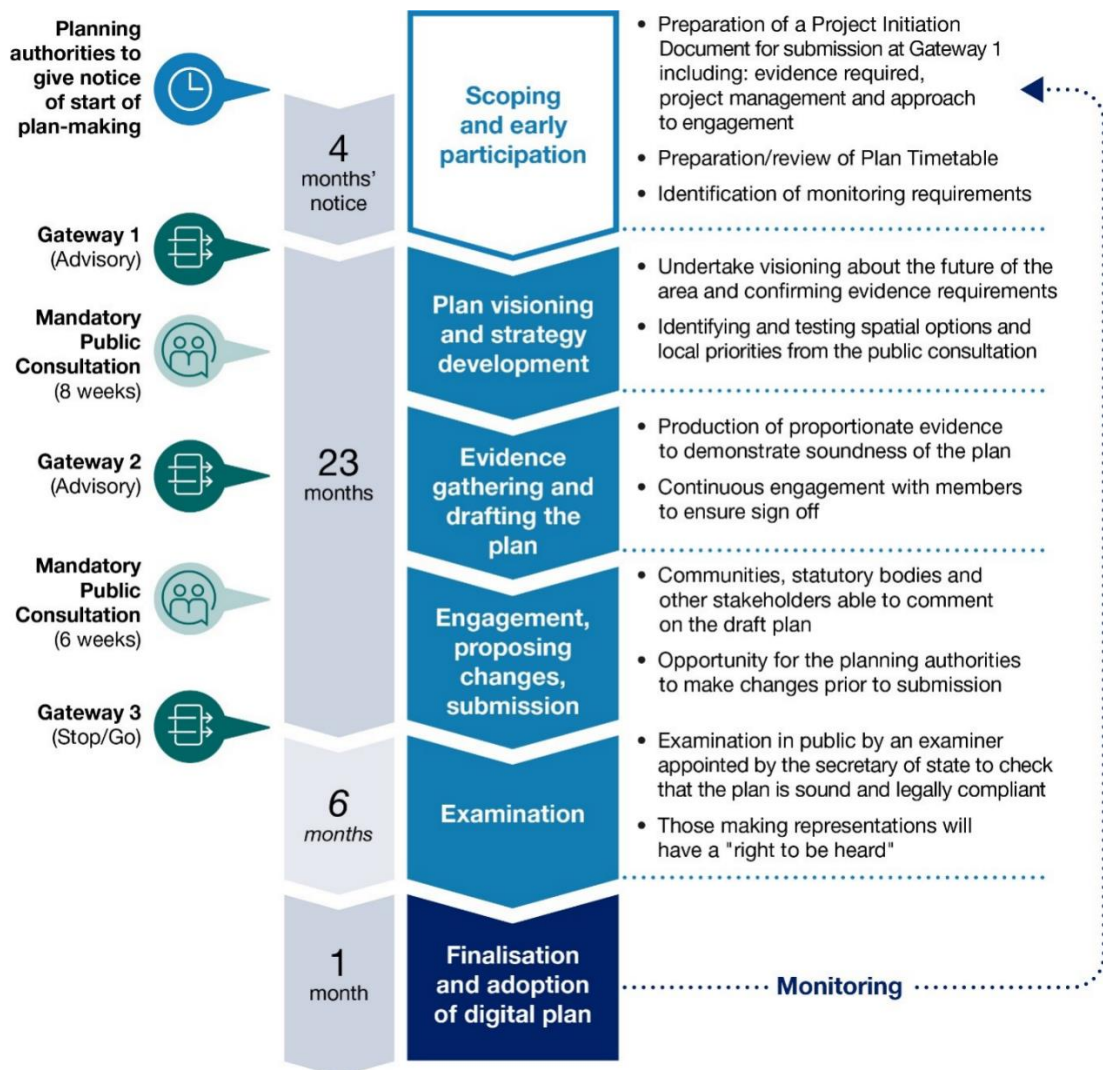


Figure 3. The new 30-month plan timeframe

2.18 Three new 'Gateway Assessments' would provide a staged review of Plan Making with the aim of reducing time spent at examination. An explanation of this process and what is involved is found in figure 4 below.








	 Gateway 1 (Advisory)	 Gateway 2 (Advisory)	 Gateway 3 (Stop/Go)
 Focus	<ul style="list-style-type: none"> Ensuring the plan sets off in the right direction Supporting early diagnosis of potential issues – legal and procedural requirements and soundness 	<ul style="list-style-type: none"> Supporting early resolution of potential soundness issues, where possible Ensuring legal and procedural compliance Monitoring and tracking progress 	<ul style="list-style-type: none"> Checking the plan is ready to proceed to examination Ensuring legal and procedural compliance Monitoring and tracking progress
 Role	<ul style="list-style-type: none"> Advising, observing and supporting 	<ul style="list-style-type: none"> Advising, observing and supporting 	<ul style="list-style-type: none"> Validating that key requirements have been met (a “stop/go” check)
 Duration	<ul style="list-style-type: none"> 4 weeks (up to 6 by exception) 	<ul style="list-style-type: none"> 4 weeks (up to 6 by exception) 	<ul style="list-style-type: none"> 4 weeks (up to 6 by exception)
 Assessor	<ul style="list-style-type: none"> Independent, specialist hands-on support May involve Planning Inspectors (as required) 	<ul style="list-style-type: none"> Planning Inspectors Optionally supported by technical specialists 	<ul style="list-style-type: none"> Planning Inspectors

Figure 4: Proposed Gateway Assessments

2.19 A requirement for planning authorities to start updating their plans every five years is also proposed. This is slightly different to the current requirement in regulations to undertake a review every 5 years.

2.20 It is the intention of the Government to have in place the regulations, policy and guidance by autumn 2024 to enable the preparation of the first new-style local plans and minerals and waste plans. The proposal is the first set of authorities to start plan making in the new system in 2024 and then to be grouped into waves (of potentially 25 authorities) chronologically by the date of the adoption of their existing plan. This is so that authorities do not have to start the plan making process until their plan is 5 years old.

Better engagement

2.21 The Government is proposing several changes to plan making to encourage and foster better engagement. This is through 4 themes:

- the role of digital
- planning and monitoring the engagement approach
- a focus on early participation
- a more standardised approach to consultation

2.22 The Government proposes that planning authorities must use digital templates and data standards, as prescribed by government, in preparing their local plan and minerals and waste plan timetables. These would be mandatory, to ensure that they are to be delivered in a consistent way; for example, using standardised date formats, or adopting consistent conventions for key plan preparation milestones; and that planning authorities should publish and maintain the timetable on their website in two forms: a plain-English, tabular form, aimed primarily at the public; and as a dataset, to enable public and

private sector innovation and support better monitoring of the “national picture”.

2.23 As part of the new timetabled process Councils will be required to ‘notify’ and ‘invite’ participation prior to the start of the 30-month process. They will also have to give 4 months’ notice of the start of the process.

2.24 Additional to the existing two periods of public consultation (Regulation 18 & Regulation 19), a new requirement is proposed for planning authorities to “notify” and “invite” early participation on matters that might shape the direction of the plan, to ensure that communities and other key stakeholders are able to participate much earlier in the process.

2.25 Plan making bodies will be given the power to legally require prescribed bodies to help develop a Local Plan. The proposed prescribed bodies are outlined below:

- 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
- Where relevant:
 - Mayor of London
 - Combined Authorities
 - Marine Management Organisation
 - Canal and River Trust
 - County Councils
 - Coal Authority
 - Crown Estate Commissioners
 - Forestry Commission
 - National Park Authorities
 - Office for Nuclear Regulation
 - Toll Road Concessionaires
 - North Sea Transition Authority

Digital technology

2.26 In keeping with the ongoing commitment to digital transformation, digital technology is highlighted to speed up the production of plans and consultation and make the process simpler and more accessible. The way the government is proposing this is done is via a mix of methods relating to the following:

- 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

Part 2. Summary of the proposed Council response

2.27 The consultation uses an online questionnaire with 43 set questions to gather responses. The proposed Council responses are set out in appendix 1. Below is a summary of the proposed responses.

Plan Content & evidence

2.28 Regarding the proposed changes to plan content the Council is supportive of the ambition to make plans more user friendly and easier to produce.

2.29 The Council is concerned with regards to the proposals to remove Supplementary Planning Documents (SPDs) and replace them with Supplementary Plans (SPs). Specifically, it would like to understand the difference between the new style Local Plans and Supplementary Plans and the transition from SPDs to SPs. There are concerns the impact that this may have on the proposed SPDs that are to be brought forward to support the strategic allocations in the Local Plan Review if adopted. There are questions regarding the weight of any existing SPDs when the new system is adopted. With relation to SPs the Council questions would these plans subject to the same checks and gateway assessments as Local Plans in the new system?

2.30 With regards to the content of the new style Local Plans themselves the Council has concerns as to the relationship between National Development Management Policies (NDMPs) and Local Development Policies. Plus, it would still like clarity as to the final shape of the NDMPs.

2.31 The Council is concerned that various pieces of evidence are lengthy and time consuming to produce and will still be needed, but in a reduced time frame. It does not feel that this is possible.

2.32 The Council is concerned with regards to the proposals to change the Local Development Scheme and replace with a Local Plan Timetable. Specially it feels that required 6 monthly review is too inflexible and time consuming, especially if no changes need to be made.

Speeding up the process

- 2.33 The Council is generally supportive of the principle of speeding up the process of plan making. However, it does have concerns as to the implementation of the plan making changes. The main concerns that the Council has are in relation to the evidence base, gateway assessments and examination changes proposed that it feels will either lack detail and will not speed up the process as envisioned.
- 2.34 The Council feels that the overall 30-month timetable is too tight to produce a Local Plan and only achievable if the evidence burden currently placed on Councils is eased significantly.
- 2.35 The Council is familiar with a staged process of working with the planning inspectorate in the preparation of the local plan. For the existing Local Plan Review process the Council used the Planning Inspectorate advice service whereby the Council reviewed progress on the LPR with a Planning Inspector. The Council is concerned that the extra reporting required at the gateway assessments may lead to delays. There is also a query as to how large, time consuming and multi-stage pieces of evidence, for example transport, that span across different gateways will be treated and catered for in the process.
- 2.36 The Council is concerned as to the examination change proposals. The main concerns are the need for multiple inspectors, changes to MIQs process and main modifications. It is felt that these proposals may lead to delays in the process and put the Council at an unfair disadvantage during the hearing sessions. In addition to make these changes happen would require a greater resource at the Planning Inspectorate.

Better engagement

- 2.37 The Council agrees with the proposals for better engagement. It is already doing some of the processes proposed, such as the use of a project initiation documentation. Also, it agrees with the uses of templates to standardise material, helping with the processing of consultations. However, it is questioned how the management of large number of representations is to be addressed if other consultations formats, such as emails are still allowed.
- 2.38 The Council would like to raise though that PIDs are a project management tool rather than planning document and they should remain as an administrative document rather than be part of the planning consultations. Similarly, the Council is concerned on the role of the prior to commencement notification as it is unsure how this would work and the benefit of the engagement if there are limited evidence base materials to consult on as the process would have just commenced, and so greater clarity on this area is needed.

Digital technology

The Council supports use of digital technology in plan making. It is felt that the proposals could go further and embrace more technology using virtual reality, and greater use of digital in representation processes.

3. AVAILABLE OPTIONS

- 3.1 Option 1: That the response to the consultation at Appendix 1 be approved by the Cabinet Member for Planning, Infrastructure & Economic Development. This would allow the response to be sent by the submission deadline.
 - 3.2 Option 2: That the response at Appendix 1 be approved by the Cabinet Member for Planning, Infrastructure & Economic Development, subject to further comments and changes. This would allow for a response to be submitted by the consultation deadline.
 - 3.3 Option 3: That the response at Appendix 1 is not approved by the Cabinet Member for Planning, Infrastructure & Economic Development. However, this would mean the response would not be sent and the Council's views would not be considered by central government.
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

Option 1: That the response to the consultation at Appendix 1 be approved by the Cabinet Member for Planning, Infrastructure & Economic Development. This would allow the response to be sent by the submission deadline.

5. RISK

- 5.1 The risk associated with these proposals, as well as any risks should the Council not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.
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6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 The matter was considered by the Planning, Infrastructure and Economic Development Policy Advisory Committee with a recommendation made to approve the appendix. The answer to question 43 was amended in response to comments made at the meeting.
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7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 If agreed, the response provided as Appendix 1 will be submitted as a response to the consultation on behalf of Maidstone Borough Council.
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8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix 1: Maidstone Borough Council responses to DLUHC Plan-making reforms: consultation on implementation

9. BACKGROUND PAPERS

- Background document 1: Levelling-up and Regeneration Bill: consultation on implementation of plan-making reforms- [Levelling-up and Regeneration Bill: consultation on implementation of plan-making reforms - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/levelling-up-and-regeneration-bill-consultation-on-implementation-of-plan-making-reforms)