

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

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?

The Council is generally supportive of the proposed core principles for plan content outlined in paragraphs 19 to 24 of the consultation document. The reason for this support is they are generally in line with those currently laid out in the National Planning Policy Framework. However, it is concerned as to the lack of detail.

There is a concern what is meant by the phrase 'locally distinctive policies which meet key economic, social, and environmental objectives'. The Council would like to understand what these objectives are. It is important to understand the objectives in order to ascertain the evidence base required.

Like a lot of Local authorities, the Council has declared a Climate Change and Biodiversity emergency in April 2019 and produced an associated Biodiversity and Climate Change Action Plan (October 2020). However, within the proposals there appears to be no mention of this climate change and biodiversity, the Council feels that these should be added to the core principles.

The Council would also like clarity to the content of the National Development Management Policies as this would help determine what is contained within Local Development Management Policies.

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?

The Council agrees to the need for a vision and supports this as an element of plan making in the same way that it exists today in the present system and so is unsure what the difference between the proposals and the present system would be and how this would save time and speed up the process. Additionally, the Council believes that objectives should also be used.

The Council is supportive of the use of a key diagram which will support the vision and does this at present in its plan making documents. It would be keen to understand the requirements of the key diagram and what should be included within it.

The Council feels that the vision should follow the format of the definition of sustainable development as laid out in the present National Planning Policy Framework and should include: economic, social and environmental elements within it.

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

In principle the Council is supportive of the ambition to speed up plan making by introduction of a new system of local and national development management policies. However, it cannot fully comment on the framework for local development management policies at present due to the lack of clarity as to the nature of national development management policies themselves.

The Council would like to understand what happens when there is a conflict between local development management policies and national ones? For examples national one is likely to be very strategic, but what happens if an exception is needed locally, and a different local development management policy is needed.

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?

Generally, yes, the Council supports the use of templates to help with speed and consistency. It should also make the proposed gateway assessments easier as a consistent format is easier to assess.

The Council feels that the main areas that could benefit from being set out in template form are:

- *Vision*
 - *Policy & supporting justification*
 - *Monitoring indicators*
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Question 5: Do you think templates for new style minerals and waste plans would need to differ from local plans? If so, how?

No comment.

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?

The Council is concerned that it would not be possible to adopt a plan in 30 months after the plan preparation process has begun. It is felt that this is only achievable if the burden of evidence is lifted and clearly defined. At present Councils face delays due to the weight of evidence demanded and external demands from stakeholders and government agencies to evidence plans.

Question 7: Do you agree that a Project Initiation Document will help define the scope of the plan and be a useful tool throughout the plan making process?

Yes, Maidstone Borough Council has used these in the past for plan making and has found the process beneficial. It may be useful for templates of these to be prescribed in the same way for policies as set out in the consultation document.

Chapter 3: Digital plans

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

The Council feels that the following information would benefit from data standardisation and being openly published.

- *Sustainability Appraisals*
- *Habitat Regulation Assessment*
- *Gypsy and Traveller Accommodation Assessment*
- *Housing need*
- *Employment needs*
- *Retails and leisure needs*
- *Transport assessments*
- *Data regarding housing/commercial completions on a yearly basis. This is a yearly challenge to gain the data regarding updates on permitted planning permissions.*

It feels that if this material was published and standardised it would lead to quicker examinations as there would be fewer disagreements over data.

Question 9: Do you recognise and agree that these are some of the challenges faced as part of plan preparation which could benefit from digitalisation? Are there any others you would like to add and tell us about?

The Council agrees with the issues and barriers identified and would like to add the following:

- *The need to have representations made via digital formats or at least machine-readable formats to speed up the time it takes to process them and the volume that could be handled by a Local Planning Authority.*
- *Planning documents can be difficult to navigate as they tend to be large and text heavy (use terminology that the general public don't understand)*
- *Poor data monitoring creates delays in evidence creation and is time consuming*

Question 10: Do you agree with the opportunities identified? Can you tell us about other examples of digital innovation or best practice that should also be considered?

The Council agrees with the opportunities identified. It also feels that some more could be added, and these are outlined below.

The Council feels that the digital innovation proposals could be extended to planning consultations. Specifically the use of more mapping tools for people to engaged with consultations rather than formal forms. Maidstone Borough Council, in a recent consultation, used Google Maps to allow people to pin comments to areas in the Borough where they wished to provide concerns or comments on a Design and Sustainability Development Plan Document - [Let's Talk Design & Sustainability | Lets Talk Maidstone \(engagementhq.com\)](https://www.engagementhq.com/lets-talk-design-sustainability).

The Council also feels that virtual reality R should be used more in plan making so that stakeholders can understand proposals better.

Local Plan policies and the policies map should be better linked. Instead of having two separate documents the policy should be digitally linked to the policies map to show the site allocation. This could be supported by readily available mapping datasets that are easy to use and more accessible.

Question 11: What innovations or changes would you like to see prioritised to deliver efficiencies in how plans are prepared and used, both now and in the future?

The Council agrees with the list provided. It does have several additional suggestions.

Ensure there is a list of approved software that supports a data driven planning system with proper training on how they work. Ensure there is standardised software available to create planning documents as well as consultation software.

Standardisation of data and how to monitor planning documents and the use of dashboard platforms to provide data automatically.

The Council would like to see consultation submissions to only be electronic or machine readable in order to help with processing following consultations. This would enable quicker analysis and processing, which would help Council's to meet the proposed 30-month timescales and handle a greater number of representations.

Chapter 4: The local plan timetable

Question 12: Do you agree with our proposals on the milestones to be reported on in the local plan timetable and minerals and waste timetable, and our proposals surrounding when timetables must be updated?

The Council is generally supportive of the proposal to replace the LDS with a simpler local plan timetable, that would not need to go through full Council sign-off. This would allow for greater flexibility and help Councils to adapt to change and unforeseen circumstances in a more responsive manner, however the proposed requirement to update the timetable at least once every six months (and going through the sign-off process each time) seems onerous and unnecessary if there have been no major changes to the timetable.

Question 13: Are there any key milestones that you think should automatically trigger a review of the local plan timetable and/or minerals and waste plan timetable?

The Council is concerned that, in some cases, there may be legitimate reasons, outside of the Council's control, that the Plan has not been able to adhere to the local plan timetable. For example, changes to Government policy during the plan production process, staffing issues and local elections. There must be sufficient flexibility in place to allow for timetable reviews on this basis. Therefore the Council would like the ability for more local discretion in the proposals.

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?

The Council welcomes the proposals to allow for great definition of proportionate and adequate evidence as set out in paragraph 89 of the consultation document.

The Council would like to see a change to the way housing need is calculated. Although it is welcomed that a standard method has been created and is outlined in national planning practice guidance it is felt that this is not locally reflective. The household growth prelections are based on 2014 projections, which have kept the housing growth figures artificially high in order to meet the 300,000 homes per year figure. This should be updated to better reflect the local picture.

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?

The Council supports standardisation as it would help to relived some of the financial and time burdens placed upon Councils when producing Local Plans. The evidence it feels should be standardised are the following element:

- *Housing needs assessments*
- *Economic needs assessments*
- *Retails and leisure needs assessments*
- *Transport assessments*
- *Open space assessments*
- *Gypsy and traveller accommodation assessments*
- *Strategic Flood Risk Assessments*
- *Climate change and biodiversity*
- *Sustainability Appraisals*
- *Habitat Regulation Assessment*

The Council does support some standardisation to the site identification process through the Strategic Land Availability Assessment. However, here the Council feel that there should be a standard minimum that Council's can then add to. This is because there may be important local issues that differ across the country.

Has the Government consulted any consultancies that produce evidence base document for plan making when developing these proposals? There appears to be no evidence of this within the text of the consultation document. It may be beneficial to do so to understand the

methodologies and approaches that these organisations take and their timescales. This would then factor in potentially more realistic timescales.

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?

In principle the Council supports the freezing of evidence as outlined in paragraph 97 of the consultation document. The reason for this is the need to update evidence during the plan making process can be expensive and time consuming. However, the Council feels that freezing of evidence at publication and submission would not allow Council's flexibility during the examination process to submit evidence to support statements made or to help the examination move forward. Therefore, this part of the proposal should be amended.

Question 17: Do you support this proposal to require local planning authorities to submit only supporting documents that are related to the soundness of the plan?

The Council feels that the change of wording outlined in paragraph 99 of the consultation document is appropriate. It feels that it will not lead to a reduction of evidence as intended and Councils will just state that all evidence is needed to support soundness.

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?

The proposed gateway assessments are welcomed, and the Council already undertakes a similar process, however it should be clear that the first two assessments are informal discussions. It may be appropriate and legitimate for a local planning authority to continue in a certain direction, due to distinct local circumstances, despite any concerns raised by the gateway assessor.

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

The Council is concerned that if a number of different assessors are involved in the gateway process there could be differing views and opinions. Consistency between gateway assessors should be a priority and the Council welcomes the proposal for a 'gatekeeper' organisation that manages the end-to-end gateway process. However, greater clarity is needed on whether this organisation will provide quality and consistency checks.

It may be appropriate for the gatekeeper organisation to provide a programme manager to facilitate the general running of the gateway process as well as a specialist gateway officer to ensure quality and consistency. We appreciate this may involve extra resources, however these costs could be recovered from the savings made from the proposed shorter examination period.

Question 20: Do you agree with our proposals for the gateway assessment process, and the scope of the key topics? Are there any other topics we should consider?

The Council is concerned that the requirement to prepare a report for each gateway assessment, including a 'statement of compliance' for the third gateway, will be an additional level of reporting than the current system that will require extra time and resourcing.

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

Charging planning authorities for gateway assessments could be acceptable if there are cost savings resulting from a reduction in examination time. However, the advice given needs to be consistent between each gateway stage and not contradictory if the assessor changes, resulting in additional work and resourcing for the planning authority.

If panels of two or more inspectors are to be used by default, this should also be factored into the overall costs for the planning authority.

The Council would also like to state that any assessors used in the gateway assessments are suitably qualified to give professional planning advice, and the proposals should be amended to state this.

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?

The Council agrees in principle with certain parts of the proposals for examinations outlined in paragraph 119 of the consultation document. It does have concerns about the proposals with regards to the need for two or more inspectors, the revision of MIQs and the amendments to main modifications.

With regards to the proposals for two or more inspectors, the Council understands this may speed up the process, but is concerned about consistency of approach. This is for two reasons if the inspectors disagree and how is consistency ensured across inspectors. If consistency is to be ensured it presumably will be this may lead to another level of review, and so add time into the process rather than speed it up.

The Council disagrees with the revision to the MIQ process. The proposal would put Councils at a disadvantage. At present the MIQs process allows for LPAs to prepare for examinations as they can review third party responses to MIQs and give answers to these during the examination hearing sessions. A better approach may be to be stricter during the examination hearing sessions and not allow for third parties to repeat point already made in their MIQ statements.

The Council feels that the proposals regarding the main modifications process need further clarity and as such disagrees with the proposals. At the moment the process is clear and so the Council feels it cannot agree until the phrase 'most significant amendments' to which the main modification consultation would apply is further defined.

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?

The Council disagrees that 6 months is an adequate pause period. A lot of the time, a pause in examination hearings is the result of a third-party intervention and cannot be predicted. Also, further work is often undertaken by third parties on behalf of the Council and so the Council should not be punished if third party consultancies do not meet their deadlines

Chapter 8: Community engagement and consultation

Question 24: Do you agree with our proposal that planning authorities should set out their overall approach to engagement as part of their Project Initiation Document? What should this contain?

The Council agrees with the Project Initiation Document in theory, however, there needs to be clarification over how flexible the PID is and how easily and often it can be amended. The nature of Local Plans is that they are programmes not projects. This means that PIDs will need to be revisited during the Local Plan production process and updated accordingly to adjust to the latest circumstances. This will need to be accommodated within the new system.

The consultation document states that PID is required to be produced prior to the commencement of the 30-month plan-making process, but there is no detail on whether this document can adapt and evolve throughout the development of the plan.

New or innovative consultation methods can have varying success depending on local circumstances and may need to be adapted during the course of a local plan's development.

Question 25: Do you support our proposal to require planning authorities to notify relevant persons and/or bodies and invite participation, prior to commencement of the 30 month process?

The Council is concerned that 'relevant persons/bodies' (including the public) may have to be notified and invited to participate prior to the dates for consultation and engagement events being confirmed.

It may be more useful for the notification to be linked to the first mandatory public consultation rather than the commencement of Gateway 1. It is noted that the proposals intend to give discretion around what the focus of early participation should be, however there are also proposed minimum standards such as seeking views on a vision, initial principles or other matters. Greater clarification on these early requirements will enable the Council to plan properly for engagement and notify relevant persons/bodies at an appropriate time.

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

It is important to recognise that PIDs are not public consultation documents, but a wide-ranging project management tool to be used internally and updated as needed. The PID should set out the process for plan making and consultation methods rather than forming part of a local plan consultation.

Question 27: Do you agree with our proposal to define more clearly what the role and purpose of the two mandatory consultation windows should be?

Clearer definition around the role and purpose of mandatory consultations will be helpful for both the Council and those involved in the planning process. Currently, the scope for responses on the formal second round of local plan consultation at Regulation 19 is clearly defined as being related to soundness and/or legal compliance.

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

The use of templates is welcomed as this can improve the ability to process and respond to consultation responses. However, the Council already provides standard response forms but, due to maintaining accessibility, not all respondents complete the standard forms and a range of submission formats are permitted such as letters and emails. This adds considerable time to the process of reviewing and analysing consultation responses. It should be recognised that the proposed approach to using a standard template would be unlikely to make any significant impact to the Council's current consultation analysis process.

Chapter 9: Requirement to assist with certain plan-making

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

The list provided is comprehensive however, trying to contact the prescribed bodies as part of the existing Duty to Cooperate process can be challenging. There are often no contact details available for the prescribed bodies' office or planning lead. In order to fulfil the requirement to notify all relevant interested parties when work commences on a new plan or revised plan, it will be vitally important for LPAs to be provided with the correct and up to date contact details of all the prescribed bodies.

For the prescribed bodies to be able to work constructively and engage positively with LPAs there needs to be a specific planning resource within each body. Their role in supporting the local plan process needs to be made clear with the duty on engagement with the Council to lie with the bodies.

The Council would like public health at County Councils to be specifically added to the list in the same way that the NHS has been listed.

Question 30: Do you agree with the proposed approach? If not, please comment on whether the alternative approach or another approach is preferable and why.

Yes, with some amendments. Please see comments above.

Chapter 10: Monitoring of plans

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

In principle the Council welcomes the proposed monitoring changes. A two staged approach to monitoring consisting of a light touch and a more detailed submission every 4 years. In principle, this would result in a quicker process. Similarly the Council welcomes a template being made available.

Publishing the report on the anniversary of adoption makes sense. The Council would like to clarify though that the reporting year would still be April to March reporting?

Question 32: Do you agree with the proposed metrics? Do you think there are any other metrics which planning authorities should be required to report on?

The Council feels that there are a few major ones which are missing:

- *Self-build delivery*
 - *Retail in the town centre (i.e. non-A1 uses)*
 - *Delivery of allocations (housing, employment and retail etc.)*
 - *No mention of infrastructure such as transport provision, school capacities etc.*
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Chapter 11: Supplementary plans

Question 33: Do you agree with the suggested factors which could be taken into consideration when assessing whether two or more sites are ‘nearby’ to each other? Are there any other factors that would indicate whether two or more sites are ‘nearby’ to each other?

No comment

Question 34: What preparation procedures would be helpful, or unhelpful, to prescribe for supplementary plans? e.g. Design: design review and engagement event; large sites: masterplan engagement, etc.

Due to variations in content and local circumstances, the preparation procedure for supplementary plans is best decided by the LPA rather than a set format prescribed through regulations.

Question 35: Do you agree that a single formal stage of consultation is considered sufficient for a supplementary plan? If not, in what circumstances would more formal consultation stages be required?

Yes, additional rounds of formal consultation will slow down the production of supplementary plans, many of which are intended to deliver large development sites that have been brought forward through recently adopted local plans and therefore have already been subject to public scrutiny and approval by an independent examiner.

The Council has a number of SPDs in production, including masterplans for guiding strategic development across key sites in Maidstone Borough, as a result of a successful and recent Local Plan Review. The Council would like to be reassured that the proposed Supplementary Plan process would not halt or hinder the excellent progress made by the Council through the existing system.

The Council would also like clarification with regards to the weight that supplementary plans will carry in comparison with local plans and SPDs, and the differences between local plans and supplementary plans. For example, will the ‘requirement to assist’ for statutory bodies also apply to supplementary plans?

LPAs will be best placed to judge if a supplementary plan requires another stage of formal consultation and the guidance and regulations should reflect this.

Question 36: Should government set thresholds to guide the decision that authorities make about the choice of supplementary plan examination routes? If so, what thresholds would be most helpful? For example, minimum size of development planned for, which could be quantitative both in terms of land use and spatial coverage; level of interaction of proposal with sensitive designations, such as environmental or heritage.

Examinations are costly and time consuming. Most SPDs are produced to provide further detailed guidance on strategic policies and matters contained within adopted local plans. Therefore, the content of supplementary plans is likely to be very detailed, non-strategic and based on policies that have already been through a rigorous public examination process. The replacement of SPDs with supplementary plans is likely to slow down the planning process and hinder the development and delivery of key housing sites.

The Council would also like to understand if the Government is confident that there are sufficient planning inspectors to carry out examinations for supplementary plans, written or in person.

Question 37: Do you agree that the approach set out above provides a proportionate basis for the independent examination of supplementary plans? If not, what policy or regulatory measures would ensure this?

The introduction of supplementary plans and an examination process is likely to slow down the progression of development on specific sites that have already been subject to a local plan examination.

The current SPD system allows for detailed advice and guidance to be produced relatively quickly on the delivery of large development sites, helping developers, planning officers and local stakeholders by providing certainty and enabling co-ordination. Please see response to questions 35 and 36 for further detail.

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?

No comment.

Chapter 13: Community Land Auctions

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

At present the Council feels that it cannot agree to the proposals as currently outlined. It needs more clarity and has several queries as to the process.

The Council would like to understand if the community land auction (CLA) option approach outlined in paragraph 220 of the consultation would mean that the Council is financially liable to the landowner from whom they have agreed an option. Would a Council be given extra funding to hire support staff to work on these agreements?

The Council would like clarity on how pilot community land auction authorities could operate the scheme. Would piloting authorities who exercise their options outlined in consultation paragraph 225 be given financial aid to do this by the Government?

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?

The Council is concerned by the proposals for the consideration of the financial benefits of the options to the Council as proposed in paragraph 221 of the consultation. It feels that it is not necessarily consistent with the aims of sustainable development as per legislation. It is felt that Council's should be better funded from central government to provide for much needed local infrastructure rather than be asked to make the choice that may be detrimental to sustainable development.

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?

The Council agrees with the proposal to rank plans chronologically into waves to commence plan making. Maidstone Borough Council as a good plan making authority adopted a Local Plan in 2017 and submitted a Local Plan Review for examination in March 2022 ahead of the 5-year limit currently set out, it hopes to adopt the plan at the start of 2024, following a main modification consultation. It is the Council's understanding from the proposals that it would be in one of the later cohorts for plan making as a result of having a newly up to date plan. The Council would like clarity that it could commence its review when it chooses and due to local circumstances, rather than having to wait for up to 5 years.

The Council would also like to understand what happens with protection from speculative development as outlined in paragraphs 249 to 251 of the consultation. It is clear that protection outlined in the consultation from speculative development is given for 5 years after a plan is adopted, plus the 30-month plan making period. However, the council would like clarity if this were included the 6 months pause period at an examination implemented by an inspector?

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?

The Council notes the proposal to align the cut-off date for all old-style plans (including neighbourhood plans) to be submitted for examination, and considers this is a pragmatic approach which will provide clarity for plan-makers and the wider public during the transitional period. However, it is producing SPDs to masterplan strategic development sites and may wish these to remain in place even after adoption of a new Local Plan, to ensure they are material considerations for future planning applications affecting these sites.

Equalities impacts

Question 43: Do you have any views on the potential impact of the proposals raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010?

Please provide a free text response to explain your answer where necessary. Is there anything that could be done to mitigate any impacts identified?

Please see response to question 28.
