

Westmorland and Furness Council

Report Title:	Local Plan Governance
Meeting:	Council
Meeting Date:	22 nd February 2024
Report Author:	Dan Hudson, Interim Senior Manager Planning Policy
Lead Cabinet Member:	Cllr Virginia Taylor, Cabinet Member for Sustainable Communities and Localities
Wards Affected	The Local Plan will affect all wards other than those wholly within National Parks
PUBLIC, PART EXEMPT OR FULLY EXEMPT	Public
List of Appendices (if any)	Terms of Reference of proposed Local Plan Members Steering Group

1. Executive Summary

- 1.1 This report seeks to set out governance arrangements for the delivery of the new Local Plan for Westmorland and Furness including the establishment of a Local Plan Members Steering Group. The proposed measures in this report were considered by the Constitution Working Group on 12 February 2024, which was in favour of the proposals.
- 1.2 The proposed measures will;
- enable decisions relating to the Local Plan to be taken in a timely way which is aligned with the new requirement in the Levelling Up and Regeneration Act to prepare a Local Plan in thirty months;
 - allow members to be engaged in the plan preparation process in a positive, meaningful and time efficient fashion.
 - help to ensure the delivery a timely, up-to-date and exemplary plan to take Westmorland and Furness into the 2030s and beyond.

2. Recommendation

For the reasons set out in this report, it is recommended that;

- 2.1 a Local Plan Members Steering Group be established in line with the proposals in Paras 3.20-3.23 (below);
- 2.2 That Part 2 – Section 2, Para 4.2.1(c) (i)-(iii) of the Constitution describing the responsibilities of Council be amended so as to delete sub-paragraph (ii), so that it reads as shown below:

‘The Policy Framework is formed of the following:

(a)....

(b)....

(c) Development plan and strategy documents, including:

(i) Local Plan;

(ii) ~~Core Strategy and Development Plan (excluding Neighbourhood Plans);~~ and

(ii) Minerals and Waste Local Plan'

2.3 That the Monitoring Officer be authorised to amend the Constitution to give effect to recommendation 2.2 above.

3 Information: the Rationale and Evidence

Why does the Local Plan matter?

3.1 Westmorland and Furness Council is the Local Planning Authority for the District outside the National Parks. Whilst our local plans only cover half of the District by area, they include 85% of our population. The law requires local planning authorities to identify their strategic priorities and have policies to address these in local plans.

3.2 Our local plan currently consists of four existing legacy local plans. Our task, following local government re-organisation is to prepare a single local plan incorporating the minerals and waste plan for the whole area within 5 years of vesting day.

3.3 The new Local Plan will set out the Council's vision for how the area will change over the next 15 years and how that vision will be delivered. This includes;

- **how much** development we plan for and **how it will be distributed** across the area;
- which **sites are allocated** for development and when they will come forward;
- what **environmental and heritage assets** are safeguarded and enhanced;
- policies containing requirements for **new development** including design, affordable housing and environmental standards;
- how the necessary **infrastructure** to support development will be delivered.

A New Way of Preparing Local Plans

- 3.4 Under the Levelling Up and Regeneration Act, which received Royal Assent in October 2023, new processes for the preparation of Local Plans are being introduced with the aim of ensuring that plans are prepared within thirty months. New national policies are being introduced as well as standardised processes and evidence documents. Planning authorities will need to make the best use of digital technology to drive improved productivity and efficiency in the plan-making process. Data and evidence to support the preparation of local plans will be ‘frozen’ at certain points with the aim of reducing re-iteration, delay and cost.
- 3.5 A significant quantity of secondary legislation will be required before authorities can commence plan preparation under the new system. Under the proposals for rollout, new plans, will come forward in tranches with the first tranche (of around 10 councils) pioneering the new system for whom the thirty months will commence this autumn.
- 3.6 There is a clear opportunity for Westmorland and Furness to be in that first tranche. The national importance of the growth of BAE in Barrow, driven by the Aukus submarine building project will generate housing, place-making and infrastructure needs. Government has ambitions for Barrow to be a new powerhouse for the north with the establishment of Team Barrow. There would be clear advantages in being part of that first tranche. These include;
- An early opportunity to articulate a **clear spatial vision** and direction for the new Council and to give our ambitions statutory weight;
 - An early opportunity to replace the complexities of the existing local plans and to **simplify and streamline** the development management process;
 - The opportunity to deliver the plan within the five-year deadline for a new local plan set by Government through the LGR process;
 - Potential **support and advice** from Government, including the earliest possible sight of standard templates for elements of the plan, requirements for gateway checks, national planning policies and understanding of Government intentions and thinking – all of which will ease the passage of the plan through the process;
 - **Reputational gains** in pioneering a new system and Government interest in the Local Plan being a success

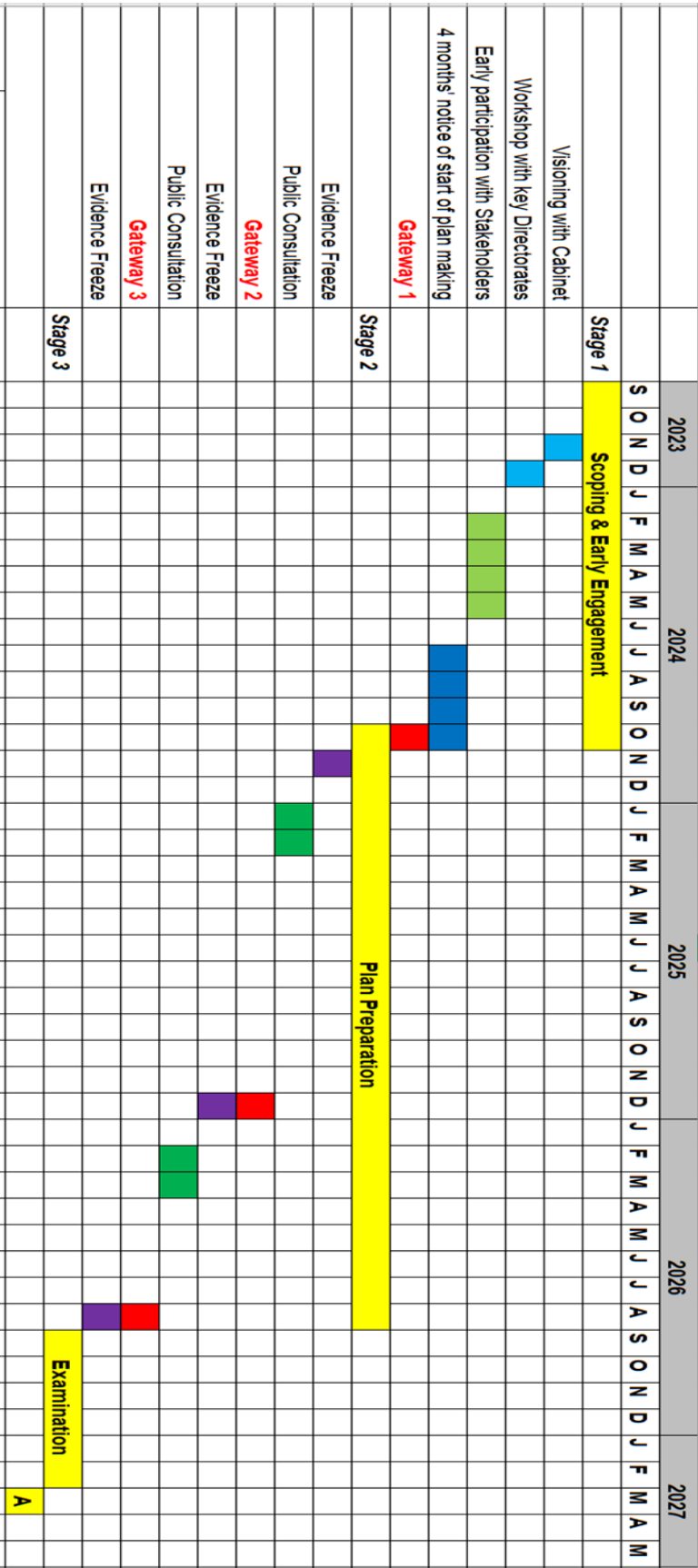


Diagram 1 – Outline Local Plan Preparation Programme

Preparing the New Local Plan for Westmorland and Furness

- 3.7 The planning policy team is planning on the basis that Westmorland and Furness will be in the first tranche. The focus is to ensure that Westmorland and Furness is as prepared as possible to move quickly when we get the go ahead. Even if we are not in the first tranche (and the next tranche will commence only 6 months later), there are considerable advantages in making as much progress as we can ahead of commencement.
- 3.8 The Government intend to use policy and guidance to establish more detailed requirements for planning authorities at each stage of the process. A significant quantity of secondary legislation, policy and guidance are necessary to bring the new system into effect. A new National Planning Policy Framework was published at the end of last year:
- 3.9 Westmorland and Furness needs to be ready to go. This means making the most of the resource that we have. As noted above, many of the tools to implement the new system, including new templates for plans, evidence base requirements and consultation requirements are still emerging. If we are in the first tranche, there will be an opportunity for early engagement with Government and the opportunity to influence the new system. The Council is being supported by the Planning Advisory Service with the support of the Department for Levelling Up, Housing and Communities.
- 3.10 At the same time, some measures are being progressed ahead of the Local Plan as Supplementary Planning Documents. These include a Design Code for Westmorland and Furness and a Master Plan for Barrow Marina Village. Whilst these will, in the first instance, be supplementary guidance to existing policies, they will help to inform the new local plan.
- 3.11 Diagram 1 (above) sets out a draft programme showing the key stages for how W&F would prepare the new Local Plan within the above timescales.

Proposals Local Plan Governance – and changes to the Constitution

- 3.12 Westmorland & Furness Council's Constitution provides for the Council to have a Leader and Cabinet form of Governance. It is for the Leader to determine any portfolio responsibilities for Cabinet Members and to set out executive delegations. This report sets out the principal requirements of the constitution and makes some proposals for change.

The role of full Council

3.13 By virtue of Section 4, of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the Functions Regulations), the discharge of functions in connection with the formulation or preparation of plans of strategies of a description specified in column (1) of Schedule 3 of the Regulations (which includes 'Plans and alterations which together comprise the Development Plan'), certain actions cannot be the sole responsibility of the Executive (Cabinet), and are required to be taken by full Council. These actions include:

- (a) the giving of instructions to Cabinet requiring Cabinet to reconsider any draft plan or strategy submitted by Cabinet for the Council's consideration;
- (b) the amendment of any draft plan or strategy submitted by Cabinet for the Council's consideration;
- (c) the approval, for submission to the Secretary of State, of any plan or strategy (whether or not in the form of a draft); and
- (d) the adoption (with or without modification) of any such plan or strategy)

3.14 These requirements are reflected at Part 2 – Section 2 of the Constitution, which sets out those functions which are required to be exercised by the full Council. Part 2 – Section 4, Paragraph 4 sets out details of the Council's Policy Framework, and lists those plans and strategies that must be adopted by a meeting of the full Council, which presently include at Paragraph 4.2.1 (c):

- (c) Development plan documents, including
 - (i) Local Plan
 - (ii) Core Strategy and Development Plan (excluding Neighbourhood Plans);
 - (iii) Minerals and Waste Local Plan

This Paragraph requires updating to delete reference to Core Strategies, which are no longer being prepared – and also to delete an extraneous reference to 'Development Plan' which is a repetition.

The role of Cabinet

3.15 As indicated above, the Functions Regulations specify actions which cannot be the sole responsibility of the Executive (Cabinet). Except to the extent of these specific actions, other actions in connections with the discharge of functions relating to the Development Plan process are the responsibility of Cabinet. These functions include:

(a) formulation or preparation of the Development Plan or strategy prior to consideration by the full Council;

(b) amendment, modification, variation or revocation of the Development Plan or strategy to the extent this is required for giving effect to requirements of the Secretary of State or;

(c) where such amendment, modification, variation or revocation is authorised by a determination made by the full Council, when approving or adopting the Development Plan or strategy

Officer Delegated Authority

3.16 The Scheme of Delegation states that the Assistant Director for Inclusive and Green Growth has responsibility for the preparation of Local Plans and amendments thereto and supplementary planning documents for **submission to the Cabinet and approval by the Cabinet or Council and for submission to the Secretary of State for examination**. These include;

- Approval of the Local Development Scheme (or Local Plan delivery plan under the new development plan system);
- Approval of any modifications to the plan required during the examination process;
- Approval of draft Supplementary Planning Documents and adoption of Supplementary Planning Documents following consultation.

Portfolio Holder

3.17 The responsibilities of the Portfolio Holder for Sustainable Communities and Localities are the following.

- To lead on developing Council policy and make recommendations to the Cabinet;
- To monitor performance and make sure policy is delivered;
- To meet the Council's overall vision, core values and guiding principles
- To represent the Council at a national and local level;
- To contribute to debate and decision-making;
- To participate in the overview and scrutiny process;
- Consultation and liaison with partners and the community

Other consultative bodies within the Council

3.18 The portfolio holder's role will include being advised by other bodies inside and outside the Council. There are a number of other boards and committees which might be expected to assist the portfolio holder in the discharge of this role. These include;

- The three Locality Boards;
- Overview and Scrutiny Committee – Communities and Environment;
- Strategic Highways and Transport Committee;
- Strategic Planning Committee

There may also be a need to engage relevant cabinet members including those for transport, highways, transport and the natural environment and economic development.

The impact of consultation on decision making

3.19 Key decisions on the plan will require the engagement of all of these bodies. However this has an impact on decision timetables. For decisions to publish, submit or adopt to go to all of these bodies would require reports to 8 different bodies and require a decision-making process lasting up to four months. There is therefore major tension between the preparation of a plan within the timeframes envisaged by the new planning system and the need for timely decision-making. There is a need for decision making processes which are both agile and nonetheless engage meaningfully all those who need to be engaged in the process.

Proposal for a Local Plan Members Steering Group

3.20 It is therefore proposed that a **Local Plan Members Steering Group** be established which would have delegated authority from Cabinet to oversee the preparation of the Local Plan on a day-to-day basis. The group would be the primary means by which members are engaged in the Local Plan preparation process. The purpose of the board would be to advise the Portfolio Holder on the exercise of their responsibilities on plan preparation, to provide a means by which day to day decisions can be taken and by which recommendations can be made to Cabinet on key decisions relating to the plan. It would also be a means by which members on various committees and boards within the Council are able to inform those groups and seek their feedback and comment.

3.21 The group would be chaired by the Portfolio Holder assisted by the Local Plan Programme SRO (Assistant Director Inclusive & Green Growth) supported by the Planning Policy Manager & relevant Local Plan Workstream Leads (see below) (as and when required). It is envisaged that the following would attend;

- The Portfolio Holder for Sustainable Communities and Localities or a nominated deputy;
- The chair of the Strategic Planning Committee or a nominated deputy;

- The chair of the Highways and Transport Strategic Board or a nominated deputy;
- The chair of the Eden Locality Board or a nominated deputy;
- The Chair of the Furness Locality Board or a nominated deputy;
- The Chair of the South Lakeland Locality Board or a nominated deputy;

3.22 Draft Terms of Conditions for the group are set out as Appendix 1.

3.23 In addition to the Steering Group, progress on the Local Plan will also be the subject of regular reports to the Scrutiny Committee for Communities and the Environment.

4.0 Conclusions

4.1 The proposed changes in this report will establish mechanisms to enable decisions relating to the Local Plan to be taken in a timely way which is aligned with the new requirement in the Levelling Up and Regeneration Act to prepare a Local Plan in thirty months. A Local Plan Members Steering Group will allow for members to be engaged in the plan preparation process in a positive, meaningful and time efficient fashion. Ultimately, fit-for-purpose processes will ensure the delivery a timely, up-to-date and exemplary plan to take Westmorland and Furness into the 2030s and beyond.

5 Link to Council Plan Priorities: (People, Climate, Communities, Economy and Culture, Customers, Workforce)

5.1 The new Local Plan will provide the 'Place' dimension of the Council Plan and is an opportunity to enshrine the Council's objectives in statutory policy and to align it with other functions such as transport, education and people related services. The Local Plan is also critical to delivering the Council's growth ambitions particularly in relation to meeting the housing, infrastructure and place shaping need. It is also an important means of addressing climate change impact and resilience through the location, design and layout of development and infrastructure and also a means of enhancing biodiversity.

5.2 The new Local Plan is one of the strongest tools for bringing about change. It can;

- Allocate land for new development;
- Influence and support investment decisions;
- shape new development through planning permissions and the conditions applied to them;
- form the basis for regeneration and/or land acquisition;
- Support the achievement of carbon net zero and biodiversity goals;

- lend weight to funding bids for regeneration and infrastructure;
and do so in a way which supports environmental, economic and social goals.

5.3 The new Local Plan will shape, align with, and re-inforce many **Council strategies and initiatives** including the Local Transport Plan, the Economic Strategy, the work of Team Barrow, the Housing Strategy, the Climate Change Action Plan, regeneration strategies, as well as plans in neighbouring authorities and National Parks

6 Consultation Outcomes (with services, ward councillors & public consultation where required)

6.1 The Constitution Working Group considered this report on February 12th 2024. The group supported the recommendation.

6.2 The new Local Plan is a critical means of engaging stakeholders and communities including business, infrastructure and utilities providers, government agencies, community and environmental groups and the third sector. This report focuses on member engagement in the plan decision-making process.

7 Alternative Options Considered

7.1 The alternative would be to proceed with existing arrangements. This carries the risk of decisions not being taken in a timely fashion and significant inefficiencies in terms of progress.

8 Financial Implications and risk

8.1 The revised arrangements will not have significant cost implications and will be met from existing resources.

9 Legal & Governance Implications

9.1 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, sets out responsibilities for decision making in the preparation of local plans including those matters (including the publication, submission and adoption of Development Plan Documents) that cannot be the sole responsibility of the Executive (Cabinet) and must therefore be taken by full

Council, and those responsibilities which may be taken by Cabinet. This report clarifies this distinction and suggests proposals for a Local Plan Members Steering Group, which will have delegated authority from Cabinet to oversee preparation of the Local Plan on a day-to-day basis.

10 Human Resources Implications

10.1 None

10.2 **Equality & Diversity Implications** (including the public sector equality duty, Armed Forces Families, Care Leavers and Health inequalities implications)

10.3 All stages of the Local Plan process will be subject to full Equality and Diversity Impact Assessment

11 Background Information & Sources (used in preparation of this Report)

11.1 None

Appendix 1 - Local Plan Members Steering Group DRAFT Terms of Reference

1. The Westmorland and Furness Local Plan Members' Steering Group (LPMSG) oversees the preparation of the Local Plan and other planning policy documents on a day-to-day basis.
2. The LPMSG is an important means by which members are engaged in the Local Plan preparation process.
3. The purpose of the LPMSG is to
 - advise members about the preparation of the local plan and their responsibilities in relation to it.
 - provide a means by which information on the progress of the plan and other relevant matters can be cascaded and comments and feedback received from relevant Council committees;
 - provide a means by which day to day decisions can be taken,
 - make recommendations to Cabinet on key decisions relating to the plan.
4. The LDMSG is chaired by the Cabinet Member for Sustainable Committees and Localities. The chair may nominate a deputy.
5. The Chair will be assisted by the Local Plan Programme Senior Responsible Officer (SRO) (Assistant Director Inclusive & Green Growth) supported by the Planning Policy Manager & relevant Local Plan Workstream Leads (as and when required).
6. Membership of the LPMSG comprises
 - The Portfolio Holder for Sustainable Committees and Localities or a nominated deputy;
 - The chair of the Strategic Planning Committee or a nominated deputy
 - The chair of the Highways and Transport Strategic Board or a nominated deputy
 - The chair of the Eden Locality Board or a nominated deputy
 - The Chair of the Furness Locality Board or a nominated deputy
 - The Chair of the South Lakeland Locality Board or a nominated deputyThe LPMSG will meet on an 'as and when there are items to discuss' basis and ensuring appropriate notice of the meeting is given. Any member of the group may call a meeting with agreement from the chair.
7. The LPMSG will be administered by the Planning Policy Team. The agenda and papers will be circulated at least one week prior to the meeting. The Planning

Policy Manager and Chair should be advised of any additional matters to discuss prior to the meeting.

8. The work of the LPMSG may involve specialist /technical matters. Formal minutes will not be taken and published. A note of the meeting will be taken. The note will summarise the matters discussed and list actions. It will not be a verbatim record of who said what. Although the notes will not be published, they can be subject to an FOI/EIR request.
9. Members of the LPMSG can however discuss matters with the committees and boards that they represent and report their views back to LPMSG.
10. The Local Plan relates to the whole of the Local Planning Authority area (which exclude the district areas outside the two National Parks). Therefore the role of each Member on the LPMSG should not to be to represent their individual ward but should work with the District as a whole as well as the committees and boards that they represent.
11. The Local Plan and other planning policy documents cover a multiplicity of subjects and relate to the whole of the planning authority area. Potentially an option or policy may affect a Member's property or other interest. It could also affect the interest of a family Member. For example a potential allocation to be considered by the Group may be in the ownership of, or close to the residence of, a member of the group or his/her family. The Member is required to declare the interest. The Member would still be able to take part in the discussion but should there be a vote in relation to the 'interest' the Member will not take part in the vote.
12. The LPMSG will be expected to make recommendations on a collective basis, however if agreement cannot be reached within the LPMSG, a vote will be taken and reported to the Council's decision maker (e.g. Council or Cabinet). This includes reporting the reasons for a dissenting vote.