

## APPENDIX 1 - Planning for the Right Homes in the Right Places

### Policy Context

1. DCLG published *Planning for the Right Homes in the Right Places: Consultation Proposals* on 14 September 2017. The consultation document sets out a number of proposed revisions to the planning system in England, aimed at increasing the delivery of new homes.

### Background

2. The key proposals can be grouped under the following broad themes:
  - Introducing a standard approach to calculating how many new homes are required in local authority areas; replacing the current complex calculations of housing need with a relatively simple formula based on official projections of household growth, with a proportionate uplift applied to reflect areas of higher demand
  - Requirements for local authorities to prepare and maintain a statement of common ground with other local planning authorities, that addresses strategic cross-boundary issues
  - Measures to make assessments of development viability more transparent, and increase emphasis on assessing development viability at plan-making (rather than planning application) stage
  - Potential for local planning authorities to increase planning application fees by 20 per cent, to support their activities in delivering new homes
3. Several of the proposals set out in the current consultation have been discussed by DCLG and the development industry for some time: some were introduced as part of measures outlined in the Government's Housing White Paper (*Fixing our Broken Housing Market*) in February 2017.
4. The Council's draft response to the consultation proposals supports the broad principle set out in the proposed reforms to the planning system, but we note a number of concerns regarding the application of the proposals, particularly in terms of the potential consequences for plan-making and for the resources of local authority planning teams.
5. In addition to the proposals set out by DCLG, the consultation provides an opportunity for respondents to suggest additional actions Government could take to increase build-out rates. Our draft response suggests ways in which Government could assist local authorities in the North East of England bring forward new housing development, including improved access to funding opportunities, increased funding for infrastructure and incentives for the development of brownfield land.

6. The questions posed through the consultation, and the Council's draft responses are provided in the attached annex. The consultation portal requires a "yes/no/don't know" response for some questions: for clarity, responses to these prompts are included at relevant points within the annex. DCLG's deadline for consultation responses is 9 November 2017. In order to meet this deadline, our comments have been forwarded to DCLG, with an accompanying letter stating that our formal response is subject to Cabinet approval.
7. Following the outcome of this consultation, DCLG aim to publish a draft revised National Planning Policy Framework early in 2018, with an updated Framework in place by Spring 2018.

### **Consultation**

8. The Cabinet Members for Housing have been consulted on the proposed response.

### **Alternative Options**

9. The options around the implementation of the proposed reforms have been considered as part of preparing the proposed response

### **Implications of Recommended Option**

10. **Resources:**
  - a) **Financial Implications** – No financial implications directly arise from this report
  - b) **Human Resources Implications** – No human resources implications.
  - c) **Property Implications** - No property implications.
11. **Risk Management Implication** - No risks associated with the consultation.
12. **Equality and Diversity Implications** – No implications for equality and diversity
13. **Crime and Disorder Implications** – No crime implications.
14. **Health Implications** – No health implications.
15. **Sustainability Implications** – No sustainability implications
16. **Human Rights Implications** - No human rights implications.
17. **Area and Ward Implications** – No area or ward implications

## **Annex**

### **Draft Response to Planning for the Right Homes in the Right Places Consultation Proposals**

#### **Question 1 (a)**

**Do you agree with the proposed standard approach to assessing local housing need? If not, what alternative approach or other factors should be considered?**

Don't know

The proposed standard approach appears to represent an appropriate basis for assessing local housing need. The approach of utilising the latest available household projections data and applying an adjustment to reflect affordability (considered to broadly reflect areas of highest demand) appears to meet the Government's stated objectives of establishing a standardised approach to assessing local housing need that is simple, based on publicly available data, and realistic.

Notwithstanding this, we are aware that there are circumstances in which DCLG's household projections do not necessarily represent an accurate indication of likely household growth at Local Authority level. For example ONS' mid-year population estimate for Gateshead estimated a 2010 population of 191,700 persons, yet the 2011 Census 'count' identified a population of around 200,300. Such discrepancies between estimated and observed data highlight the challenges faced by ONS in estimating demographic change at Local Authority level.

Reliance upon household projections (without opportunity to challenge the accuracy of demographic data used in the projections) risks perpetuating inaccuracies in projection data. However, allowing scope for challenge to every assumption used to determine DCLG's household projections could result in lengthy and excessively detailed discussion during examination.

Accordingly, we recommend that DCLG define the additional key data sources which may be used to assess the accuracy of latest household projections. These sources could include GP patient registration data. Data on fluctuations in observed levels of migration, and unattributable population change could also be considered. It should be recognised that it is almost inevitable that objectors will seek to challenge local housing need assessments during examination of local plans, and establishing clear parameters that may be used to assess household projections would aid transparency and limit the scope of challenge.

#### **Question 1 (b)**

**How can information on local housing need be made more transparent?**

No comment

#### **Question 2**

**Do you agree with the proposal that an assessment of local housing need should be able to be relied upon for a period of two years from the date a plan is submitted?**

Yes

The proposal to establish that assessments of local housing need can be relied upon for a minimum period following submission of a Local Plan is supported. This approach would support the examination of Local Plans and reduce delay in plan-making.

**Question 3**

**Do you agree that we should amend national planning policy so that a sound plan should identify local housing need using a clear and justified method?**

Yes

No further comment

**Question 4**

**Do you agree with our approach in circumstances when plan makers deviate from the proposed method, including the level of scrutiny we expect from Planning Inspectors?**

Don't know.

Current approaches used by Local Planning Authorities to understand local housing need typically incorporate analyses of economic trends / assumptions, such as projected jobs growth, employment rates and data on commuting patterns. The proposed standard approach to calculating local housing need does not consider the link between economic growth and household growth (i.e. growth in the supply of labour). Although omitting an assessment of economic growth from the proposed standard approach to calculating local housing needs is likely to result in much a more simple calculation, there is a risk in some areas that projected population growth would be insufficient to support sustainable economic growth. This issue is of particular relevance in the North East of England, which experiences relatively low levels of population growth, and an ageing population profile.

In principle, we therefore support an approach which allows for deviation from the preferred method to allow for a higher degree of household growth where this is required to support clearly evidenced, and realistic economic growth projections. However, we would caution against an approach which assumes that any housing need figure that exceeds the calculation based on the proposed standard method should be considered sound by default. Projections of jobs growth, and the methods used to translate that growth into an associated housing requirement are influenced by a huge range of variables. Accordingly, any calculation of housing need that has been based upon a projection of economic growth should be subjected to a proportionate degree of scrutiny during examination to determine whether the uplift applied

to anticipated household and population growth can realistically be sustained by demand in the local market.

Establishing a housing need figure that is significantly higher than the level of growth that can be reasonably sustained by demand in the local market risks saturating the market with a supply land with planning permission for residential use, resulting in disjointed and uncoordinated infrastructure provision, as developers focus their efforts solely on those sites which provide them with the highest profit margins.

**Question 5 (a)**

**Do you agree that the Secretary of State should have discretion to defer the period for using the baseline for some local planning authorities? If so, how best could this be achieved, what minimum requirements should be in place before the Secretary of State may exercise this discretion, and for how long should such deferral be permitted?**

No comment

**Question 5 (b)**

**Do you consider that authorities that have an adopted joint local plan, or which are covered by an adopted spatial development strategy, should be able to assess their five year land supply and/or be measured for the purposes of the Housing Delivery Test, across the area as a whole?**

Yes

Where local authorities have adopted a joint local plan document, it would be appropriate to allow those authorities to calculate their five year housing land supply, and the delivery of housing across the whole plan area. This would more appropriately reflect circumstances in the housing market area, and avoid penalising (through the application of the housing delivery test to individual local authorities) those areas which have chosen to work collaboratively to support delivery across their areas.

**Question 5 (c)**

**Do you consider that authorities that are not able to use the new method for calculating local housing need should be able to use an existing or an emerging local plan figure for housing need for the purposes of calculating five year land supply and to be measured for the purposes of the Housing Delivery Test?**

No comment

**Question 6**

**Do you agree with the proposed transitional arrangements for introducing the standard approach for calculating local housing need?**

No comment

**Question 7 (a)**

**Do you agree with the proposed administrative arrangements for preparing the statement of common ground?**

Don't know

Gateshead Council shares a housing market area with Newcastle City Council. We have a joint Strategic Housing Market Assessment and both councils have adopted a joint local plan document: the Gateshead and Newcastle Core Strategy and Urban Core Plan. It would be burdensome to expect Gateshead Council to prepare a statement of common ground with Newcastle City Council where there is clear evidence of a strong working relationship and cooperation on strategic cross boundary issues contained within our adopted and emerging Local Plan documents. Accordingly, we recommend that exceptions should be made where there is evidence of ongoing cooperation across administrative boundaries, for example joint planning documents.

Gateshead Council signed a Memorandum of Understanding (MoU) in 2012 with the seven local authorities in the North East of England to support the Duty to Co-operate. A Duty to Co-operate Statement was prepared as part of the MoU, and this statement has been updated as required to support examination of local plan documents. This 'high-level' statement has supported four local authorities during examination of their local plan documents, and has enabled key cross-boundary priorities to be established.

Although we support the objectives of the emerging statement of common ground policy (set out within paragraph 63 of the consultation document), we are concerned that it will introduce a significant burden, particularly for those local authorities (such as Gateshead Council) which share a boundary with several other areas. Despite assurances provided within the consultation document (including at paragraph 78), we are concerned that preparing and reaching agreement on several statements of common ground, addressing different cross-boundary issues relating to different geographies will introduce considerable additional work for local authorities.

**Question 7 (b)**

**How do you consider a statement of common ground should be implemented in areas where there is a Mayor with strategic plan-making powers?**

No comment

**Question 7 (c)**

**Do you consider there to be a role for directly elected Mayors without strategic plan-making powers, in the production of a statement of common ground?**

No comment

**Question 8**

**Do you agree that the proposed content and timescales for publication of the statement of common ground are appropriate and will support more effective co-operation on strategic cross-boundary planning matters?**

Don't know

Notwithstanding the need to prepare a statement of common ground, co-operation will continue to only be tested once a plan is submitted for examination. We support the Government's intention to encourage more effective and earlier cross-boundary cooperation. The proposal to specify that statements should set out cross-boundary matters including the housing need for the area, distribution, and proposals for meeting any shortfalls (a potential source of disagreement between local authority areas) is therefore welcomed.

However, the proposed approach appears to offer no real mechanism that would compel local authorities to overcome areas of disagreement (beyond the existing requirements set out by the Duty to Cooperate). In this respect it seems likely that cross-boundary issues that cannot be agreed between local authority areas will continue to be determined only at examination stage.

Without independent arbitration of disagreements on strategic cross-boundary issues before examination, it is not clear how preparation of statements of common ground will necessarily establish more effective cooperation, other than identifying which issues local authorities have not been able to reach agreement on.

**Question 9 (a)**

**Do you agree with the proposal to amend the tests of soundness to include that:**

- i) plans should be prepared based on a strategy informed by agreements over the wider area; and**
- ii) plans should be based on effective joint working on cross-boundary strategic priorities, which are evidenced in the statement of common ground?**

Don't know

Current application of the tests of soundness by planning inspectors acknowledges that the duty to cooperate does not constitute a 'duty to agree'. In practice, this means that where there are conflicting positions on strategic cross-boundary issues that cannot be reasonably resolved, then these issues should not necessarily be considered to represent a failure of cooperation (provided that relevant local authorities can demonstrate that they have effectively engaged with relevant bodies).

We therefore question whether the proposed amendments to the tests of soundness, which require that plans are "based on a strategy informed by agreements over the wider area", and are also "based on effective joint working on cross boundary strategic priorities" will in practice necessitate that local authorities reach agreement on strategic cross-boundary issues before

plans are submitted for examination. If so, there may be a risk that revisions to the tests of soundness expect a level of agreement between local authorities which has not been required previously by the NPPF, and which may be difficult to achieve in practice. In turn this could lead to extensive delays in establishing an up-to-date plan.

**Question 9 (b)**

**Do you agree to the proposed transitional arrangements for amending the tests of soundness to ensure effective co-operation?**

No comment

**Question 10 (a)**

**Do you have suggestions on how to streamline the process for identifying the housing need for individual groups and what evidence could be used to help plan to meet the needs of particular groups?**

In terms of specialist and supported accommodation, there should be a reinforcement of the link between Local Authorities' Social Care Demand Analysis, NHS transforming care planning, and housing needs assessments. Guidance is needed to help deliver clarity for commissioning and development planning.

It would help to create a clear separation between delivery of mainstream, retirement living homes and specialist and supported accommodation. This could help delivery of retirement accommodation, thereby supporting the release of under-occupied family homes, also helping to sustain independent living and reducing care costs.

Evidence used to understand needs could include:

- Health and demographic data. Gateshead's 2017 SHMA draws from the HCA's Vulnerable and Older People Needs Estimation Toolkit.
- Demand analysis:
  - Data on high and low demand in Local Authority stock – Analysis of housing registers, taking into consideration occupants' ability to afford housing and reasons for demand.
  - Data on high and low demand in private stock
  - House price trends
  - Evidence from local estate and letting agencies, potentially using a common survey methodology

**Question 10 (b)**

**Do you agree that the current definition of older people within the National Planning Policy Framework is still fit-for-purpose?**

Don't know

We need to provide accommodation that incentivises people to access suitable accommodation at the right time: the definition should not rely upon a specific age threshold, beyond which people are regarded as being 'older'.



**Question 11 (a)**

**Should a local plan set out the housing need for designated neighbourhood planning areas and parished areas within the area?**

No comment

**Question 11 (b)**

**b) do you agree with the proposal for a formula-based approach to apportion housing need to neighbourhood plan bodies in circumstances where the local plan cannot be relied on as a basis for calculating housing need?**

No comment

**Question 12**

**Do you agree that local plans should identify the infrastructure and affordable housing needed, how these will be funded and the contributions developers will be expected to make?**

Don't know

Gateshead Council considers that local plans (and supporting documents) should identify the infrastructure and affordable housing needed within the area, and ideally how these will be funded. However, we would note that it would be difficult to determine site-specific costs associated with every scheme during plan making.

For affordable housing and other site specific infrastructure, the contributions that developers will be expected to make in Gateshead are set out in a Planning Obligations SPD. However, this would not necessarily provide certainty on all the site specific infrastructure required, or associated costs, while, as of 1 January 2017, CIL has been applied to support delivery of strategic infrastructure (including strategic transport, education and green infrastructure) in Gateshead.

Given that CIL spending will be subject to competing schemes, and internal decision making processes, it is difficult to say precisely which strategic infrastructure schemes will benefit, and by when, from CIL. CIL supports the delivery of strategic infrastructure projects, and gives more clarity to developers on the contributions they will be expected to make. However, given the competing claims on the levy, there is less certainty regarding the specific contribution that CIL will make to specific strategic infrastructure projects.

It would therefore be difficult to give certainty over cost in each and every case. If this was a requirement set out by national policy, then this would have implications on local authority resources.

**Question 13**

**In reviewing guidance on testing plans and policies for viability, what amendments could be made to improve current practice?**

Guidance on the viability testing of plans and policies could be improved by advocating that this should usually be undertaken through high-level residual land valuations, which take into account a number of assumptions in relation to value, costs and fees. Viability guidance should advocate engagement with landowners at an early stage in the plan-making process, which together with the assembly of more detailed information, would assist in determining whether sites are deliverable at an early stage of the process.

A robust but proportionate approach is needed to underpin local plans, being mindful that the level of detail required for full viability testing would be subject to site specific issues such as site investigations, for example, which can be expensive and time consuming.

#### **Question 14**

**Do you agree that where policy requirements have been tested for their viability, the issue should not usually need to be tested again at the planning application stage?**

No

Ideally, the principles tested through the Plan should not need to be revisited at planning application. However, it should be accepted that in practice, costs and values aren't static and are only valid for the point at which the plan is prepared or examined.

In addition, the approach taken to testing viability in local plans typically uses standard assumptions applied at a plan-wide level. While this provides a broad reflection of market conditions that is appropriate for plan preparation, standard assumptions cannot fully account for the specific circumstances affecting each site in the area. It is therefore often appropriate to consider site-specific viability issues at planning application stage. Assessing viability at planning application stage requires a site specific residual land valuation appraisal which will take into account local property values within the area as well as extra costs of development such as remediation of land, taking into account site investigations at that time.

Remediation of contaminated land and the legacies of coal mining have a significant influence on the viability of development sites in the North East. These issues are only likely to be fully understood following detailed (and often costly) site investigation works that may not be appropriate for plan-making.

If the onus was on viability to be assessed only at the plan making stage then this would lead to greater challenge and the need for considerably more work and resources at the plan's examination. It also seems likely that developers would still seek to challenge viability through the development management process, particularly for developments taken forward several years after the plan's adoption.

#### **Question 15**

**How can Government ensure that infrastructure providers, including housing associations, are engaged throughout the process, including in circumstances where a viability assessment may be required?**

Gateshead Council already works closely with infrastructure providers in the preparation and progression of local plan documents, and carries out bespoke consultation on infrastructure requirements. This includes alignment between the Local Plan and the business plans of providers, in terms of proposals and timescales, and adherence to related standards. Engagement with housing associations is also undertaken. Government may wish to consider making consultation/engagement with infrastructure providers and housing associations a statutory requirement.

Given the length of the plan period and changes to factors outside of planning, such as HCA funding regimes, for example, it would be difficult to achieve certainty over future requirements and costs. It would be better to have an absolute way of calculating costs nationally.

**Question 16**

**What factors should we take into account in updating guidance to encourage viability assessments to be simpler, quicker and more transparent, for example through a standardised report or summary format?**

Developers provide viability assessment reports in different formats, and the local authority often needs to request further information in order to fully consider viability. A standardised report format, applied nationally, would make the assessment of viability simpler and quicker.

Transparency regarding the inputs within the residual land valuation would also encourage quicker consideration of viability assessments. For example, greater clarity on proposed house sales, proposed house size (sq.m), build costs and professional fees could be documented within a standard residual land valuation appraisal. The transparency and standardisation of inputs could also be achieved by insisting valuation is submitted using a standard software valuation package, for example Argus Developer, although there may be an issue regarding confidentiality and commercially sensitive information.

It would be useful to have standardised reports, clarity of terminology or standard definition of terms such as 'abnormals'. If there is a standardised method of calculating costs, or setting out what is a reasonable profit margin, it would then place the onus on developers to justify any differences. If headline figures can be produced in a way which overcomes commercial sensitivity this would be useful in informing the public and members, and the decision making process - but understanding technical issues such as this is inevitably difficult.

Clarity is also needed over who pays for individual viability assessments to be checked. Some local authorities ask developers to pay an independent expert to assess them whilst others are assessed in-house.

**Question 17 (a)**

**Do you agree that local planning authorities should set out in plans how they will monitor and report on planning agreements to help ensure that communities can easily understand what infrastructure and affordable housing has been secured and delivered through developer contributions?**

Yes

Local plans should set out how planning agreements, and the provision of affordable housing and infrastructure, will be monitored and reported. Monitoring could then be undertaken through the Annual Monitoring Report. It would be helpful if the approach is set down nationally to allow for a common format.

**Question 17 (b)**

**What factors should we take into account in preparing guidance on a standard approach to monitoring and reporting planning obligations?**

In practice standardising the approach to monitoring and reporting planning obligations would be very difficult given that all S106 agreements are different. There are also the complexities of several different clauses for each s106 that contributes to a scheme / project (projects can often be associated with several different s106 agreements). There is potential for monitoring to use more resources than the value of the contributions allow.

Clarity over whether an administration fee can be procured with S106 agreements to allow for monitoring and reporting would be useful.

**Question 17 (c)**

**How can local planning authorities and applicants work together to better publicise infrastructure and affordable housing secured through new development once development has commenced, or at other stages of the process?**

Housebuilders at some ongoing development sites in Gateshead have chosen to promote their affordable housing products within sales brochures. There is potential for Councils to also highlight affordable housing and other infrastructure supported by new housing development through their own websites.

**Question 18 (a)**

**Do you agree that a further 20 per cent fee increase should be applied to those local planning authorities who are delivering the homes their communities need? What should be the criteria to measure this?**

Yes

Potential fee increases should be assessed with regard to the number of housing units granted planning permission against the calculated housing

need. However, delivery of new housing is not entirely within the control of local authorities, so this would work best alongside other measures to encourage housebuilding.

**Question 18 (b)**

**Do you think there are more appropriate circumstances when a local planning authority should be able to charge the further 20 per cent? If so, do you have views on how these circumstances could work in practice?**

Yes

Circumstances for increased fees could include the number/proportion of housing units covered by a Permission in Principle, or where a PiP has been created to offset costs at application stage.

Circumstances for increased fees could also include an assessment of the performance of the local planning authority in efficiently granting planning permission for new housing.

**Question 18 (c)**

**Should any additional fee increase be applied nationally once all local planning authorities meet the required criteria, or only to individual authorities who meet them?**

No comment

**Question 18 (d)**

**Are there any other issues we should consider in developing a framework for this additional fee increase?**

No comment

**Question 19**

**Having regard to the measures we have already identified in the housing White Paper, are there any other actions that could increase build out rates?**

Yes

Recent data has demonstrated that the North East is one of the most affordable areas in England, when taking into consideration average house prices and average earnings. Combining this with the willingness of North East authorities to support new housing development, provides the opportunity for government to provide conditions that could support strong levels of housing growth, provided that challenges associated with development viability in the region can be overcome. Increased Government support for infrastructure funding in the North East of England has potential to significantly improve delivery of new housing in the region. In turn, this could reduce pressure on housing in high demand areas, and better support economic output across the country.

There is a clear focus by central Government to support (through funding) housing schemes in areas of highest demand. This focus can come at the expense of support for local authorities in areas of lower demand, which have weaker development viability. In considering this issue, it is important to note that the national housing crisis masks significant variance in market conditions in different parts of England. Local authority areas in the North East LEP area are keen to support an increase in housing delivery, but often find that relatively low levels of viability serve to prevent development coming forward in some areas.

There is considerable evidence that it is development viability, rather than restrictions on land-use, that constrains the delivery of new homes in the North East. In 2016 median gross annual earnings were only 5.12 times the median house price in the North East of England, substantially lower than the equivalent figure for England as a whole, of 7.72. In 2016 an estimate prepared by the seven local authorities in the North East LEP area identified capacity for more than 35,000 new homes on sites already benefitting from planning permission. This equates to around 6.5 years' supply when considered against the area's combined housing need based on the proposed standard method.

Local authorities should be given greater support to use CPO legislation on sites where multiple ownerships and disagreements over land values delay the progress of a proposal and the delivery of new homes. Enabling greater use of CPO legislation could also assist local authorities in tackling landbanking of housing sites.

Incentives for the development of brownfield sites would encourage development of sites in more sustainable locations, and the more efficient use of land resources. – ensuring that homes are delivered in the right places. Brownfield sites are often more difficult to develop due to costs associated with the site's previous use. Financial incentives to developers, and/or the availability of funding to address viability gaps could ensure development is prioritised on brownfield sites.

Recent funding opportunities have provided a limited timeframe for local authorities to bid. The completion of detailed material to support bids requires dedication of considerable resources from local authorities. Procedures relating to funding opportunities should be revised to enable LA's to bid over a longer timeframe.

Such funding opportunities have indicated the Government will give priority to schemes where the uplift from current use to proposed use is highest. This can place those areas with low residential values at a disadvantage. Higher priority should be given to the strategic significance of development sites, with regard to their potential to stimulate/facilitate wider development opportunities, support the regeneration of neighbourhoods, or deliver other social benefits. In addition it would be beneficial to build in flexibility around programmes and policy to enable localised solutions to issues.

Revisions should be made to the process around Public Rights of Way applications / enquiries to minimise delay and cost. A recent example in Gateshead involved an allocated site, where the local authority considered the diversion of PROW at planning application stage. The enquiry delayed the delivery of development on the site, without making any difference to the proposed diversion of the PROW.