

## Changes to Planning Policy and Regulations

### Policy context

1. MHCLG published a consultation on changes to planning policy and regulations on 6 August 2020. This runs alongside a consultation on reforms to the planning system in England (which is subject to a separate report to Cabinet).
2. The proposals set out four main changes to the current planning system:

#### Changes to the standard method for assessing local housing need

In order to help deliver more homes and help to reach the Government's targets of 300,000 new homes per year. The standard method is a universal way of measuring the number of new homes required across a Local Authority area.

The changes to the baseline propose to use the higher of either the projected average annual household growth over a 10-year period, or 0.5% of existing housing stock;

The adjustment for market signals proposes to place a greater emphasis on affordability (the rationale being that areas of worst affordability need more new housing) by considering change in affordability over the past ten years, in addition to the current level of affordability.

Lastly, the consultation proposes to remove the cap on the number of new homes that limited the level of increase for individual local authorities.

#### Securing First Homes (a type of discounted home ownership for first time buyers)

This is proposed to be delivered through developer contributions in the short term until the transition to a new planning system. It would mean that a certain proportion (25%) of affordable housing secured in a development would be First Homes.

#### Supporting small and medium-sized (SME) builders

This is proposed to be through temporarily lifting the small sites threshold below which developers do not need to contribute to affordable housing.

#### Extending the current Permission in Principle (PIP) to major residential-led development

PIP deals solely with whether residential-led development is acceptable in a certain location and the number of homes (expressed as a range) that can be accommodated. Presently, developers can only apply for PIP for sites up to 10 homes. It is proposed that this is increased so that it includes sites of over 10 homes.

## **Background**

3. The consultation includes a number of questions and the Council's draft responses are provided in the attached annex.
4. MHCLG's deadline for consultation responses is 1<sup>st</sup> October 2020. In order to meet this deadline, our comments have been forwarded to MHCLG, with an accompanying letter stating that our formal response is subject to Cabinet approval on 20<sup>th</sup> October 2020.

## **Consultation**

5. The Leader, Deputy Leader and Cabinet Members for Environment and Transport have been consulted on the proposed response.

## **Alternative options**

6. The options around the implementation of the proposed changes have been considered as part of preparing the proposed response.

## **Implications of Recommendation**

7. **Resources:**
  - a. **Financial Implications** – There are no direct financial implications arising from this report.
  - b. **Human Resources Implications** – There are no human resource implications arising from this report.
  - c. **Property Implications** - There are no direct property implications arising from this report.
8. **Risk Management Implication** – No risks associated with the consultation.
9. **Equality and Diversity Implications** – None.
10. **Crime and Disorder Implications** – None.
11. **Health Implications** – None.
12. **Climate Emergency and Sustainability Implications** – None.
13. **Human Rights Implications** - None.
14. **Area and Ward Implications** – None.

## **GATESHEAD COUNCIL RESPONSE TO CONSULTATION ON CHANGES TO PLANNING POLICY AND REGULATIONS**

### **The standard method for assessing housing numbers in strategic plans**

- 1. Do you agree that planning practice guidance should be amended to specify that the appropriate baseline for the standard method is whichever is the higher of the level of 0.5% of housing stock in each local authority area OR the latest household projections averaged over a 10-year period?**

No. We consider that the basis of establishing housing need should be to consider growth in numbers of households, rather than set a proportionate annual increase in the size of an area's existing dwelling stock. Fundamentally, housing need is driven by increases in the number of households. It is therefore dependent on the demographic characteristics of a local area – population change and household formation rates, rather than the size of an area's existing dwelling stock.

If the Government wishes to introduce a 'housing stock element' to the baseline calculation, it should ensure that latest projections of household growth take priority. Where the requirement from the 'housing stock element' results in housing need that is higher than the latest household projections, the baseline housing need should be capped at perhaps 50% above the level of household growth set out in the latest household projections averaged over a 10 year period. This would ensure that low- growth areas, or areas affected by environmental constraints are not disproportionately affected by the revised standard method.

Neither of the proposed approaches are based on forecast housing need, or demand, and neither takes enough account of local constraints including lack of land that can be developed, for example because of protective designations such as Green Belt, or viability in areas of low house values. The housing stock approach takes no account of regional or local differences between housing market areas or local authorities.

- 2. In the stock element of the baseline, do you agree that 0.5% of existing stock for the standard method is appropriate? If not, please explain why.**

Any figure used for this purpose would appear arbitrary (see answer to Q1).

We consider that 0.5% of existing stock is too high for use in the standard

method. Using Gateshead as an example, latest household projections averaged over a 10-year period give a baseline housing requirement of 174 dwellings per annum. However, 0.5% of existing stock gives a baseline of 471 dwellings per annum. When considered against recent delivery in Gateshead, this baseline is (even before an uplift for affordability is included in the calculation) considerably higher than recent housing delivery in the Borough. This is despite the council's pro-growth approach to new development, including adopting a local plan which allocated land formerly in the Green Belt for housing development of more than 2,000 homes.

If the Government wishes to include a housing stock element within the baseline calculation, it should consider either introducing a cap to ensure that the housing stock element is not significantly higher than projected household growth (see response to Q1), or it should reduce the percentage of existing housing stock in the calculation to lower than 0.5%. Although we have not looked into the implications for overall housing need across the country, it is likely that these measures would not have a significant overall affect on combined housing need in England (combined housing need would likely continue to amount to more than 300,000 new homes per year), but they would ensure that low-growth and constrained local authority areas are not adversely affected by the new standard method.

- 3. Do you agree that using the workplace-based median house price to median earnings ratio from the most recent year for which data is available to adjust the standard method's baseline is appropriate? If not, please explain why.**

This would appear to be an appropriate method if this approach is going to be followed.

- 4. Do you agree that incorporating an adjustment for the change of affordability over 10 years is a positive way to look at whether affordability has improved? If not, please explain why.**

Yes, this appears reasonable in principle. However, it should be calculated according to how the local figure differs from the national average change rather than based on the absolute local difference.

- 5. Do you agree that affordability is given an appropriate weighting within the standard method? If not, please explain why.**

This would need to be accompanied by information showing the range of outcomes across the country to show whether it is realistic but it appears that it would double, or more, the requirement in the most expensive areas of the country, which are also often the most congested.

**Do you agree that authorities should be planning having regard to their revised standard method need figure, from the publication date of the revised guidance, except:**

**6. Authorities which are already at the second stage of the strategic plan consultation process (Regulation 19), which should be given 6 months to submit their plan to the Planning Inspectorate for examination?**

No. This is part of the more general issue regarding the proposed timescales for plan-making contained in the White Paper, which we are responding to as part of that consultation. The key issue is the extent to which local authorities are adequately resourced. That being the case, local authorities may need to take longer in current circumstances.

**7. Authorities close to publishing their second stage consultation (Regulation 19), which should be given 3 months from the publication date of the revised guidance to publish their Regulation 19 plan, and a further 6 months to submit their plan to the Planning Inspectorate?**

As above in response to question 6.

## **Delivering First Homes**

**8. The Government is proposing that policy compliant planning applications will deliver a minimum of 25% of onsite affordable housing as First Homes, and a minimum of 25% of offsite contributions towards First Homes where appropriate. Which do you think is the most appropriate option for the remaining 75% of affordable housing secured through developer contributions? Please provide reasons and / or evidence for your views (if possible):**

- i) Prioritising the replacement of affordable home ownership tenures and delivering rental tenures in the ratio set out in the local plan policy.**
- ii) Negotiation between a local authority and developer.**
- iii) Other (please specify).**

Option i) is considered to be most appropriate. This would allow Local Plan policies on affordable homes to be followed whilst allowing 25% of the affordable homes to be First Homes. This is in line with the Council's Local Plan which recommends 35% for subsidised home ownership and 65% affordable or social rent.

There will, however, be new burdens placed on local authorities to ensure delivery of the First Homes Scheme, however, it is not clear where responsibility will lie for determining individual household eligibility, including at first acquisition and at point of future sales to ensure perpetuity; with the Council or with each developer.

**With regards to current exemptions from delivery of affordable home ownership products:**

- 9. Should the existing exemptions from the requirement for affordable home ownership products (e.g. for build to rent) also apply to apply to this First Homes requirement?**

In terms of existing exemptions:

Build to Rent homes – It seems appropriate that provision of Affordable Homes in these cases is not affordable home ownership.

Specialist accommodation for a group of people with specific needs – There is a need to consider generally the affordability of specialist and supported accommodation including Extra Care, and the need to look at a mixed tenure approach, which might include affordable home ownership.

People who wish to build or commission their own homes – Unless the size of site exceeds a Local Plan threshold.

Exclusively for affordable housing, an entry-level exception site or a rural exception site – It seems appropriate that provision of Affordable Homes in these cases is not affordable home ownership

- 10. Are any existing exemptions not required? If not, please set out which exemptions and why.**

Specialist accommodation for a group of people with specific needs (such as purpose- built accommodation for the elderly or students). There is a need to consider generally the affordability of specialist and supported accommodation including Extra Care, and the need to look at a mixed tenure approach; this might include affordable home ownership.

- 11. Are any other exemptions needed? If so, please provide reasons and /or evidence for your views.**

No comments to make.

- 12. Do you agree with the proposed approach to transitional arrangements set out above?**

No comments to make.

- 13. Do you agree with the proposed approach to different levels of discount?**

The discount should not be based solely on market value, to be genuinely affordable, there must be a relationship with local income (as recommended by the Affordable Housing Commission).

**14. Do you agree with the approach of allowing a small proportion of market housing on First Homes exception sites, in order to ensure site viability?**

Yes, where necessary.

**15. Do you agree with the removal of the site size threshold set out in the National Planning Policy Framework?**

Yes. It is arbitrary; the requirement to be proportionate to the size of the settlement is more logical. However it appears that the definition of “settlement” for this purpose can include large urban areas, which may be part of conurbations, and there may need to be clarity on what would constitute the settlement for the purpose of calculating what size of development would be proportionate to it.

**16. Do you agree that the First Homes exception sites policy should not apply in designated rural areas?**

Yes.

### **Supporting small and medium-sized developers**

**17. Do you agree with the proposed approach to raise the small sites threshold for a time- limited period?**

Increasing the threshold would slightly increase rates of delivery on individual applications, as there would be no need to produce a viability statement to demonstrate viability issues. Many SME only have sufficient capital/capacity to work on a single scheme at a time, therefore it is not anticipated this would not be a sufficient market stimulus to offset the potential loss of affordable housing.

A threshold of 40 or 50, instead of 10, for affordable housing contributions would, in Gateshead’s case, substantially reduce the amount of affordable housing constructed (Gateshead has a large number of small sites) and concentrate the affordable housing that is delivered in a smaller number of locations, reducing choice, and, given the location of many of our larger sites, reducing sustainability and making travel difficult for residents reliant on public transport.

**18. What is the appropriate level of small sites threshold?**

- i) Up to 40 homes**
- ii) Up to 50 homes**
- iii) Other (please specify)**

If it is to be increased from the current level, 20 or 25 would appear reasonable. 40 or 50 is too high for the reasons stated in the answer to question 17.

Larger developers such as Persimmon-Charles Church and Keepmoat develop schemes at 25-30 dwellings. In practice this means that a subsidy could be given to larger builders who don't necessarily require support and potentially act as an incentive to large developers to compete with SME's for 'small sites' of 25-50 units during the temporary 18-month period. Targeting support at 20-25 dwellings smaller sites would make the support more catered to SME's where it is really needed and have a reduced impact on affordable housing delivery.

**19. Do you agree with the proposed approach to the site size threshold?**

Any increase should be roughly proportionate to the change in the threshold for numbers of dwellings; in our answer to questions 17 and 18 we have indicated that we believe the increase should be less than that currently proposed.

**20. Do you agree with linking the time-limited period to economic recovery and raising the threshold for an initial period of 18 months?**

As the economic recovery will be difficult, we would suggest an initial period of 12 months instead and then review.

**21. Do you agree with the proposed approach to minimising threshold effects?**

We agree that the issue should be tackled; the consultation does not say how it will be. The extent of land ownership or interest in a site held by a landowner/developer shown on a planning application would be an indication. The terminology "apparent ... brought forward" would allow less certainty than the above.

**22. Do you agree with the Government's proposed approach to setting thresholds in rural areas?**

Yes.

**23. Are there any other ways in which the Government can support SME builders to deliver new homes during the economic recovery period?**

A high level of engagement by local authorities with SME builders, helping them pro- actively through the planning process, would be helpful, but would require extra resources in many cases. We suggest additional funding for local authorities specifically to be used for this purpose, and/or waiving planning application fees and/or charges for pre-application advice for SME builders, provided the local planning authority is fully reimbursed. The government could also consider an approach to covering the cost of investigations and assessments (e.g. ground conditions surveys) which are sometimes prohibitive.

**Extension of the Permission in Principle consent regime**

**24. Do you agree that the new Permission in Principle should remove the restriction on major development?**

Unsure - the practicalities (outlined in response to Q26) may make this difficult, especially when there is such a short time to determine applications. The assessment of such applications is not just a simple question of whether residential use is acceptable in principle but also whether the amount of development is acceptable.

**25. Should the new Permission in Principle for major development set any limit on the amount of commercial development (providing housing still occupies the majority of the floorspace of the overall scheme)? Please provide any comments in support of your views.**

Yes. Perhaps a flexible way of accommodating this would be to set a percentage floorspace (could be set as a range) of the total development.

**26. Do you agree with our proposal that information requirements for Permission in Principle by application for major development should broadly remain unchanged? If you disagree, what changes would you suggest and why?**

Determining whether the principle of major development is acceptable and the number of dwellings (if it has not been allocated in a Development Plan) can often be complex. The PIP regime is not solely about determining the principle of residential-led development but setting the parameters of the scale of development (minimum and maximum number of dwellings and sometimes minimum and maximum floorspace of an accompanying use(s)). This can lead to complex issues to consider such as a transport assessment determining the number of homes that can be accommodated on a site (even if expressed as a range) before there is a severe impact on the highway network in terms of traffic generation.

As a result, there will need to be a mandatory number of documents submitted in support of an application in order to determine whether the principle of residential-led development and the number of dwellings (expressed as a range) can be accommodated. If not submitted, it is likely that many applications would be refused due to a lack of information/evidence to demonstrate that the amount of development proposed is acceptable in principle.

**27. Should there be an additional height parameter for Permission in Principle? Please provide comments in support of your views.**

Yes, this could help provide certainty to developers, the LPA and the public as to what level of development could be accommodated on a site.

- 28. Do you agree that publicity arrangements for Permission in Principle by application should be extended for large developments? If so, should local planning authorities be:**
- i) required to publish a notice in a local newspaper?**
  - ii) subject to a general requirement to publicise the application or**
  - iii) both?**
  - iv) disagree**
- If you disagree, please state your reasons.**

We consider that publicity arrangements should be just be subject to a general requirement to publicise the application. This would give much more flexibility for LPAs to publicise applications and use methods to reach groups that are perhaps unable to normally engage with the planning process. We disagree that there should be a requirement to publish a notice in a local newspaper unless the cost of this is borne by the applicant.

- 29. Do you agree with our proposal for a banded fee structure based on a flat fee per hectare, with a maximum fee cap?**

Yes.

- 30. What level of flat fee do you consider appropriate, and why?**

Unsure exactly but perhaps fee could be at 50-75% of current PIP application fee per 0.1ha.

- 31. Do you agree that any brownfield site that is granted Permission in Principle through the application process should be included in Part 2 of the Brownfield Land Register? If you disagree, please state why.**

Agree.

- 32. What guidance would help support applicants and local planning authorities to make decisions about Permission in Principle? Where possible, please set out any areas of guidance you consider are currently lacking and would assist stakeholders.**

Background information on what is being considered and what will need to be considered at technical details stage, this could include real-life examples.

- 33. What costs and benefits do you envisage the proposed scheme would cause? Where you have identified drawbacks, how might these be overcome?**

Potential benefits are a level of certainty for developers and removing the need to constantly re-assess the principle of development. This could potentially

make it more attractive for developers to invest. However, this is mostly likely to apply to SMEs who are less likely to be involved with major development.

Potential drawbacks are the amount of technical details that will need to be considered at a later stage. Developers may not necessarily be aware of this and this could lead to disappointment and frustration at a later date. Also, if developers are aware of this the PIP route may not be as attractive as the normal planning application route.

Another potential drawback is the ability of LPAs to deal with such applications in a timely manner without being adequately resourced. Many schemes of delegation require planning committees to deal with major applications and the proposed timescales would potentially allow inadequate time for this.

**34. To what extent do you consider landowners and developers are likely to use the proposed measure? Please provide evidence where possible.**

The larger developers and landowners are unlikely to use the proposed measure as they tend to have adequate cash flows and are familiar with the standard planning application route. SME developers are most likely to benefit from the PIP route as they are likely to be less familiar with the planning system and have more limited cash flow and require more certainty up front.

However, there needs to be more awareness raising that provides confidence in the process that PIP gives the certainty required for SME developers to take the risk on a site. At present the process is too unknown for many.

## **Public Sector Equality Duty**

**35. In light of the proposals set out in this consultation, are there any direct or indirect impacts in terms of eliminating unlawful discrimination, advancing equality of opportunity and fostering good relations on people who share characteristics protected under the Public Sector Equality Duty?**

**If so, please specify the proposal and explain the impact. If there is an impact – are there any actions which the department could take to mitigate that impact?**

There is no detail about the requirement for an Equalities Impact Assessment, if there is no requirement for an EQIA, there may be the risk of equalities not being fully considered. If an EQIA is not required locally, there could be the possibility that the LPA would not have enough opportunity to make appropriate adjustments to the local policy to mitigate any negative impacts. If the EQIA is carried out nationally, there may not be enough detail to take account of the specific needs of specific individuals, groups and communities with protected characteristics.

The Council would support increased digitisation, and use of online tools such as social media, if it were to be accompanied with the appropriate resources. We would have reservations if all consultation or planning processes are solely web based as this could exclude those with protected characteristics and others.

The suggestion that 'notices on lampposts' is outdated, is in many respects, true, however these notices give another opportunity for people to be made aware of proposals that may have an impact on them. LPA's are often criticised for not being transparent enough, removing a layer of consultation could exacerbate this.