



Briefing 20-74

August 2020

Changes to the current planning system

To: All Chief Executives, Main Contacts and APSE Contacts in England,

For Information: Scotland, Wales and Northern Ireland

Key Points

On 6 August, the government launched a consultation regarding proposed changes to the planning system that is open for comment until 1 October 2020. The consultation sets out the government proposed changes to the current planning system which should be considered in conjunction with the White Paper: 'Planning for the future'. The consultation focuses on four main proposals: -

- changes to the standard method for assessing local housing need
- securing of First Homes through developer contributions in the short term until the transition to a new system
- supporting small and medium-sized builders by temporarily lifting the small sites threshold below which developers do not need to contribute to affordable housing
- extending the current Permission in Principle to major development

Appendix 1 to this briefing sets out the consultation questions.

1.0 Background

In addition to the White Paper 'Planning for the future' which was published on 6 August, the government also launched a consultation regarding proposed changes to the planning system that is open for comment until 1 October 2020. The consultation sets out the government's proposed changes to the current planning system which it is advised should be considered in conjunction with the White Paper 'Planning for the future'. The consultation focuses on four main proposals: -

- changes to the standard method for assessing local housing need
- securing of First Homes through developer contributions in the short term until the transition to a new system
- supporting small and medium-sized builders by temporarily lifting the small sites threshold below which developers do not need to contribute to affordable housing

- extending the current Permission in Principle to major development

This briefing provides an overview of the proposals outlined in the document and the consultation questions are set out in Appendix 1. The full consultation document can be accessed via the following link:-

[Changes to the planning system](#)

2.0 The standard method for assessing housing numbers in strategic plans

The standard method was first implemented in 2018 through the revised National Planning Policy Framework to make assessing the minimum number of homes needed in an area easier, cheaper, and more transparent. In February 2019, following a technical consultation on updates to national planning policy and guidance, a short-term change was made to the standard method. At the same time, the government committed to review the formula to balance the need for clarity, simplicity, and transparency for local communities.

This part of the consultation focuses on the standard method for assessing local housing need. The government intends that the method set out in the proposals will form part of the process for setting any binding housing requirement. However, this consultation does not set out how this binding requirement would be calculated, instead, it proposes a revised standard method for calculating local housing need which will be used as the basis for plans created.

The Government's proposed approach

The Government advises that it has based the proposed new approach on several principles for reform which include: -

- Ensuring that the new standard method delivers a number nationally in line with the plan to delivery of 300,000 new homes a year
- A focus on achieving a more appropriate distribution of homes
- On targeting more homes into areas where they are least affordable

It is commented that this standard method provides the starting point and not the final housing requirement and that it should ensure that all areas of the country are encouraged to build the homes their communities need. Therefore, the government propose to introduce a new element into the standard method, which is a percentage of existing housing stock levels, which takes into account the number of homes that are already in an area.

The government also propose to retain a role for household projections as part of the new blended approach, which takes account of stock, and it is stated that this will assist in achieving the stability and distributional benefits offered by taking account of stock, whilst not losing the benefits of using projections.

The document sets out details of the proposals to introduce an affordability adjustment that takes into account changes over time, in addition to the existing approach of considering absolute affordability. There is also a proposal to remove the cap which the document states is artificially suppressing the level of housing identified.

The steps that the government are proposing to take are as follows: -

Step 1 - Setting the baseline – providing stability and certainty by incorporating a blend of household projections and stock

It is stated that the government considers that the baseline for the standard method should be whichever is the higher of 0.5% of existing housing stock in each local authority or the latest projected average annual household growth over 10 years.

The proposal is for a simple 0.5% of existing stock as a starting point for the baseline. Whichever is higher of 0.5% of existing stock or the projected average annual household growth over a 10-year period will be used as the baseline.

Step 2 - Adjusting for market signals – maintaining price signals using the current affordability ratio and the change in affordability over the last 10 years

The consultation proposes that the standard method will include two adjustments to the baseline using the workplace-based median house price to median earnings ratio. Initially, it is proposed that the ratio for the most recent year for which data is available to address the current affordability of homes would be used. Then how affordability has changed over the last 10 years of published data would be incorporated, using that same statistic.

The precise formula proposed by the government is as follows:

$$\begin{aligned}
 & \textit{Adjustment Factor} \\
 & = \left[\left(\left(\frac{\textit{Local affordability ratio}_{t=0} - 4}{4} \right) \times 0.25 \right) \right. \\
 & \quad \left. + \left(\left(\textit{Local affordability ratio}_{t=0} - \textit{Local affordability ratio}_{t=-10} \right) \times 0.25 \right) \right] \\
 & \quad + 1
 \end{aligned}$$

Where $t = 0$ is current year and $t = -10$ is 10 years back.

Result of the revised standard method - The government advise that based on the new standard method the national housing need would be 337,000 based on currently available data.

At a local authority level, it is deemed that the revised method will impact individual authorities differently. 141 authorities (excluding London boroughs) have a change of over 25% when compared to the higher of what areas have most recently planned for or the number produced by the current standard method.

Transition – The government are proposing that from the publication date of the revised guidance, authorities that are already at the second stage of the strategic plan consultation process (Regulation 19) are given 6 months to submit their plan to the Planning Inspectorate for examination. Authorities close to publishing their second stage consultation (Regulation 19), 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.

3.0 Delivering First Homes

In February 2020 there was a consultation on the First Homes proposals. This included consultation around both the design of the First Homes scheme and changes to the planning system to support its delivery. The government has published a response to this consultation and is now seeking views on the detail of the proposed changes to the current planning system.

The Government's proposed approach :-

Setting developer contributions for First Homes

Percentage of affordable housing secured through developer contributions – It is stated in the proposals that there is an intention to set out in policy that a minimum of 25 per cent of all affordable housing units secured through developer contributions should be First Homes. This will be a national threshold, set out in planning policy. Initially, these will be secured through section 106 planning obligations but, under proposed reforms, these would subsequently be secured through the Infrastructure Levy as set out in Pillar Three of Planning for the Future.

The government proposes that, under the new system, a policy compliant planning application should seek to capture the same amount of value as would be captured under the local authority's up-to-date published policy. The plan viability assessment will set out assumptions on the amount of value captured.

In addition to capturing the same amount of value towards affordable housing as the existing policy, where onsite affordable housing is required, a policy compliant application

will have a minimum of 25% of affordable housing units' onsite as First Homes. For the remaining 75% of affordable housing secured through developer contributions, there are two broad options:

Option 1: Where a local authority has a policy on affordable housing tenure mix, that policy should be followed, but with First Homes delivering a minimum of 25% of the affordable housing products. First Homes should replace as a priority other affordable home-ownership products, as defined in the National Planning Policy Framework, prioritising the replacement of those tenures which secure the smallest discount from the market price.

Option 2: A local authority and developer can negotiate the tenure mix for the remaining 75% of units.

Local plans and transitional arrangements – The government acknowledge in the consultation that local authorities may need to review the tenure mix for the remainder of the affordable housing that they are seeking to secure.

In circumstances where local plans and neighbourhood plans that have been prepared based on the existing National Planning Policy Framework and that have reached more advanced stages of the plan-making process. Therefore, local plans and neighbourhood plans that are submitted for Examination within 6 months of this new policy being enacted will not need to reflect the First Homes policy requirements.

In the circumstance where developers have been preparing planning applications under different assumptions and significant work has already been undertaken to progress a planning application, the local authority should have the flexibility to accept alternative tenure mixes, although they should consider whether First Homes could be easily substituted for another tenure, either at 25% or a lower proportion.

Level of discount - The minimum discount for First Homes should be 30% from market price which will be set by an independent registered valuer. The valuation should assume the home is sold as an open market dwelling without restrictions. Local authorities will have the discretion to increase the discount to 40% or 50%. This would need to be evidenced in the local plan making process. Where discounts of more than 30% are applied to First Homes, the requirement for a minimum of 25% of units' onsite to be First Homes will remain in place

Community Infrastructure Levy - In line with other affordable housing tenures, the government intend to introduce an exemption from the Community Infrastructure Levy (CIL) for First Homes and these will be introduced through regulations.

Further proposals are being developed for an Infrastructure Levy, which would replace CIL and Section 106 planning obligations. It is stated that First Homes will remain integral to this approach, as will the delivery of affordable housing more generally.

Exception sites and rural exception sites – The government are looking to introduce a First Homes exception sites policy, to replace the existing entry-level exception sites

policy. The amended policy will specify that the affordable homes delivered should be First Homes for local, first-time buyers. This policy will not apply in designated rural areas, where delivery will be through the rural exception sites policy.

The government also intend to remove the National Planning Policy Framework threshold on site size, that currently applies for entry-level exception sites, but retain the requirement that First Homes exception sites should be proportionate in size to the existing settlement.

Next steps – The government state that they intend to begin by making planning policy changes, to ensure that clear expectations are set and they also intend to introduce an exemption from the Community Infrastructure Levy for First Homes, to enable delivery prior to wider developer contribution reform which would require changes to regulations.

4.0 Supporting small and medium-sized developers

The consultation document recognises the contribution that small and medium-sized builders (SMEs) make to overall housing supply and this section of the document focuses on small and medium-sized developers.

Developer contributions – The consultation document states that despite the recent reforms to S106 planning obligations there are still inconsistencies in local planning authority practice and delay remains a hallmark of the system.

Economic recovery

Extending the small sites policy - To stimulate economic recovery with a particular focus on SMEs, the threshold for affordable housing contributions could be raised. To ensure that this measure is targeted at the economic recovery phase and does not inflate land prices in the longer term, the government are proposing that the higher threshold is implemented for a time-limited period and lifted as the economy recovers from the impact of Covid-19.

The Government's proposed approach:-

The government are proposing to raise the small sites threshold to up to either 40 or 50 new homes through changes to national planning policy and are seeking views on the most appropriate level.

National policy currently sets out a site size threshold for residential development in addition to the number of homes. It makes clear that affordable housing contributions should not be sought for developments that have a site area of less than 0.5 hectares. The government propose to scale up the site size threshold at the same proportion as the increase in the number of homes threshold.

To minimise the impact of developers bringing larger sites through the system in phases, it is proposed planning guidance will set out how local planning authorities can secure contributions for affordable housing where it is apparent that a larger site is being brought forward.

Affordable housing in rural areas - In designated rural areas, the government are proposing to maintain the current threshold

Supporting SMEs - The government are keen to hear of any other ways in which the government can support SME builders to deliver new homes.

Next steps

Following the consultation, a decision will be taken on whether to proceed with this approach. If it is taken forward, this could be through the introduction of a Written Ministerial Statement in the autumn.

Extension of the Permission in Principle consent regime

Introduction of applications process for major developments

Permission in Principle was introduced in 2017 as a new faster way of obtaining planning permission for housing-led development.

Securing the principle of development for housing on more sites

As part of the government plans to support economic recovery, they want to make it easier for landowners and developers to have certainty that the principle of development for housing only needs to be established once in the process before developers need to get into more costly, technical matters.

Planning for the Future proposes that land allocated for substantive development in local plans should be automatically granted a form of permission of principle so that the principle of development is established, and subsequent consents only focus on detailed technical matters. As this new framework will take time to implement, the Government is keen to expand the current Permission in Principle framework for housing-led development as an early opportunity to move towards this new approach.

As part of this consultation, the government are seeking views on the following: -

- Extending the scope of the current Permission in Principle by application route to major development (not subject to EIA or habitats assessments).
- Enhancing the information requirements and publicity arrangements for these applications.
- Introducing a revised fee structure, at lower cost, to incentivise their use;

- Including automatically any Permission in Principle granted onto Part 2 of the local brownfield land register; and
- Strengthening guidance to support implementation.

Extending Permission in Principle to cover major development

Since 2018, applications for Permission in Principle have gradually increased as more developers have become more aware of it. However, the restriction limiting the scope of the principle to minor development limits its potential. In particular, in town centres and other high-density urban areas, relatively small sites are capable of supporting apartment developments of over 10 units, making these sites ineligible for Permission in Principle applications.

Information requirements

The primary decisions about when to grant Permission in Principle will be locally driven, taking account of national and local policy. Permission in Principle must be followed by an application for technical details consent to agree the details of the scheme before the applicant obtains full planning permission and can start work on site.

The government anticipate that the process for making a Permission in Principle application for a major development would follow these same procedures, where the relevant matters for consideration are location, land use, and the amount of development.

It is stated in the consultation document that they would be interested in whether, given the larger scale of development, there should be an additional maximum height threshold parameter, in terms of the number of storeys, as part of the Permission in Principle.

Publicity arrangements

Publicity requirements for Permission in Principle by application, as set out in regulations, require local planning authorities to publicise consultations by site notice and by including the application on their website. By contrast, applications for planning permission require a site notice, publication on the website, and placing a notice in a local newspaper.

It is proposed that there should be an amendment to the publicity requirements for Permission in Principle by application so applications for Permission in Principle on large sites are subject to publicity beyond just a site notice and website publication.

In May 2020, the government introduced temporary regulations to provide flexibility to how local planning authorities can publicise applications if they cannot meet existing statutory requirements, including through the use of social media. The government are seeking to understand whether there would be benefits in amending the publicity requirements for Permission in Principle to enable similar flexibility or whether they should be subject to more traditional publicity requirements such as notices in newspapers.

It is stated that there is an intention to retain the current publicity requirements for statutory consultees and parish councils.

The government report that they are keen to promote Permission in Principle by application as a more streamlined and cheaper alternative to outline permission and have considered several options to facilitate this.

Options considered include:

- a. Retaining the current fee structure based on a flat fee per 0.1 hectare but with a lower fee;
- b. Adopting a site-size criterion, with a charging scheme based on the actual number of dwellings (NB. this is not considered practical because the exact number of housing units in the proposed scheme will not be known until the applicant submits the technical details consent application); and
- c. The governments preferred option of a simplified banded fee structure, with a fixed fee per 0.1 hectare in each band, and maximum fee cap based on the following site sizes:
 - less than 1 hectare (= £x fee per 0.1 hectare)
 - between 1 to 2.5 hectares (= £y fee per 0.1 hectare)
 - more than 2.5 hectares, capped at a maximum (= £z fee per 0.1 hectare, capped)

Brownfield Land Registers and Permission in Principle

Every local authority is required to publish and maintain a Brownfield Land Register, which provides up-to-date, digitally and publicly available information on brownfield land that is suitable for housing.

The government advise that they are soon to publish a national brownfield map which will bring together all sites identified in local Brownfield Land Registers so there is a clear national picture of brownfield sites suitable for housing. It is proposed that all Permission in Principle by application “consents” that are on brownfield land should also be automatically recorded in Part 2 of the Brownfield Land Register. In the longer term, under the Planning for the Future proposals, as the new local plans are produced, it is intended that the role of Brownfield Land Registers will be reviewed.

Additional guidance to support implementation

It is commented that Permission in Principle by application is still a new consent route, and the government advise they are aware from anecdotal evidence that understanding of this consent route among landowners, developers and local planning authorities is often limited.

The government intend to provide further clarity in guidance on the purpose, process and benefits of Permission in Principle which should help mitigate this, particularly where consultation responses highlight areas of confusion.

Regulatory Impact Assessment

The governments' preliminary assessment is that these regulation changes to Permission in Principle will not increase the regulatory burden on business, charities, or voluntary bodies.

After obtaining a grant of Permission in Principle, medium-sized developers should find it easier to secure the finance needed to fund a technical detail consent application rather than having to fund the cost of a full planning application without the certainty afforded by a grant of Permission in Principle.

It is stated that feedback from consultees will help inform the government's understanding of the practicalities of the proposed measure, as well as to undertake a 'costs and benefit' analysis as part of a Full Regulatory Impact Assessment, including estimating take-up trajectories.

Next steps

Following this consultation, if Permission in Principle is introduced by application for major development, the government states that it would aim to introduce amending regulations this autumn, with the regulations expected to come into force by the end of the calendar year. Changes to the fee structure would require separate changes to the Planning Fees Regulations.

APSE Comment

To deliver the housing that is required to meet the government 300,000 homes per year target, which is forever increasing due to the target being constantly missed, all aspects of the sector needs to have support and the policy tools to deliver. However, APSE is concerned that the proposals set out in the consultation would impact on achieving developments that meet the needs of the community, meet the needs for more social and affordable housing, and adversely impact on quality including spatial standards, decent public realm and neighbourhood level facilities to support strong, sustainable and healthy communities.

Local authorities are best placed to determine the housing needs of the community and imposing a policy threshold promoting First Homes, could have a negative impact on the delivery of other affordable tenures such as social rented housing.

Cohesive communities are made up of households from differing social and economic circumstances. Increasing the threshold to 40 or 50 homes could lead to households being excluded from such developments on the grounds of affordability, and negatively impacting on establishing a cohesive community.

The impact of COVID_19 has highlighted the importance of integrated public policy, and in particular the value of high-quality housing and access to open spaces and parks, as a contributing factor to the health and wellbeing of communities. APSE would be concerned by any new planning policies which undermine the ability of councils to influence and coordinate opportunities to 'build back better' by swaying planning policy in favour of developers and away from local needs. It is essential in any new planning system that due governance and democratic accountability, for those decisions rests at a local authority level.

Moreover whilst it is accepted that the current planning system is in need of reform this ought not to represent further deregulatory measures. Indeed, with nine in 10 applications already receiving approval from councils changes need to be driven by the evidence not assumptions. It is perfectly appropriate that local people and local councils have the ability to define developments that meet local needs and are sensitive to local areas.

On a final point, APSE will be responding the consultation on behalf of APSE members, therefore if you have any comment or information you would like to provide to support the submission, please email details to vhacking@apse.org.uk

Vickie Hacking,

APSE Principal Advisor

APPENDIX 1

Change to the planning system – Consultation Questions

Q1: 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?

Q2: 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.

Q3: 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.

Q4: 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.

Q5: Do you agree that affordability is given an appropriate weighting within the standard method? If not, please explain why.

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, with the exception of:

Q6: 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?

Q7: 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? If not, please explain why. Are there particular circumstances which need to be catered for?

Q8: The Government is proposing 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)

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

Q9: Should the existing exemptions from the requirement for affordable home ownership products (e.g. for build to rent) also apply to this First Homes requirement?

Q10: Are any existing exemptions not required? If not, please set out which exemptions and why.

Q11: Are any other exemptions needed? If so, please provide reasons and /or evidence for your views.

Q12: Do you agree with the proposed approach to transitional arrangements set out in the local plans and transition arrangements section?

Q13: Do you agree with the proposed approach to different levels of discount?

Q14: 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?

Q15: Do you agree with the removal of the site size threshold set out in the National Planning Policy Framework?

Q16: Do you agree that the First Homes exception sites policy should not apply in designated rural areas?

For each of these questions, please provide reasons and / or evidence for your views (if possible): Q17: Do you agree with the proposed approach to raise the small sites threshold for a time-limited period? (see question 18 for comments on level of threshold)

Q18: What is the appropriate level of small sites threshold? i) Up to 40 homes ii) Up to 50 homes iii) Other (please specify)

Q19: Do you agree with the proposed approach to the site size threshold?

Q20: Do you agree with linking the time-limited period to economic recovery and raising the threshold for an initial period of 18 months?

Q21: Do you agree with the proposed approach to minimising threshold effects?

Q22: Do you agree with the Government's proposed approach to setting thresholds in rural areas?

Q23: Are there any other ways in which the Government can support SME builders to deliver new homes during the economic recovery period?

Q24: Do you agree that the new Permission in Principle should remove the restriction on major development?

Q25: 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.

Q26: 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?

Q27: Should there be an additional height parameter for Permission in Principle? Please provide comments in support of your views.

Q28: 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.

Q29: Do you agree with our proposal for a banded fee structure based on a flat fee per hectare, with a maximum fee cap?

Q30: What level of flat fee do you consider appropriate, and why?

Q31: 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.

Q32: 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.

Q33: What costs and benefits do you envisage the proposed scheme would cause? Where you have identified drawbacks, how might these be overcome?

Q34: To what extent do you consider landowners and developers are likely to use the proposed measure? Please provide evidence where possible.

Q35: 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?