

REPORT OF Planning and Economy Manager
To: Community and Resources Committee
Subject: Decision taken under Urgency Procedure
Date: 19th October

Reference:

PURPOSE OF REPORT:

To report decision taken under Urgency Procedure

1. INTRODUCTION

Recently there was a consultation on changes to the existing planning system. The consultation period closed on the 1st October 2020 and it was not possible to present the TDC response to committee beforehand.

2. REPORT

See attached consultation response and urgency procedure form.

Note: This is not a consultation response to the Planning Reform White Paper Consultation.

3. IMPLICATIONS

Legal Implications

N/A

Financial Implications

N/A

Human Resources Implications

N/A

Sustainability/Biodiversity Implications

N/A

Equality/Diversity

N/A

Risk Management

N/A

Compliance with Policies and Strategies

Data Protection (GDPR) Implications



Climate Change

N/A

Ward Member and Lead Member Views

Date of Consultation -

4. CONCLUSIONS

N/A

5. RECOMMENDATIONS

The member note the decision made under urgency procedure.

SUPPORTING INFORMATION

Consultations: Date of Consultation –Chief Executive, Leader, chair of
Community and Resources Committee.

Contact Officer: Officers Consulted -
Sean Kearney

Background Papers:



URGENCY PROCEDURE

Officer: Ian Rowland	Position: Senior Planning Policy Officer	Date: 29/09/20
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Subject of Urgency: Response to government consultation – Changes to the current planning system

To seek endorsement of the proposed responses to the consultation questions and approval to submit on behalf of the Council.

Reason for Urgency: In order to enable a response to be provided by the Government's deadline of 1st October 2020.

Ward and/or Lead Member(s) comments:

Date:

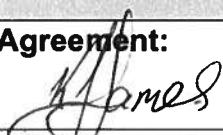
Strategic Manager (Resources)'s Agreement: :

Signed:

Date:

Member Agreement:

Signed:



Date:

1/10/2020

Leader of Council / Deputy Leader of Council*

Signed:




Date:

1/10/2020

Chair / Vice Chair of Community & Resources Committee*

Head of Paid Service Approval of Decision:

Signed:



Date:

1/10/2020

*delete as appropriate

Once completed a copy of this form should be given to the Democratic Services for record purposes.

IMPORTANT: Please ensure that a report is prepared for the next Community & Resources Committee meeting in accordance with the Report Writing Protocol.

Changes to the current planning system

You may respond by going to our website:

www.gov.uk/government/consultations/changes-to-the-current-planning-system

Alternatively you can email your response to the questions in this consultation to:

TechnicalPlanningConsultation@communities.gov.uk

If you are responding in writing, please make it clear which questions you are responding to.

Written responses should be sent to:

Changes to the current planning system consultation

Ministry of Housing, Communities and Local Government,

3rd Floor, South East Fry Building

2 Marsham Street

LONDON

SW1P 4DF

When you reply it would be very useful if you confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include:

- your name,
- your position (if applicable), and
- the name of organisation (if applicable)

The standard method for assessing housing numbers in strategic plans

The Government's proposed approach – Step 1

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?

The Council recognises that household projections in isolation do not provide a true reflection of likely future need for housing, potentially 'baking in' historic under or over delivery of housing; recognising their reliance upon historic trends. Therefore it is accepted that the current standard housing methodology could be considered to be somewhat flawed in placing a significant reliance upon the household projections and the move to address such matters is welcomed in principle.

The use of existing housing stock as a moderator clearly has an effect of increasing the levels of housing need identified through the standard method for areas whereby there may historically have been proportionately lower levels of household formation (and ergo housing delivery) compared to the scale of housing stock.

It is however questioned whether the use of existing housing stock as a moderator is wholly legitimate if the purpose is truly to establish the level of local housing need for an area, as it is not clear that there is a direct causal relationship between the level of existing housing stock and future housing need – a higher level of existing housing stock does not automatically mean that there will be a high level of future housing need – there are many factors at play that affect future need – as recognised through the household projections.

Adopting such an approach results in the standard method moving away from seeking to simply identify a level of local housing need for an area but rather to seeking a mechanism for the equitable distribution of the levels of housing sought for nationally delivery. In doing so, the approach would appear to no longer support its role of supporting the delivery of a 'local housing need assessment' as per the provisions of national planning policy (paragraph 60; NPPF).

The use of 0.5% of existing housing stock as a floor that triggers a binary and absolute shift from the application of the household projections to solely a proportion of housing stock as a baseline would appear to be a blunt tool. Rather, if housing stock is to be taken into account, it is advocated that it is utilised as an adjustment factor to the household projections (i.e. a multiplier), similarly to the affordability factor, rather than through the application of a binary either/ or approach.

Adapted in such a manner, the introduction of a moderator such as that proposed would seem to potentially have some merit for the reasons set out in the consultation paper.

Any revised approach must have regard to the circumstances whereby the geographical boundary of the local authority differs to that of the local planning

authority (such as the case in and around national park authorities). Guidance must be provided as to how the revised standard method should be applied in such circumstances.

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.

There would appear to be no evidential link to the proportion of existing housing stock being proposed for inclusion in the calculation of the standard method and its effect on establishing future housing need. Rather, it would appear to provide a mechanism to provide a somewhat artificial 'floor' to uplift the level of housing identified through the standard method for those authorities that have a proportionately lower level of need arising from the household projections compared to the level of existing housing stock. This would appear to be for the purpose of seeking to provide a more equitable basis for the distribution of the level of housing sought nationally rather than for establishing local housing need. For the purposes of the former, the proposed level of 0.5% of existing housing stock would appear to deliver the intended result.

However the Council is concerned that 0.5% of existing housing stock may be too high. In a self-contained local housing market where demand is relatively low, it may result in levels of housing need that are unachievable in practice since the local developers won't build homes for which there is inadequate demand. A lower figure should be used, perhaps 0.3% of existing housing stock, although being unachievable is still a potential outcome in the most extreme situations whatever figure is used.

As noted in response to Q1, if existing housing stock is to be included as a factor in the standard method, it should be as an adjustment factor (i.e. baseline multiplier) rather than as an alternative baseline to the household projection figures.

The Government's proposed approach – Step 2

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.

The Council considers that the workplace-based median house price to median earnings ratio can be an appropriate measure for understanding housing affordability in a local area. The Council recognises that the use of workplace based earnings recognises sustainable travel patterns and the principle of people living close to their place of work and the associated affordability of housing available to them.

The Council can see value in including a weighting on the most recent year of data, however, this can be volatile for some local planning authorities; potentially those

which see a lower turnover of housing stock on the market and which may therefore see statistics influenced by fewer sales.

Whilst the Council recognises that house price affordability may be a proxy for indicating an undersupply of housing within an area, it would also acknowledge that there are many other factors at play, outside of the control of the local planning authority and sphere of influence, which have a much greater influence. Equally, the Council would highlight that increasing the level of housing planned for delivery within an area will not, in all likelihood, result in an improvement of affordability; recognising that house prices are driven by wider housing market and economic forces. Similarly, the Council has no effective tools to seek the development industry to deliver housing that is planned for delivery.

Whilst the Council accepts that it is necessary to make use of robust data, such as the ratio proposed, the Council would suggest that it is more appropriate to take account of household income rather than individual income; recognising that this is a truer measure of house price affordability as it takes account of more realistic household patterns, which may vary from place to place dependent upon demographics and lifestyles.

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.

The Council wonders whether, if affordability continues to form part of the standard method, thought should be given to a shorter period that aligns with the maximum five-year timeframe for the review of local plans? This will ensure that any impacts on affordability from the planning system, or from external influences, are responsive to change. Using a 10-year trend means that any improvements (or worsening) in recent years, will take a significant period to show influence on the outcomes of the standard method.

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

The Council is concerned that housing affordability is not an appropriate mechanism for applying an uplift to the level of housing sought for delivery in a locality through the standard method; recognising that increasing the scale of houses required for delivery alone is unlikely to advantageously improve the affordability of housing; at the very best being likely to be able to stall house price inflation and prevent affordability worsening. Rather, the planning system, and local planning authorities, in isolation are unable to significantly affect this matter. Therefore, affordability does not provide a good mechanism for influencing the level of housing that derives from the standard method and that a local planning authority should plan for delivery.

Transition

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?

From experience, the Council would suggest that a period of 6 months may not be sufficient to effectively move from Regulation 19 consultation through to submission for examination. Rather, a longer period of 9 months is likely to be more realistic. The provision of a short transition period risks the outcome of local planning authorities having to step back in the process, with the associated delays, to make significant revisions to a potentially successful plan in order to take account of potentially significantly different housing requirements.

The Council would ask that the Government provide a clear timeline to the introduction of the revised guidance at its earliest convenience in order to enable local planning authorities to plan effectively, make robust decisions and avoid potentially costly and time consuming abortive work.

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?

A transition period of 3 months to achieve publication of a Regulation 19 consultation is unlikely to be sufficient for many local planning authorities who may have already made significant progress on the preparation of an effective local plan. Recognising the extended Council processes required to achieve the sign off and authorisation to commence a formal consultation on a local plan, the proposed period of 3 months is unlikely to provide local planning authorities with any meaningful opportunity to complete work or accelerate plans. This is considered to be counterproductive as it would result in delay in achieving the certainty of an adopted plan and the potential boost this can provide to the delivery of housing. It is advocated that, as a minimum, a period of six months is provided for local planning authorities to complete the publication of Regulation 19 consultation.

Delivering First Homes

Percentage of affordable housing secured through developer contributions

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)

The particular needs for different types and tenures of affordable housing varies from location to location based upon individual local circumstances. The imposition of a "one size fits all" approach at the national level is not necessarily considered likely to be the most effective approach to addressing people's specific housing needs. The Council primarily advocates retaining the current approach of being able to establish locally the appropriate types, tenures and mix of affordable housing products required to address identified local need; based on robust local evidence such as that provided by a Strategic Housing and Economic Needs Assessment.

If however the Council is no longer to be provided with the local discretion to do so, the Council would advocate that First Homes are provided by prioritising the replacement of affordable home ownership tenures and delivering rental tenures in the ratio set out in the local plan policy (Option i). This approach would neatly align with the provisions of the adopted North Devon and Torridge Local Plan (adopted November 2018) for the delivery of affordable housing on development sites (Policy ST18) and not undermine the delivery of the affordable rental tenure (social rent) which constitutes a significant proportion of identified need for North Devon and Torridge. The negotiation between a local authority and developer on a site by site basis (Option ii) is not supported due to the workload this could create and uncertainty that this could afford.

It is essential that if this approach is adopted, there is sufficient flexibility provided to vary from this approach where justified by local evidence or on the basis of development viability considerations.

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 apply to this First Homes requirement?

The Council agrees that the existing exemptions from the requirement for affordable home ownership products, as set out in national planning policy (paragraph 64; NPPF) should also apply to the First Homes requirement; recognising that the provision of First Homes could result in such a scheme not being deliverable or prevent a specialist type of housing being delivered.

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

The Council considers that all of the current exemptions set out in national planning policy (paragraph 64; NPPF) remain legitimate and appropriate for the consideration of First Homes. The Council would highlight that this should not preclude however the potential for such exempted schemes to secure alternative affordable housing tenures of affordable housing, as there may be an identified need for such provision on an affordable basis.

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

Whilst not specific exemptions, the Council would seek to ensure that adequate flexibilities are retained in order to allow local planning authorities to deviate from the requirement for First Homes on the basis that it would significantly prejudice the ability to meet the identified affordable housing needs of specific groups, or if it would for example undermine the viability of development.

Local plans and transitional arrangements

Q12: Do you agree with the proposed approach to transitional arrangements set out above?

The Council supports the proposed transitional arrangements and in particular the opportunity for flexibility and discretion for proposals that have been subject to progression under an alternative arrangement.

Level of discount

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

The Council supports the opportunity to have discretion to apply a higher level of discount to First Homes if justified by evidence. The Council would however question whether it is appropriate and necessary to prescribe particular stepped discounts to

40% or 50%, or if it is rather more appropriate for this to be able to be set at a specific level - say 42%, 49% or potentially beyond, as justified by appropriate local circumstances and evidence. It is essential that the discount is able to be set to enable the product to be affordable for local people to be able to buy them.

Equally, the Council would question whether it is appropriate for the level of discount to need to be established through evidence at the local plan making stage. Comparable detail is not currently prescribed within local plan policy for other intermediate affordable housing products but is often rather set out in guidance through a Supplementary Planning Document or other associated documents. It is suggested that a similar approach may be appropriate for First Homes. This also enables the discount to be responsive to local circumstances without the need for it to be enabled through a plan review.

The proposals for First Homes are currently unclear as to what is intended to happen if there is no take up for First Homes on particular developments upon completion (i.e. if there is no demand for them and/or first time buyers are still unable to afford them). The Council would welcome guidance on such matters – for example – should a higher discount be applied or the dwelling switch to alternate tenures of affordable housing? Alternatively will local planning authorities have discretion on such matters? It is essential that affordable housing that is delivered, including First Homes, is not left unsold or unoccupied and unable to meet local needs.

It is imperative that the consequences of a move to First Homes and any impacts on affordable housing funding and Registered Providers more widely are considered as part of these proposals. It will be necessary for funding programmes provided through Homes England to be aligned to reflect the proposals and any wider consequences; this should include a recognition of Registered Providers funding models and any associated consequences on the delivery of other tenures such as social rented housing.

Exception sites and rural exception sites

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?

The Council agree with the principle of allowing a small proportion of market housing on First Homes exception sites. The element of market housing should however be demonstrated through site specific evidence of development viability as being necessary, and the minimum level required, in order to enable the delivery of the proposed First Homes. The Council would seek to clarify through guidance what is considered to be a 'small proportion'. Whilst not a response to the specific question raised on this matter, the Council would seek to ensure that clarity is provided through guidance as to what is considered to be 'local' for the consideration of a first-time buyer and how occupation may be restricted.

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

The Council does not agree with the proposal to remove the site size threshold and for it to be replaced by a more generic reference to being 'proportionate in size to the existing settlement'. The more generic term is too imprecise and does not lend itself to providing certainty to developers and the local community.

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

The Council agrees strongly that the First Homes exception sites policy should not apply in designated rural areas. In such locations, the delivery of affordable housing should be responsive local circumstances and reflect local needs as per existing national planning policy (paragraph 77; NPPF). The appropriate vehicle for doing so should remain to be through the bringing forward of rural exception sites that can deliver the specific scale, mix, types and tenures of affordable housing to meet identified local needs; this could clearly include the delivery of First Homes if there was a specific identified local need for them.

Supporting small and medium-sized developers

The Government's proposed approach

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?

Whilst the Council recognises the Government's intent is to support small and medium-sized developers which is certainly welcomed, the Council strongly opposes the proposed approach to raise the small sites threshold, even for a time-limited period, due to the impact it will have on the delivery of affordable housing.

In northern Devon, a significant proportion of the housing, and hence affordable housing, derives from sites that would be subject to the proposed thresholds (either 40 or 50 dwellings). The proposal to raise the thresholds is therefore likely to result in a locally significant loss of affordable delivery in an area where there is a high level of evidenced affordable housing need which does not have a reasonable prospect of being fully met even with existing thresholds. Such was the evidence of need, that the North Devon and Torridge Local Plan incorporates clauses, accepted at examination, that would seek to fully remove any threshold should they be revoked at the national level.

The Council does welcome the Government's focus on trying to support small and medium-sized developers, however due to the impact on affordable housing delivery, it does not consider this is the appropriate way to do so.

Equally, there is no evidence to indicate that proposals are not being brought forward by small and medium sized developers on the basis of seeking affordable housing and that raising thresholds is a necessary, appropriate and proportionate response. Should development viability be an issue for an individual development proposal, the North Devon and Torridge Local Plan along with other local plans across the country and the planning system more widely, already provides robust mechanisms to support delivery and ensure that due regard is held to such matters; ensuring that proposals can continue to come forward in a viable manner. The Council always seeks to engage positively and constructively to support all developers to bring forward appropriate development proposals.

There is no evidence to suggest that discussions on development viability are disproportionately hindering the timely delivery of development sites by small to medium size enterprises; although it is clearly recognised that the planning process as a whole can be challenging to navigate for smaller enterprises.

Q18: What is the appropriate level of small sites threshold?

i) Up to 40 homes

ii) Up to 50 homes

iii) Other (please specify)

The Council does not consider that the site size threshold should be raised from its current level, even for a temporary period.

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

No, the Council does not consider that the site size threshold should be raised from its current level, even for a temporary period as it would undermine the delivery of affordable housing in northern Devon, with no evidence to demonstrate that it would result in increased delivery of housing, or address any identified issues with small to medium-sized developers. Whilst the Council welcomes the focus on seeking to support small and medium-sized, it does not consider that raising the site size threshold is an appropriate way to do so due to the adverse impacts on affordable housing delivery.

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

There is no evidence to demonstrate that the raising of the site size threshold will have a benefit to the economic recovery, nor to increase the supply of housing being delivered by small to medium sized developers. Rather the planning system has appropriate mechanisms and tools in place to enable development viability to be considered on a site-by-site basis, with the local planning authority always willing to engage positively on such matters.

Equally, there is no evidence that delivery of housing through the planning and development sector at this point in time has been affected significantly by the pandemic, with planning and development activity remaining strong across northern Devon.

It is unclear why an 18 month period has been selected for this time-limited proposal; there is no evidence to suggest that such extended support is necessary; particularly whilst many other proposals associated to COVID-19, both through the planning system and more widely are for a shorter period.

The Council is concerned with the use of the term 'initial' in relation to the period of 18-months, intimating that the proposal may remain in place for a longer period. Given the concerns over the likely resultant impact on the delivery of affordable housing, the Council would have grave concerns about any short-term proposal being retained in the longer term.

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

The Council strongly supports and welcomes the proposal to bring forward planning guidance to set out how local planning authorities may secure affordable housing where it is apparent that a larger site is being brought forward. The artificial sub-division of sites, or circumvention through the artificial suppression of the number of proposed houses is an issue that already exists and one that is challenging for local planning authorities to address. The adopted North Devon and Torridge Local Plan already contains measures in an attempt to address this matter, however the introduction of addition of national guidance on this matter to reinforce any stance would be welcomed.

The Council welcomes the commitment to provide an area based threshold to compliment that which specifies the number of homes. This is an important mechanism to help prevent the inappropriate circumventing of delivery.

Affordable housing in rural areas

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

The Council strongly supports the maintenance of the existing lower thresholds for designated rural areas; recognising that opportunities for the delivery of affordable housing to meet identified local needs in such locations is often limited and that proposals in such locations also make an important contribution towards the overall supply of affordable housing locally.

Supporting SMEs

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

The Council does not consider that the proposed raising of thresholds for the delivery of affordable housing is the appropriate response in order to support small to medium size developers; recognising the potentially significant adverse impact on the delivery of affordable housing.

The Council would however suggest that the Government:

- Seek to continue to provide funding to support the delivery of infrastructure for sites of a scale that are attractive to small to medium-size developers. Going forward, this needs to be a dynamic funding mechanism that is responsive to development opportunities as they arise, is readily available, easily accessible and quick to respond to small to medium-sized developers and local planning authorities;
- Support the provision of better access to development finance for small and medium-sized developers which can often be a limiting factor;
- Encourage better quality homes, distinct from the standard house types being delivered by the large volume house builders. Small to medium enterprises

are often well placed to deliver a high quality product and well designed development is likely to sell at a premium price; accordingly improving the viability of development; and

- Introduce mechanisms (through legislation or national policy) to require larger development sites to be sub-divided with at least a proportion made available to small and medium-sized developers. Doing so will likely increase delivery rates as multiple builders may be active on a wider development site and potentially improve market adsorption as a variety of developers delivering different designs of homes on one site are likely to increase the diversity in types and designs providing increased market variety and opportunities for buyers (as proposed in the Letwin report – *Independent Review of Build Out*). Would need to ensure that such mechanisms are supported by appropriate national policy and/or legislation, defining the circumstances and mechanics of how it would operate. Could consider, for example, whether to only apply to larger developments (above 50 dwellings) which are being land banked and/or where development has not commenced within a set period of permission being granted. The fact that permission has been granted already would reduce the risks for SMEs.

Extension of the Permission in Principle consent regime

Extending Permission in Principle to cover major development

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

The Council considers that there may be scope for removing the restriction on major development for the new Permission in Principle. It is however imperative that determinations continue to be required to be made in accordance with the development plan unless material considerations would determine otherwise.

It will be necessary to ensure that a Permission in Principle application is supported by adequate information to allow that the application can be appropriately considered in accordance with the above; with the likely scale of information necessary growing as the scale of development increases. The Council has concerns that the range of information required to accompany an existing Permission in Principle application may be insufficient. This could be particularly important should an application have to be weighed against the 'tilted balance' (paragraph 14; NPPF); whereby finer judgements need to be made.

The Council also has concerns that the raising of the threshold may result in permission in principle being granted on sites that subsequently turn out to be undeliverable for the scale of development that is achieved through permission in principle; recognising that detailed consideration of matters such as drainage, etc. will not take place until the technical details consent stage, when issues not identified during the initial consideration of the principle may become apparent. This has the potential to be counter-productive, with potentially over-inflated expectations for developers achieving permission in principle which are consequently unachievable; impacting on site viability and potentially causing delay to delivery.

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.

The Council agrees that it is unnecessary to set a definitive limit on the amount of commercial development that can be provided through a new Permission in Principle proposal for major development, so long as Permission in Principle applications continue to be required to be determined in accordance with the development plan whilst having regard to other material considerations. In such cases, the balance of development can be considered as part of the planning judgement in the determination.

The inclusion of commercial development may however give rise to the need for additional information to be provided to support an application in order to determine the acceptability of the principle; such as the provision of a sequential test for retail or leisure development outside of defined town centres.

Information requirements

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?

The Council is concerned that the scale of information currently provided in support of a Permission in Principle application, as proposed, may be insufficient to enable adequate consideration of the principle of development as the scale and mix of proposed development increases as per the proposals; particularly as the scale of proposals increase to the proposed upper limits and /or if limitations on the inclusion of commercial development are eased.

It is essential that the decision-taker is provided with adequate information to be able to determine whether the proposal, in principle, is likely to be able to conform with the relevant policies of the development plan whilst taking account of any other material considerations. Often, as the scale of the proposal increases, so does the breadth and complexity of the matters requiring consideration. Accordingly, the decision taker is likely to require additional information in order to make a judgement on the principle of development. This could, for example, include consideration of matters such as development viability and the delivery of affordable housing or, as noted in response to Q25, the impact on town centres by any supporting retail or leisure development. Evidence to inform a sequential test and/or retail impact assessment may be required for sites outside a town centre. Making judgements on larger developments and/ or on more complex sites without adequate information could be counter-productive, with issues only identified at the technical details consent stage. Not establishing such matters early in the process may impact on developer confidence, potentially resulting in unnecessary delay and /or expense.

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

The Council does not consider that it would be possible nor necessary to provide an additional height parameter for the new Permission in Principle for major development; recognising that it would be challenging to establish, at a national level, parameters and constraints that could adequately apply to all scenarios and contexts likely to be met (i.e. the use of a maximum height, reference to surrounding development heights, etc. all have limitations that could be inappropriate to particular cases).

The design of development can benefit from varying heights and allows development to work with its context, such as the topography and surrounding built form. The consideration of the ability of a development site to accommodate development is a matter of judgement taking into account the particular circumstances of an individual site.

The Council would strongly suggest that it may however be necessary for Permission in Principle applications to be supported by additional information in order to allow decision-takers to have sufficient detail in order to make a determination as to whether the scale of proposed development could, in principle, be adequately accommodated on site. Equally, it will be necessary to ensure that that there is still the ability to consider design fully at technical details consent stage.

Publicity arrangements

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.

The Council considers that, should Permission in Principle be extended to include major development, the publicity arrangements should be comparable to those for comparable planning applications. Whilst the Council acknowledges the move to more modern methods of communication, the Council considers that at this time this should include the requirement for local planning authorities to publish a notice in a local newspaper (Option i).

Revised fee structure to incentive Permission in Principle by application

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

The Council agrees, in principle, with the proposal for a banded fee structure based on a flat fee per hectare; in so far as it does not reduce below that proposed in the consultation document and subject to the scope and nature of the Permission in Principle stage not varying significantly from what is proposed. It is imperative that the fee for the Technical Details Consent stage is not reduced and that it is reflective of the scale and nature of work required to make a determination of those more detailed matters.

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

The Council considers that the level of fee should be established taking account of the costs of determining a permission in principle application by the local planning authority. The Government should ensure that appropriate funding is provided to local planning authorities to address the introduction of such reforms, such as any systems and training requirements.

Brownfield Land Register and Permission in Principle

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.

The Council agrees that any brownfield site that is granted Permission in Principle, could reasonably be added to Part 2 of the Brownfield Land Register; provided that it exceeds the national site size threshold (5 dwellings or 0.25 hectares), or if guidance is updated to indicate otherwise. Equally, guidance should be provided as to how to treat those sites that are only partly on previously developed land (i.e. should only the brownfield element be added).

In doing so, the Council would ask that the associated legislation and guidance is reviewed to ensure that there are no unnecessary administrative burdens (i.e. publicity, etc.) required to do so, nor any unintended consequences. The Council is concerned that an unintended consequence of adding a site to the brownfield land register, if required to following existing procedures, could be to result in such site's delivery prospects being harmed, possibly being land-banked rather than being brought forward for development; recognising that sites added to Part 2 of a Brownfield Land Register benefit from be subject to Permission in Principle for five years with no automatic removal, compared to the current three years for other routes to Permission in Principle (58-014-20180615; PPG) Although it is noted in the consultation document that talk is of five year permissions (paragraph 87; Changes to the current planning system). It would be necessary to reconcile such time periods and associated legislative provisions.

Additional guidance to support implementation

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.

The Council would ask that clear guidance is provided as to what matters can be considered as a matter of principle at the Permission in Principle stage and what should rather be a matter for consideration at the latter Technical Details Consent stage.

It should be made clear through guidance that it will be necessary to consider such detailed matters but that they are simply deferred from an earlier stage in the process and that they will need to be considered at the later stage to ensure the delivery of sustainable development. This will help to provide reassurance and confidence to all parties that Permission in Principle is a robust route to the delivery of development that considers all matters appropriately.

The Council would welcome guidance on how Permission in Principle applications should be considered in response to the presumption in favour of sustainable development (paragraph 14; NPPF). The Council would also seek clarity through guidance on how the matter of development viability may be considered and whether this should be at the Permission in Principle or Technical Details Consent stage. Similarly, would seek clarity as to whether a Permission in Principle application for a site within flood zone 2 or 3 can be granted without a sequential test being undertaken.

Regulatory Impact Assessment

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

The Council is concerned that there could be real potential for the introduction of Permission in Principle for major development to result in further delays in the planning system; albeit compounded to a later stage in the consenting process.

The granting of Permission in Principle may provide a landowner with an unrealistic expectation of development potential due to not understanding wider planning considerations of a Technical Details Consent. This could consequently impact on achievable land values, viability, the delivery of required infrastructure and affordable housing and potentially impact on deliverability of development or result in delay.

Extending Permission in Principle may not create any additional certainty over and above that provided by a site being in a location deemed acceptable through the development plan, and may simply defer consideration, contention and local concerns to a position later in the planning process, thus creating further delay, challenge and potential expense to the applicant.

Whilst the Permission in Principle route is intended to be streamlined which should result in a reduction in workload, it is necessary to ensure that any resultant lower fees are sufficient to ensure that the capacity of local planning authorities is not diminished and that they cover the costs associated with the determination of Permission in Principle and subsequent Technical Details Consents.

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

The Council has seen minimal uptake or interest in existing routes to Permission in Principle to date. It is felt that landowners and developers would prefer the comfort

and certainty of an Outline permission over simply establishing a principle through Permission in Principle. This has certainly been the case under the current Permission ii Principle regime for minor developments which is evidenced by minimal uptake.

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?

The Council has not identified 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 arising from the proposals set out in the consultation

