

18<sup>th</sup> September 2020

Report of	Assistant Director of Place and Client Services	Author	Karen Syrett ☎ 506477
Title	Proposed Consultation Response to Changes to the Current Planning System		
Wards affected	All Wards		

## 1. Executive Summary

- 1.1 On the 6th August the Government published two documents which are intended to reform the planning system. This report sets out the Councils response to the Changes to the Current Planning System consultation.

## 2. Recommended Decision

- 2.1 To submit the proposed response to the Ministry of Housing, Communities and Local Government by the deadline on 1<sup>st</sup> October.

## 3. Reason for Recommended Decision

- 3.1 The consultation provides an opportunity for the Council to influence national policy.

## 4. Alternative Options

- 4.1 Not to respond to the consultation or to make amendments to the suggested response.

## 5. Background Information

- 5.1 Although two planning consultations were launched on the 6<sup>th</sup> August this response concerns only one: Changes to the Current Planning System.
- 5.2 This document concerns changes to planning policy and regulation. It focuses on four main areas which are detailed below;
1. The standard method for assessing housing numbers in strategic plans
  2. Delivering First Homes
  3. Supporting small and medium sized developers
  4. Extension of the Permission in Principle consent regime.
- 5.3 Assessing Local Housing Need – the consultation is seeking views on changes to planning practice guidance on the standard method for assessing local housing need (“the standard method”). The standard method provides the starting point for planning for housing and does not establish the housing requirement.

It is the Government’s intention that the method set out in this document would 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, which will be determined following the Planning for the Future (The White Paper) consultation. Instead, it proposes a revised standard method for calculating local housing need which will be used as the basis for plans created prior to any changes outlined in Planning for the Future being introduced.

The proposed methodology results in an annual target of 1612 new homes in Colchester. This is a significant increase compared to the existing methodology and the local plan target.

- 5.4 First Homes – securing homes to be sold at a minimum 30% discount to market price for first time buyers, including key workers, through developer contributions.

The Government intends 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. There is an expectation that affordable housing will be delivered on site, which is to be welcomed but the concern is that in Colchester even a 30% discount is not affordable for those people in housing need.

- 5.5 Support for SME Builders by temporarily lifting the small sites threshold below which developers do not need to contribute to affordable housing, from 10 to up to 40 or 50 units. The intention is to support SME builders as the economy recovers from the impact of Covid-19. In designated rural areas, local planning authorities can set a lower threshold of five units or fewer in their plans which is welcome. Increasing the threshold in Colchester will mean the delivery of fewer affordable homes.
- 5.6 Permission in Principle - extending the current scheme to major development so landowners and developers have a fast route to secure the principle of development for housing on sites without having to work up detailed plans first.

Currently the scheme is limited to 10 units but the plan is to increase this to 150 units. Information requirements are also likely to remain the same as current Permission in Principle (whereby the developer only has to provide information as to: the minimum and maximum net number of dwellings, and a map or plan of the site) and 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 intention is to keep fees low.

#### 5.7 The Response

There are a series of questions set out in the consultation and attached to this report in appendix 1. Not all the questions necessitate a response and in some instances the Council's comments relate to matters of principle so it is suggested that an email response is sent rather than using the standard survey.

### **6. Equality, Diversity and Human Rights implications**

- 6.1 The Equality Act 2010 requires public authorities to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations. It relates specifically to groups with protected characteristics including age, disability, sex, race, religion or belief, sexual orientation, gender reassignment, pregnancy, and maternity.
- 6.2 Accordingly the Government will need to satisfy itself that there are no 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.

### **7. Standard References**

- 7.1 There are no particular references to the Strategic Plan; consultation or publicity considerations or financial; community safety; health and safety or risk management implications.

### **14. Environmental and Sustainability Implications**

- 14.1 Sustainable development is at the heart of the planning system, in terms of environmental, social and economic elements.

## **Appendices**

Appendix 1 – Proposed Response

## **Background Papers**

Changes to the Current Planning System;

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/907215/200805\\_Changes\\_to\\_the\\_current\\_planning\\_system\\_FINAL\\_version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/907215/200805_Changes_to_the_current_planning_system_FINAL_version.pdf)

## Appendix 1

### Questions & Proposed Answers

#### General Points

Colchester Borough Council is extremely concerned at the proposals put forward in this consultation document. It appears to be a short-term approach that is being rushed through in advance of the White Paper without being properly thought through. There is no evidence that the measures proposed are needed and there does not appear to be any assessment of risk.

The Planning system is not broken, and such radical changes are not required. There is cross party agreement that these changes if implemented would cause more harm than good.

The Council has consistently delivered against its housing targets whilst others have not. We have done what has been asked but it would appear that we are now being penalised for it. Residents already think there has been too much development and that infrastructure has not kept pace and they see the proposals as proving a real challenge for the borough.

It is also necessary to point out that there is only so much that local authorities can do. Developers will only build at a rate which avoids depressing the market and there is no planning solution to this. They may also seek to take advantage of a constantly changing system despite what is said about the system being plan led. It would be more appropriate to wait until the White Paper progresses and the outcome of local government reorganisation is known.

The final general point concerns the apparent conflict between some of the proposed changes in this document and those set out in the White Paper. The focus on design and building beautiful for example contained within the White Paper would be undermined by some of the proposals in the Changes to the Planning System consultation.

#### Standard Methodology

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.

No.

Colchester Borough Council fundamentally objects to the proposal set out.

The methodology over-concentrates the numbers in London and the South East. The numbers in London in particular are not deliverable whilst housing needs and growth ambitions in the north will not be adequately met. The focus on the south east risks a skill

shortage as there are only so many tradespeople in the short term. There are likely to be training and capacity constraints.

The resultant figures for Colchester are unrealistic and result in an annual target of 1612 new homes per annum. At no time since records began in 1974 have such numbers been achieved and it is not realistic to expect them to be delivered now. In comparison, the Council's evidence base suggests a target of 920 units a year. The infrastructure cannot support growth at such an increased level and the market cannot sustain it. There is already a multi-million pound infrastructure deficit. If London cannot meet the housing needs forecast using this approach, it is likely to result in even higher figures for neighbouring authorities.

A cap needs to be retained to ensure any change in annual targets is achievable. Implementing this proposal in advance of the White Paper which proposes to take constraints (as yet unknown) into account is totally unacceptable.

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?

This seems an appropriate timescale for strategic plans and assumes that those plans already at examination will be exempt.

There does however need to be consideration given to those plans which have commenced and which rely on housing targets in a plan not yet adopted but well advanced, i.e. a site specific plan.

## **First Homes**

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)

Colchester Borough Council does not believe that First Homes provide an affordable housing tenure in Colchester and this is probably the case across the whole of the south-east. The Council does however welcome the expectation that affordable housing should be delivered on site.

If, as seems likely, it is to be introduced regardless, it should be limited to no more than 20% of the total affordable homes on a site. It should replace other home ownership tenures with the remaining 80% (+) being defined by each local authority using local

evidence. It should not impact on the delivery of affordable homes for rent which are required to address housing needs.

The blanket 25% First Homes requirement is applied nationally and does not take into account local circumstances such as local affordability, and the overall amount and types/tenures of affordable housing needed in the local area.

Reserving 25% of new affordable homes as First Homes may make it more challenging to demonstrate through the Local Plan process that we can meet in full the needs of those households for whom a First Home is not obtainable, and who require a different tenure of affordable housing.

Consequently, local authorities may need to explore alternative forms of housing delivery to meet housing needs not met by on-site delivery of affordable housing, such as rural exception sites and direct delivery through a council-owned trading company, etc but these means can only deliver a certain number of new affordable homes.

If the initiative is introduced the council would favour Option 1 i.e. prioritising the replacement of affordable home ownership tenures, and delivering rental tenures in the ratio set out in the local plan policy. This would also remove negotiation and avoid delay. The local planning policy has ratio of 80:20 in favour of affordable rent. The Objectively assessed housing need calculation by Edge Analytics as referred to in the SHMA updated Dec 2015 specifies a need of 278 affordable homes per annum out of a projected growth of 920 dwellings per annum. Out of the 278 affordable homes, 266 of those are identified for affordable rent and 12 for Shared Ownership. In the last 3 years an average of 108 affordable homes have been delivered per annum. There is an accumulating unmet affordable housing need for affordable rented tenure. So the remaining affordable dwellings after First Homes should be affordable rent. Should the projected growth increase in the future where the need for affordable rented tenure is met, then the affordable housing policy could be reviewed accordingly.

In 2019/20 there were 658 lets for Social or Affordable Rented Housing in Colchester by Colchester Borough Council or Affordable Housing Providers. In March 2020 there were 2,763 applicants on the housing register with 1,366 in bands A, B and C.  
<https://cbccrmdata.blob.core.windows.net/noteattachment/CBC-Housing-Housing-and-Homelessness-Summary-Year-end-2019-20-Housing%20and%20Homelessness%20Summary%20Year-end%202019-20.pdf>

As at July 2020, there were 2,790 applicants on the housing register with 1,498 in bands A, B and C. This demonstrates that supply of social/affordable rented housing is not sufficiently meeting the need.

Whilst there is an unmet need for social and affordable rented tenure in Colchester, these tenures should take priority over First Homes or any other affordable home ownership product. 25% of Section 106 affordable housing to be First Homes will have an adverse effect on the quantum of affordable rented dwellings that are being delivered through the planning system.

Furthermore, First homes will not be affordable to many first time buyers in Colchester. In 2017/18 the average Median household income was £29,661 but the Modal (most common) was £15,000 to £20,000 per annum (As published in Colchester Council's Economic Annual Report 2017/2018).

Shared ownership, which could potentially disappear in future if First Homes is implemented, gives households a "foot on the ladder" by offering a share in a property as

low as 25% of the value. A discount of 30% as proposed under First Homes requires a much bigger share and investment.

A discount of 65% will be required for First Time buyers on the modal housing income of £17,500 per annum to purchase a property with the value of £228,000 which is the average sale value of a newbuild flat/maisonette in Colchester (based on Land Registry data 2019)

A discount of 41% would be required for those with the median household income of £29,661 to buy the same property. A discount of 74% and 46% respectively would be required for these households to purchase a terraced home with a value of £305,000 (based on land registry data for the average sale value of a newbuild terraced home in 2019).

It is not clear in the documentation who is responsible for agreeing the reduced price, who manages subsequent sales and who 'owns' the other 30%. Unless there is a Registered Provider involved the quality is likely to be lower.

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?

No comment.

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

No comment.

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

No comment.

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

Yes.

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

No.

To increase the discount to more than 30% would reduce the quantum of affordable housing delivered and will have an increasing negative effect on the delivery of social/affordable rent.

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?

No.

This Council does not agree with the concept of First Homes Exception sites as it undermines the purpose of a Local Plan. It is also not clear how it would work if the government proposals for zoning were introduced.

Rural exception Sites make sense as they offer the opportunity to deliver affordable housing in areas where there tends to be less new development generally, schemes tend to be small (below normal affordable housing thresholds) and existing stock tends to be purchased and enlarged resulting in fewer smaller/affordable units.

In bigger settlements there is more choice of dwellings in terms of type, size and tenure. If First Homes exception sites are introduced there should be no market housing included.



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

No.

Smaller sites in Colchester do deliver affordable housing. In the last 2 years, a number of schemes of up to 40 homes have delivered the policy requirement of 20% affordable housing. Applicants have not claimed that smaller sites of this size have been unviable. Applicants usually claim viability where there are high construction costs due to refurbishment of listed buildings.

Furthermore, smaller schemes of less than 50 dwellings can offer an additional quality. Because they are smaller it is easier to achieve a sense of community. Our communities that require affordable housing should not be excluded from living in smaller schemes.

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

Yes.

### **Affordable Homes Thresholds**

Q17: Do you agree with the proposed approach to raise the small sites threshold for a time-limited period?

The Council does not agree to raising the small site threshold in principle but if it is introduced it is agreed it should be for a time limited period only.

Evidence locally suggests that housebuilding is continuing apace, and sales are strong. Given the time it would take to change the planning guidance and for sites to be acquired and planning permission granted under the new provisions it would be unlikely to have anything more than a minimal impact on supporting small and medium builders. The adverse impacts associated with delivering less affordable housing far outweigh the benefits of the proposal.

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

- a. Up to 40 homes
- b. Up to 50 homes
- c. Other (please specify) 10

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

The threshold should remain at 10 or as determined by local authorities based on local evidence. Even in Colchester a large proportion of sites are below the 40/50 threshold. This would increase in more rural areas. Accordingly, this proposal would have major implications for the delivery of affordable homes, including First Homes.

By applying a national threshold, the proposed change does not take into account local characteristics. Similarly, to proposal 2, councils would face an even more challenging task in demonstrating that they can deliver their affordable housing requirements, as the role of on-site delivery is greatly reduced.

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

No – for the reasons given above.

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

No.

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



Yes. It is important to have lower 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?

The Government and this Council have reacted to support SME builders by introducing measures such as flexible working times. There are bigger issues for builders around the availability of supplies, which is outside the Council's remit.

Other measures include financial assistance through the provision of loans and grants. Tax exemptions and subsidies for planning and design fees (subsidised by central government).

### **Permission in Principle**

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

No.

A simplified version of an outline permission should be introduced instead. This should reduce the cost and time needed for developers but still ensure matters of principle can be considered.

Allocations in local plans make the decision on the principle of development but even then they need some technical details to ensure they are acceptable.

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.

No comment

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?

No.

A 5 week determination period and 14 day consultation for the public and statutory consultees is not long enough, especially for a scheme of up to 150 units. Even a 2 week holiday might render it impossible for someone to comment.

Further detail should be provided and considered for a scheme of 150 units when compared to a scheme of 10 as it would have an impact on local infrastructure. Leaving details to the technical details consent may be too late. The allocation of land in a Local Plan provides a similar approach to assessing the principle of a development. However, this requires a level of technical knowledge to inform the decision for example an archaeological survey. Without such detail PiP may be granted but then at detailed consent stage the development is refused because of the impact. This would then have cost developers more time and money than going down the traditional route of outline permission. A similar problem may also arise in relation to the costs of infrastructure to mitigate a development – a developer would prefer to know these at the outset not at detailed consent stage. These are not one off examples – there are many unknowns with any development.

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

Yes. The height of a new development could impact on adjacent existing development and it is important to know upfront.

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? **No**
- ii) subject to a general requirement to publicise the application or **Yes**
- iii) both?
- iv) disagree

If you disagree, please state your reasons.

The publicity arrangements should be extended but should not include publication in a newspaper. This method is costly for local authorities and reaches far fewer people than it once did. People expect to receive an individual notification ie a letter or preferably an email.

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?

**No. Fees should be comparable to outline applications as in reality they will take the same time and resources to assess.**

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.

**No comment.**

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.

**A simplified outline planning permission process would help all parties. It is an established system that everyone understands. It does not make sense to have two similar processes running at the same time.**

Over time the requirements of an outline application have grown and can be onerous on a developer. If the requirements were set nationally this would prevent this happening. There are however some important details that should be a requirement of an outline application i.e. transport assessment for schemes above a certain size – anything that could amount to a 'showstopper'. It is agreed that other matters, such as landscaping, layout, etc can be dealt with at a later stage.

**Further clarity on how the proposed extension of PiP relates to proposal where an Appropriate Assessment and RAMs payment is required under the Habitats Regulations, given the implied exemption in such cases.**

Q33: What costs and benefits do you envisage the proposed scheme would cause?

Where you have identified drawbacks, how might these be overcome?

**This change could result in reduced planning fees for councils, and the potential for unintended consequences or harm to arise as a result of the development – as the scope of decision-making for PiP is more limited than a 'normal' application.**

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

**No comment.**

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?

[No comment.](#)