

**Decision Maker:**        **DEVELOPMENT CONTROL COMMITTEE**

**Date:**                    **Thursday 24 September 2020**

**Decision Type:**        Non-Urgent                    Non-Executive                    Non-Key

**Title:**                    **PLANNING TECHNICAL CONSULTATION**

**Contact Officer:**        Tim Horsman, Assistant Director (Planning)  
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**Chief Officer:**            Director of Housing, Planning, Property and Regeneration

**Ward:**                    (All Wards);

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1. Reason for report

The government has published a technical consultation which runs from 6<sup>th</sup> August 2020 to 1<sup>st</sup> October 2020. The consultation proposes measures to improve the effectiveness of the current planning system (and is different from the fundamental reforms proposed in the Planning for the Future consultation which is subject of a separate report on this agenda). This report proposes the Council's formal responses to the technical consultation.

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2. **RECOMMENDATION(S)**

**That the responses proposed below be agreed as the Council's formal response to the government's August 2020 Planning Technical consultation.**

## Impact on Vulnerable Adults and Children

1. Summary of Impact: N/A
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## Corporate Policy

1. Policy Status: Existing Policy:
  2. BBB Priority: Excellent Council Quality Environment Vibrant, Thriving Town Centres Regeneration:
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## Financial

1. Cost of proposal: No Cost: Response within existing resources
  2. Ongoing costs: Costs if proposed measures are taken forward are unknown at this stage
  3. Budget head/performance centre: Planning
  4. Total current budget for this head: £1.76m
  5. Source of funding: Existing budget
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## Personnel

1. Number of staff (current and additional): As existing
  2. If from existing staff resources, number of staff hours: 10
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## Legal

1. Legal Requirement: Non-Statutory - Government Guidance
  2. Call-in: Not Applicable
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## Procurement

1. Summary of Procurement Implications: N/A
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## Customer Impact

1. Estimated number of users/beneficiaries (current and projected): N/A
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## Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: N/A

### 3. COMMENTARY

3.1 This government consultation sets out proposals for measures to improve the effectiveness of the current system. It is separate from the Planning for the Future consultation although there is some overlap in topics. The four main proposals are:

- changes to the standard method for assessing local housing need, which as well as being a proposal to change guidance in the short term has relevance to proposals for land supply reforms set out in Planning for the Future;
- securing of First Homes, sold at a discount to market price for first time buyers, including key workers, through developer contributions in the short term until the transition to a new system;
- temporarily lifting the small sites threshold below which developers do not need to contribute to affordable housing, to up to 40 or 50 units to support SME builders as the economy recovers from the impact of Covid-19;
- extending the current Permission in Principle to major development so landowners and developers now have a fast route to secure the principle of development for housing on sites without having to work up detailed plans first.

**The full consultation document due to its size is not appended to this report but can be viewed at <https://www.gov.uk/government/consultations/changes-to-the-current-planning-system>**

*Suggested responses are set out in italics below*

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

3.2 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?

*We have no in principle objection to the proposed amendment, although we do note that linking the method to stock level could create significant pressure on local infrastructure. Regardless of the method proposed, we believe that it is essential to allow for different methods of establishing housing need, either at local or regional level, where this can be justified through relevant evidence. We welcome the continued acknowledgment in paragraph 5 of the consultation document that need calculated through the standard method forms the basis of housing requirement, meaning that to reach the final figure there needs to be consideration of capacity and constraints, as set out in the PPG.*

*Paragraph 9 of the consultation document on one hand recognises that housing delivery is reliant wider market conditions and government interventions, but then goes on to propagate the tired line that identification of more land will equal more delivery and therefore improve affordability. Adequate land supply is an important part of the solution, but this must be alongside provision of the right type of homes, particularly affordable homes.*

3.3 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.

*We cannot comment on the suitability of the 0.5% figure, given that there is no explanation of where the 0.5% is derived from. Paragraph 26 notes that net additional dwellings for local authority districts in 2018/19 was about 1% of existing stock, but this must vary significantly*

*across different authorities. It would have been useful if this information was included as part of the consultation materials.*

- 3.4 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.

*Yes, the use of workplace-based median house price to median earnings ratio makes more sense than residence based figures, as it links better with key planning principles like mixed communities and ensuring diverse range of uses.*

- 3.5 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.

*As noted above in response to Q1, we do not agree with the basic premise that increasing housing supply will improve affordability. Therefore, the approach in the standard method to increase housing need based on affordability does not tackle the root cause of the problem of affordability. As noted above, to tackle the issue of unaffordability is not just about delivering lot of new homes; actual affordable homes need to be delivered. The standard method of housing need also has no regard for locational demand, i.e. where people want to live.*

*Application of the affordability adjustment kicks in when the affordability ratio is four or more. Four is used as four times a person's earnings is the maximum amount that can typically be borrowed for a mortgage. However, this is unlikely to be the case in London, hence there should be scope to have a bespoke method in London with a higher affordability baseline.*

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

*See response to Q4*

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:

- 3.7 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?

*Yes.*

- 3.8 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?

*Yes.*

### **Delivering First Homes**

- 3.9 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.

*Yes. We continue to have strong reservations about First Homes, particularly the affordability of this product relative to other low cost rent and home ownership products. However, if they are introduced it should be as a replacement for existing low cost ownership set out in Local Plan policies. The proposed approach would still allow Bromley to deliver 60% affordable rent (the priority tenure) as part of our Local Plan tenure split. As additional security, we would support the introduction of a ceiling on the provision of First Homes, whereby it could not exceed the intermediate element of local tenure split policies set out in Local Plans.*

- ii) Negotiation between a local authority and developer.
- iii) Other (please specify) With regards to current exemptions from delivery of affordable home ownership products:

3.10 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?

*No, build to rent should not have its own approach to affordable housing at all. Affordable housing policies should apply to build to rent sites as they do on any other housing site.*

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

*We continue to disagree with proposed CIL exemption, as per our original response. We do not believe First Homes should be exempt from CIL.*

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

*No comment.*

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

*We believe that any decision to accept First Homes on schemes were an application has been submitted should be solely down to the local authority. We also note that any introduction of First Homes through the NPPF does not trump the statutory local plan, e.g. with regard to priority tenures.*

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

*Provided the discretion for higher levels of discount remains with the local authority, we have no objection to the proposed approach. We would highlight that higher levels of discount will make First Homes more affordable but likely lessen the delivery of other, genuinely affordable housing.*

3.15 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?

*We retain concern, as noted in our initial First Homes consultation response, that the changes relating to an element of market housing and the removal of specific site size restrictions will likely create confusion and attempts from developers to take advantage, which could lead to an increase in appeals and further strain on local authority resources. This is particularly concerning in Bromley as there are a number of Metropolitan Open Land (MOL) and Urban Open Space designations which identify and protect important green space, and these would be placed in greater jeopardy by the proposed changes.*

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

*See response to Q14.*

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

Yes.

### **Supporting Small and Medium Size Developers**

3.18 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)

*Whilst we appreciate the rationale for this proposal, delivery of affordable housing in recent years has been difficult and this will further reduce the existing under provision*

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

*We do not have a view on a specific threshold, however in Bromley we have very few schemes over 50 units so affordable housing provision would be reduced to an extremely low level if the threshold were to be set this high. This would have wider impacts on the provision of housing.*

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

*No, a unit threshold is more logical and related to viability, and a site size threshold would provide a perverse incentive to artificially reduce site sizes.*

3.21 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 some logic to linking this to economic recovery, however any economic situation can be factored in viability information rather than the wholesale removal of provision from a large swathe of applications.*

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

*It will be difficult for LPAs to determine threshold abuse and in Bromley it has been difficult to address the artificial subdivision of sites to avoid affordable housing contributions in the past*

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

*No comment*

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

*No comment*

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

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

*We are concerned that there are potentially some issues with the complexity of some major schemes and permission in principle which could make it difficult to deal with a PiP without some of the detail normally submitted with a major application, for example transport information. There is a risk approval could be given in principle for a proposal which could have fundamental objections at details stage which would leave the LPA and developer in a difficult position. It is also unclear how affordable housing and other planning obligations would be determined based on a PiP application that might not necessarily specify a fixed quantum of development.*

- 3.26 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.

*A limit wouldn't necessarily be required as long as it was clear how to ensure that the scheme was housing led.*

- 3.27 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 information requirements are extremely light and the lack of detailed information could pose a problem for LPAs trying to ascertain whether the principle of development might be acceptable. The types of issues required to assess major sites in principle include number of housing units, transport information (for example site access points), flood risk/drainage information and affordable housing levels.*

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

*More detail would be welcome, and a height parameter would help manage expectations for detail stage, however without supporting information it will be difficult for LPAs to adequately assess the information. This illustrates perhaps that PiP is not a suitable vehicle for major development.*

- 3.29 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 timescale of 5 weeks is a very short time for consideration of issues which may arise for a significant development site, and 14 days is a short consultation period for a proposal that could impact on a wide area, even if only in principle. We would support good publicity and consultation longer periods for large developments.*

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

*Current planning application fees do not adequately cover the cost for Local Planning Authorities of running their service at present, and reduced fees for this type of application are unlikely to suitably reflect the cost of dealing with the proposal, which could be extremely controversial. However, it would make sense for the combined cost of the PiP and details to be similar to the overall full planning application fee for a particular type of development and this could be a basis for setting fees.*

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

*Similar to the equivalent outline application.*

3.32 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 objection to this proposal.*

3.33 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.

*We consider that the introduction of PiP has complicated the planning consent regime and take up of the PiP option has been extremely low in Bromley. The similarities to outline consent add to the confusion and we consider it would be better to have only one in principle consent option. LPAs are likely to be put off encouraging PiP applications as they are so light in detail and delay difficult and complex negotiations to details stage.*

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

*We consider that the appropriate mechanism for identifying larger development sites is through the Local Plan and if this process is sped up in the currently proposed planning reforms, there would be no need for the PiP option at all. The drawbacks of the proposal are another application type that many (including the general public) will find confusing. This would be overcome by reconsidering the concept of PiP altogether.*

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

*Take up is likely to be limited for the reasons set out in the answers above, i.e. over complex series of application options, likelihood of difficult negotiations simply being pushed back to details stage and lack of understanding and confidence in the PiP system.*

3.36 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.*

#### **4. POLICY IMPLICATIONS**

The proposals in this consultation could impact on the Council's existing Local Plan policies, in particular those around housing and in particular affordable housing provision. Changes to planning policies could have a wider impact on the Council's other policies, e.g. housing, however it is not possible to predict these at this point in the process.

#### **5. FINANCIAL IMPLICATIONS**

Some of the measures proposed could impact on income in particular permission in principle, although the existing similar regime has had little take up.

## 6. PERSONNEL IMPLICATIONS

No significant impacts from these proposals.

## 7. LEGAL IMPLICATIONS

No significant implications at this stage.

<b>Non-Applicable Sections:</b>	<b>IMPACT ON VULNERABLE ADULTS AND CHILDREN; PROCUREMENT IMPLICATIONS</b>
Background Documents: (Access via Contact Officer)	“Changes to the current planning system - Consultation on changes to planning policy and regulations” ( <a href="https://www.gov.uk/government/consultations/changes-to-the-current-planning-system">https://www.gov.uk/government/consultations/changes-to-the-current-planning-system</a> )