

## Consultation response on Current Planning System

LSE London

1 October 2020

LSE London<sup>1</sup> is happy to respond to the Consultation on Changes to the Current Planning System.

### NUMBERS OF NEW HOMES

#### Key Concerns

We wholly support the government's objective of bringing about a step-change in the delivery of new homes. However, we do not support the introduction of the formula as specified.

Key concerns: The consultation identifies a large number of objectives, all of which are to be achieved by one, poorly specified, formula<sup>2</sup>. Even if we accept the target number of new homes as the primary concern, the proposed formula for allocating this number across authorities will almost certainly fail.

We agree that including the figure for existing stock is desirable, but do not agree that the ratio is properly specified. It compares a flow of additional households with the stock of housing. It generates a system in which the areas that build most housing will be required to build even more, while those that build fewer will face less pressure. It also generates a moving target, as total stock increases. Meen and Whitehead (2020) suggest a simpler approach based on comparing population and stock. This includes no unnecessary thresholds, is less dependent on inherently inaccurate projections, and has a clearer conceptual basis.

More practically, the formula makes no allowance for capacity, which makes the approach to identifying numbers ineffective for two reasons. First, local authorities have varying amounts of land that can be made available, which is why for instance London has always faced a capacity constraint based on land availability and acceptable densities. Second, capacity is constrained by what landowners- including public sector landowners - wish to make available, and by the provision of infrastructure necessary to enable the delivery of the desired levels of output. We note particularly that water authorities often constrain what can be built. Local authorities are thus being given responsibility for something they have little or no power to change.

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<sup>1</sup> The views expressed in this response are those of the LSE London team. We would like to thank those who participated in the LSE London roundtable on the Consultation which helped inform our response.

<sup>2</sup> The short answers presented here on the specifics of the formula are a precis of the material already sent to the Ministry by Geoff Meen, which reflects the discussion of these issues in Meen and Whitehead (2020).

In terms of affordability, the strategy seems to be to build more where housing is less affordable, based on a measure of affordability that does not relate closely to underlying behaviour<sup>3</sup>. Yet we know that increasing the amount of new-build alone will do little or nothing to improve overall market affordability, certainly in the short term. Nor is it clear how it helps determine affordable housing requirements.

Finally, there is no mechanism for ensuring delivery. The numbers suggested for the GLA area are clearly not achievable and the formula does nothing to help those in the North. This is not just a matter of tweaking.

### **Specific questions**

**Q1: Do you agree that planning practice guidance should be amended to specify that the appropriate baseline for the standard method is whichever is the higher of the level of 0.5% of housing stock in each local authority area OR the latest household projections averaged over a 10-year period?**

No: while we entirely accept that it is a proper political choice to provide a standardised method, and that it is desirable to include a stock variable, the specifics of both the existing formula and the suggested modifications do not generate a coherent approach.

**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.**

No: There is no obvious rationale for the 0.5% figure, especially at a local level - see above.

**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.**

No: it would be more logical to use residence-based figures, if it is not feasible to use a broader housing market figure.

**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.**

No: If affordability were measured correctly this might be appropriate. The proposed metric is whether the house price/earnings ratio is more or less than 4, which is based on a simplistic assumption about mortgage-lending rules. This does not reflect actual affordability. The house-price-to-earnings ratio has almost doubled since 2000 but actual repayments have hardly increased. P/E is fundamentally an inappropriate affordability measure.

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

No: see above

**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:**

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<sup>3</sup> Again refer to Meen and Whitehead (2020) for a detailed critique.

**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?**

No: the fundamental presumption prior to Q6 is that most authorities should immediately plan based on numbers which are, as currently specified, often inappropriate.

## **FIRST HOMES**

### **Key Concerns**

The proposed new policy is that 25% of the affordable housing delivered through developer contributions should be in the form of First Homes. This is a new form of affordable home ownership that has not yet been tested.

In many parts of the country the demand for such homes will come mainly from those who could afford to pay full price. Such consumers may or may not see First Homes as a desirable option – but to the extent they do this generates a deadweight loss. In other parts of the country, 70% of the market price will still be unaffordable to those who would normally be expected to benefit from affordable housing products. There is need for a far more strategic approach to developing the menu of affordable home ownership products. More immediately relevant is that mortgage arrangements have not yet been agreed and it is not known how easily and cheaply mortgages will be available, especially given the limited experience of second-hand markets for this type of product. It is already clear that where possession is necessary, the property will almost certainly have to be transferred to the open market.

At a practical level, it is risky to introduce such disruption for housebuilders, housing demand, communities and local authorities without proper testing. It would be sensible to trial the product with a limited pot of funding, targeted in places that actually need homes. Trying to apply the measure across the whole country using the developer contribution route will be both disruptive and in many areas inappropriate.

The First Homes mechanism does not meet the standards of clarity and certainty set by the new planning system consultation. First, planners and developers must assess the viable level of affordable housing. Then they must introduce 25% of First Homes, which have a different viability level to other products, and reassess overall viability. If viability is reduced, the process must begin again. This iterative and complex process would make negotiation of affordable housing more complicated, when the objective is clarity.

Finally, the consultation document makes almost no mention of affordable rented housing, which caters for lower-income households. First Homes will displace some of these homes, skewing the affordable offer towards higher-income households.

### **Specific questions**

**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)**

Enable the local authority in negotiation with the developer to achieve what is specified in the local plan. As a backstop, increase the ratio of affordable rented homes within the 75%, so that it provides the number of affordable rented homes that would have been expected without the First Home allocation.

**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?**

Yes.

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

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

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

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

**Q14: Do you agree with the approach of allowing a small proportion of market housing on First Homes exception sites, in order to ensure site viability?**

Yes, in order to support output levels

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

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

**For each of these questions, please provide reasons and / or evidence for your views (if possible):**

#### **SME DEVELOPERS**

We agree that it is healthy to have a varied and mixed system of residential developers, and that the decline of SME developers especially since the GFC is a matter of concern. However, we are not convinced that the policies put forward will effectively address this issue.

## **Key Concerns**

SME developers have been in decline for many years and there is little sign of new entry into the market. One way in which they have been able to play a role is on large sites where the main developer parcels out the land. This can speed overall development, as the Letwin Review found. Another, more usually, is in modifying existing units.

SMEs need both finance and planning permission to proceed with new build. The evidence suggests that small builders are more likely to depend on retail lending, and banks will not usually lend until full planning permission is obtained. Planning obligations can delay permissions, but are by no means the only source of delay. Perhaps more importantly, many smaller builders prefer to concentrate on refurbishment of existing homes. Such jobs, including improving energy efficiency, can readily provide a full order book and are likely to become more important in the light of government policy initiatives. The barriers SMEs face are often related to local authorities' capacity constraints and to shortages of skilled labour, which are set to get worse.

The government has also suggested that it is interested in encouraging self-build (or, more accurately, custom build). Traditionally this accounted for at least 10% of output, which is not far short of the numbers the HBF says small businesses could add. However, were that market to be revived it would compete directly with small builders for skills.

## **Specific questions**

**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)**

No: the loss of affordable homes would be very significant and the 18-month period is likely to be disruptive. As importantly, larger sites can readily be broken up to into sites that do not breach the new threshold so the losses of affordable homes could well be more than predicted. This policy would have particularly detrimental effects in some constrained urban authorities: affordable-housing production could fall dramatically because most sites would be below the threshold.

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

(iii) Up to 10, for the reasons given above. However, there should be a clear right to provide a financial contribution off-site or discounted market homes on smaller sites

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

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

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

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

**The Government recognises that in addition to planning contributions, there may be many reasons why SME builders are unable to access and progress developable sites during this time. We are**

**keen to hear whether there are any other ways in which the Government can support SME builders to deliver new homes.**

**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 should more directly address the issue of the risks associated with dependence on retail finance. They should also ensure that local authorities have the incentive and capacity to encourage small sites to come forward. This may involve modifying planning permission in principle which frontloads costs to local authorities.

## **PERMISSION IN PRINCIPLE**

Internationally the English planning system sits at one end of a spectrum. Many countries operate on the basis of zoning, but we have a discretionary system where decisions are made locally on a site-by-site basis. A balance must be struck between certainty on the one hand and local discretion on the other, and we agree that the English system would benefit from a greater degree of clarity and certainty. However, we have major concerns about Permission in Principle as a mechanism.

### **Key concerns**

Permission in principle may be considered a quicker and surer way to approach planning permission but there is little evidence that the initial stages are what slow the process. Pre-application consultations enable developers on larger sites to test the realistic chances of gaining permission but also help both sides understand the impediments to full permission. It is important to realise that BOTH sides of this equation want development to happen. Developers want to build, clearly, but planning authorities also want and need development in order to meet housing targets and plan effectively. Delays in development come from myriad reasons, many of which are outside the control of the local authority. Assuming that the planning system alone is the problem will do nothing to speed up the system overall and in fact may be counterproductive.

Planning fees currently provide a significant proportion of the funding for planning departments, and moving to a system of Permission in Principle would result in a sizeable loss of revenue together with significant front-loaded resource costs. To operate well and to keep permissions moving through the system, local authorities need staff and resources. Increased reliance on PiP could indirectly cause further delays as departments are further stretched.

In practice it is often difficult to considering the 'principle' of development in the abstract. Some factors that make large developments acceptable in principle cannot be taken into account for PiP. This includes provision of infrastructure, which on large sites is extremely important. This could lead to a situation where PiP is granted but the second stage of the application is refused (or approved with major conditions) due to lack of infrastructure or other factors that are not material during the initial stages of PiP. Water supply, for example, is essential but the CMA has not effectively addressed the issue of provision of supply to new residential developments.

Finally, moving to a reliance on PiP would almost certainly lessen community involvement in and understanding of local development. Even well-informed local people are more likely to engage with specific development proposals (especially for large sites) than with vague general plans. It is unreasonable, and politically extremely problematic, not to allow communities to have a say on the specifics of proposed developments. In this context we would also not support a move to fully

electronic consultation modes--while signs and notices on telephone poles may be low-tech, they are well understood and reach passers-by who might not otherwise learn about development proposals.

### **Specific questions**

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

No. The problems with extending Permission in Principle to larger sites are twofold. First, larger sites are usually more complex and the impacts of development on those sites are likely to be larger. This means that more careful consideration needs to be given (via an initial Outline application) to judge what those impacts might be. The potential for legal action against councils may be significant if material issues with the development emerge at the stage of Full Permission and applicants chose to go to appeal.

Secondly, the PiP route reduces fee payments to councils which are already understaffed and under-resourced. This will therefore negatively impact on the system overall and could slow the second process of the application.

#### **Q25: Should the new Permission in Principle for major development set any limit on the amount of commercial development (providing housing still occupies the majority of the floorspace of the overall scheme)? Please provide any comments in support of your views.**

#### **Q26: Do you agree with our proposal that information requirements for Permission in Principle by application for major development should broadly remain unchanged? If you disagree, what changes would you suggest and why?**

No. There should be at minimum an assessment of the infrastructure required for the development. If large sites are to be developed in this way, then these are the issues that will take time and thought. Pre application advice is far more suitable in these cases as a careful assessment of the site and plan for a way forward can be discussed. This would speed up the development process overall.

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

Yes. There should be a discussion around massing as height, density and number of units will be key to making the development liveable and appropriate for the area.

#### **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**

Give the short timescales involved, councils should be required to publish in a local newspaper and publish a site notice. A site notice is the most immediate and direct way of publicity.

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

No. Planning departments are already under-resourced, and a further reduction in fee income will only serve to further slow the system.

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

It should remain at £400 per .01 ha with NO cap.

**Q31: Do you agree that any brownfield site that is granted Permission in Principle through the application process should be included in Part 2 of the Brownfield Land Register? If you disagree, please state why**

**Q32: What guidance would help support applicants and local planning authorities to make decisions about Permission in Principle? Where possible, please set out any areas of guidance you consider are currently lacking and would assist stakeholders.**

Permission in Principle is inappropriate for large developments because it does not take infrastructure into account. It is pointless to grant PiP if at the full-permission stage it becomes clear that there is not enough infrastructure to support the development.

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

On large developments there could be a significant amount of time and resource wasted on granting PiP and then not granting planning permission or requiring a great number of conditions that could have been discussed at the pre-application stage. It would be far better and faster to deal with these issues at the front end.

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

Equalities - 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?**