

## LOCAL PLAN SUB COMMITTEE - 23 SEPTEMBER 2020

### PART I – NOT DELEGATED

#### 5. CHANGES TO THE CURRENT PLANNING SYSTEM (AUGUST 2020) – PROPOSED CONSULTATION RESPONSE (DCES)

##### 1 Summary

1.1 On 6 August 2020 the Government issued a consultation document proposing changes to the current planning system. A report to the Local Plan Sub Committee on 27 August 2020 provided a summary of the proposed changes. This report sets out a draft response to the consultation.

##### 2 Details

2.1 This report contains some further commentary to that provided in the report to the Local Plan Sub Committee on 27 August 2020. The questions from the consultation and the proposed responses are set out in boxes in this report and it is proposed that these responses (not the additional commentary) are sent to the Government in response to the consultation.

2.2 The document sets out the following four proposals:

- 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 First Homes (a new affordable home sold at a discount to market price) through developer contributions in the short term until the transition to a new system.
- temporarily raising the threshold for affordable housing contributions to up to 40 or 50 units.
- extending the current Permission in Principle (PiP) to major development to enable a fast route to secure the principle of development for housing on sites without having to work up detailed plans first.

##### 2.3 Changes to the standard method for assessing local housing need

2.4 Changes are proposed to the standard method for assessing LHN for local plans, 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 the Planning for the Future White Paper.

2.5 The consultation states that the changes are designed to:

- a) Ensure the standard method is more agile in using up-to-date data.
- b) Achieve a better distribution of homes where homes are identified in more high-demand areas and in emerging demand areas across the country
- c) Provide stability to the method by smoothing out areas of potential volatility so that the basis on which local authorities are expected to plan for is more predictable.

d) Be consistent with the Government's ambition for a housing market that supports 300,000 homes by creating a method with a suitable overall national number that enables achievement of this aim.

**2.6** The current standard method uses the latest Office for National Statistics (ONS) household growth projections for the next ten years as a baseline figure. This is then adjusted according to an affordability ratio, which measures the difference between house prices and annual earnings. The resulting housing need figures are capped at 40% above any housing requirement adopted by the local authority within the last five years.

**2.7** In the proposed revised method, levels of existing housing stock are taken into account alongside future household projections. The higher figure of either 0.5 % of existing housing stock or the latest household growth projections are to be used as the baseline for housing need. This baseline is then adjusted in relation to affordability (as at present) and also the change in the affordability ratio over the last 10 years. The 40% cap would be removed.

**2.8** As the average annual household growth over a 10 year period is 147.7 for Three Rivers, we have to use the 2019 estimated existing dwelling stock number which is greater at 188.61 in the final calculation.

**2.9** The new standard method formula would result in a housing requirement for 588 dwellings per year: a decrease of 5.8% on the current standard methodology figure of 624 dwellings per year.

**2.10** The table below sets out the SW Herts LPAs annual housing figures as a comparison

	<b>Current Standard Method</b>	<b>Proposed Standard Method</b>
<b>Dacorum</b>	1,023	922
<b>Hertsmere</b>	716	668
<b>St Albans</b>	893	997
<b>Three Rivers</b>	624	588
<b>Watford</b>	787	533
<b>Total</b>	<b>4,043</b>	<b>3,708</b>

**2.11** For each of the South West Hertfordshire Local Planning Authorities (with the exception of St Albans) the new calculation results in a reduction with Watford seeing the largest reduction of 254 dwellings per year.

**2.12** Whilst Three Rivers will see a reduction in the housing numbers under the new methodology it should be noted that that number would further be reduced if the lower average annual household growth figure of 147.7 was used (see paragraph 2.8) in the calculation. This would result in an annual housing figure of 460 dwellings. As 0.5% figure has not been justified or evidence based, our response should reflect this.

**2.13** The transitional arrangements in the consultation are as follows.

- Authorities that are already at Regulation 19 stage of their Local Plans (publication) have 6 months to submit their plan for examination from the publication date of the revised guidance
- Authorities close to Regulation 19 (publication) will 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 for examination

**2.14** It is unclear exactly when the Government will be publish the revised guidance, but they state at paragraph 44 that this will be done following the outcome of the consultation the closing date for which is 1 October 2020. It is, therefore, likely that the revised guidance will be published in November 2020.

**2.15** The Government are proposing that Local Authorities therefore should be preparing their local plans using the proposed revised standard method need figure from the publication date of the revised standard with the exception of those that meet the milestones in paragraph 2.3.

**2.16** As the Regulation 19 stage (publication) for the Three Rivers Local Plan is planned for June/July 2021 (as set out in the Local Development Scheme approved by Policy & Resources Committee 7 September 2020) the proposed new standard method will be used as the basis for the Plan.

**2.17** It should be noted that changes to the draft Local plan can only be made once the new standard method is published.

**2.18** Proposed Responses to Questions on the Standard for Assessing Housing Numbers

<b>Q1: Do you agree that planning practice guidance should be amended to specify that the appropriate baseline for the standard method is <i>whichever is the higher of</i> the level of 0.5% of housing stock in each local authority area OR the latest household projections averaged over a 10-year period?</b>
No. The 0.5% figure is not justified or evidence based. The latest household projections averaged over a 10 year period should be used.
<b>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.</b>
No. The 0.5% figure is not justified or evidence based.
<b>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.</b>
Yes
<b>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.</b>
Don't know
<b>Q5: Do you agree that affordability is given an appropriate weighting within the standard method? If not, please explain why.</b>
No. The part two of the calculation works out the difference between the latest affordability ratio and the affordability ratios 10 years ago and then the difference is

multiplied by 0.25. There is no justification for this multiple. The calculation as it stands puts more pressure on areas whose affordability ratio has increased.
<b>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:</b>
<b>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?</b>
Yes
<b>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?</b>
Yes

**2.19** Delivering First Homes

**2.20** The current consultation details a government intent to set out policy that a minimum of 25% of all affordable homes secured through developer contributions should be First Homes both on site and in cases where a financial contribution is accepted instead.

**2.21** The government expectation is that the value captured under this policy could be calculated and we would be required to deliver 25% of the affordable units as First Homes and then distribute the remaining value to deliver our existing policy requirements. The consultation details two options for doing this:

- Option 1 – Distribute the remaining affordable housing provision in accordance with the local authority policy but with First Homes replacing other affordable home-ownership products as a priority.
- Option 2 – A local authority and developer can negotiate the tenure mix for the remaining 75% of units.

<p><b>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):</b></p> <p style="padding-left: 40px;">i) <b>Prioritising the replacement of affordable home ownership tenures, and delivering rental tenures in the ratio set out in the local plan policy.</b></p> <p style="padding-left: 40px;">ii) <b>Negotiation between a local authority and developer.</b></p> <p style="padding-left: 40px;">iii) <b>Other (please specify)</b></p>
<p>We strongly object to the proposal. The need for affordable housing for rent is equivalent to 60% of the District's total housing requirement under the standard methodology, and given the significant and growing need for affordable housing we need to be able to</p>

continue to set the level of affordable housing and tenure split to meet the needs of local people.

The imposition of a national 25% figure for First Homes removes the ability to address local priorities properly and risks not satisfying evidenced local need and will lead to less genuinely affordable homes being available for rented accommodation.

**2.22** Questions 9 – 11 relate to the current exemptions from the requirement to deliver affordable home ownership products which are:

- a. provides solely for Build to Rent homes;
- b. provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students);
- c. is proposed to be developed by people who wish to build or commission their own homes; or
- d. is exclusively for affordable housing, an entry-level exception site or a rural exception site.

<b>With regards to current exemptions from delivery of affordable home ownership products:</b>
<b>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?</b>
Yes. It would make sense to apply these exemptions to First Homes
<b>Q10: Are any existing exemptions not required? If not, please set out which exemptions and why.</b>
No
<b>Q11: Are any other exemptions needed? If so, please provide reasons and /or evidence for your views.</b>
No

**2.23** First Homes – Transitional Arrangements

**2.24** The consultation acknowledges that many LPAs will be reviewing policies on affordable housing at the time of introducing these changes and transitional arrangements are proposed that would enable local plans that are submitted for examination within 6 months of the new policy being enacted to not have to reflect the First Homes requirements. In addition where a pre-application or application are at an advanced stage the consultation suggests there should be flexibility to accept alternative tenure mixes, however no timescale is stated for these circumstances.

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

Yes, although further details are required over the period of flexibility in relation to planning applications.

**2.25** Level of Discount for First Homes

**2.26** The consultation states that a 30% discount on market price should be the minimum discount and should be set by an independent registered valuer. The assumption is also that the home is sold with the same discount in future (i.e. retained at a discounted value in perpetuity). Local authorities would have discretion to the discount to 40% or 50% but this would need to be evidenced in the local plan making progress. Where the discount is increased the minimum requirement of 25% of unit's onsite to be First Homes would remain in place.

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

Yes. The flexibility to allow local authorities to set the level of discount is acceptable since a 30% discount in Three Rivers will not make homes affordable to those in need given the significant disparity between average house prices and average earnings.

However, consideration should be given to allowing local authorities to set their varying levels of discount outside of the local plan process else it means that in the interim a large number of affordable homes will be available at only a 30% discount and will not meet the identified housing needs of the district.

**2.27** First Homes – Exception Sites

**2.28** The government propose to introduce a First Homes exception sites policy to replace the existing entry level exception sites policy. This would specify that the affordable housing delivered on such sites would be First Homes for local first time buyers with some flexibility to allow a small proportion of other affordable homes to be delivered on these sites where there is significant identified local need as well as some market homes to aid viability.

**2.29** It is also proposed to remove the threshold on site size (less than 1 hectare) that currently applies but retain the requirements that they be proportionate in size to the existing settlement.

**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?**

It is unlikely that First Homes exception sites will be viable and deliverable unless a small proportion of market housing is included. Developers should be required to demonstrate viability before allowing market housing.

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

No - Without the 1 hectare size threshold and only a requirement to be proportionate in size to the existing settlement then a First Homes Exception Site on a large settlement could be very substantial in size. In addition there is no guarantee that the First Homes at a 30% discount on market value would be affordable to local people such as in Three Rivers where average house prices are over 14 times average salaries. It is therefore considered that the 1 hectare size threshold should remain and should only be exceeded

where there is an identified local need for First Homes that can only be met through a larger site.

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

It is important to ensure that exception sites in such rural locations are specifically tailored to meet identified local housing needs and that the type and tenure of affordable housing matches the identified need.

## **2.30** Supporting Small and Medium Sized Developers

**2.31** The consultation includes proposals to temporarily lift 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 for an initial 18-month period. In designated rural areas, the consultation proposes to maintain the current threshold. It also seeks views on whether there are any other barriers for Small and Medium Enterprises to access and progress sites.

**2.32** The proposal to temporarily raise the national threshold for affordable housing to at least 40 dwellings would set a dangerous precedent. Even for a limited period, this could greatly reduce the scope to negotiate affordable housing provision and reduce the amount of affordable housing delivered. It is unclear where the evidence that affordable housing is stopping SME builders from accessing sites (rather than land value and competing with larger developers) is derived from.

**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 the objective of supporting SMEs through the Covid-19 crisis is endorsed the need for affordable housing in Three Rivers equates to approximately 60% of the District's total housing requirement under the standard methodology, and given the significant and growing need for affordable housing we need to seek the maximum amount of affordable housing for rent as is viably possible.

Government should allow local authorities to set the affordable housing threshold based on viability evidence. This approach will still allow SMEs to progress sites as the affordable housing threshold can be adjusted considering viability assessments.

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

**i) Up to 40 homes**

**ii) Up to 50 homes**

**iii) Other (please specify)**

**Other:** Local authorities should be able to set affordable housing thresholds based on viability and local needs.

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

No. See answers to 17 & 18.

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

Any amendments should be strictly and explicitly time limited.

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

It is vital that large sites cannot be subdivided so as to benefit from these changes to the thresholds that would undermine the provision of affordable housing which is badly needed.
<b>Q22: Do you agree with the Government's proposed approach to setting thresholds in rural areas?</b>
Yes
<b>Q23: Are there any other ways in which the Government can support SME builders to deliver new homes during the economic recovery period?</b>
No response

**2.33** Extension of the Permission in Principle Consent Regime

**2.34** Proposals are set out to extend the Permission in Principle to major development (i.e. those >9 dwellings or 1000m<sup>2</sup> floorspace) 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 proposed threshold would be increased to cover sites suitable for major housing-led development, rather than being restricted to just minor housing development.

**2.35** The idea is that applicants can apply for planning permission in two stages. The first gives them "in-principle" consent with matters of land use, location and scale of development being considered at this stage. Having established this principle at relatively little cost they can then apply for technical details consent for the remaining issues safe in the knowledge that the principle is acceptable. The two consents together equal a full planning permission. This is not unlike outline planning permission and reserved matters albeit the information requirements at the first stage are less.

**2.36** It should be noted that we have only ever received one application for permission in principle and we have not proactively granted permission in principle for any sites on our brownfield land register. It can be assumed that our customers prefer to use the more traditional outline planning permission followed by reserved matters route or submit full applications.

**2.37** The government does not envisage making any significant changes to the current process for granting permission in principle by application including maintaining the 5 week determination period and the 14 day consultation period. Views are not sought on these elements of the proposals.

**2.38** It is proposed that the information requirements for permission in principle by application would remain the same as for smaller developments with the information required being limited to:

- A description of the proposed development
- The proposed minimum and maximum number of dwellings
- The amount of any non-residential development
- The size of the site in hectares, and
- A brief description of any supporting information that is accompanying the application.

**2.39** Views are sought on what if any further information requirements should be made.

**2.40** Permission in principle applications are currently only publicised by site notice and including the application on the local authority website. In contrast planning applications for major developments also have to be advertised in the local press.



The government are seeking views on whether permission in principle applications should have the same publicity as planning applications or whether other means such as social media etc. could be used.

**2.41** The current fee structure for permission in principle is £402 per 0.1 hectare of site area (capped at a maximum of 1 hectare). The government is however concerned that for larger developments this fee structure would lead to fees that are only slightly lower than the equivalent outline planning application fee. They see permission in principle as a cheaper and more stream lined process and wish to incentivise its use. They favour a banded fee structure with a fixed fee per 0.1 hectare of site area in each band such as:

- Less than 1 hectare = £x fee per 0.1 hectare
- Between 1 to 2.5 hectare = £y fee per 0.1 hectare
- More than 2.5 hectares capped at a maximum = £z fee per 0.1 hectare capped

**2.42** The council is required to publish a brownfield land register part 1 of which contains a list of brownfield sites which are appropriate for residential development; and part 2 consists of sites from part 1 that the Council has granted permission in principle for.

**2.43** The government wishes to ensure that the brownfield land register remains a single source of information for developers on brownfield land.

**2.44** It should be noted that Three Rivers does not have any sites on Part 2 of the Register which have been granted permission in principle.

<p><b>Q24: Do you agree that the new Permission in Principle should remove the restriction on major development?</b></p>
<p>No. It has little benefit over the traditional route of obtaining outline planning permission followed by reserved matters which is well understood as a route and while more costly upfront still appears to be favoured by developers. Removing the restriction on major developments is unlikely to change this position.</p>
<p><b>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.</b></p>
<p>Yes, although flexibility is needed to ensure that major development can provide suitable levels of commercial development for sustainable communities.</p>
<p><b>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?</b></p>
<p>No. The same information requirements that are required for outline planning permission should be sought. The information requirements for permission in principle for major housing developments would not allow for an informed decision on any proposals to be made. The granting of permission in principle ties the authority to the development of the site for the scale of development proposed without sufficient details to understand the technical constraints of the site.</p>
<p><b>Q27: Should there be an additional height parameter for Permission in Principle? Please provide comments in support of your views.</b></p>

Yes.
<p><b>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:</b></p> <p style="padding-left: 40px;">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</p> <p><b>If you disagree, please state your reasons.</b></p>
Both. Publicity requirements should reflect the scale of development proposed. The greater use of web-sites and social media should be encouraged
<p><b>Q29: Do you agree with our proposal for a banded fee structure based on a flat fee per hectare, with a maximum fee cap?</b></p>
No. A fee should be set at a local level on a cost recovery basis
<p><b>Q30: What level of flat fee do you consider appropriate, and why?</b></p>
See answer to Q29.
<p><b>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.</b></p>
Yes.
<p><b>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.</b></p>
Clear advice regarding validation requirements, confirmation of the stage at which affordable housing should be considered.

**2.45** Regulatory Impact Assessment

**2.46** This is an assessment of the impact of the proposed changes on the regulatory burden on business, charities or voluntary bodies. The government are seeking comments to inform a cost/benefit analysis of the proposals.

<p><b>Q33: What costs and benefits do you envisage the proposed scheme would cause? Where you have identified drawbacks, how might these be overcome?</b></p>
<p>The proposed scheme would add to the administrative burden of local planning authorities by introducing a further consenting regime which has little benefit to the development industry over that already provided by outline planning permission. This is illustrated by the poor take up of permission in principle applications.</p> <p>The proposed fee structure is likely to place additional costs on local planning authorities as they will not recover the cost of delivering the service.</p>

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

Very unlikely given that we have only ever received one application for permission in principle.

**2.47** Equalities

**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?**

None.

**3 Policy/Budget Reference and Implications**

**3.1** The recommendations in this report are within the Council’s agreed policy and budgets.

**4 Financial, Legal, Equal Opportunities, Staffing, Environmental, Community Safety, Public Health, Customer Services Centre, Communications & Website**

**4.1** None specific.

**5 Risk and Health & Safety Implications**

**5.1** The Council has agreed its risk management strategy which can be found on the website at <http://www.threerivers.gov.uk>. In addition, the risks of the proposals in the report have also been assessed against the Council’s duties under Health and Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.

**5.2** The subject of this report is covered by the Economic and Sustainable Development and Development management Service Plans. Any risks resulting from this report will be included in the risk register and, if necessary, managed within this/these plan(s).

<b>Nature of Risk</b>	<b>Consequence</b>	<b>Suggested Control Measures</b>	<b>Response</b> <i>(tolerate, treat, terminate, transfer)</i>	<b>Risk Rating</b> <i>(combination of likelihood and impact)</i>
The Council does not respond to the consultation	Government do not take account of the Council’s views	Respond to the consultation	Tolerate	2

5.3 The above risks are scored using the matrix below. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood scores 6 or less.

<b>Very Likely</b> ----- <b>Likelihood</b> ----- ↓ <b>Remote</b>	<b>Low</b>	<b>High</b>	<b>Very High</b>	<b>Very High</b>
	4	8	12	16
	<b>Low</b>	<b>Medium</b>	<b>High</b>	<b>Very High</b>
	3	6	9	12
	<b>Low</b>	<b>Low</b>	<b>Medium</b>	<b>High</b>
	2	4	6	8
	<b>Low</b>	<b>Low</b>	<b>Low</b>	<b>Low</b>
	1	2	3	4
	<b>Impact</b>			
	Low	-----▶		Unacceptable

Impact Score	Likelihood Score
4 (Catastrophic)	4 (Very Likely (≥80%))
3 (Critical)	3 (Likely (21-79%))
2 (Significant)	2 (Unlikely (6-20%))
1 (Marginal)	1 (Remote (≤5%))

5.4 In the officers’ opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are therefore operational risks. The effectiveness of the management of operational risks is reviewed by the Audit Committee annually.

**6 Recommendation**

6.1 That the Local Plan Sub Committee note the report and agree the proposed responses to the consultation.

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**Background Papers**

Local Plan Sub Committee Report 27 August 2020  
<https://www.threerivers.gov.uk/meeting/local-plan-sub-committee-27-august-2020-7pm>

Changes to the current planning system (Aug 2020) (MHCLG)  
<https://www.gov.uk/government/consultations/changes-to-the-current-planning-system>

**APPENDICES**

None