

Report to: **Strategic Planning Committee**

Date of Meeting: 16 September 2020

Public Document: Yes

Exemption: None

Review date for release None



Subject: **Changes to the current planning system – August 2020 consultation – proposed response**

Purpose of report: The Ministry of Housing, Communities and Local Government have issued a consultation document titled “Changes to the current planning system”. This report outlines some of the potential implications of the proposed changes, and seeks to agree the Council’s response to the consultation.

Recommendation: **The committee note the report and agree the proposed responses to the consultation**

Reason for recommendation: To ensure the Council play an active part in influencing future Government policy

Officer: Ed Freeman, Service Lead, Planning Strategy and Development Management

Financial implications: Although there are no specific financial implications at this consultation stage, as a council with a Housing Revenue Account any reduction in the supply and availability of affordable homes and social housing will have a knock on financial impact upon our ability to replace stock lost to right to buy sales as our replenishment program has been solely through acquisition.

Legal implications: It is within the remit of the Committee to agree responses to Government consultations on planning related matters on behalf of the Council. Otherwise the report does not raise any other legal implications which require comment.

Equalities impact: Low Impact
There are low impacts associated with the response to the consultation

Climate change: Low Impact
Although the document covers matters related to climate change, including the energy efficiency of new homes, the impact of this Council’s response to Government proposals is considered to be low.

Risk: Low Risk
There are low impacts associated with the response to the consultation.

Links to background information: First Homes Consultation:
[Changes to the current planning system FINAL version](#)
First Homes Consultation Government Response:
<https://www.gov.uk/government/consultations/first-homes>

Link to Council Plan: The report and changes proposed could impact upon all of the priorities of the Council.

The 'Changes to the current planning system, document can be viewed at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/907215/200805_Changes_to_the_current_planning_system_FINAL_version.pdf

1. **Introduction**

- 1.1 On 6th August 2020 the Government (the Ministry of Housing, Communities and Local Government) issued a consultation document proposing changes to the current planning system. This consultation can be usefully read and considered alongside the Planning white paper consultation which is subject to a separate report to committee in its own right.
- 1.2 The consultation on changes to the current system runs for eight weeks from the 6 August 2020 – 1 October 2020 and invites responses to a series of questions posed within the document. Further on in this committee report the questions appear in boxed text along with a proposed answer also boxed. It is proposed that the boxed text answers, but not this report or any commentary within it, is sent to the Government as the response to the consultation of East Devon District Council.
- 1.3 The document advises of four main proposals listed in its paragraph 2 which 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.
- 1.4 The remainder of this report considers the bullet pointed items in order. It is though highlighted that in respect of the first bullet point **the East Devon housing requirement is increased by a massive 67% to 1,614 new homes per year.**

2 **Changes to the standard method for assessing local housing need**

- 2.1 Prior to 2010 the housing requirements for District Council's (and equivalent bodies) and their local plans were set out in higher level strategic plans. For East Devon District Council they were for many years set out in various iterations of the Devon Structure Plan. This was a plan produced by Devon County Council for the whole county and it was to be superseded by South West Regional Spatial Strategy (a plan covering the south west

region from Gloucestershire down to Cornwall); this regional plan was started but did not make it to adoption.

- 2.2 In 2010 the Conservative/Liberal Democratic Party coalition Government set about abolishing the Regional Spatial Strategy tier of plan making and with this handed the task of determining relevant housing numbers for local plans back to the local plan making authority, in our case to East Devon District Council. There was, however, guidance on how housing numbers should be established.
- 2.3 The determination of housing numbers at the individual local planning authority level fitted in with the then localism agenda though it was criticised in some quarters, especially as the decade progressed, as leading to complex exercises in establishing appropriate numbers of houses to plan for and then for lengthy drawn out debate at local plan examinations over the approaches used and conclusions reached.
- 2.4 In 2018 the Government implemented a standardised ‘top-down’ methodology for establishing minimum housing numbers for local authorities to plan for. Whilst its use was not absolutely binding the clear expectation was for its application. Under this methodology, including with a subsequent updating, there is a need for East Devon District Council to plan for an annual average of at least 900 new homes a year. This is a capped figure applicable for 5 years after the local plan adoption. The local plan was adopted in January 2016 so from February 2021 onward the cap is lifted and this increases the need figure to an annual average of 918 new homes per year.
- 2.5 The methodology used for calculating the current requirement starts off by looking at future projected birth and death rates in the local authority population and overlays this with information on projected numbers of people moving into the area and projected numbers moving out. Future in and out migration figures are drawn from trend patterns seen in recent years. From the projected future population levels the change in the number of households is calculated and this is translated into the starting point for a future house building need.
- 2.6 It should be noted that the above steps are quite standard and have been widely used for measuring future housing needs for many years. They can, however, be augmented by building in additional factors such as increased provision to take account of affordability of housing, in essence seeking to build more homes to increase overall supply with the desired outcome of seeing decreases in prices, or at least price rises not being so sharp. In the case of the current East Devon local plan we undertook an exercise in assessing projected future job numbers in the District and increased housing provision so that there would be a sufficient number of economically active people resident in the District to fill available projected employment levels. Work by Edge Analytics in 2015 – for East Devon District Council – ‘Demographic Scenarios – policy-on sub-scenario’ informed an objectively assessed housing need figure of 950 new homes per year. The population of East Devon is projected (under this housing provision) to grow, drawing from background data supporting the Edge Analytics work, from 134,898 persons in mid-2013 to 165,458 persons in mid-2031.
- 2.7 The current national methodology for determining housing numbers uses the demographic approach summarised above and it adds in an affordability uplift. The affordability uplift is calculated by comparing wage levels to house prices to generate a multiplier factor. It was this process that generated the 900 homes (as capped) and 918 (not capped) for East Devon. However, a key problem with the current approach, in Government’s eyes, is that it falls somewhat short of generating an England wide figure of 300,000 new homes per year. The Government has set its aspirations on seeing an average of 300,000 new homes built each year, though there is not actually any definitive evidence of need for this level of

house building and a number of commentators would suggest a lower figure would be more appropriate.

- 2.8 The proposed new method of assessment for calculating housing provision continues with the demographic data starting point but it also builds in a consideration applicable to areas that have low demographic generated need (some local authorities in England actually see a negative housing need generated using demographic only assessment). This new element is based on assessment that looks at existing housing stock and applies an annual growth figure of a 0.5% increase in dwellings as a bottom line level of provision. Whichever is the higher, the 0.5% increase in housing stock or the demographic projections forms the starting point for establishing final housing numbers. In East Devon the demographic projections exceed the 0.5% so this percentage minimum is not relevant to our equation.
- 2.9 The proposed new methodology also continues with the former affordability assessment methodology that adds an uplift to figures using an equation that compares workplace-based median house prices to median earnings (a median value is the point in a range of values where half the total values are above the mid-point (the median) and half are below). Where the ratio of earning to house prices is greater than 4 an uplift is applied to the overall level of housing provision. However, the new methodology also adds in a second adjustment that compares houses prices to earnings ratios now with the corresponding data for ten years ago. Where the price to earnings ratio has gone down the housing requirement figure goes down and where it has increased the housing requirement figure does up.
- 2.10 The Government advocate the new approach, amongst other matters, on account of an aspiration to encourage more home ownership and they see a relationship between the numbers of homes built and their price, at a lower price they would see more people buying homes (as opposed to renting, living with parents, house sharing or some other arrangement). In conventional economic theory the price of a commodity is a product of supply and demand with increasing supply expected to reduce price. However, a number of commentators question the degree to which any increase in supply of new homes, if built (and this may be a big 'if'), will impact on price of housing. It is suggested by some that the cost of and access to borrowing and wage levels are far more important factors in influencing houses prices and therefore the affordability of housing.
- 2.11 The new methodology generates a total England wide housing figure of 337,000 new homes per year. Whilst the Government set out a logic for their new methodology it is very close to the 300,000 previously stated government target for house building which appeared to have no basis in evidence when announced. The government have stuck to this target despite household projections falling from around 214,000 per year based on 2014 figures to 168,000 per year based on 2018 figures. Some would argue that this is the case because household are unable to form because of a lack of housing, however population projections are also dropping and so logically the national need for housing is dropping not rising.
- 2.12 Unlike the previous methodology there is no cap placed on the upper limit of houses that any planning authority should be planning for; the number the formula generates is the number that should be planned for. However, and rather confusingly, the housing white paper appears to be contradictory in so far as it alludes to constraints being a factor that may be used in the future to moderate end housing numbers. The white paper does not include any real details of how constraints may be measured or applied in respect of any calculations, or by whom or when or how they might work.
- 2.13 In respect of applying the housing numbers there are transition arrangements proposed for authorities in the process of, and quite far advanced, in producing a new local plan but

these would not appear relevant to East Devon as we are right at the beginning of plan making work.

2.14 Rather oddly the Government have not published (at least not to our knowledge) the housing requirement outcomes on a local authority by local authority basis, though they must know the answers as they advise of a collective outcome from the work being 337,000 new homes, they also set out some though limited commentary on the pattern of overall distribution.

2.15 Whilst the Government do not provide separate planning authority numbers the planning consultancy firm, Lichfield's, have published their own assessment, see: <https://lichfields.uk/media/6119/govt-planning-reform-tables-aug20-4.jpg>
Drawing on the Lichfield's assessment applying the new proposed method for calculating housing requirements increases the East Devon figure from 928 dwellings per year (this number will apply after January 2021) to a new requirement of 1,614 per year. This amounts to an increase of 67% which by any standards can only be seen as a staggeringly high increase on top of what was a high level anyway. Noting that one reason why current housing requirements in East Devon are on the higher side is that recent high levels of house building have resulted in greater levels of inward migration into the District and these have fed through into demographic data assessment indicating that more homes are needed in the future.

2.16 It is helpful to look back into past housing numbers to gain a picture of how housing requirements in East Devon have changed over time in policy documents, these are tabled below.

Planning policy document	Annual average housing requirement for East Devon
The old Local Plan – 1995 to 2011	385
Devon Structure Plan – 2001 to 2016	563
South West Regional Spatial Strategy (draft at July 2008)	855
East Devon Local Plan 2016 to 2031	950
Current national Government methodology (the uncapped East Devo figure)	918
Proposed new Government national methodology	1,614

2.17 **Potential implications for this Council** - There is, of course, much scope for debate over where decision making powers should rest in the relationship between central and local Government. However, under white paper proposals, when it comes to housing number assessment, there is no ambiguity in Government thinking on the matter, they clearly believe that the level of provision is not a matter for local debate or discretion (unless a planning authority wishes to plan for more houses). On a more practical level, however, are matters related to a housing requirement of 1,614 homes per year, these include:

- if, how and where dwellings can sensibly be planned for or allowed;
- what are the wider impacts of this scale of development; and
- will the levels proposed actually be built and if not what are the implications.

2.18 It must be seriously questioned whether the number of houses for East Devon, and surrounding areas, even if credible land could be allocated for their development, will actually be built. Although it is difficult to highlight testable evidence to establish the point a charge is often levied that the house building industry (specifically the volume builders) manage (which means suppress) overall development levels in order to keep new house prices higher and thereby maximise profits. If there is validity in this argument it could be that the development industry will not have any real interest in building at the scale envisaged. But even if there is no validity in this argument it must be seriously questioned whether there would be sufficient numbers of people wishing to buy or rent a property in East Devon and surrounding areas to sustain the level of growth the figures imply. A move to greater homeworking may generate greater levels of migration to East Devon but the long term levels of migration arising from changes in working practices as a result of the current pandemic are unknown.

2.19 Even if there is a genuine need for the number of homes that the standard national method now generates there must be serious questions over whether there is sufficient capacity in the district to accommodate these numbers. With two thirds of the district designated AONB and much of the remainder identified as areas where new housing will have recreational impacts on European protected habitats there are significant constraints to growth. Furthermore substantial investment in infrastructure would be needed to support the scale of growth now proposed.

2.20 The consultation is also unclear about how the new standard method would be implemented. Under paragraph 43 the consultation refers to transitional arrangements to enable an orderly transition to the revised standard method. The proposals then relate to the respective stages of plan production detailed in Regulation 19 of the legislation. What is not explained is the relationship between the new standard method and the calculation of 5 year housing land supply and Housing Delivery Test. If the Council's housing delivery were to be measured against the new higher figure straight away then it would almost certainly not show a 5 year housing land supply and we would quickly fail the Housing Delivery Test and be required to put measures in place to address the shortfall in housing delivery. The 5 year housing land supply requirement is proposed to be withdrawn under the Planning White Paper however it is not clear when this would be withdrawn while the Housing Delivery Test is proposed to continue.

2.21 Proposed response to questions on the standard housing requirements

2.22 The Government pose a number of questions in respect of the proposed new approach to calculating housing numbers. It is suggested that this council express strong objection to both the principle of a standard national method for generating housing needs as well as the vagaries of outputs that the approach proposed by the Government can generate (and has done in East Devon) in respect of creating untenable numbers.

Question 1

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?

Proposed response

The correct methodology for determining housing numbers should be use ONS, or other authoritative data, on projected future population levels with predicted household

formation rates attached to these. There should be discretion built into the system so that local communities and local planning authorities, should they choose, have the flexibility, at their discretion, to consider whether they wish to increase levels of provision to reflect such factors as:

- local affordability of housing (whether for rent or purchase);
- potential aspirations for job growth or regeneration;
- a desire to see elevated levels of in-migration; or
- potential partnership working with others to determine housing distribution across one or more local authority areas.

This correct approach therefore negates the need or idea for a 0.5% increase.

The 0.5% of housing stock figure simply means that areas that have seen substantial growth in the past will see high levels of growth in the future. There is no logic or strategy behind this approach. Many factors should be considered when deciding where to locate growth including local need, local constraints, capacity of local infrastructure. A formulaic approach which fundamentally locates growth where growth has previously occurred is fundamentally flawed.

Question 2

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.

Proposed response

Leaving aside the underlying concern of central government imposing housing numbers on local areas and communities the underlying fact is that the 0.5% figure is not justified or evidence based. If the Government are going to establish a percentage figure it should be informed by sound logic rather than being an arbitrary number.

Question 3

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.

Proposed response

This question should be broken down into at least two parts;

- the first is the logic (if any) of the approach in principle; and
- the second is a sense check of the levels of need generated – are meaningful numbers fed into a meaningful equation to generate meaningful outcomes.

Taking the first matter, the relationship between house prices and income levels, this could be one factor of relevance to take into account in understanding the affordability of housing and the possible impacts of building more homes. However, given the stated Government drive of wishing to see the comparative price of houses fall the Government should establish, with empirical evidence, the quantified degree to which prices can be expected to fall given potential levels of development. This should be set within a wider assessment of measures that determine and inform house prices overall and specific

attention should be given to Government actions and interventions that could be relevant in establishing a more equitable housing market. Building more houses is likely to have a far smaller impact on houses prices than other interventions the Government could undertake. Furthermore, it needs to be recognised that not all people will want to purchase a property and as such the comparative cost of renting should also be taken into account in determining appropriate levels of house building.

What the crudeness of just looking at the relationship between houses prices and earnings fails to address is, of course, any attempt to measure the level of real need (or even desire) for housing in any locality. There can be lots of places where prices are high but there is not necessarily a high demand or requirement for homes for those unable to afford prevailing market prices. It can be the mix of housing types, commutable access to places with high paying jobs or just that they are nice places to live that determine, in a market situation, the cost of housing. The onus should rest on real evidence being used to determine how many people cannot afford market housing (for rent or purchase) in any locality and the emphasis should be placed on then finding the best targeted solutions to actually meet their needs.

Turning to the second matter and going beyond the principle of looking to median house prices to median earnings, and in some manner including these into an equation, is the issue of do outcomes generated make any kind of meaningful sense. For many local authorities in the country the answer would definitely appear no. In the case of East Devon the housing requirement number increase by 67% (up from 928 to 1,614 houses per year). It is very difficult to see there being enough people in the country that would want or be compelled to move to East Devon to fill this number of houses – this is specifically so given the scale of development that the figures generate for many other local authorities with similar characteristics and in similar locations to East Devon. One of the very clear vagaries of the proposed Government methodology, as it stands, is that it generates, in some locations at least, numbers that completely lack any credibility or reasonableness. East Devon sees a massive increase in housing numbers generated by the new methodology and this is a far from unique outcome. Of the planning authorities that about East Devon the following changes occur.

Local Authority	Number under current methodology	Number under new methodology	Numerical change	Percentage change
East Devon	918	1,614	696	76%
South Somerset	685	612	-73	-11%
Somerset West and Taunton	691	1,231	540	78%
Dorset	1,790	2,075	285	16%
Exeter	625	694	69	11%
Mid Devon	367	641	274	75%
Teignbridge	758	1,532	774	102%
Totals	5,834	8,399	2,565	44%

Short of a massive boon in jobs in our part of England or there being some other compelling reason why people will move here, it is extremely difficult to see anything approaching a market of sufficient size to see these levels of houses built. A quick review of overall numbers indicates that many other parts of southern England, in particular, also see extremely high levels of housing. These are in contrast to parts of northern England where much more modest growth is envisaged through the standard method despite these areas forming the “northern powerhouse” that the government has been keen to encourage and promote.

In the case of East Devon recent research for the Council undertaken by the consultancy firm ORS shows that to meet trend based needs there is a need for 757 dwellings a year and to address pent-up demand a need for 59 dwellings a year, giving a total of 816 dwellings per year. Deducting this figure from a district total of 1,614 implies that 798 households would need to move in to East Devon each year over and above established trends. This level of increase is simply not a credible prediction and much less so a credible policy response when it comes to planning for housing provision.

A notable point as the Government does not have a plan for England and less so one that is open to scrutiny or challenge through plan making mechanisms. Should the Government seriously consider that these kinds of increases are sensible they should set them out in a plan under a mechanism that is open to testing and challenge.

Question 4

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.

Proposed response

In answering Question 2 information is provided on the issues of suitability and the formulas used to adjust housing numbers overall to arrive at appropriate numbers. In summary the formulas used by Government in generating housing requirements lead to some absurd conclusions, this indicates that the approach is clearly flawed.

Question 5

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

Proposed response

Affordability can be one relevant factor that can be used to inform housing numbers. But its application, and the way it features in any equation, must be sense checked against the robustness and reasonableness of any outcomes generated. If, as used at present, it generates absurd outcomes then it is either being mishandled or is inappropriate (or probably both).

Question 6

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:

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?

Proposed response

The consultation materials only refer to transitional arrangements for authorities whose local plan is already in production and has reached one of the Regulation 19 consultation stages. Further transitional arrangements should be made in relation to the application of the housing delivery test so that authorities that have seen an increase in their standard method need figure are not penalised at least in the short term for not meeting a need figure that they had no prior knowledge and no ability to plan for. Similarly measures should be taken with regard to the calculation of 5 year housing land supply where the relevant local plan is out of date so that the calculation is not immediately against the new standard method figures.

Question 7

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:

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?

Proposed response

The consultation materials only refer to transitional arrangements for authorities whose local plan is already in production and has reached one of the Regulation 19 consultation stages. Further transitional arrangements should be made in relation to the application of the housing delivery test so that authorities that have seen an increase in their standard method need figure are not penalised at least in the short term for not meeting a need figure that they had no prior knowledge and no ability to plan for.

3 Delivering First Homes

- 3.1 The government previously consulted on its First Homes proposals in February 2020 covering the design of the scheme and changes to the planning system to deliver it. The proposal is to deliver homes for first time buyers at 30% discount off market value.
- 3.2 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 to initially be secured through Section 106 agreements. These would be delivered on-site in the majority of cases but the approach would also apply in cases where a financial contribution is accepted instead.
- 3.3 The consultation acknowledges that each authority has its own affordable housing policy at present which has been determined to be viable and so the proposed new system seeks to capture the same amount of value from the development as would be captured under the existing local authority policy. In the case of East Devon we have a policy position in

Strategy 34 that seeks 70% of the affordable units to be social or affordable rent accommodation and 30% intermediate or other affordable housing. 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 other affordable housing products. 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. In the case of East Devon this would enable the 25% of First Homes to come in-lieu of the 30% of intermediate or other affordable housing.

Option 2 – A local authority and developer can negotiate the tenure mix for the remaining 75% of units.

Question 8

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)

Proposed response

The primary need for affordable housing in East Devon is for social or affordable rented accommodation as required by our adopted policies and so option 1 is most likely to achieve affordable housing that would best meet the identified needs while also providing certainty to the development industry as we would be continuing to follow established policy requirements. It makes no sense to leave this open to negotiation when established up to date policies can be relied on to direct affordable housing to the tenures required in the locality.

There is a significant danger that First Homes will impact on the viability of developments and their ability to deliver the remainder of the affordable housing to our policy requirements. This is because affordable housing provides developers with certainty in their cash flow and a lump sum of cash usually mid-way through construction. This will be reduced as first homes will be sold by the developer and rely on the demand for the product which we don't know as there is no need data for this tenure. In some cases RPs will pay 80% of market value for shared ownership so the discount on First Homes is greater again impacting on viability. The loss of cross subsidy from shared ownership homes is a worry for rented tenures and will impact on RPs business modelling meaning they will have to find greater levels of subsidy to make sites stack up or will reduce their offers.

3.4 There are then three questions – numbers 9 to 11 that relate to current exemptions from the requirement to deliver affordable home ownership products. These exemptions 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.

Question 9

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?

Proposed response

For consistency and given the nature of the housing types that are currently exempt it would make sense to maintain these exemptions for First Homes.

Question 10

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

Proposed response

See Q9

Question 11

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

Proposed response

See Q9

Local plans and transitional arrangements

- 3.5 In acknowledgment that local plan and neighbourhood plan policies covering tenure mix will be under review at the time of introducing these changes the government proposed transitional arrangements. These would enable local plans and neighbourhood plans that

are submitted for examination within 6 months of the new policy being enacted to not have to reflect the First Homes requirements. Similarly where proposals being progressed through 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.

Question 12

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

Proposed response

The proposed transitional arrangements appear to make sense albeit there should be clarity over the period of flexibility in relation to planning applications being progressed for the purposes of clarity.

Level of Discount

- 3.6 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 affordable units to be First Homes would remain.

Question 13

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

Proposed response

Yes – It is good that local authorities will have flexibility over the level of discount since a 30% discount in an area such as East Devon is unlikely to make the homes affordable to those in need given the significantly greater disparity between house prices and average earnings. It is however unfortunate that varying the level can only be done through a local plan as this 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 and will in effect make home ownership cheaper for those who are able to achieve this by their own means anyway.

Exception Sites

- 3.7 This section outlines a government proposal 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. This policy will not apply in designated rural areas where delivery will be through the rural exception sites policy. It is assumed that reference to “designated rural areas” refers to areas designed as such for the purposes of the right to buy in Housing legislation which is the whole district with the exception of the former urban district of Exmouth and the parishes of Honiton, Seaton and Sidmouth. Rural exception sites would remain a vehicle for the delivery of affordable housing outside of these areas.

- 3.8 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.

Question 14

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?

Proposed response

It seems unlikely that First Homes exception sites will be viable and deliverable unless a small proportion of market housing is included in order to make them sufficiently attractive for land owners to release their land for development.

Question 15:

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

Proposed response

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 East Devon where average house prices are over 9 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.

Question 16:

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

Proposed response

Yes – It is assumed that the reference to designated rural areas relates to those designated as such for right to buy purposes. If so then 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. Otherwise effectively general market housing would be provided in unsustainable rural locations and would not constitute a sustainable form of development contrary to the aims of the NPPF.

4 Supporting small and medium-sized developers

- 4.1 The consultation paper recognises that small and medium-sized builders (SMEs) make an important contribution to overall housing supply noting that small sites typically build out more quickly than larger sites. SMEs are identified as playing a significant role in local areas, providing people with increased choice in type and design of housing.
- 4.2 The SME sector has, however, been declining and was hit hard by the last recession and existing firms are under further pressure from Covid-19 impacts. There are now greater flexibilities for local authorities to defer collection of payments for CIL and 106 agreements but the proposal now is to further reduce the financial burdens on SMEs for a time-limited period.
- 4.3 In East Devon we seek affordable housing contributions on sites of 10 or more dwellings in the towns of Honiton, Sidmouth, Seaton and Exmouth. Everywhere else in the District is classified as a 'designated rural area' and a threshold of 5 applies.
- 4.4 The Government propose that to stimulate economic recovery with a particular focus on SMEs, the threshold for affordable housing contributions could be raised to either 40 or 50 homes, though in designated rural areas the proposal is to maintain the current threshold. Raising the threshold is seen as a means to reduce the burden of developer contributions for SMEs, as smaller sites are more likely to be built out by SMEs. The Government advise that to ensure that this measure is targeted at the economic recovery phase and does not inflate land prices in the longer term, the higher threshold should be implemented for a time-limited period and lifted as the economy recovers from the impact of Covid-19.
- 4.5 In reality, and unless a glut of planning permissions are granted in the coming months, the proposals will probably have limited impacts in East Devon. From the 1 April 2013 to the 5 July 2019, a six year period there were only 12 sites granted planning permission that fell within the 10 to 50 dwellings range and are not in designated rural areas. Some, where nil or only some completions are recorded may come in with new applications as a means to seek to circumvent possible existing affordable housing commitments, though a lot of the sites will have already been completed or seen substantive progress made. It is likely that in the next year or two (the Government suggest an 18 month initial period for the policy) few additional sites in these size thresholds will be granted planning permission.

Question 17:

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)

Proposed response

Whilst the objective of promoting SMEs is endorsed we would question the logic presented in the consultation document. There can sometimes be economies of scale that can help developers of larger sites but by the same token there can be commercial benefits that small scale site developers can capitalise on. It is not clear cut, therefore, that the commercial viability considerations that are briefly touched on in the consultation paper actually hold true. To justify raising the threshold for affordable housing contributions a more rigorous assessment of development viability should be undertaken and more importantly other options (outside of the planning system) to achieve the outputs sought should be assessed.

There is a real need for affordable housing and any raising of thresholds could clearly adversely impact on its delivery. Amongst other matters there may be a need to consider viability considerations across the country or on differing typologies of sites before a final policy choice is arrived at. If there are other means to support SMEs, outside of the planning system, then these should be fully explored, and implemented, first.

It is also considered that there is a danger that the national housebuilders could create separate small companies to develop small sites and benefit from this scheme. Measures should be put in place to prevent this by ensuring that only genuine small and medium size builders benefit from these proposals.

Question 18:

What is the appropriate level of small sites threshold?

- i) Up to 40 homes
- ii) Up to 50 homes
- iii) Other (please specify)

Proposed response

The decision reached should be based on more detailed evidence to justify any threshold, as drafted there is no apparent logic for either the 40 or 50 choice and actually it is questionable whether there would be any significant difference in going for one rather than the other. Choice of one rather than the other would only be credible if there was a marked difference in the nature of developers building out sites at one size level or another, or there were marked changes in viability at or around one or other of these numbers.

Overall if a policy approach of the type is taken then one objective should be to seek to minimise the losses of affordable housing delivery that may occur, this suggests a low threshold should be applied, indeed it brings in to question the validity of the policy approach altogether, unless genuine evidence on viability is forthcoming.

Question 19:

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

Proposed response

As set out in other answers any threshold should be far more fully justified by robust evidence.

Question 20:

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

Proposed response

Any amendments should be strictly and explicitly time limited.

Question 21:

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

Proposed response

It is vital that large sites cannot be subdivided so as to benefit from these changes to the thresholds. To introduce these changes without putting clear and robust measures in place would undermine the intention behind the policy by supporting large scale major house builders rather than SME's and would undermine the provision of affordable housing which is badly needed.

Question 22:

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

Proposed response

Yes. Rural areas have very different characteristics and needs to the urban areas so the proposed approach makes sense.

Question 23:

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

Proposed response

Our understanding is that one of the main challenges facing SME builders is access to land with any suitable land of any size likely to be optioned up by major housebuilders preventing access for SME builders. This and the inflated values that major housebuilders are willing and able to pay for land (often at the expense of the funding of infrastructure once viability arguments are made) are what has restricted activity of SME builders. Unfortunately none of the proposals put forward by the government in this consultation or the white paper seem to tackle the fundamental problems with how land for housing is bought and sold in this country.

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

- 5.1 Permission in principle was first introduced in 2017 as a faster way of gaining planning permission for housing developments that initially related to land on a brownfield land register but was subsequently expanded to include minor developments of upto 10 dwellings.
- 5.2 The idea is that applicants can apply for planning permission in two stages. The first gives them “in-principle” consent with issue such as the 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.
- 5.3 The government is seeking comments on opportunities to broaden the use of permission in principle. It is worth noting that as a Council we have never received an application for permission in principle and we have not proactively granted permission in principle for any sites on our brownfield land register as the vast majority either have permission or permission is being actively pursued. It appears that our customers prefer to use the more traditional outline planning permission followed by reserved matters route, albeit the route cannot be used for development covered by the EIA Regulations or Habitats Regulations which is quite limiting in East Devon.

Extending Permission in Principle to cover major development

- 5.4 The government envisage widening the use of permission in principle to sites over 10 dwellings in size. They believe that it will reduce the upfront planning costs and provide certainty quickly about the principle of development.
- 5.5 The process cannot be used for development subject to EIA requirements unless it has been screened and it has been determined that it is not EIA development. Similarly it cannot be used for development likely to have a significant effect on a European protected habitat such as the Exe Estuary or Pebblebed Heaths.

Question 24

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

Proposed response

Permission in principle has only served to complicate the planning system and cause confusion by introducing a new consent regime that is not widely understood. As a result it does not fulfil its purpose of providing certainty to developers and establishing a land value that can help them in seeking finance. 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.

It would make more sense to move to a position where the system is simplified by merging the permission in principle and outline planning permission routes into one single system using the established terminology that is more widely understood by the development industry and the wider public.

Outline planning permission is the more popular route and works well for the industry. We have received 39 outline applications since Jan 2019 compared with no applications for permission in principle.

- 5.6 Any applications for permission in principle should be predominantly for housing but commercial elements can be included.

Question 25

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.

Proposed response

If expanding to include major developments then it would be counter productive to prevent the inclusion of commercial development. Major developments should not just be about building housing but be about building communities. Communities should consist of a mixture of uses with homes being supported by jobs and retail, leisure and community spaces and so these must be included.

Flexibility is needed to ensure that sustainable forms of development come forward and so setting a strict limit does not make sense but there should be clear guidance to ensure that the majority is housing.

Process for making a Permission in Principle application for major development

- 5.7 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.

5.8 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.

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

Question 26

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?

Proposed response

The information requirements for permission in principle for major housing developments are woefully inadequate and would not allow for a sound and informed decision on any proposals to be made. The problem is that the granting of permission in principle ties the authority to the development of the site for the scale of development proposed and yet without sufficient details to understand the technical constraints of the site it is impossible to make a sound judgement on the scale of the development that the site could accommodate and its likely impacts particularly given requirements for developments to deliver factors such as bio-diversity net gain, sustainable drainage systems, on-site open space and affordable housing etc.

It is not appropriate for major developments to be considered through the permission in principle route and the only way of making it so is to introduce the same information requirements that are required for outline planning permission for developments on this scale and hence making both routes available is pointless.

Question 27

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

Proposed response

Yes – This is one of many additional parameters for which information should be sought.

Publicity Arrangements

- 5.10 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.

Question 28

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.

Proposed response

Publicity requirements should reflect the scale of development proposed and so they should clearly be extended for major developments seeking consent through permission in principle. In order to engage with all groups in society the greater use of web-sites and social media should be encouraged and the use of newspaper ads phased out particularly as most local newspapers would include a story about any major development themselves negating the need for a formal press advert at the expense of the local authority.

Although views are not sought on the proposed timescales it is considered that a 5 week period for determination and a 14 day consultation would be wholly insufficient to enable the issues to be fully considered by either the community, other stakeholders or indeed the local planning authority.

Revised fee structure to incentive Permission in Principle by application

- 5.11 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

Question 29

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

Proposed response

The fee structure for planning and related applications is fundamentally broken as the fees do not cover the cost of delivering the service and so the funding of council planning departments puts a strain on core budgets leading to them often being under resourced out of necessity with consequential impacts on the quality and speed of service provided. It is not therefore relevant to measure the fee for a major permission in principle application against a flawed fee for an equivalent outline planning application. The fee structure should be completely overhauled and fees set at the local level on a cost recovery basis. It is only through a fundamental change in approach like this that you will ensure that planning services are properly funded and a new planning system can be properly resourced and operate effectively.

In the event that amounts that reflect the true cost of processing these applications can be identified then a banded fee structure such as that proposed makes sense.

Question 30

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

Proposed response

See answer to Q29 – a fee should be set at the local level on a cost recovery basis.

Brownfield Land Registers and Permission in Principle

- 5.12 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.
- 5.13 The government wishes to ensure that the brownfield land register remains a single source of information for developers on brownfield land.

Question 31

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.

Proposed response

Yes - Agree

Additional guidance to support implementation

- 5.14 The government acknowledges that the permission in principle by application consenting route is not well understood by landowners, developers or local planning authorities and is seeking comments on further guidance that could be provided to assist.

Question 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.

Proposed response

The permission in principle by application route is pointless and simply adds to the layers of legislation and guidance that cause confusion and misunderstandings about the planning system. If the government is serious about simplifying and streamlining the planning system then it should abandon permission in principle by application and simply update the outline planning permission route to serve this purpose. The outline planning permission and reserved matters route is long established and well understood and it is not a surprise that land owners and developers see little benefit in gaining permission in principle instead.

Regulatory Impact Assessment

- 5.15 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.

Question Q33

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

Proposed response

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.

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.

These concerns can be overcome by withdrawing permission in principle by application entirely rather than expanding it to include major developments.

Question Q34

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

Proposed response

The wont. We have yet to receive an application for permission in principle.

6 **Equalities**

- 6.1 Like all public authorities the government is required to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations.

Question 35

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?

Proposed response

None