

Changes to the current planning system

Consultation Questions: ECC responses

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

No – housing stock is not a good predictor of housing need and therefore should not be used. The approach appears to be based on a concept of fairness; however, the outcome is likely to be far from fair; those authorities who have helped deliver significant housing development over previous years would have a relatively higher requirement. Additional stability could be injected into the standard method by just using an average of household projections.

Q2: In the stock element of the baseline, do you agree that 0.5% of existing stock for the standard method is appropriate? If not, please explain why.

No – existing stock should not be used in the standard method as it is not a good predictor of housing need.

Q3: Do you agree that using the workplace-based median house price to median earnings ratio from the most recent year for which data is available to adjust the standard method's baseline is appropriate? If not, please explain why.

Yes this is an appropriate measure of affordability, but affordability should not be factored into the standard method. Issues of affordability cannot be addressed through dwelling requirements; evidence does not suggest a causal link between dwelling need/requirement, dwellings delivered and affordability. Instead the standard method should focus on housing need, with other measures being taken to address affordability (based on the provision of truly affordable housing products).

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.

This has no place in the standard method as issues of affordability cannot be addressed through dwelling requirements; evidence does not suggest a causal link between dwelling need/requirement, dwellings delivered and affordability.

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

No - Issues of affordability cannot be addressed through dwelling requirements; evidence does not suggest a causal link between dwelling need/requirement, dwellings delivered and affordability. Instead the standard method should focus on housing need, with other measures being taken to address affordability (based on the provision of truly affordable housing products).

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?

6 months is unrealistic unless consultation is only tokenistic. If an authority undertakes quality consultation there is likely to be a significant level of public response, both positive and negative, and this will need to be fully analysed and amendments made if public consultation is important to inform the final plan.

Setting such a tight timescale is likely to lead to delay in plan production as authorities fail to meet the deadlines and have to go back square one based on the new housing figures.

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?

Well before the second stage of consultation (Regulation 19) the housing figures will have been set, assessment carried out and strategy arrived at. If changes aren't to lead to significant delays with plan production the transition periods need to be much longer than 3 months before Regulation 19.

Again 6 months is insufficient time if the outcome of public consultation is to make any true amendments to the plan.

Q8: The Government is proposing policy compliant planning applications will deliver a minimum of 25% of onsite affordable housing as First Homes, and a minimum of 25% of offsite contributions towards First Homes where appropriate. Which do you think is the most appropriate option for the remaining 75% of affordable housing secured through developer contributions? Please provide reasons and / or evidence for your views (if possible):

i) Prioritising the replacement of affordable home ownership tenures, and delivering rental tenures in the ratio set out in the local plan policy.

ii) Negotiation between a local authority and developer.

iii) Other (please specify)

iii (other) local authorities should be able to set their own affordable housing tenure splits, in order to best meet locally assessed needs. Local planning authorities are best placed to assess/know and therefore set targets to meet local affordable housing needs. We would support PPG that emphasises that First Homes should replace affordable home ownership tenures (i.e. shared ownership). Nevertheless, Local authorities should have the ability to set a lower (or indeed higher) First Homes target, if this is reflected by local needs.

It will also be important for Homes England's funding regime to support the delivery of this new product and their advice/remit should change accordingly.

Q9: Should the existing exemptions from the requirement for affordable home ownership products (e.g. for build to rent) also apply to apply to this First Homes requirement?

Yes, for consistency reasons, it makes sense for First Homes to be treated in the same way as other affordable home ownership products.

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

Consistency is key here.

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

No.

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

No. Local authorities should be able to set their own affordable housing tenure splits, in order to best meet locally assessed needs. Also, the proposed transitional arrangements are not clear. If a plan is submitted within 6 months it will not need to reflect the First Homes policy requirements, but will development still need to be delivered in accordance with the First Homes Policy requirements?

For how long will a local authority have flexibility to accept alternative tenure mixes?

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

No. The requirement for this to be evidenced in the local plan making process may lead to significant delay. It should be possible to justify in a SPD or other published document through a simple application of the affordability ratio referred to in this consultation. With Exeter City Council it is likely that a higher level of discount will be required to meet actual housing need.

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

No – exception sites should deliver affordable homes. However, this is unlikely to be directly relevant to Exeter City Council as an urban authority.

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

No – in particular to ensure that settlements can accommodate new development the 5% size threshold should be retained. However, this is unlikely to be directly relevant to Exeter City Council as an urban authority.

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

Yes

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

There is no evidence that these small to medium size sites are not viable; therefore the threshold should not be raised (even for a short time). In urban areas, these smaller sites are critical for the delivery of new homes as the ability to provide greenfield is limited both by physical constraints and also the tight boundary around Exeter City Council area. These smaller sites provide important growth and need to deliver both infrastructure through CIL or other Levy and also affordable housing given the expense of city living. There is no evidence of site delivery being delayed through viability and no evidence through the application process that viability is preventing sites coming forward. Furthermore, there is no evidence that the development industry in Exeter has slowed as a result of the current pandemic and thus no justification for raising the threshold is seen.

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

i) Up to 40 homes

ii) Up to 50 homes

iii) Other (please specify)

iii) Other – the threshold should be established by local evidence and not set nationally. In Exeter that threshold was set at three dwellings and this was supported by a Viability Appraisal tested at Examination.

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

No – the site threshold should be set locally in accordance with local evidence on viability.

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

No the threshold should not be raised. There is no evidence that the development industry in Exeter has slowed as a result of the current pandemic and thus no justification for raising the threshold is seen.

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

No; the response is not clear or robust enough.

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

Thresholds should be established locally. Whilst the argument that rural authorities often secure a large proportion of their housing supply as affordable housing, this can also be the case for urban authorities (and as already stated there is no evidence that these small to medium sites are not viable). Exeter has not seen viability assessments submitted to

demonstrate sites are not viable on the smaller sites nor has there been any real evidence of a slowing of the application process during Covid 19.

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

Government guidance could specify that specific proportions of strategic sites should be designated for SME builders (in a similar way as is proposed for self build). Guidance on how to ensure this could helpfully be provided in the NPPF. Government could also make it easier to gain finance for proposals as this is what many developers are seeing as a major challenge rather than the development process itself.

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

No, problems are already apparent with the use of PiP for minor development, with developers thinking they are going to get more development than is realistic at the technical consent stage. This leads to problems for the LPA and for developers. Developers tend to pay over the odds for a site, which results in viability issues and reduction of profit margins for the development. LPA's can also feel under pressure to grant permission for poor development. These issues can stall housing delivery. Technical issues and in particular issues of capacity are fundamental and should not be separated from the issue of principle.

These problems would be magnified if PiP could be used for major development, where some technical issues are fundamental to the acceptability of development. An example is a current application which we are about to refuse on access/highways grounds. The site is unsuitable for this land use based on the technical analysis. If it already had permission in principle it would have provided a false picture to the developer on what was achievable, as well as the general public on what was coming forward on the land. It would also discourage other potential developers of the site for more appropriate uses. It would have had to have been taken into account in other development's cumulative impact assessments for transport and air quality impacts, which could have resulted in these developments being refused. It would have inflated the land value giving the land owner a false sense of its worth, potentially preventing other development from coming forward.

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.

Yes, if PiP is permitted for major development, which we would strongly argue against, limits would need to be set on commercial floorspace. If a large scheme included main town centre uses above the local or national impact assessment threshold, how would this be assessed? There should be a limit on the amount of this type of development up to the local or national impact assessment threshold that applies to the area.

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

No, if PiP is permitted for major development, which we would strongly argue against, additional technical information should be required to demonstrate that the amount/type of development is appropriate and sustainable, to avoid conflict at the TDC stage due to inflated expectations from the PIP stage.

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

Yes, if PiP is permitted for major development, which we would strongly argue against, additional height limits should be set to try to avoid significant variance between the developers expectations for the site and what is achievable at TDC stage.

Q28: Do you agree that publicity arrangements for Permission in Principle by application should be extended for large developments? If so, should local planning authorities be:

- i) required to publish a notice in a local newspaper?**
- ii) subject to a general requirement to publicise the application or**
- iii) both?**
- iv) disagree**

iii) We need to move to more electronic methods of publicity, but publicly arrangements should be consistent with those for planning permissions.

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

The fee structure should ensure costs of dealing with PiP applications, and additional training requirements, are covered, adhering to the commitment in 'Planning for the Future'.

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

The fee structure should ensure costs of dealing with PiP applications, and additional training requirements, are covered, adhering to the commitment in 'Planning for the Future'.

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.

Yes this seems logical.

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.

The current PPG guidance is flawed in that it states:

“The scope of permission in principle is limited to location, land use and amount of development. Issues relevant to these ‘in principle’ matters should be considered at the permission in principle stage. Other matters should be considered at the technical details consent stage. In addition, local authorities cannot list the information they require for applications for permission in principle in the same way they can for applications for planning permission.” (My emphasis)

At a guess this is why some local authorities are still assessing detailed matters, such as transport and access, as they are relevant to the location, land use and (particularly) amount of development, which fall within the scope of PIP according to the PPG. Clearer guidance in this respect is required given the PPG states all that is required to make a valid application for PIP is: a completed app form, location plan and correct fee.

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

Drawbacks are highlighted in the response to question 24: Problems are already apparent with the use of PiP for minor development, with developers thinking they are going to get more development than is realistic at the technical consent stage. This leads to problems for the LPA and for developers. Developers tend to pay over the odds for a site, which results in viability issues and reduction of profit margins for the development. LPA’s can also feel under pressure to grant permission for poor development. These issues can stall housing delivery. Technical issues and in particular issues of capacity are fundamental and should not be separated from the issue of principle.

These problems would be magnified if PiP could be used for major development, where some technical issues are fundamental to the acceptability of development.

The process is also complex and not well understood (by officers/members/agents/developers). Direct costs in terms of training for officers and members. Benefits are difficult to identify.

If the amount of development was removed from the scope of PIP this would avoid one key failing (which results in a false sense of what might be achievable at TDC stage).

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

Limited extent. We have not received any applications for PIP in our Local Planning Authority. Developers are likely to see it as a complex process, with heightened risk. There is nothing fundamentally wrong in the current outline applications process and PiP is merely a rewrite of the 1980s system of gaining an ‘in principal’ permission.

Q35: In light of the proposals set out in this consultation, are there any direct or indirect impacts in terms of eliminating unlawful discrimination, advancing equality of opportunity and fostering good relations on people who share characteristics protected under the Public Sector Equality Duty?

If so, please specify the proposal and explain the impact. If there is an impact – are there any actions which the department could take to mitigate that impact?

No.