

Record of Delegated Executive Decision

1. Subject of decision

Government consultation response – Changes to the current planning system

2. Name and Title of Decision Maker

Councillor Bruce Pickard, Deputy Mayor

3. Details of any Conflict of Interest and any Dispensation granted in respect of such Interest

None

4. Executive summary

This report seeks the approval of the Deputy Mayor to submit a response, attached as Appendix 1, to the Government's public consultation on bringing forward a range of change to policy and legislations regarding the current planning system.

5. Alternative Options considered

One further option was considered:

Option 2

Do not agree the recommendations as set out at paragraph 1.2 of this report and seek amendments to the response prior to its publication.

6. Decisions

- 1) Notes the contents of the report;
- 2) Agrees that the Authority should respond to the consultation; and
- 3) Approves the draft response attached as Appendix 1 and, in consultation with the Head of Environment, Housing and Leisure, make any final amendments to the draft before its submission as the Authority's response to the consultation.

7. Reasons for the Decisions

The proposed response has been prepared having had regard to a range of feedback from officers and Members within the Authority.

8. Date Decision Made

20 October 2020

9. Is this decision subject to call-in and if so expiry date of call-in period

Yes, the call-in period expires at 5.00pm on 28 October 2020.

10. Date of Publication

21 October 2020

11. Implementation Date (if decision not called in)

After 5.00pm on 28 October 2020

North Tyneside Council – Response to consultation:

Changes to the existing planning system, October 2020

View the consultation document here:

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

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Revised standard method for calculating housing need

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, whilst the Council recognises that there are instances where latest household projections are not a reasonable reflection of the scale of housing requirements in an area; the Council overall considers the measure a blunt tool that does not enable a realistic assessment of housing needs. For some areas – in combination with the uplift for affordability – it will artificially inflate housing requirements.

However, whilst for North Tyneside household projections are higher than the 0.5% baseline, for many Authorities in the North East this is not the case. The Council therefore recognises that this baseline can assist in mitigating inappropriately low calculations of Local Housing Need. However, it remains the Council's view that a simple uplift based upon existing stock does not respond sufficiently to actual needs or capacity for delivery in an area and could exacerbate mismatches in supply and demand across the country. This could be assisted by additionally taking account of past housing delivery rates and identification of a minimum and maximum uplift on those rates. This could allow for markets to catch up, avoid unachievable jumps in requirements and ensure all areas secure a minimum uplift in rates of housing delivery.

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.

It is recognised that 0.5% has been selected because it reflects the national average of housing delivery relative to stock over recent years. However, at the Local Area the Council does not consider this has any relationship to probable housing need or deliverability of homes in each local area. For a majority of local authorities there is substantial divergence between growth arising from a 0.5% stock baseline and current household projections.

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.

The Council considers this is a reasonable measure to informing market signals and the potential uplift required for general needs housing.

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.

The aims are welcomed as change in affordability is an important measure. However, the Council is not convinced that weighting the calculation so substantially on the relationship between just two individual years, ten years apart

for such a variable figure is sufficiently robust or sensitive to the pace of change at a local level in response to housing delivery or other factors. In the Council's view, a measure that considers the average ratio over the preceding five years would ensure a more time sensitive measure that avoids substantial annual variation.

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

For some authorities, the uplift required as a result of the affordability weighting would appear to be extreme. For North Tyneside, the effect of the uplift in general is not considered to be inappropriate. Where the scale of growth required diverges substantially from the reasonable demographic forecasts or deliverability of homes in an area it would be sensible for the measure to incorporate some sort of counterpoint. The suggested reference to a proportionate uplift against previous housing delivery might assist in this.

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:

Q6: Authorities which are already at the second stage of the strategic plan consultation process (Regulation 19), which should be given 6 months to submit their plan to the Planning Inspectorate for examination?

Yes

Q7: Authorities close to publishing their second stage consultation (Regulation 19), which should be given 3 months from the publication date of the revised guidance to publish their Regulation 19 plan, and a further 6 months to submit their plan to the Planning Inspectorate?

If not, please explain why. Are there particular circumstances which need to be catered for?

Yes

First Homes

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)

The First Homes requirement will undermine the principles upon which any division of tenure has been established in Local Plan policies. However, the principle that First Homes replace intermediate or other home ownership products whilst rental products are maximised is supported. The Council would therefore continue to seek the remaining 75% of affordable provision as rental products. However, the Council would additionally note that the new Affordable Homes Programme 2021-26 has a large emphasis on shared ownership products therefore further reducing the number of homes available for the delivery of rental products.

Overall, the Council consider the implications for delivery of an appropriate mix of affordable tenures should be subject to negotiation between a Local Authority and developer – informed by latest available evidence and understanding of the viability of a scheme.

With regards to current exemptions from delivery of affordable home ownership products:

Q9: 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?

The Council sees no reason why a different exemptions regime would apply to First Home products than any other form of affordable home ownership product.

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

None identified.

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

None identified.

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

The transitional arrangements appear reasonable but in most instances the Council consider Local Authorities should seek to adjust their draft plan to reflect the proposed First Homes products.

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

A 30% discount on the independently verified market value of the homes is not considered a sufficient discount to a £250,000 property to ensure affordability in North Tyneside. The additional scope for a 40% or 50% discount is welcomed but the Council would question whether it is necessary for this to be defined within Local Plan policy. The Council recognise this approach has been taken to provide a degree of certainty but consider that it limits the Council's ability to respond proactively to changes in the market and relative affordability.

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?

National policy should ensure exception sites remain just that and can only be brought forward in exceptional circumstances where Local Plan policy for the delivery of homes is not up-to-date. In circumstances where a First Home exception site might make a valuable contribution to meeting housing needs an element of market housing to ensure viability may be appropriate. National policy should be clear that this is limited and must only enable delivery of the First Homes. It would be beneficial for national policy to be explicit about the minimum proportion of First Homes in a scheme in order for it to be considered an exception site.

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

No, some sort of threshold is required to ensure sites that could deliver substantial harm to a community or settlement are avoided. For an authority such as North Tyneside, a 5% threshold is difficult to verify – if the total stock of the Borough is taken as “the settlement” this would enable a scheme of over 4,000 dwellings as technically an exception site. If the threshold is to be removed it should be replaced by clear policy affording Local Authority’s the power to apply other aspects of Local Plan policy effectively to ensure sustainable development and avoid harm.

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

Yes

Affordable housing requirement - small sites threshold

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

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

The Council considers that the current arrangements in place across most Local Authority’s to ensure good development can be delivered viably are the best and most responsive approach to this current crisis. The Council recognises that economic impacts of the Covid-19 pandemic are significant and the construction industry has faced and may continue to face significant challenges. However, at this moment in time whilst developments that were on site during the initial lockdown have been delayed, post lockdown there is little evidence yet of a slowdown in housing delivery. A developer gaining permission for residential development today or in 18 months’ time is likely to be bringing forward their development in roughly 2 to 4.5 years’ time. At this time the Council considers there is no evidence that a simple uplift in the site threshold for this time period is any more effective or responsive than simply allowing Local Authorities to work positively with applicants to ensure the deliverability of development.

(see question 18 for comments on level of threshold)

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

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

Further to the point noted above for an authority like North Tyneside, presently sites of between 10 and 50 dwellings are responsible for less than 8% of currently committed affordable homes. A higher threshold may bring about a greater reduction which would potentially bring greater damage to the Council's ability to support affordable housing so would not be supported. A lower threshold would deliver only minimal benefits. However, within their local areas schemes that come forward delivering between 10 and 50 dwellings make important contributions to meeting needs for affordable housing and may be the only such development in an area for the next 5 to 10 years.

Furthermore, setting the threshold for requirements at a larger number of homes creates a substantial step up in provision of costs which will create a notable disincentive for developers to make the best and most efficient use of land. In North Tyneside (where 25% of development is sought as affordable) schemes that could readily provide just over 50 dwellings would find their affordable requirement would jump from 0 to 12 affordable homes if they delivered 50 rather than 49 dwellings. Across the Borough over a period of at least 18 months this could lead to a substantial cumulative reduction in development potential.

As such, the Council considers a threshold of 10 dwellings should continue to apply with recognition that development viability through the current downturn is challenged.

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

No, see above response to question 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?

If Local Authorities were enabled to work positively with developers, this matter would not be an issue. In the Council's opinion, the greater challenge is to developers who may be approaching site commencement or are on-site during this uncertain time. For any application currently in the planning process or being prepared by an application the additional risk and uncertainty can be factored into the process.

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

The consultation simply states that a proposed approach will be set out in planning guidance to prevent applicants from splitting larger schemes. The Council agrees with the principle but has no view on the approach given no details are provided. However, it is well established that Local Planning Authorities consider the applications before them. As such, even if it were

deemed lawful to refuse a scheme on the on the basis of not meeting an affordable housing requirement arising from a scale of development over and above the number of dwellings applied for, the chances of successfully upholding such a decision through an appeal process appears low.

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

No comment – there are no designated rural areas in North Tyneside

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

The Council would consider opportunities to enable SMEs to access affordable finance, and tax breaks the most effective and easily implementable – without leading to direct negative impacts upon local communities. More fundamentally, aside from relatively small scale brownfield plots that can be purchased and redeveloped by SME, the availability of land more generally to such developers is limited with major landowners and housebuilders monopolising land supply. If the government wishes to bring SMEs into the market more fully, measures to unlock this supply should be considered.

Permission in Principle expanded to Major Development

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

No, the Council is not convinced that it can be reasonable to agree that a major development site is suitable in principle for housing development when key matters concerning the planning impacts arising from its development are not resolved. In such circumstances, the likelihood is that permission in principle is not appropriate and would therefore be refused. For major development, as opposed to minor development, the likelihood of substantial objections arising is such that it is more likely to lead to increased costs for applicants when the issues identified may have been easily addressed through an outline or full application as part of the established development management process.

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.

The Council does not consider there to be any basis to identify a threshold for commercial development on such sites. By definition, the process would consider whether the principle of development sought is appropriate to the site. The applicant should be free to establish a mix that is appropriate to their development requirements and the Council will consider it accordingly.

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?

For major development, the Council considers that broad principles regarding the potential impacts of the proposal, including how potential harmful impacts would be mitigated, are essential to establishing if the principle of a development would be acceptable.

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

It is unclear why the government would consider height a matter that requires inclusion as part of the permission in principle process as opposed to technical details. However, the suggestion that height may need to be considered illustrates the challenge of accepting in principle a volume of development on a given site with no supporting information about how the site might sustainably accommodate any given scale of development.

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**

Option two (ii). The Council considers more flexible arrangements for publicity are appropriate for permission in principle. However, whilst flexibility is important, legislation and guidance regarding this should be clear about any minimum requirements to ensure compliance. This is noted on the basis that subsequent consultation on technical details consent would follow the relevant regime in place for planning permission.

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

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

If you disagree, please state your reasons.

Option two (ii): the Council considers more flexible arrangements for publicity are appropriate for permission in principle. However, whilst flexibility is important, legislation and guidance regarding this should be clear about any minimum requirements to ensure compliance. This is noted on the basis that subsequent consultation on technical details consent would follow the relevant regime in place for planning permission.

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

No, the Council considers Option a) retaining the current fee structure at £ per 0.1ha remains the fairest approach to calculating a fee. No information has been

provided to establish what adjustment to the £ per ha would be made if the fees were banded at 1ha to 2.5ha and 2.5ha and above. Meanwhile, a cap on the proposed fee at 2.5ha is not considered to be reasonable. A larger site will interact with a wider range of issues requiring consideration through the permission in principle regulations. The fee structure should respond to that complexity.

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

No comment.

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

No, because such an amendment will not result in information on all permitted brownfield land being included on brownfield registers as it does not include any other form of planning permission. Additionally, all local authorities maintain registers of land as part of their annual housing delivery assessments and publish housing land availability assessments. These documents provide information on all development permitted in an area.

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.

Current planning guidance indicates only that permission in principle takes into account location, land use and amount of development.

The Council considers land use can be readily determined by consultation with the Local Plan policies map. A site that is open space or allocated employment land etc would not benefit from PiP for housing development, other sites not constrained by designations of allocations may be suitable for PiP. If the government has a different view on this, guidance would be welcomed.

The matters expected to be taken into consideration for location and amount of development are unclear. Reference to location would suggest overall accessibility may be an issue – but that is a matter that may be capable of mitigation. Whilst amount of development – in order to be meaningful – must inevitably be informed by some indicative layout and density of development. How the government expects location and amount of development to be considered through the PiP process would therefore be of value.

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

From a regulatory perspective, the creation of parallel consent regimes for securing the same type of developments would appear to be overly bureaucratic and wasteful. The creation of PiP and TCD if popular would lead to duplication of the administrative burden upon local planning authorities with only marginal gains for applicants by way of a reduced fee for PiPs. Meanwhile the value of PiPs to

the applicant as a means of providing certainty for the form of development being sought is potentially very limited. Within North Tyneside the pre-application advice service provided to applicants may not provide a statutory form of development consent but affords potential applicants with a substantially greater understanding of the expectations for development and information on which to assess their next steps.

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

To the Council, the role of PiP as a robust form of development consent upon which financial decisions can be based is limited. As it currently stands, the Council considers that it would be relatively easy for an applicant to secure a PiP but that would provide no indication of whether the subsequent application for technical details consent would be approved. If the risk of refusal of technical details remains high the value of a PiP to a landowner or developer will remain extremely limited.

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