

Management Committee

31 October 2017

Response to Government Consultation: Planning for the Right Homes in the Right Places

For Decision

Brief Holders

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Statutory Authority

The Planning and Compulsory Purchase Act 2004 requires local planning authorities to have regard to national policies and guidance in plan-making. Planning agreements are made under Section 106 of the Town and Country Planning Act 1990 and the Planning Act 2008 provides the statutory basis for the introduction of the Community Infrastructure Levy (CIL). The Duty to Co-operate and neighbourhood planning were introduced by the Localism Act 2011.

Purpose of Report

- 1 For Members to consider the Government's consultation proposals on Planning for the Right Homes in the Right Places and to agree a response.

Recommendations

- 2 That Members agree the proposed response to the Government's consultation, as set out in Appendix 1.

Reason for Decision

- 3 To ensure that the Council's views on the Government's proposed changes to national planning policy are taken into account.

Background and Reason Decision Needed

- 4 In February 2017 the Government published 'Fixing Our Broken Housing Market' (the Housing White Paper) for public consultation. This stated that further consultation on specific issues would follow. On 14 September 2017 the Government honoured that commitment with the publication of 'Planning for the Right Homes in the Right Places: Consultation Proposals'.

- 5 The consultation paper seeks views on proposed changes to national policy aimed at delivering the housing that is needed. The main issues on which views are sought are:
- A proposed standard method for calculating housing need at the local authority level;
 - A requirement for local planning authorities to produce ‘statements of common ground’ setting out how they are working together to meet requirements across boundaries in relation to the Duty to Co-operate;
 - How the standard method can help in planning for the needs of particular groups and support neighbourhood planning;
 - Proposals for improving the use of section 106 agreements by making the use of viability assessments simpler, quicker and more transparent;
 - Seeking views of how to build out more homes more quickly; and
 - A further 20% increase in fees for planning applications over and above the 20% increase already confirmed in the Housing White Paper.
- 6 The consultation document asks a number of questions in relation to these issues to which responses are sought. The main body of this report discusses these issues and the proposed responses to the questions (for which member agreement is sought) are set out in Appendix 1.
- 7 The consultation runs from 14 September to 09 November 2017. The Government will consider the responses to this consultation and the consultation on the Housing White Paper in preparing a draft revised National Planning Policy Framework (NPPF). It is intended to consult on the draft revised NPPF ‘early in 2018’ with the ambition to publish the final version in ‘Spring 2018’.

Implications

- Proposed Standard Method for Calculating Housing Need***
- 8 The Government has sought to develop a simple, realistic standard method for calculating ‘local housing need’ based on publicly available data, which aims to deliver the level of housing required across England as a whole. The Housing White Paper indicated that this was in the region of 225,000 to 275,000 net additional homes per year.
- 9 The proposed approach has three components, which are:
- To establish a demographic baseline;
 - To adjust the baseline to take account of market signals (house prices); and
 - To limit any increase a local authority may face when reviewing a plan by applying a cap.
- 10 It is proposed that projected household growth over a 10-year period should be the demographic baseline for every local authority area. The most recently published data on workplace-based median house prices and median earnings establishes a ‘local affordability ratio’ which is then

applied, using an 'adjustment factor' (which aims to factor in mortgage borrowing capacity), to determine a figure for 'local housing need'.

- 11 The Government recognises that the new standard method could lead to a significant increase in the assessed housing need in some areas and so seeks to limit any increase to 40% above the current annual requirement figure, in a local plan adopted in the last five years. For older local plans it is capped at 40% above whichever is higher of: the housing figure in the local plan; or the projected household growth for the area.
- 12 The application of the standard method gives a figure for the average annualised rate of housing development needed in an area. However, this figure will be subject to change as new data is produced. The consultation paper makes it clear that councils are expected to respond to such changes as a local plan is being prepared. However, once a local plan (or review) is submitted for examination the figure would, in effect, be fixed for two years, which it is envisaged would allow sufficient time for the examination to be completed without revisiting this issue.
- 13 The consultation paper is accompanied by a spreadsheet, which sets out an 'indicative assessment of housing need based on proposed formula, 2016 to 2026'. The spreadsheet indicates that for West Dorset, Weymouth & Portland the 'local housing need' for the period 2016 to 2026 is 780 dwellings per annum (dpa) for the plan area as a whole. This is just 5 more than the figure of 775 dpa in the current local plan. However, there are some significant uncertainties relating to each of the components of the proposed standard approach which need to be resolved.

Step 1- Establishing the Demographic Baseline

- 14 It is proposed that the demographic baseline should be the annual average household growth over a 10-year period. However, local plans typically plan to meet needs over longer periods and the expectation of local plan inspectors is that provision should be made for 15 years' future supply on adoption.
- 15 Clarification is required on whether the Government now intends to promote shorter, perhaps 10-year, plan periods alongside the stated intention in the Housing White Paper that local plans should be subject to review at least once every five years. Planning to meet needs (ideally) for 15-years on adoption remains the preferred approach as it establishes a longer term strategic approach to development, which may be required in order to deliver large-scale strategic sites and the associated infrastructure.
- 16 The other issue which is unclear is how any shortfall (or overprovision) in delivery against an existing local plan or previous need assessment figure should be taken into account in a review. The consultation paper seems to suggest that any local plan review should be re-based to a start date of 2016 (or later when more up to date data becomes available). Clarity on whether this would be an acceptable approach is critical to taking forward the West Dorset and Weymouth & Portland Local Plan Review and many other local plans across the country.

17 On the recommendation of the local plan inspector, the Issues and Options Consultation Document for the Local Plan Review suggests that the same start date (2011) should be retained, but the end-date should be extended from 2031 to 2036 (i.e. the Local Plan Review would plan for 25 years and include any shortfall in delivery since 2011). Re-basing to 2016 would mean that the Local Plan Review would cover the 20-year period to 2036 and not take account of any shortfall in delivery between 2011 and 2016.

18 Since the more recent (2014) projections of household formation rates and assessments of local affordability (2016) should reflect any past performance (whether under- or over-provision), it is considered that it would be appropriate for all local plan reviews to use a 2016 (or later) base date. It should be clarified in national policy that when local plans are reviewed or updated, they should be re-based to an appropriate date that reflects the most up to date figures of need from the standard method.

Step 2 - Adjusting the Baseline to Take Account of Market Signals

19 The consultation paper indicates that any standard method should be 'realistic' and reflect 'the actual need for homes in each area'. However, the proposed standard method is derived from district-level statistics on household formation rates and affordability and does not include any 'bottom up' assessment of local needs, for example from local housing needs surveys. National policy needs to recognise the limitations of the proposed approach.

20 Assessments of need that have been developed under current national policy have typically factored in allowances for second homes and vacant properties. In response to this consultation it may be suggested by developers that similar (or other) allowances should be included in the standard method. The standard method should be kept as simple as possible and given that the 'adjustment factor' ensures that sufficient provision is made for the number of homes needed nationally, it would be inappropriate to factor in any further allowances.

Step 3 - Applying a Cap to Increases in the Figure for Assessed Housing Need

21 It is proposed that where a local plan is less than 5 years old, any increase in the figure for housing need under the standard method would be limited to 40% of the current local plan figure. However, once an adopted local plan is more than 5 years old, the 40% cap may then apply to projected growth calculated on the basis of household projections, if that is higher. There is a small difference between the current assessment of housing need for West Dorset, Weymouth & Portland (775 dpa) and the figure for need from the proposed standard method (780 dpa). This increase is clearly well below 40% and so the proposed cap would not apply in taking forward the local plan review.

Making Information on Local Housing Need More Transparent

22 The consultation paper seeks views on how information on local housing need could be made more transparent. Local planning authorities are required to produce monitoring information, which should include data on housing need and delivery. Local planning authorities are required in particular to calculate and publish their five-year housing land supply annually. West Dorset and Weymouth & Portland publish a monitoring

report each year and also produce more detailed information on overall (and five-year) housing supply in an annual five-year housing land supply report. Both reports are online here -

<https://www.dorsetforyou.gov.uk/article/421799/West-Dorset-Weymouth--Portland-monitoring>.

- 23 The Government could require all local planning authorities to publish information on local housing need and supply on their websites, which should show how the figure of housing need for their local area has been derived from the standard method.

Joint Working

- 24 The consultation paper encourages local planning authorities to work together when identifying housing need and to produce joint plans, as has been done in West Dorset and Weymouth & Portland. Where joint plans are being produced, it proposes that the housing need for the defined area should be the sum of the local housing need for each local planning authority. This is the same approach that was used in the current West Dorset and Weymouth & Portland Local Plan, using the current methodology for assessing housing need.

Implementing the New Approach

- 25 The Government recognises that new household projections and new data on local affordability will become available as local plans or reviews are prepared. Up until the point of submission, local planning authorities will be expected to take account of such changes, but after submission they will be able to rely on the evidence used to justify their local housing need for two years. The Government considers this to be sufficient time for a local plan examination to take place.
- 26 Household projections will be updated every two years whilst affordability data will be published annually. This means that the local housing need figure is likely to change frequently. This will present a challenge to any local planning authority preparing a local plan, not only in terms of knowing how much development to plan for, but also in terms of consulting with the public on the level of housing required.
- 27 A more straightforward and clearer approach would be to use the most up-to-date household projections and a two-year average of the affordability data from when the previous household projections were released. So for the next 2016-based household projection release (in March 2018), affordability data averaged over the period 2014 to 2016, would be used. This would not only smooth out any year-to-year changes to the local affordability ratio, but would also provide for a 2-year period with no changes in the local housing need calculation. This would help to make plan preparation more straightforward and easier for the public to understand.
- 28 The consultation document states that it may be appropriate for the final housing figure in a local plan to differ from the housing need figure after taking account of issues raised at examination. However, it should be made explicitly clear in national policy or guidance that this should not be influenced by any new household projections / affordability data published in the two-year period after submission.

29 There is a lack of clarity about what happens once a revised plan is adopted. It appears that the housing figure derived from the standard method and included in the submitted local plan, would (unless amended at examination) remain the figure for 'local housing need' to be used in making planning decisions and in any five-year housing land supply calculations for the five years post-adoption. It would be helpful if this was confirmed in national policy or guidance.

Amending the Test of Soundness

30 It is proposed to amend national planning policy so that having a robust method for assessing local housing need becomes a 'test of soundness' for a local plan. It is also proposed to make clear through guidance that the standard method will be sufficient to satisfy this test. This approach would mean that if a local planning authority used the standard method to derive a figure for local housing need, then that figure would be found sound by a local plan inspector. This would both provide reassurance to local planning authorities and reduce the scope for developers to challenge housing numbers, enabling local plan inquiries to be concluded more quickly.

Deviation from the New Method

31 The consultation paper permits deviation from the standard method for calculating local housing need 'on very limited grounds', but needs to provide guidance on what these grounds might be.

Five Year Supply

32 In the absence of an up-to-date local plan, after 31 March 2018, the new standard method should be used as a basis for assessing five year housing land supply.

33 The West Dorset and Weymouth & Portland Local Plan was adopted in October 2015 and may be considered to be up-to-date by virtue of having been adopted within the last five years. However, the councils do not have a five year housing land supply and, by virtue of paragraph 49 of the NPPF, the 'relevant policies for the supply of housing' are deemed to be out of date. This raises the question of whether, from the 31 March 2018, five year housing land supply should be calculated on the basis of the figures in the adopted local plan or the figures from the new method. National policy or guidance needs to make clear that the new method should only be used where a local plan is out-of-date by virtue of being more than five years old.

34 Where it is appropriate to use the new method, clarity is required on: how the five year supply should be calculated; and whether any shortfall in delivery before 2016 should be factored in, and if so, how. Clarity is also required on whether the new delivery test will sit alongside current national policy on the application of the (5 or 20%) buffer, or replace it.

35 The proposal to allow the Secretary of State to retain some discretion to give additional time before the baseline applies, where a joint plan is being brought forward is welcomed, as this is the case in West Dorset and Weymouth & Portland. It would also be helpful if the Secretary of State retained some discretion where local plans are being brought together following local government re-organisation, as is being proposed in Dorset.

The suggestion that five-year land supply should be calculated over the whole area of a joint local plan (as is already being done in West Dorset and Weymouth) is supported.

Transitional Arrangements

- 36 The Issues and Options Consultation Document for the West Dorset and Weymouth & Portland Local Plan Review looked at the issue of housing numbers based on current national policy. However, it is clear from the proposed transitional arrangements that the new standard method should be used to take forward the local plan review from this point.
- 37 The next stage is to produce a Preferred Options document for consultation, which will use the new standard method to assess housing need and reflect any other changes in national policy, which will be set out in the revised NPPF. Many potential changes to the NPPF have already been discussed not only in the current consultation, but also in the Housing White Paper so work on the Preferred Options is progressing on that basis.
- 38 The Government intends to publish a full draft revised NPPF for consultation early in 2018, with a final version due in the Spring of 2018. This is likely to coincide with the passage of the Preferred Options document through the committee cycle to Full Council, ready for public consultation in late Spring 2018. Provided that the changes to national policy are taken forward in accordance with the Government's stated intentions, it should be possible to continue to take forward the local plan review in a timely manner.

Duty to Co-operate: Statements of Common Ground

- 39 The Duty to Co-operate places a statutory duty on local planning authorities to co-operate on strategic cross-boundary planning matters. The consultation paper recognises that this process is not working effectively and the proposed remedy is to require local planning authorities to produce a statement of common ground, where planning issues need to be addressed by more than one council. Typically these would be produced over a housing market area, or other agreed geographical area.
- 40 The statement should set out the cross-boundary matters, including the housing need for the area, distribution and proposals for meeting any shortfalls. It should also set out where agreement has and has not been reached. The councils in any agreed geographical area (including a county council in a two-tier area) will be the primary authorities responsible for preparing and maintaining the statements and will need to be signatories to it.
- 41 Following the publication of the final version of the revised NPPF in Spring 2018, councils will have six months to produce an outline statement and a year to produce a full statement. This should then be updated when local plans reach key milestones, such as submission. The consultation paper gives a brief overview of what such statements should contain.
- 42 The work already undertaken on the Duty to Co-operate, the mechanisms for continuing engagement on strategic planning matters in Dorset (such as the Dorset Strategic Planning Forum), and the joint Local Plan Review

should enable the proposals in the consultation paper to be taken forward relatively easily. However, clarity is required on a couple of points.

- 43 Clarity is required on the matters that need to be covered in the proposed statements of common ground. Paragraph 156 of the NPPF lists the 'strategic priorities' that councils should plan for and this list has been used as the basis for agreeing the strategic issues facing Dorset. This list, or similar, could be used to guide the production of all statements of common ground. Clarity is also required on the level of detail that may be required in a statement of common ground. This should focus on the arrangements for co-operation and should not: give rise to a need for strategic environmental assessment or risk pre-judging the outcomes of the local plan process.
- 44 Given that any statement of common ground is likely to be subject to a high degree of scrutiny by a local plan inspector, clarification of the role of statements of common ground in meeting the Duty to Co-operate is required.
- 45 The consultation paper proposes to introduce a new (or amended) 'test of soundness' requiring a local plan to be based on a strategy informed by agreements over a wider area and based on effective joint working evidenced in statements of common ground. The production of agreements and statements of common ground are primarily procedural matters. Paragraphs 159 to 174 of the NPPF already set out in some detail the documents that should form the 'proportionate evidence base' to support a local plan (or review). It would be more appropriate to mention these agreements and statements of common ground here.
- 46 At examination, it is important that inspectors take a consistent view on statements of common ground, particularly where they support two or more separate local plans. Where a local plan has been found sound and is compliant with the legal obligations in relation to the Duty to Co-operate, the statement of common ground, where it remains up to date, should carry significant weight in the examination of any other local plan covered by that statement.
- 47 Given the work that has already been undertaken on the Duty to Co-operate in West Dorset and Weymouth & Portland, there should be no difficulties in preparing an outline statement within six months and a full statement within a year.

Planning for a Mix of Housing Needs

- 48 The consultation paper seeks views on how to streamline the process for identifying the housing needs of individual groups, such as older and disabled people and families with children. The standard method for calculating housing need uses district-wide data on household projections and affordability. It does not include any 'bottom up' assessments of the needs of different groups, such as the need for self-build housing, which is derived from local self-build registers.
- 49 One approach may be to consider what needs from the groups listed in the consultation document could realistically be met through general housing provision and then to establish where specialist provision is needed, as

may be the case with sites for self-build housing. National policy that seeks to plan for a suitable mix of housing should be flexible in order to recognise that housing needs change over time. It could also promote the building of more adaptable homes, such as lifetime homes, which would provide greater flexibility in meeting the different needs of different groups.

- 50 Views are also sought on whether the current definition of older people in the NPPF is still fit for purpose. The current definition needs to be more inclusive so that it doesn't just include older people over retirement age.

Neighbourhood Plans

- 51 Groups preparing neighbourhood plans often find it difficult to know what level of housing they should look to plan for. The Housing White Paper proposed to amend national policy so that local planning authorities would be expected to provide groups with housing need figures at the neighbourhood level.
- 52 The consultation paper proposes to make clear in national planning guidance that authorities may do this by making a reasoned judgement based on the settlement strategy and housing allocations in their local plan, so long as the plan provides a sufficiently up-to-date basis to do so.
- 53 Where a local plan is considered out of date and cannot be relied on as a basis for allocating housing figures, a simple formula-based approach is proposed. This would apportion the overall housing need figure for a local plan area (derived from the standard method) to a neighbourhood area, based on the population in that area. A neighbourhood area that had 10% of the population of a local plan area, would have an annualised local housing need figure, which would be 10% of the local plan housing figure (i.e. 10% of 780 = 78). This would need to be multiplied by the years of the plan period (say 20) to give an overall figure (i.e. 78 x 20 = 1,560).
- 54 Since delivery of housing through neighbourhood plans is uncertain and unpredictable, they should only aim to deliver locally identified needs rather than a proportion of the strategic needs of the area. This should be as an addition to the housing required to be delivered through the local plan process. The housing need for a neighbourhood plan should be derived from a local perspective reflecting the local situation and community aspirations, such as the local need for affordable homes and the needs of particular groups, such as older people wishing to downsize.
- 55 A simple apportionment of the district-wide assessment of housing need to neighbourhood areas is also not fine-grained enough to adequately reflect local circumstances, for example where a boarding school or military camp significantly increases the population figure for a parish.

Proposed Approach to Viability Assessment

- 56 In relation to plan-making, it is proposed that local planning authorities should set out the types and thresholds for affordable housing contributions required from developers and expectations for how this should be funded. However, it is not clear how much discretion local planning authorities will have with regard to setting thresholds for affordable housing.

- 57 Local planning authorities used to be able to set thresholds and the current local plan has a threshold of one unit (i.e. contributions are sought on all sites where there is one or more net additional dwellings). However, following a Written Ministerial Statement, national thresholds, below which affordable contributions (whether onsite, off-site or financial) should not be sought, were established. The national threshold is set at 10 units, although a lower, 5-unit threshold may be set in 'designated rural areas', including AONBs. As a result of this change in national policy, Members have agreed to normally apply the national thresholds.
- 58 The Government needs to clarify whether it is proposing to abandon current national thresholds to allow local planning authorities greater flexibility, or whether any local thresholds would need to be set in accordance with current national thresholds.
- 59 In relation to plan-making, it is also proposed that local planning authorities should set out the infrastructure needed to deliver the plan, expectations for how this should be funded and the contributions developers will be expected to make. This is broadly supported, but since viability considerations may change over a plan period, flexibility is required.
- 60 The consultation document asks whether current guidance on testing plans and policies for viability should be amended. The current practice of producing whole plan viability assessments is considered broadly appropriate. However, national guidance: to ensure that whole plan viability assessments are prepared in a consistent manner; and to ensure that the strategic viability of major allocations are also properly assessed as part of that process, would be helpful.
- 61 The consultation paper indicates that where policy requirements have been tested for their viability in a local plan, the issues should not usually need to be tested again at the planning application stage. The principle of setting out infrastructure (and affordable housing) needs (and the means of delivery) in local plans is supported, but it is considered that viability will need to be tested again at planning application stage when more detailed viability work is undertaken and /or viability work produced to support a local plan has become out of date.
- 62 The consultation document asks how Government can ensure that infrastructure providers, including housing associations, can be engaged throughout the plan making process.
- 63 Infrastructure providers do not always respond to consultation when local plans are being prepared, but they may become engaged at planning application stage and seek infrastructure provision that has not been identified in policy. Local planning authorities do not always have the expertise to establish infrastructure requirements in local plans without the input of providers. The Government could encourage greater engagement in plan-making by introducing legislation, or other measures, to require infrastructure providers to identify and plan to tackle long-term (15-years plus) infrastructure needs.
- 64 The Government intends to update guidance to encourage viability assessments to be simpler, quicker and more transparent. Views are

sought on how this could be achieved. One of the key issues locally is the lack of transparency regarding viability assessments. These are often produced on a 'commercial in confidence' basis and not made public, which local people often find very frustrating, as was the case with the planning applications for Dorchester Prison. To address these concerns, it is suggested that national policy should normally require an open book assessment of viability and that information should only remain confidential if there is a strong justification. It is also suggested that the Government could set out in guidance a standard approach to the assessment of viability in order to ensure consistency.

- 65 Views are sought on whether local planning authorities should set out in their local plans how they will monitor, report on and publicise funding secured through section 106 agreements. It would be appropriate for a local plan to set out the approach to monitoring planning agreements, although the local plan would not be an appropriate place to set out the monitoring information itself. Councils are currently required to produce monitoring information at least annually, which is made available online. The councils' website is considered to be the appropriate location for information on planning agreements to be made available.
- 66 Views are also sought on what should be included in national guidance on a standard approach to monitoring and reporting planning obligations. Any such guidance needs to be sufficiently flexible to enable local planning authorities to report in ways that best suit local circumstances.
- 67 The consultation paper seeks views on how infrastructure and affordable housing secured through new development can be better publicised. One approach on larger schemes could be for developers and local planning authorities to develop joint communication strategies to increase awareness of the infrastructure and affordable housing secured through new development.

Planning Fees

- 68 The Housing White Paper set out the Government's intention to increase nationally set planning fees by 20% for those local planning authorities who commit to invest the additional fee income in improving the productivity of their planning departments. The White Paper also indicated that a further 20% increase could be applied by those authorities who are delivering the homes their communities need. The current consultation paper seeks views on the most appropriate criteria to enable this further fee increase to be applied.
- 69 The consultation paper recognises that a lack of capacity and capability in planning departments can act as a constraint to development. However, fee increases are only permitted subject to certain nationally set conditions. It is considered that local planning authorities should be able to set fees locally so that planning departments can be adequately funded to be more positive and proactive in taking forward growth. In the event that the proposed further 20% increase in fees is introduced, it is considered that it should act as an incentive to fund the work necessary to deliver higher levels of housing development.

70 Views are also sought on whether any further fee increase should only be applied nationally once all local planning authorities have met the criteria, or only to individual authorities who meet them. Local planning authorities should be able to increase fees by 20% based on local circumstances rather than the performance of all local planning authorities nationally. If the Government wished to consider a more flexible approach to fee setting, one approach would be to allow local planning authorities to set their own fees until housing delivery reached the national target of between 225,000 and 275,000 new homes per year.

Build Out Rates

71 The consultation asks whether there are any other measures that could be taken to increase build out rates. Requiring infrastructure providers to publish long-term (15 years plus) action plans would help plan production. Greater clarity on infrastructure issues earlier in the process should help to: reduce levels of objection: enable planning decisions to be made more quickly: and bring forward delivery on site sooner.

Corporate Plan

72 The intention of the new methodology is to speed up plan preparation and enable more homes to be built. This is in keeping with the council's corporate plan priority of contributing to a stronger local economy, including increasing the number of new homes built.

Financial

73 Responding to the Government's consultation on changes to national planning policy does not have any direct financial implications. The proposed changes could enable the council to increase planning application fees by a further 20% above the 20% increase proposed in the Housing White Paper.

Equalities

74 Responding to the Government's consultation on changes to national planning policy does not have any equalities implications.

Environmental

75 The consultation is primarily concerned with delivering sufficient housing to meet needs, but it also recognises the constrained nature of some areas and the potential difficulties in accommodating growth.

Economic Development

76 The consultation is primarily concerned with delivering sufficient housing, which helps to support economic growth.

Risk Management (including Health & Safety)

77 Failure to respond to the consultation would mean that the Council's views on the Government's proposed changes to national planning policy would not be taken into account.

Human Resources

- 78 Responding to the Government's consultation on changes to national planning policy does not have any human resources implications. However it is important to recognise that the requirement to have local plan reviews completed every five years, and the continued significance of the five-year land supply, mean that resourcing of planning policy functions will be increasingly important.

Consultation and Engagement

- 79 The Government is consulting on proposed changes to national planning policy from 14 September to 9 November 2017. The consultation is open to everyone.

Appendices

Appendix 1 - Proposed Responses to the Questions in the Government's Consultation

Background Papers

Planning for the Right Homes in the Right Places: Consultation Proposals: DCLG September 2017

Footnote

Issues relating to financial, environmental, economic and equalities implications have been considered and any information relevant to the decision is included within the report.

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Date: 17/10/2017

Appendix 1- Proposed Responses to the Questions in the Government's Consultation

Question 1 (a): do you agree with the proposed standard approach to assessing local housing need? If not, what alternative approach or other factors should be considered?

The proposed approach is broadly supported, subject to the points set out below.

Clarification is required on whether the Government now intends to promote shorter, perhaps 10-year, plan periods. Planning to meet needs (ideally) for 15-years on adoption remains the preferred approach as it establishes a longer term strategic approach to development, which may be required in order to deliver large-scale strategic sites and associated infrastructure.

It should be clarified in national policy or guidance that when local plans are reviewed or updated, they should be re-based to an appropriate start date (i.e. currently 2016) that reflects the most up-to-date figures of local housing need from the standard method. It should be acknowledged that housing affordability resulting from any shortfall in supply is reflected within the affordability uplift component of the new method.

The standard method should be kept as simple as possible and given that the 'adjustment factor' ensures that sufficient provision is made for the number of homes needed nationally, it would be inappropriate to factor in any further allowances, for example for second homes and / or vacant properties.

Question 1(b): how can information on local housing need be made more transparent?

The Government could require all local planning authorities to publish information on local housing need and supply on their websites, which should show how the figure of housing need for their local area has been derived from the standard method.

Question 2: do you agree with the proposal that an assessment of local housing need should be able to be relied upon for a period of two years from the date a plan is submitted?

Yes. The proposed approach is broadly supported, subject to the points set out below.

The process for assessing housing need could be made less liable to frequent change if need were to be calculated on the basis of the most up-to-date household projections and a two-year average of the affordability data from when the previous household projections were released. This would not only provide for a 2-year period with no changes in the local housing need calculation, but would also smooth out any volatility in the year-to-year changes to the local affordability ratio.

Whilst it may be appropriate for the final housing figure in a local plan to differ from the housing need figure after taking account of issues raised at examination, it should be made explicitly clear in national policy or guidance that this should

not be influenced by any new household projections / affordability data published in the two-year period after submission.

National policy or guidance should make explicitly clear that once a revised plan is adopted, the housing figure it contains should remain the figure for 'local housing need' to be used in making planning decisions and in any five-year housing land supply calculations for five years following adoption.

Question 3: do you agree that we should amend national planning policy so that a sound plan should identify local housing needs using a clear and justified method?

Yes. This approach would mean that if a local planning authority used the standard method to derive a figure for local housing need, then that figure would be found sound by a local plan inspector. This would both provide reassurance to local planning authorities and reduce the scope for developers to challenge housing numbers, enabling local plan inquiries to be concluded more quickly.

Question 4: do you agree with our approach in circumstances when plan makers deviate from the proposed method, including the level of scrutiny we expect from the Planning Inspectors?

The consultation paper gives no indication of what 'very limited grounds' might be acceptable to justify a deviation from the standard method. National policy or guidance needs to set out, or at least give some examples, of the 'very limited grounds' on which deviation from the standard method may be appropriate. Without such guidance, the appropriateness of any deviation from the standard method will not be tested until examination, which is too late in the plan-making process.

Question 5(a): do you agree that the Secretary of State should have discretion to defer the period for using the baseline for some local planning authorities? If so, how best could this be achieved, what minimum requirements should be in place before the Secretary of State may exercise this discretion, and for how long should such deferral be permitted?

The Secretary of State should retain some discretion to defer the period for using the baseline to assess five year supply where a joint plan (or review) is being brought forward, as is the case in West Dorset and Weymouth & Portland.

Proposals for Local Government Reorganisation in Dorset are currently under consideration by the Secretary of State and, if agreed, two new unitary authorities would replace the nine existing councils. These new larger unitary authorities, if created, may need to bring together existing local plans, which will require time to implement. The Secretary of State should also retain some discretion to defer the period for using the baseline to assess five year supply where existing local plans are being brought together following local government reorganisation.

It is not clear how the new standard method should be used as a basis for assessing five year housing land supply in circumstances where some, but not all, of the policies in a local plan are considered to be out of date. National policy or guidance needs to make clear that the new method should only be used where a local plan is out-of-date by virtue of being more than five years old. It should not be used in circumstances where the 'relevant policies for the supply of housing'

are deemed to be out of date (by virtue of paragraph 49 of the NPPF), as a result of not having a five-year housing land supply.

Clarity is also required on how the five year supply should be calculated in circumstances where it is considered appropriate to use the new method. In particular clarity is required on whether any shortfall in delivery before 2016 should be factored into the calculation and if so, how. The relationship between the calculation of five year housing land supply and the proposed new housing delivery test needs to be explained, in particular clarity is needed on the circumstances when a buffer of 20%, rather than 5%, should be applied.

Question 5(b): do you consider that authorities that have an adopted joint local plan, or which are covered by an adopted spatial development strategy, should be able to assess their five year land supply and/or be measured for the purposes of the Housing Delivery Test, across the area as a whole?

There is already an adopted joint local plan for West Dorset and Weymouth & Portland with a single housing figure, which is used to assess five year housing land supply across the area as a whole. The clarification that this approach is appropriate is welcome, and it would be sensible for the housing delivery test to also apply across the area as a whole as supported by the Inspector of the joint local plan.

Question 5 (c): do you consider that authorities that are not able to use the new method for calculating local housing need should be able to use an existing or an emerging local plan figure for housing need for the purposes of calculating five year land supply and to be measured for the purposes of the Housing Delivery Test?

No comment, since West Dorset District Council and Weymouth & Portland Borough Council are able to use the new method.

Question 6: do you agree with the proposed transitional arrangements for introducing the standard approach for calculating local housing need?

The proposed transitional arrangements indicate that West Dorset and Weymouth & Portland should use the new standard method to inform the review of their local plan. It is important that the proposed changes to national policy are taken forward in accordance with the Government's published timetable to ensure that this local plan review (and others across the country) can be taken forward in a timely manner.

Question 7(a): do you agree with the proposed administrative arrangements for preparing the statement of common ground?

Clarity is required on the matters that need to be covered in the proposed statements of common ground. Paragraph 156 of the NPPF lists the 'strategic priorities' that councils should plan for. National policy could clarify that this list, or similar, should be used to guide the production of statements of common ground. Clarity is also required on the level of detail that may be required in a statement of common ground. If it is intended that they should set out how housing and other needs will be met between neighbouring local planning authorities, there may be a need for strategic environmental assessment and wider consultation. That level

of detail could risk pre-judging the local plan process. The detail required in a statement of common ground should therefore be kept to a minimum and should be focused on the arrangements for co-operation rather than policies or policy outcomes.

Question 7(b): how do you consider a statement of common ground should be implemented in areas where there is a Mayor with strategic plan-making powers?

No Comment

Question 7(c): do you consider there to be a role for directly elected Mayors without strategic plan-making powers, in the production of a statement of common ground?

No Comment

Question 8: do you agree that the proposed content and timescales for publication of the statement of common ground are appropriate and will support more effective co-operation on strategic cross-boundary planning matters?

The statement of common ground is intended to be “part of the evidence for an individual plan examination” and will “not be separately examined by the Planning Inspectorate”. However, any statement of common ground will be subject to a high degree of scrutiny by a local plan inspector, who will use it both to make a judgement on whether the plan is sound and to determine whether a council’s legal obligations under the Planning and Compulsory Purchase Act 2004 have been met. Given this anticipated high degree of scrutiny, further clarification of exactly what should be included in a statement of common ground and the level of detail expected would be welcomed.

At examination, it is important that inspectors take a consistent view on statements of common ground, particularly where they support two or more separate local plans. Where a local plan has been found sound and is compliant with the legal obligations in relation to the Duty to Co-operate, the statement of common ground, where it remains up to date, should carry significant weight in the examination of any other local plan covered by that statement.

The proposed timeframes for production of statements would result in greater clarity and openness for those interested in cross-boundary issues.

Question 9(a): do you agree with the proposal to amend the tests of soundness to include that:

- i) plans should be prepared based on a strategy informed by agreements over the wider area; and**
- ii) plans should be based on effective joint working on cross-boundary strategic priorities, which are evidenced in the statement of common ground?**

The current tests of soundness already establish the principles that local plans should be based on: a strategy that meets needs (including unmet needs from neighbouring authorities, where it is reasonable to do so) and; effective joint working. The NPPF could include supporting guidance on the evidence likely to

be needed to test the soundness of a local plan, but the need for agreements and statements of common ground are primarily procedural matters that should not form part of the tests of soundness themselves.

Question 9(b): do you agree to the proposed transitional arrangements for amending the tests of soundness to ensure effective co-operation?

Yes. The transitional arrangements for producing statements of common ground appear appropriate.

Question 10(a): do you have any suggestions on how to streamline the process for identifying the housing need for individual groups and what evidence could be used to help plan to meet the needs of particular groups?

One approach may be to consider what needs from the groups listed in the consultation document could realistically be met through general housing provision and then to establish where specialist provision is needed, as may be the case with sites for self-build housing.

National policy that seeks to plan for a suitable mix of housing should be flexible in order to recognise that housing needs change over time. It could also promote the building of more adaptable homes, such as lifetime homes, which would provide greater flexibility in meeting the different needs of different groups.

Question 10(b): do you agree that the current definition of older people within the National Planning Policy Framework is still fit-for-purpose?

The definition is broadly appropriate, but needs to be more inclusive and should not be restricted to those above retirement age. This is because some older people over retirement age are able to live in homes without special adaptation, but conversely, some older people under the retirement age are in need of specialist housing.

Question 11(a): should a local plan set out the housing need for designated neighbourhood planning areas and parished areas within the area?

No. Local planning authorities are required to meet the housing target in their local plan. That target, whether established through a local assessment of need or through the proposed standard approach, gives the local planning authority the strategic target for their area. Local authorities are penalised for under-delivery through the proposed housing delivery test or through the five-year supply requirement. If responsibility for delivering some of this need is given to neighbourhood plans, delivery is taken out of the local planning authority's hands whilst penalties still remain in place. Neighbourhood plans are optional and prepared by volunteers and delivery of housing through this mechanism is uncertain and unpredictable. Neighbourhood plans should therefore only deliver locally identified needs rather than a proportion of the strategic needs of the area. Neighbourhood plans should deliver this housing growth as an addition to that established through the local plan process.

Question 11(b): do you agree with the proposal for a formula-based approach to apportion housing need to neighbourhood plan bodies in

circumstances where the local plan cannot be relied on as a basis for calculating housing need?

No. The housing need for a neighbourhood plan should be derived from a local perspective reflecting the local situation and community aspirations, rather than seeking to meet a proportion of the district-based assessment of housing need. Neighbourhood plans should be delivering locally identified needs including the local need for affordable homes and the needs of particular groups, such as older people wishing to downsize.

A simple apportionment of the district-based assessment of housing need to neighbourhood areas is also not fine-grained enough to adequately reflect local circumstances. For example, children at a boarding school or service personnel at a military camp are counted within the population of a parish, but do not generate a significant local housing need or demand. However, under the proposed approach they would contribute to any estimate of local housing need at the neighbourhood level.

Question 12: do you agree that local plans should identify the infrastructure and affordable housing needed, how these will be funded and the contributions developers will be expected to make?

The principle of setting out infrastructure (and affordable housing) needs (and the means of delivery) in local plans is supported, as this establishes the requirements needed to support growth at an early stage. However, because viability information may rapidly become out of date, there needs to be some flexibility at the planning application stage.

The Government needs to clarify whether it is proposing to abandon the current thresholds in national policy below which affordable housing contributions should not be sought in order to allow local planning authorities greater flexibility, or whether any local thresholds would need to be set in accordance with the current national thresholds. If it is intended to allow local planning authorities greater flexibility, this would be supported as a positive move to address affordable housing needs locally.

Question 13: in reviewing guidance on testing plans and policies for viability, what amendments could be made to improve current practice?

A whole plan viability assessment is currently undertaken to evaluate the combined viability of local plan policies and CIL. This approach is all that is needed to determine affordable housing and infrastructure contributions and strike an appropriate balance between affordable housing and infrastructure provision. Current practice could be improved with the introduction of national guidance on producing whole plan viability assessments in order to ensure that they are prepared in a consistent manner. Guidance on assessing the viability of large allocations, which may be zero-rated for CIL, would be particularly useful to ensure that such sites would be capable of delivering the infrastructure, affordable housing and community benefits needed at planning application stage. This guidance could be produced by a panel of developer and public sector interests and would need to be regularly reviewed to take account of any new legislation or requirements set at the national level.

Question 14: do you agree that where policy requirements have been tested for their viability, the issue should not usually need to be tested again at the planning application stage?

As viability information can rapidly become out of date, there needs to be some flexibility at the planning application stage. If viability could not be tested again at planning application stage, more detailed site specific viability work would be required to support plan making. Work undertaken at plan-making stage is typically based on broad principles of viability and considers viability based on notional development scenarios. At planning application stage, viability work is more detailed and site specific. If detailed, site-specific viability work were to be required to support plan-making, it would slow down the plan-making process and have resource implications. Even if more detailed, site-specific viability work was undertaken to support a local plan, there is still a significant risk that it would become out of date before a planning application could be considered.

Question 15: how can Government ensure that infrastructure providers, including housing associations, are engaged throughout the process, including in circumstances where a viability assessment may be required?

At the plan making stage, planning officers typically seek the views of infrastructure providers about their needs, but they do not always respond. There is a tendency for infrastructure providers to only become engaged when proposals become more advanced and detailed, for example at the planning application stage, where they may seek infrastructure provision that has not been identified in policy. This engagement is too late in the process and makes the determination of planning applications more difficult.

Local planning authorities do not always have the expertise to establish infrastructure requirements without the input of providers. So if they do not engage, the local planning authority can find it difficult to justify the provision of some items of infrastructure in their local plans. The Government could encourage greater engagement in plan-making by introducing legislation, or other measures, to require infrastructure providers to identify and plan to tackle long-term (15-years plus) infrastructure needs.

Question 16: what factors should we take into account in updating guidance to encourage viability assessments to be simpler, quicker and more transparent, for example through a standardised report or summary format?

An amendment to national policy to normally require an open book assessment of viability (where viability is disputed) would increase transparency. There should only be very limited circumstances where viability information should remain confidential and it would be helpful if national policy or guidance could be produced to set out such circumstances.

The Government could also set out in guidance a standard approach to the assessment of viability. This could set out a series of assumptions and data sources that should be used (e.g. national published data on land value and build costs) in any assessment. The guidance could also require that any deviation from these assumptions and datasets would need to be justified.

Question 17(a): do you agree that local planning authorities should set out in plans how they will monitor and report on planning agreements to help ensure that communities can easily understand what infrastructure and affordable housing has been secured and delivered through developer contributions?

Local planning authorities should provide publically accessible information on planning agreements and it would be appropriate for local plans to set out the overall approach to monitoring and reporting, but not the monitoring information itself. Councils are currently required to produce monitoring information at least annually, which is made available online. The councils' website is considered to be the most appropriate location for information on planning agreements to be made available.

Question 17(b): what factors should we take into account in preparing guidance on a standard approach to monitoring and reporting planning obligations?

The form and content of any reports on planning obligations should not be prescribed. Guidance should recognise that local planning authorities use different systems and approaches to manage their planning obligation records, and that not all local planning authorities have implemented CIL. Guidance could establish some broad principles, but needs to be sufficiently flexible to enable local authorities to develop approaches that best suit local circumstances.

Question 17(c): how can local planning authorities and applicants work together to better publicise infrastructure and affordable housing secured through new development once development has commenced, or at other stages of the process?

One approach on larger schemes would be for developers and local planning authorities to develop joint communication strategies to increase awareness of the infrastructure and affordable housing secured through new development.

Question 18(a): do you agree that a further 20 per cent fee increase should be applied to those local planning authorities who are delivering the homes their communities need? What should be the criteria to measure this?

The consultation paper recognises that a lack of capacity and capability in planning departments can act as a constraint to development. This raises the question of whether the proposed approach to fee setting, which only allows fee increases subject to certain nationally set conditions, is likely to resolve this problem and deliver the level of housing that is required nationally. It is considered that a more flexible approach may be required which enables local planning authorities to set fees locally. This would enable a more proactive approach to be taken so sufficient funds could be allocated to planning departments, not only to produce local plans and determine planning applications, but also to engage in a more positive and proactive way with the development industry. It is considered that this more flexible approach to fee setting would be more likely to deliver the number of new homes needed nationally.

In the event that the proposed further 20% increase in fees is introduced, it should also act as an incentive to increase housing delivery above rates currently being achieved, rather than as a 'reward' for hitting local plan targets. The ability

to charge additional fees should be based on an assessment of the volume of work (and consequently resources) likely to be required to increase delivery above current levels.

Question 18(b): do you think there are more appropriate circumstances when a local planning authority should be able to charge the further 20 per cent? If so, do you have views on how these circumstances could work in practice?

See overall response to question 18(a).

Question 18(c): should any additional fee increase be applied nationally once all local planning authorities meet the required criteria, or only to individual authorities who meet them?

No. Local planning authorities should be able to increase fees by 20% based on local circumstances rather than the performance of all local planning authorities nationally. An alternative approach would be to give all local planning authorities greater discretion in setting fees until housing delivery reaches between 225,000 and 275,000 new homes per year (i.e. the assessment of the level of housing needed nationally).

Question 18(d): are there any other issues we should consider in developing a framework for this additional fee increase?

See overall response to question 18(a).

Question 19: having regard to the measures we have already identified in the housing White Paper, are there any other actions that could increase build out rates?

Requiring infrastructure providers to identify potential barriers to development and to publish clear long-term (15 years plus) action plans to tackle deficiencies, would help plan production. Currently it can be difficult to engage in a meaningful way with key bodies (such as utilities companies, Highways England, the Environment Agency among others) until the application stage. A requirement to plan long term would mean that infrastructure requirements would be better understood at an earlier stage. Since many objections to planning applications relate to infrastructure issues, the resolution of these issues earlier in the process should help to: reduce levels of objection: enable planning decisions to be made more quickly: and bring forward delivery on site sooner.