

Appendix 2 – Cheltenham Borough Councils Response to Proposed Reforms to the Existing Planning System in England (September 2020)

The standard method for assessing housing numbers in strategic plans

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?

Household projections provide a useful starting point for assessing housing need. The use of percentage of housing stock could also be a useful addition to establishing a baseline figure. However, basing housing figures slavishly on affordability indicators is overly simplistic and can lead to perverse outcomes. There are multiple nuanced factors that need to be addressed to improve the affordability of housing. For example:

- land banking (i.e. land being used as a financial asset to increase share prices rather than to deliver housing) and developers purposefully 'drip-feeding' new homes into the market to inflate house prices;
- wages have not kept pace with house prices;
- not enough social housing has been built;
- government initiatives have indirectly kept house prices artificially higher;
- low interest rates and the increased ability of people being able to get a mortgage have both fuelled an increase in house prices; and
- second home ownership and buy to let have removed housing from the market that could otherwise be made available to first home owners, and the resulting increased demand within a reduced pool of housing stock inflates house prices and worsens affordability.

This list is not exhaustive.

Inflating housing targets for local authorities based on affordability leads to impossibly high delivery requirements. This in turn leads to five year housing land deficits or failed Housing Delivery Test results which increase the likelihood of inappropriate schemes gaining planning permission. Additionally, schemes which do not meet policy requirements for affordable housing provision are more likely to get planning permission. Therefore the result is that high housing targets actually lead to a reduction in housing available to those in genuine need.

Housing requirements should be set locally taking into account constraints, genuine housing need and realistic build out rates as well as dwelling stock and affordability considerations.

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 – see answer to question 1.

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 measure of affordability that is referred to relates specifically to changes to the affordability

ratio over the last 10 years. The affordability ratio is based on two datasets: workplace-based median house prices; and median earnings.

This is a significant over-simplification of the affordability issue and ignores other important factors that must be taken into account when calculating housing needs. ONS dataset which is used for the calculation itself says “While there are many more factors that influence affordability, the simple ratio provides an overview of geographic differences across England and Wales.”

Furthermore, the housing affordability ratio has a reasonably weak correlation with the actual need for additional housing. There is little evidence to suggest that building more houses decreases house prices significantly or makes housing more truly affordable.

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.

No – see answer to question 3.

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

No – see answer to question 3.

Delivering 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)**

Option ii. would be the most appropriate.

Granting local authorities the freedom to negotiate with developers to meet identified local needs, as well as accounting for site-specific conditions would be the most practical approach to securing the remaining 75% of affordable homes through developer contributions. Local authorities are best placed to understand and meet the housing needs of our respective areas, and therefore the mechanisms for delivering affordable homes should be agile enough to account for dynamic market conditions and an ever-changing picture of affordable housing needs, as outlined by option ii.

The introduction of a 25% First Homes requirement will mean that other affordable housing products, particularly Shared Ownership, will be reduced as we aim to protect rented provision for those most in housing need, such as the homeless. It is important the government makes the connection that delivering new affordable rental homes is a key tool that local authorities have to

support the government's own Rough Sleeping strategy. An erosion/reduction in the delivery of rented homes will only serve to increase housing pressures for the most vulnerable, including rough sleepers – with the result that the government may miss its target of eliminating rough sleeping by 2024.

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?

In the Council's view, the majority of the existing exemptions from requirements for affordable home ownership products should be applied to the requirement for First Homes, with the exception of the build to rent. Building affordable home ownership into the latter will provide a wider range of tenure choices, potentially improve viability, and improve community cohesion on larger sites.

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

Reflecting upon the NPPF's listed exemptions, the Council believes that the Government should give consideration to whether the existing exemption applied to build to rent homes is required. From the perspective of long-term housing management and creating strong and resilient communities, a mix of affordable private rent (APR), build to rent and First Homes would arguably form a more cohesive community than one that is comprised solely of build to rent homes, as well as offering households in need a wider choice of housing options between rent (in the form of affordable private rent), and affordable home ownership. This point is particularly pertinent in light of the NPPF's emphasis upon creating mixed and balanced communities on new development.

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

The Council does not consider that any additional exemptions are required.

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

The Council agrees in principle with the transitional approach taken from the perspective of maintaining affordable housing delivery. It is reassuring that this consultation recognises that it may be necessary to review the tenure mix in a local plan review in light of this proposed change to planning policy. The Council also supports the Government's proposal for Councils to accept alternative tenure mixes where there has been significant pre-engagement with a local authority, as this will help to ensure that live planning applications are determined in a timely manner. More specifically, where planning applications have substantially progressed under existing policy and viability assumptions, these should be delivered in their original form. NPPF and PPG guidance should clearly set out a cut-off point for these applications.

Nevertheless, the Government should also be aware that altering the tenure has the potential to not only impact meeting local needs, but may also have viability implications. For instance, existing applications that subsequently alter tenure mixes may require a revised viability assessment, which would ultimately delay the delivery of affordable and market homes.

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

The Council is supportive of granting local authorities discretion to require a higher percentage of discounts for new First Homes, especially in Cheltenham Borough, where average house prices are 9 times greater than average wages, thus upgraded discounts should be secured in perpetuity.

Moreover, establishing First Home valuations via an independent registered valuer will provide assurances to local authorities and residents that the valuation process is fair, consistent and free of bias.

However, this Council anticipates that justifying increased discounts on new First Homes through the Local Plan process may prove difficult in the face of opposition from developers. The Government should ensure it is clear that local authorities can utilise the evidence from their latest LHNA to justify an increased percentage discount for First Homes, where required, by setting out guidance in the NPPF and PPG respectively. This approach will help to ensure that First Homes are genuinely affordable for local residents, especially as a 30% discount will be insufficient to open up home ownership to the majority of first time buyers in Cheltenham.

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?

On balance, the Council is supportive of this approach, however, the Government should be aware of the potential unintended consequences of implementing this policy. To ensure that this policy meets its stated aims, the Government should encourage local authorities to challenge developers where the proportion of on-site market housing exceeds what is reasonably required to ensure site viability.

From the perspective of affordable housing delivery, allowing a small proportion of market housing on First Homes exception sites may theoretically improve viability on sites that are marginally viable. Equally, including a small element of market housing may act as an incentive to bring forwards First Homes exception sites that otherwise may not have been delivered, thereby increasing affordable housing delivery.

However, the positives of this proposal should be measured against the heightened risk that artificially inflated land values (on account of including market homes on site) will raise landowners profit expectations. Especially when considered within the context of raising the small-sites threshold to 40 or 50 homes, developers may look to bring forwards more profitable 100% market schemes (thus not delivering any First Homes or other affordable tenures), which would circumvent the purpose of First Homes exception sites. In this vein, this policy approach may reduce the provision of on-site affordable housing, instead of ensuring site viability.

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

This Council does not agree with removing the site size threshold set out in the NPPF. Put simply, by only requiring that (First Homes) exception sites are 'proportionate in size to the existing settlement'. It offers too much scope for interpretation of 'appropriate' development sizes, which is likely to increase the likelihood of planning applications going to appeal, thereby slowing down the planning process. In this vein, we believe this threshold should be retained to safeguard rented affordable housing delivery.

Supporting small and medium-sized developers

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

The Council does not support the Government's proposed approach towards raising the small sites

threshold for a time-limited period.

Although the Council is sympathetic to the Government's concerns about the viability of small sites, our Joint Core Strategy, which outlines the Borough's main affordable housing policies, has been viability tested to ensure that our policy requirements (including the current small-site threshold) are viable. Should it be the case that specific sites are not considered to be commercially viable because of the affordable housing requirement, then the developer is able, under the current NPPF, to deliver homes with a reduced (or even a nil) affordable housing contribution. On this basis it seems entirely unnecessary to raise the small sites threshold.

This Council also disputes the Government's assumption that raising the small sites threshold will increase the pace of delivery by SME developers on account of removing the need for affordable housing negotiations. Raising the small sites threshold for 18 months will not prevent SME developers from securing an outline planning permission free of affordable housing obligations, but then potentially waiting years before submitting a Reserved Matters application, and then potentially waiting several more years before construction on-site commences. Considering current market conditions, SME developers may take this proposal as an opportunity to delay construction on-site until the economic climate has improved (thereby yielding increased profit margins for SME developers at the expense of affordable housing delivery).

Another unintended consequence is that where developers have been 'land banking', they may take advantage of this proposal by bringing development land forward during the 'time-limited period' thus reducing affordable housing obligations on sites that to all intents and purposes should be delivering these obligations. Consequently, instead of supporting SME developers in genuine financial hardship, any uplift in development value, (resulting from the removal of affordable housing obligations) will be captured in the developer's profit margins which are likely to exceed reasonable profit expectations.

If the Government is minded to implement the proposals, steps should be taken to ensure that land values and developer profits are not inflated in the short term and that, once planning permissions are obtained, that sites are not land banked for 3 years before commencing development. It should also be emphasised that extending the 'time-limited period' beyond 18 months would amplify the identified impacts of raising the small-sites threshold further, as well strengthening the argument, put forward by developers that affordable housing provision is a 'burden' upon the development of smaller scale schemes. In this scenario, the continuation of the raised small sites threshold is likely to result in a significant short-term reduction in the number of affordable homes delivered in the Borough, as well as creating insular communities that do not function well in the long-term.

As this consultation implies, lifting the small-sites threshold will likely inflate land values in the short-term as a result of removing affordable housing contributions. The Council anticipate that these inflated land values may perpetuate a cyclical process whereby local authorities and registered providers struggle to secure land-led development on account of inflated land values; thereby eroding future affordable housing delivery pipelines further. In this scenario, any attempt to compensate for lost delivery via Homes England grant funding for off-the-shelf purchases will represent diminished value for money.

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- The Council feel strongly that the current small-sites threshold of 10 units should be retained on the grounds of safeguarding future affordable housing delivery and creating mixed and balanced

communities.

To support this assessment, the Council has modelled the impact of raising the small-sites threshold upon both past and future affordable housing delivery. Accordingly, between 2012/13 and 2019/20, 616 new affordable homes were delivered in Cheltenham Borough. Applying a small-sites threshold of 40 homes to our total delivery would have resulted in a 14% reduction to affordable housing delivery (i.e. 85 affordable homes), whereas a 50 home threshold would have resulted in a 23% reduction in affordable housing delivery (i.e. 144 affordable homes) over this period.

Examining the impact of raising the small-sites threshold upon forecasted future affordable housing delivery between 2020/21-2024/25 reaffirms the weight of the Council's argument. Imposing a 40 dwelling threshold would result in a 29% reduction in affordable housing delivery (i.e. 95 affordable homes), with a significant 40% reduction in affordable housing delivery (i.e. 130 affordable homes) for a 50 home threshold. Even introducing a 20 homes threshold would result in a 12% reduction in affordable housing delivery (i.e. 40 affordable homes) during this period.

In summary, therefore, on account of the significant impacts upon affordable housing delivery, the Council believes that the current small-sites threshold should be retained.

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

The Council has serious concerns surrounding the Government's proposed approach towards the site size threshold, and the impact this will have upon affordable housing delivery.

Paragraph 77 outlines the Government's belief that raising the threshold would facilitate more small-sites to come forwards, as well as boosting SME's under economic pressure. First and foremost, it is questionable whether the current small-sites threshold is restricting the development of small-sites within Cheltenham Borough. Indeed, between Q1 2014/15- Q4 2018/19, 721 new market homes were delivered on sites of 1-10 dwellings, representing 32% of total market delivery. These figures arguably indicate that a more targeted policy approach is required to safeguard affordable housing delivery whilst supporting SME developers.

A case in point, whilst most small sites (below 50 dwellings) are delivered by SME developers, this is not exclusively the case. Therefore, in light of the greater resources at the disposal of larger developers, the Government should stipulate qualifying criteria for SME developer status, in addition ensuring that larger developers cannot profit from absent affordable housing requirements if the small-sites threshold is raised. To this end, the Government could update the PPG to ensure that larger developers deliver affordable housing in line with the current small sites threshold. This approach will partially shield SME developers from the impacts of COVID-19 as well as protecting current and future affordable housing delivery.

Further details are required to understand whether any raised small-site thresholds will be applied to live planning permissions, or whether the thresholds will be introduced to new developments following a transition period. If the Government are minded to proceed with these proposals, it would be advisable to introduce a 6 month transition period. The Government should be aware that applying any raised small-site thresholds to live planning permissions would have direct repercussions upon forthcoming affordable housing delivery, as well as potentially unravelling complex negotiations surrounding Section 106 contributions, which, in turn, will delay the delivery of much-needed affordable homes.

Q20: Do you agree with linking the time-limited period to economic recovery and raising the

threshold for an initial period of 18 months?

The Council disagrees with linking the time-limited period to economic recovery as well as raising the threshold for an initial period of 18 months. In particular, the Government should be careful not to conflate slow economic recovery with the recovery experienced by the construction industry, as, while closely associated, economic recovery is likely to lag behind the recovery of the construction industry, which has rebounded with record sales from pent-up demand following the COVID-19 lockdown.

As this response has already established, the longer the raised small-site threshold is maintained, the greater the overall reduction upon affordable housing delivery. The Council would reiterate that every affordable home lost will weaken the ability of local authorities and Registered Providers alike to provide safe, sustainable homes to vulnerable households in the greatest need. Furthermore, the significant reduction in affordable housing delivery resulting from raising the small-sites threshold cannot be assessed in isolation. Rather, it must be evaluated within the context of local authorities losing affordable homes through Right to Buy sales (with Cheltenham Borough losing 27% (164) of our total affordable housing delivery between 2012/13 and 2019/20 through these sales), developments being exempt from (or contributing less towards) affordable housing provision due to the Vacant Building Credit, demolitions and viability issues.

If the Government implements these proposals, further detail is required to understand the implications of extending the 18 month period in the event that economic recovery is still slow in 18 months' time. Clearly, extending this period will further erode future affordable housing delivery, as well as encouraging developers to bring forwards land free of affordable obligations, meaning, in essence, that local authority housing registers are likely to grow at a time where the pressures on and need for affordable housing are greater than ever.

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

In the Council's view the proposed approach to minimising threshold effects is insufficient considering the potential implications of this policy upon affordable housing delivery. From the Council's perspective, the Government should focus upon compensating for the disproportionate number of rented affordable homes lost as a result of this policy. In particular, the Council would support increasing Homes England's grant funding (on a per unit basis) significantly above current grant levels, with an emphasis upon delivering more social rented homes. This approach will help to redress the loss of rented affordable homes, which play a critical role in accommodating the most vulnerable households in society. Additionally, in the forthcoming affordable housing prospectus, Homes England should prioritise grant funding for rented tenures (with a particular emphasis upon social rent) on land-led schemes to alleviate the threshold effects upon these tenures.

Besides significantly revising Homes England grant funding upwards, Councils should be allowed to retain 100% of Right to Buy (R2B) receipts raised from affordable housing sales. Currently, R2B receipts can only be used to fund 30% of the cost of purchasing a new affordable home. However, by allowing Councils to retain 100% of R2B receipts, the Government will relieve the pressure on Local Authority HRA funds, freeing up these funds for Councils to actively pursue land-led opportunities to increase affordable housing delivery. Giving Councils the ability to combine the use of R2B receipts in combination with grant funding would also assist with delivery.

If the Government are keen on supporting SME builders, public funding should be provided to build the type and tenure of homes (both market and affordable) that reflect local housing needs.

Extension of the Permission in Principle consent regime

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

No.

Whilst it is recognised that the extension of the PiP regime to include major development up to 150 dwellings could provide small and medium-sized (SME) house builders with an alternative way of reducing their upfront planning costs this would provide only limited certainty about whether full permission would eventually be granted; this could also lead to significant risk for SME housebuilders.

There would be a significant risk for housebuilders that securing a PiP, which has not, for example, fully assessed the transport implications of a scheme of 150 dwellings could artificially increase the 'hope value' of a parcel of land. When the transport implications are properly assessed at technical detail consent stage, it could easily transpire that the development proposed is not achievable. Whilst this is something that could potentially be 'swallowed' by a national housebuilder, it could have a devastating effect on a small-medium sized housebuilder.

Given that the detailed work in respect of securing outline planning permission (for example the transport assessment) would need to be done at some stage, the potential dis-benefits of deferring this to detailed consent stage outweigh the benefits of receiving Permission in Principle. This does not add certainty for developers as there are still so many issues unresolved before proceeding to technical detail stage, with all the investment that would involve for a scheme of up to 150 dwellings.

The ability for housebuilders/developers to address detailed matters such as transport at outline stage is what adds certainty that they can proceed with reserved matters with confidence.

There is also potential for the local community to be disenfranchised as they do not have the opportunity to comment on a range of important issues at PiP stage, and once a PiP is granted, it could be seen as a fait accompli that technical detail consent would automatically follow. There is concern that this does not embrace the spirit of Localism.

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. It is important that any new development should not unduly impact on existing town and local centres which are already under significant strain. This would ensure that the Government's, and local plan policies in respect of the sequential and impact tests for retail development would not be undermined.

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?

Sufficient information should be submitted to ensure that the LPA can make the right decision on whether the site is appropriate for development - will it have an unacceptable impact on the

landscape / biodiversity? Will it make a positive contribution towards tackling climate change, etc.?

The PIP process makes it much less clear to LPAs and applicants as to what information is reasonably necessary to consider them. 'In principle' is rarely an appropriate term in development management in rural areas where matters of detail are often the determining factor.

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.

Disagree - Advertisement should apply the same approach as for planning applications. Why wouldn't it from a community perspective? However, if the outcome of the White Paper resolves to reduce physical adverts, that would be an improvement, so long as this does not have a detrimental impact on people who have limited means or skills to access digital mediums.

Public Sector Equality Duty

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?

We consider that the significant reduction in rented affordable homes resulting from a raised small-sites threshold is incompatible with the principle of advancing equality of opportunity; especially in relation to the disproportionate impacts of these proposals upon those who possess the protected characteristics of race and disability. By way of example, the Government's figures surrounding 'renting social housing' illustrate that 44% of Black Africans, 41% of Mixed White/Black Caribbean, 40% of Black Caribbean and 33% of Bangladeshi households rent social housing; this is a far higher proportion than 'White British' (at 16%), or 'White other'. It stands to reason, therefore, that reducing the delivery of new affordable homes as a result of raising the small-sites threshold (where the aforementioned groups are disproportionately represented) will have a detrimental impact upon the opportunities available to these groups to secure affordable housing compared to persons who do not have these characteristics.

The impacts highlighted above are equally applicable to social renters who possess the protected characteristic of disability. In Cheltenham Borough, our Housing Register identifies that 60 households require a wheelchair adapted affordable home, and 215 households required a ground floor flat. As such, reducing the number of affordable homes delivered will restrict opportunities to secure M4(2) Cat 2 and M4(3) Cat 3 dwellings. Put simply, by delivering less affordable homes (by raising site thresholds), local authorities have fewer opportunities to secure Category 2 and Category 3 homes to enable those with disabilities to live their lives with dignity, allowing them to socialise, work and study without disruption.

In regards to the identified impacts upon those with a disability or long-term illness, MHCLG could make the 2015 M4(2) Category 2 standards a mandatory requirement for all new affordable homes.

Additional emphasis should be placed within the NPPF upon future-proofing new homes to ensure they can easily adapt to changes in need for the end user. In this vein, the Government should aim to ensure that all Affordable Homes constructed using Homes England grant funding are built to M4(2) Category 2 standards as a minimum.

Raising the small-sites threshold is also inconsistent with the PSED in terms of fostering good relations between people with protected characteristics and those people who do not share them. Section 5 of the PSED describes 'the need to foster good relations' by 'tackling prejudice' and 'promoting understanding'. Yet, it is difficult to rationalise how new 100% market developments (of under 50 homes) will 'foster good relations' between different groups possessing relevant protected characteristics when affordable housing (which disproportionately contains these groups) is entirely absent. Equally, the principle of raising the sites threshold (and by implication encouraging developers to bring forwards 100% market development), is incompatible with 'tackling prejudice' and 'promoting understanding'. Instead of creating resilient, mixed and balanced communities that embrace diverse life experiences and support our most vulnerable members, by creating homogenous small market communities, the Government, will, in effect, reinforce division and stigma against affordable housing renters.

Taking steps to mitigate against these impacts is difficult, if not untenable if the Government proceeds with raising the small-sites threshold to 40 or 50 homes. Therefore, the Council objects to raising the small-sites threshold. Instead, the Government should expand PPG/NPPF guidance surrounding how new development can create or strengthen community cohesion, especially through the integration of new affordable homes of all tenures.