

REPORT TO: Environment and Urban Renewal Policy
and Performance Board

DATE: 30th September 2020

REPORTING OFFICER: Strategic Director – Enterprise,
Community and Resources

PORTFOLIO: Physical Environment

SUBJECT: Changes to the Current Planning System
Government Consultation

WARDS: Borough wide

1.0 PURPOSE OF THE REPORT

- 1.1 To inform the Board about the recently published (6 August 20) Government consultation on the **current planning system** and the potential implications this could have for development in Halton. The consultation is open until 1 October 2020.
- 1.2 The Ministry of Housing, Communities and Local Government is consulting on shorter-term changes to planning policy and regulations in addition to the **more fundamental reform to the planning system as set out in "Planning for the Future"** (which is the subject of a separate Board report).
- 1.3 The Planning for the Future white paper sets out plans to undertake a fundamental reform of the planning system and explains that this would be accompanied by shorter-term measures.
- 1.4 This consultation sets out proposals that aim to improve the effectiveness of the current system. The four main proposals are described below. The consultation can be found online here:

<https://www.gov.uk/government/consultations/changes-to-the-current-planning-system>

2.0 RECOMMENDATION: That

(1) The Board notes the report; and

(2) Consideration is given to the proposals, together with any response the Board way wish to provide to the consultation.

3.0 SUPPORTING INFORMATION

3.1 The Government has set out proposals to improve the effectiveness of the current planning system. These cover:

- **The standard method for assessing housing for local plans:** Proposals to revise the standard method to increase the overall number of homes being planned for and achieve a more appropriate distribution.
- **Delivering First Homes:** Following a consultation on the First Homes proposals in February 2020, the Government has published its response and are now consulting on the detail of the planning proposals. This includes setting a requirement that 25% of all affordable housing secured through developer contributions should be First Homes. We are consulting on options for the remaining 75% of affordable housing secured through developer contributions, and seeking views on transitional arrangements, level of discount, interaction with the Community Infrastructure Levy and how we propose First Homes would be delivered through exception sites.
- **S106 and small sites:** Proposals to temporarily raise the threshold below which developers do not need to contribute to affordable housing, to up to 40 or 50 units for an 18-month period. In designated rural areas, the consultation proposes to maintain the current threshold. It also seeks views on whether there are any other barriers for SMEs to access and progress sites.
- **Permission in Principle:** Proposals to increase the threshold for Permission in Principle by application, to cover sites suitable for major housing-led development, rather than being restricted to just minor housing development.

4.0 POLICY IMPLICATIONS

4.1 The standard method for assessing housing for local plans

4.2 The 'standard method' intended to shift debate at examination away from the 'numbers' question and towards the 'how' and 'where' of building new homes. However, as simple as it was, the method was not without its' criticisms and almost as soon as the method was implemented, it was announced that it would be changing. Fortunately, Halton's draft Delivery and Allocations Local Plan (DALP) is well positioned to account for the change in method:

Current Core Strategy Requirement	Avg. Delivery (last 3 years)	Current Standard Methodology	Proposed New Methodology	Draft DALP
552 (units per annum)	555	246	386	350

- 4.3 The Government's new method, incorporates stock into the baseline (as well as household projections) to help achieve a 'fair share' approach; this helps boost numbers in areas with low projections. It also puts a greater emphasis on the uplift for affordability and removes the cap which exists under the current approach, stating it is '*not compatible*' with the aim of boosting housing supply quickly. These changes mean a new national total of 337,000 homes a year – far higher than the 270,000 under the current approach but no doubt intended to help plans 'stretch' for the 300,000 homes a year ambition, in light of some areas not being able to deliver.
- 4.4 These changes look set to be more compatible with the objective of 'levelling up' the midlands and north. While the current method meant that many of these regions would plan for fewer homes than they have delivered in recent years, the new method brings the number closer to (but not at) recent delivery in the north. It also creates higher numbers across the south compared with the current method, but this will always be the case for a method with such a significant emphasis on affordability. However, the new method continues to concentrate growth in London. Its figure of 93,532 looks unrealistic, given long-term delivery rates in the capital of 30-40,000 per annum. Without a duty to cooperate, the excess need (50-60,000 homes) will fall between the cracks, meaning 300,000 may still be beyond reach.
- 4.5 Importantly, the Government's White Paper proposes to replace the Standard Method for Local Housing Need with a nationally-set method for setting local housing requirements in effect distributing 300,000 homes per annum across local authorities, taking into account constraints and other factors. Therefore, whilst the current proposals will be of significant importance for emerging local plans coming forward over the next 2-3 years – and in five year land supply matters over that time horizon – they may ultimately have a short shelf-life.
- 4.6 **Delivering First Homes:**
- 4.7 Following the failure of the Government's 'Starter Homes' initiative, the Government launched a consultation on 'First Homes', a form of discounted market housing.
- 4.8 The Government is taking forward both of the options put forward:
1. a new planning requirement in law or policy for the delivery of First Homes (it is policy only for now); and
 2. changing the current national entry-level exception site policy to a First Homes exception policy.
- 4.9 The Government is now consulting on the detailed proposals for First Homes and on associated significant changes to the [exception sites policy in the National Planning Policy Framework](#).

- 4.10 The premise of First Homes is to diminish opposition to new housing developments, on the basis that local people will know that they might be able to afford to live in the development where perhaps historically they would not. First Homes are to be aimed primarily at first time buyers who are young and local (including local key workers living elsewhere), but there will be exceptions, including serving members of the Armed Forces and recent veterans. Of note, the focus has switched between the first and second consultation from young to first time buyer, which seems a more equitable approach.
- 4.11 The Government appears to be highly committed to this policy and it could be introduced very quickly, but the timings are not clear: the Government has also announced that a 1,500 unit pilot of First Homes will be included in its affordable homes programme. Notwithstanding, given that First Homes policy could be introduced in the next six months, the transitional arrangements will be relevant to some planning applications pending at present and many more at pre-application stage.
- 4.12 If enacted, Councils' will need to consider how they are going to administer their many and significant new responsibilities linked to the product. Furthermore, where payments are accepted in lieu of First Homes, local planning authorities will need consider their approach to purchasing market homes that will become First Homes.
- 4.13 Councils' will also need to think about determining what a tenure mix policy compliant scheme is in their locality, if the First Homes policy would shift the balance set out in the tenure mix policy of a local plan. The Government considers that replacing home-ownership tenures by First Homes in national policy will reduce the need for LPAs to carry out a local plan review, but LPAs might decide to review the local plan to update the tenure mix they are seeking.
- 4.14 The First Homes policy will require at least a quarter of all affordable housing units secured through developer contributions to be First Homes; it will be brought forward via amendments to the National Planning Policy Framework (NPPF) (NPPF v2.2? – another future consultation?).
- 4.15 This is notwithstanding a concern in the first consultation that prescribing that a given percentage of affordable homes via s106 agreement should be First Homes might discourage some local authorities from using s106 obligations to deliver affordable housing, which would mean fewer First Homes being delivered. The alternative policy option of prescribing that a percentage of all units delivered on housing sites of 10 units or more are to be First Homes was said to be preferred, but the potential impact on viability and consequential reduction in the potential for other developer contributions on certain sites was acknowledged and is likely to be why this approach is not being taken forward.

- 4.16 The 25 per cent requirement is lower than the worked examples in the consultation, which estimated that if 40% of affordable homes secured by s106 agreements were First Homes, then 12,000 First Homes would be delivered (it appears to be a per annum figure). This would increase to 16,000 if 60% of affordable homes were First Homes and 19,000 if 80% of affordable homes were First Homes.
- 4.17 On-site delivery of First Homes is anticipated in most cases, but the consultation recognises that there may be off-site contributions towards affordable housing, of which a quarter of the contribution (whether all or partly cash) should be used to deliver First Homes. Local authorities or developers may need to acquire market housing *“paying the developer a sum to offset the discount from market price, and securing the tenure through section 106 planning obligations”*. While the consultation refers to a developer, it is not clear whether the local authority would have to buy a new home.
- 4.18 The Government intends that First Homes will be prioritised over any other affordable home-ownership products referred to in any tenure mix set out in development plans.
- 4.19 In this circumstance, to avoid distorting the *“value captured”* by affordable housing, as assessed in the viability assessment that underpins any local plan’s tenure mix policy, the affordable housing proposed in a policy compliant application should seek to capture the same value of affordable housing that pre-First Homes policies would require.
- 4.20 In addition, and where affordable homes for sale currently make up less than 25 per cent of the housing mix sought by policies, the percentage of affordable homes for rent will be reduced too.
- 4.21 An example included in the consultation is that where a policy requires 20% shared ownership, 40% affordable rent and 40% social rent, a policy compliant scheme would provide 25% First Homes; 37.5% affordable rent and 37.5% social rent. The Government prefers the approach in the example above where housing mix beyond First Homes reflects the approach taken to housing mix in the development plan, but is consulting on whether the mix of the other to be 75% negotiable.
- 4.22 Where a scheme is not policy compliant in terms of the percentage of housing that will be affordable housing, the affordable rent element of the proposal would not be squeezed further, because First Homes policy will be a percentage of the affordable housing to be delivered.
- 4.23 The CIL Regulations would be amended to provide a CIL exemption for First Homes. The first consultation also said that CIL Regulations may also be amended to ensure that CIL charging rates *“are not set at a level that would prevent current levels of affordable housing delivered through*

s106 obligations from being delivered in future". It seems likely that the CIL Regulations will be amended before they are abolished

4.24 Presented as the alternative to requiring First Homes via s106 agreements in the first consultation, the Government also intends to amend the [exception sites policy at para 71](#) of the National Planning Policy Framework (NPPF) – i.e. there will be two routes to First Homes. The policy will be amended to:

- specify that the affordable homes delivered should be First Homes for local, first-time buyers;
- allow a small proportion of affordable homes to be delivered on these sites where there is a significant local identified need;
- allow a small proportion of market homes on a site where essential to ensure the development will be viable and deliverable; and
- remove the threshold on site size set out in footnote 33 of the National Planning Policy Framework but retain that they should be proportionate in size to the existing settlement".

4.25 The current exception site policy does not permit a proportion of market housing.

4.26 The proposal for discounts is a minimum 30 per cent discount off market value as set by an independent valuer. As in the earlier consultation, local authorities will have the discretion to apply higher discounts. But where the previous consultation said there would be no maximum discount is proposed, a cap of a 40% or 50% discount is proposed where need is evidenced via the local plan. The level of discount will not lead to a variation in the percentage of First Homes to be provided – e.g. a 50% First Homes discount would not mean 15% of the affordable homes could be First Homes, instead of 25%. An evidence-based requirement for even higher discounts across an area would presumably be possible through a local plan or supplementary guidance as First Homes are being introduced via policy rather than law, but the document does not indicate this.

4.27 The full discount would be retained in perpetuity by placing restrictive covenants on the homes. However, if the owner defaulted on their mortgage the lender would receive the home without the covenant and the discount would be lost.

4.28 To avoid the purchase of "exceptionally expensive" property being subsidised, caps on the market value of a property that could benefit from the First Home discount will be put in place; £450,000 in London and £250,000 elsewhere in England. In order to fit market conditions,

where the cap is considered too high, LPAs will be able to set lower price caps for the first three months of sale of First Homes provided they evidence both local need and the impact on the viability of building new First Homes through the local plan-making process. The first consultation contemplated regional caps, but raised concerns that this may not sufficiently reflect local markets, and caps set at a sub-regional level were considered potentially inflexible; neither is to be taken forward.

- 4.29 Eligibility is proposed as the young, local, first time buyers predominantly and also serving members and veterans of the Armed Forces who have left in the last 5 years. The definition of local will be determined locally, but restrictions must be clearly evidenced, available for scrutiny, necessary and viable. There is no further detail on the first consultation's acknowledgement that older people's housing would not be suitable for first time buyers and suggestion that this is an example of a circumstance where non first time buyers might be eligible – it did not suggest that First Homes would not be required in such a development.
- 4.30 There will be an income cap on eligibility, as with purchase price caps; Councils will have the ability to set lower income caps for the first three months of sale, provided they can evidence both need and viability through their local plan making process. The first consultation said that where demand still exceeds supply local authorities might review an applicant's income and assets in more detail, in a bid to seek out those most "*in need*".
- 4.31 The Government now acknowledges that there will be costs associated with administering the scheme and will produce standardised covenants and s106 clauses and provide new burdens funding, if required. It is considering whether LPAs can charge developers and purchasers fees that reflect administration costs.
- 4.32 There would be a model First Homes agreement, which would reduce the need for lenders to understand local models.
- 4.33 **S106 and Small Sites:**
- 4.34 The Government is proposing to extend the threshold of "*small sites policy*", which says that affordable housing contributions should not be sought for minor housing developments. The extension of the policy is an element of providing support for small and medium enterprise (SME) builders and would be for 18 months from its publication.
- 4.35 The threshold would be increased from 10 units to 40 or 50 units and from 0.5 hectares to an as-yet-undecided site size.
- 4.36 In terms of how this would impact the delivery of affordable housing, the consultation says:

“For example, for a threshold of up to 40 units we would expect to see a reduction of between 7% and 14% of section 106 affordable housing delivery over a single year, assuming overall housing delivery remained constant. For a threshold of up to 50 units, this would be between 10% and 20%”.

- 4.37 According to the Government, only 8% of authorities have policies in up-to-date plans (less than five years old) that do not comply with national policy and are currently seeking affordable housing contributions for small sites. While up-to-date, these policies would not be affected by the temporary change.
- 4.38 Planning guidance will advise local authorities on how to secure affordable housing where large sites are being brought forward in phases of up to 40 or 50 homes.
- 4.39 The Government is consulting on all elements of the above proposals and inviting views on other ways to support SME builders. The consultation refers to changes in policy and legislation but the latter is probably a typographical error; the consultation says that if it is taken forward, this could be through the introduction of a Written Ministerial Statement in the Autumn.
- 4.40 **Permission in Principle Significantly Extended**
- 4.41 The Government is consulting on extending permission in principle (PiP) on application to all forms of housing-led development, with the exception of EIA development and development requiring appropriate assessment, with no cap on the amount of commercial floorspace within a given scheme.
- 4.42 These proposals would open up establishing the principle of housing-led development to many more sites than at present. PiP is not a planning permission and the subsequent technical details consent may not necessarily be easily achieved (notwithstanding the probable 10-week determination period for major development). So perhaps PiP for large sites is best thought of as buying the opportunity to put forward a site allocation to achieve some certainty and add value.
- 4.43 It has been possible to seek permission in principle (PiP) on application since June 2018. It remains one of the most significant changes to the way planning permission may be achieved since outline planning applications were introduced 60 years ago. PiP is not a planning permission; it is part one of a two stage process that grants planning permission. The second stage is technical details consent. The granting of technical details consent means that the site has planning permission; this is the key difference between outline planning permission and permission in principle.

- 4.44 Take up of PiPs has not been great. To a large extent it is aimed at SMEs trying to de-risk sites in order to obtain funding, rather than being a sleek, cost-effective two stage process. Some developers have perceived that PiP on application only applies to brownfield land and/or land on a Brownfield Land Register (BLR): but this is not the case.
- 4.45 The Government is consulting on extending PiP on application to all forms of housing-led development, with no cap on the amount of commercial floorspace within a given scheme. They state that they “do not believe it is necessary to limit the amount of commercial floorspace as it will still be the case that Permission in Principle should only be granted for development that is housing-led. Non-housing development that is compatible and well-integrated into residential development can help to create sustainable neighbourhoods”.
- 4.46 Potential Schedule 2 EIA development, including large sites capable of delivering more than 150 dwellings and/or of more than 5 hectares would not be able to apply for PiP unless the application were accompanied by a screening opinion concluding the proposal was not EIA development. Similarly, where there is a probability or risk that the proposal is likely to have a significant effect on a European site, a PiP application would have to be accompanied by an appropriate assessment demonstrating significant impact on the site was unlikely. While the White Paper wants to change these environmental impact procedures, this is some way off and well beyond the timescales for introducing this measure.
- 4.47 The determination period for a PiP on application is five weeks and includes a 14-day consultation period with public and statutory consultees. The Government is not proposing to change this as it considers these timescales ensure “a speedy decision by the local planning authority”. However, as a result of extending the scope of PiP to major developments the Government is considering amending the scope of information required and the publicity requirements placed upon the local planning authority.
- 4.48 The relevant matters which should be assessed by a local planning authority in a PiP application are location, land use and the amount of development. The Government is considering adding a height parameter in terms of the number of storeys, as an additional matter to be assessed, given the potentially larger scale developments that PiP could be used for. This would provide greater clarity to the applicant and local planning authority about the scale of housing development that is acceptable for the site although it would add to the complexity of the determination of the application. In addition, it would start to bring design issues into the PiP process as well as result in a need to identify zones within a site with differing height parameters, perhaps diluting the original aims and objectives of the PiP process itself.
- 4.49 As larger developments are proposed to fall within the scope of PiP on application, the Government is keen to increase the extent of publicity of

such applications in order to give the public a greater opportunity to comment, whilst still keeping to the speedier decision-making process. Currently local planning authorities need to advertise PiP applications on their website and by posting a site notice.

- 4.50 Other specific consultation requirements apply in certain circumstances. The Government is suggesting that a press notice might also be required to advertise the application and is seeking views on whether there should be an overall general requirement to publicise the application, or even both. This is an interesting proposal; no mention is made of introducing neighbour notification, notwithstanding the very significant increase in the scale of development that can be granted in PiP. This seems to be a nod towards the seeking out of development proposals in an area that will be part of the new approach to consultation set out in the White Paper.
- 4.51 The Government is keen to revise the cost to applicants of submitting an application for PiP, in order to make the process more attractive to developers, particularly on larger sites and as an alternative to an outline planning application. The consultation notes:
- “Under the current fee structure, a Permission in Principle application for a 1-hectare development would cost approximately £4000, which is only slightly less than the cost of an outline planning application (£4600). We are keen to promote Permission in Principle by application as a more streamlined and cheaper alternative to outline permission”.*
- 4.52 The Government says its preferred option is for a *“simplified banded fee structure”* with a fee per 0.1 hectare in each of three bands of site size: less than 1 hectare, between 1 to 2.5 hectares and more than 2.5 hectares (capped at a maximum).
- 4.53 The Government wants to see an increase in the use of PiP on application and to make such applications a more attractive option than an outline planning application by proposing the changes set out above. As part of this push, the Government proposes to introduce further clarity and guidance on the purpose, process and benefits of PiP. The consultation states that *‘it seems some local planning authorities continue to make decisions on Permission in Principle based on detailed matters, such as transport access, when these should only be taken into consideration at the technical details consent stage.’* As such, the Government wants new guidance to ensure that local planning authorities only take into account the matters specified by the Regulations.
- 4.54 Following this consultation, which runs until 1 October 2020, the Government aims to introduce amendments to existing Regulations this Autumn and to come in to force by the end of 2020. Changes to application fees would require separate changes to the Planning Fees Regulations.

5.0 OTHER IMPLICATIONS

5.1 On the basis the report covers a consultation paper, there are no other direct implications arising from the subject of this report at this time.

6.0 RISK ANALYSIS

6.1 Given the proposals are published for consultation, risks do not immediately arise from the contents of the paper. It is evident that, in time, if the proposals are brought into effect by legislation, then there will an impact on the Planning Service. However, any legislative change arising out of the while paper will be the subject of a future report to the Board.

7.0 EQUALITY AND DIVERSITY ISSUES

7.1 There are no equality and diversity implications arising from the subject of this report.

8.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
https://www.gov.uk/government/consultations/changes-to-the-current-planning-system	Planning & Transport Strategy, Municipal Building	Alasdair Cross