

This Report will be made public on 8 September 2020

Report Number **C/20/33**

To: Cabinet
Date: 16 September 2020
Status: Non key
Responsible Officer: Charlotte Spendley, Director – Corporate Services
Cabinet Member: Councillor David Wimble, Cabinet Member for the District Economy

SUBJECT: ***‘CONSULTATION ON CHANGES TO PLANNING POLICY AND REGULATIONS’ BY THE MINISTRY OF HOUSING, COMMUNITIES & LOCAL GOVERNMENT***

SUMMARY: The Ministry of Housing, Communities & Local Government (MHCLG) is consulting on *‘Changes to the current planning system: Consultation on changes to planning policy and regulations’*. The consultation sets out proposed changes to planning guidance and regulations covering: the method for assessing housing numbers; delivering affordable homes through a new First Homes scheme; supporting small- and medium-sized developers; and extension of the Permission in Principle consent regime. The report sets out draft comments, which, if approved by Cabinet, would be sent to MHCLG as the council’s response to the consultation.

REASONS FOR RECOMMENDATIONS:

That Folkestone & Hythe District Council’s views on the consultation are provided to MHCLG so that they can be considered by Government before any changes are introduced.

RECOMMENDATIONS:

1. To receive and note report C/20/33.
2. To approve the draft consultation comments set out in Appendix 1 for submission to MHCLG, with any final amendments or additions agreed by the portfolio holder, in consultation with the Leader.

1. BACKGROUND

1.1 The Ministry of Housing, Communities & Local Government (MHCLG) is consulting on two linked documents:

- *'Changes to the current planning system: Consultation on changes to planning policy and regulations'* - this consultation runs for eight weeks and closes on 1 October 2020; and
- The White Paper, *'Planning for the Future'* - this consultation runs for 12 weeks and closes on 29 October 2020.

1.2 This report deals with the first consultation; consultation on the planning White Paper will be reported to Cabinet on 21 October 2020.

1.3 Draft comments to *'Consultation on changes to planning policy and regulations'* are set out in Appendix 1. If approved by Cabinet, subject to any amendments made under Recommendation 2, these comments will be submitted to MHCLG as the council's response to the consultation.

2. **'CHANGES TO THE CURRENT PLANNING SYSTEM: CONSULTATION ON CHANGES TO PLANNING POLICY AND REGULATIONS'**

2.1 *'Consultation on changes to planning policy and regulations'* accompanies the consultation on the planning White Paper, but runs to a shorter timescale, closing on 1 October 2020.¹ The White Paper *'Planning for the Future'*² proposes more fundamental and long-lasting changes to the planning system and this will be reported separately to Cabinet.

2.2 *'Consultation on changes to planning policy and regulations'* sets out four main proposals:

- Changes to the standard method for assessing how many new homes local authorities should plan for;
- Securing First Homes, sold at a discount to the market price, through developer contributions;
- Lifting the threshold below which developers do not have to provide affordable housing, to help small- and medium-sized building firms recover from the impacts of Covid-19; and
- Extending the current Permission in Principle to major developments to create a fast route to secure the principle of development for housing on larger sites.

These proposals are outlined in the four sections that follow.

¹ The consultation paper is available to view on MHCLG's website:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/907215/200805_Changes_to_the_current_planning_system_FINAL_version.pdf

² The White Paper is available to view on MHCLG's website:
<https://www.gov.uk/government/consultations/planning-for-the-future>

3. STANDARD METHOD FOR ASSESSING HOUSING NUMBERS

- 3.1 In 2018 the Government replaced local assessments of housing need with a new national method to set out the minimum number of new homes that local authorities should plan for. Amendments were introduced with a new version of the National Planning Policy Framework (NPPF) in 2019. The current consultation sets out further changes to the standard national method.
- 3.2 It is unclear how this proposal relates to proposals in the planning White Paper: the White Paper states that the new housing requirement would be binding on local authorities, but would factor in land constraints³; however, the consultation on the technical changes does not include any allowance for land constraints.
- 3.3 The technical consultation states at paragraph 5:
- 'It is the Government's intention that the method set out in this document would form part of the process for setting any binding housing requirement. However, this consultation does not set out how this binding requirement would be calculated, which will be determined following the Planning for the Future consultation. Instead, it proposes a revised standard method for calculating local housing need which will be used as the basis for plans created prior to any changes outlined in Planning for the Future being introduced.'*
- 3.4 The statement that the method will form 'part of the process for setting any binding housing requirement' suggests that the proposed method would be used to establish a base figure for the minimum number of new homes in an area which would then be moderated through an assessment of the area's constraints, using a new, and as yet unpublished, adjustment.
- 3.5 The 2018 and 2019 changes brought in a new methodology to calculate the minimum number of new homes that local authorities should plan for. The methodology is based on figures from two data sets published and updated regularly by the Office for National Statistics (ONS). These are:
- The projected increase in the number of households in an area, as an annual average using a ten year period starting from the current year; and
 - A measure of current housing affordability, based on the ratio between the median wage and the median house price in an area using the most recent available figure.
- 3.6 These figures are entered into a formula set out in the Government's national planning practice guidance to arrive at the minimum annual number of new homes⁴. At the time the council was finalising the Core Strategy Review for submission to the Secretary of State this formula gave rise to a minimum need for the district of an additional 738 homes a year.

³ See: 'Planning for the Future', page 23

⁴ See: <https://www.gov.uk/guidance/housing-and-economic-development-needs-assessments>

- 3.7 The technical consultation takes this approach as its starting point, but adds additional factors to the formula, including an assessment of the existing housing stock in an area and changes to affordability over the last ten years, in addition to the most recent housing affordability measure.
- 3.8 If the most recent ONS figures for the district are put into the new formula set out in the consultation document, this would result in a minimum number of 1,043 new homes a year for Folkestone & Hythe district. (However, as outlined above, this is described as being part of the process, rather than the final figure and it is not clear how this figure may be moderated.)
- 3.9 The consultation asks a number of questions relating to these proposals (Questions 1 to 7).

4. DELIVERING FIRST HOMES

- 4.1 First Homes is a new Government scheme intended to provide homes for local first-time buyers at a discounted rate of 30 per cent below market value. Sellers of First Homes will be required to sell at the same level of discount that applied at the initial purchase, and to another eligible First Homes purchaser.
- 4.2 The consultation sets out options for providing First Homes through developer contributions.
- 4.3 The consultation recognises that local planning authorities will already have targets in local plan policies for the different affordable tenures that should be provided through new developments (social rented, shared ownership, etc). The consultation proposes that, of the total affordable housing contribution provided by a development, the First Homes proportion should take precedence over any local requirement and a minimum 25 per cent of the affordable homes should be First Homes. Either:
- First Homes would take the place of tenures which secure the smallest discount from market price; or
 - Local authorities would be free to negotiate whatever mix of affordable tenures they wish on the remaining 75 per cent of affordable homes not designated as First Homes.
- 4.4 Where off-site financial contributions are made, rather than on-site provision, the consultation proposes that a minimum 25 per cent of the contributions should be used to provide First Homes. (Initially these changes would be delivered through Section 106 agreements, but if the proposals in the White Paper are brought into force, Section 106 agreements will eventually be replaced by a new Infrastructure Levy.)
- 4.5 The consultation proposes that the minimum discount for First Homes should be 30 per cent from the market price, which would be set by an independent registered valuer. Local authorities would have discretion to increase the discount to 40 or 50 per cent, but this would need to be evidenced through the local plan process.

4.6 The consultation states that the Government intends to amend the existing exception sites policy set out in the NPPF (which allows for sites to come forward on the edge of settlements as an exception to normal policies of restraint) to specify that these sites should deliver First Homes for local, first-time buyers. There will be flexibility in the policy to allow a small proportion of other affordable tenure homes to be delivered on these sites, as well as a small proportion of market homes where this is needed to make the scheme viable.

4.7 Questions 8 to 16 ask for views on these proposals.

5. SUPPORTING SMALL- AND MEDIUM-SIZED DEVELOPERS

5.1 The consultation emphasises that the Government is committed to helping small- and medium-sized developers (SMEs), as they provide variety in the housing market, speed up the build-out rate of new homes and increase the overall supply.

5.2 The consultation proposes reforms to help SMEs for a limited period during the economic recovery from Covid-19; these changes would release a wider range of sites from the need to provide affordable housing through Section 106 agreements.

5.3 Currently local planning authorities can require affordable homes to be provided on sites of ten dwellings and above, or in designated areas, such as Areas of Outstanding Natural Beauty (AONBs), on sites of six dwellings and above.

5.4 The consultation proposes to raise the threshold for a limited period of 18 months and asks whether the threshold at and above which affordable homes could still be required should be 40 or 50 new homes. This would mean that sites that are given planning permission below this threshold would not have to provide any affordable homes for an 18 month period from the point when the change to national policy is made.

5.5 The consultation proposes that the threshold for designated areas should remain unaltered.

5.6 Questions 17 to 23 ask what the threshold should be, how long the arrangement should be in place for and what the arrangements should be for designated areas, such as AONBs.

6. EXTENSION OF THE PERMISSION IN PRINCIPLE CONSENT REGIME

6.1 A new system for 'Permission in Principle' was introduced in 2017 as a way to obtain faster consents for housing schemes. Permission in Principle consent has two stages:

- Permission in Principle – this stage establishes whether a site is suitable in principle for housing development. The grant of Permission in Principle is for five years and no planning conditions can be attached to it; and

- Technical details consent – this stage is when the detailed development proposals are assessed and conditions can be attached. National guidance states that: *‘Local planning authorities should take a proportionate approach to any information they request in support of applications for technical details consent, which should be relevant, necessary and material to the application in question. Local planning authorities are encouraged to consider whether this could be achieved by requesting that such information is provided in a single concise statement.’*⁵

Granting of Permission in Principle and technical details consents equates to full planning permission.

- 6.2 Currently applicants can only apply for minor developments through the Permission in Principle route (sites of one to nine dwellings). The consultation proposes that this restriction is lifted; the Government considers that this would be particularly helpful to small- and medium-sized developers. In practice, the consultation argues, there will be a natural cut-off point for the scale of sites where Environmental Impact Assessment Regulations Schedule 2 would be triggered (sites delivering more than 150 dwellings or sites of more than five hectares). Similarly this route would not be appropriate for sites in areas where there is a probability or risk that the project would have a significant effect on a European-designated site.
- 6.3 The consultation asks a number of questions about this proposal (Questions 24 to 34). Questions ask whether there should be any additional information that applicants would be required to provide, such as heights of buildings, and what publicity requirements should be put in place.
- 6.4 Other questions ask about the fees that would be payable. If the current Permission in Principle fee structure was scaled up for larger sizes of site, it would lead to a level of fees that would be only slightly below the fees for outline planning applications. The consultation states that the Government wants to establish Permission in Principle as a cheaper alternative to outline planning permission and so the consultation sets out proposals for a banded fee structure to keep the fees low.
- 6.5 The take-up of Permission in Principle consent since its introduction in 2017 has generally been very low; the consultation asks what guidance would be useful to increase awareness and use of this option.
- 6.6 The final question in the consultation (Question 35) asks about the equalities impacts of the Government’s proposals.

7. CONSULTATION

⁵ See: <https://www.gov.uk/guidance/permission-in-principle>

7.1 Consultation is being undertaken by Government on its changes to planning policy and regulations. This report sets out a proposed response to the Government's consultation.

8. OPTIONS

8.1 The options are:

(1) Not to respond to the consultation

This would mean that the district council would not have the chance to influence the Government's proposed changes to the planning system.

(2) To respond to the consultation

This would mean that the district council's comments, as set out in Appendix 1, with any additions or amendments agreed under Recommendation 2, would be submitted to MHCLG for consideration in developing the Government's proposals.

9. RISK MANAGEMENT ISSUES

9.1 The Cabinet report recommends submitting the comments set out in Appendix 1 to MHCLG, with or without amendments. It is not considered that this action comes with any appreciable risks.

Perceived risk	Seriousness	Likelihood	Preventative action
None	Not applicable	Not applicable	Not applicable

10. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

10.1 Legal Officer's Comments

There are no legal implications arising directly from this report.

10.2 Finance Officer's Comments

There are no financial implications at this stage of the consultation.

10.3 Diversities and Equalities Implications

There are no diversities and equalities implications at this stage of the consultation. Implications will depend on the final proposals implemented by Government.

11. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officers prior to the meeting:

Adrian Tofts, Strategy, Policy & Performance Lead Specialist

Telephone: 01303 853438

Email: adrian.tofts@folkestone-hythe.gov.uk

Llywelyn Lloyd, Chief Planning Officer

Telephone: 01303 853456

Email: llywelyn.lloyd@folkestone-hythe.gov.uk

Appendices:

Appendix 1: Consultation Questions and Proposed District Council Responses

APPENDIX 1: CONSULTATION QUESTIONS AND PROPOSED DISTRICT COUNCIL RESPONSES

STANDARD METHOD FOR ASSESSING HOUSING NUMBERS

Question 1: 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?

Proposed Folkestone & Hythe District Council Response

See response to Question 2.

Question 2: 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.

Proposed Folkestone & Hythe District Council Response

It is not clear why a measure of the existing housing stock has been introduced into the formula to calculate future housing need. The consultation states that these new elements are intended to 'ensure that diverse housing needs in all parts of the country are taken into account.' However, the housing stock is a crude measure: in areas where there is high overcrowding, a factor for the existing housing stock is likely to underestimate housing need; in areas where there is a concentration of second homes or vacant properties, the addition of this factor is likely to overestimate housing need.

The consultation states that the current formula underestimates demand for housing in growing cities in the Northern Powerhouse, by being based on historic trends. However, current national policy and guidance already allow authorities to plan for higher levels of growth than set out in their minimum requirement figures.

Planning Practice Guidance currently stresses that the national methodology provides a minimum starting point and allows local authorities to plan for levels of growth above these figures, for example, to account for changing economic circumstances, growth strategies, infrastructure improvements or taking on unmet need from neighbouring authorities. Given that these changes were introduced relatively recently into national planning policy, they are unlikely to have been tested at many local plan examinations. It is not clear why existing planning guidance on this issue is considered inadequate.

Question 3: 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.

Proposed Folkestone & Hythe District Council Response

Given that this has been part of the methodology since its introduction in July 2018, it would be best to continue with this measure, as local authorities across

England will be planning to meet these requirements. The district council is bringing forward ambitious plans for a new garden settlement to meet its housing requirement, and has had to amend its Core Strategy Review three times over the course of preparing the plan for submission to take account of changing national policy and guidance.

Question 4: 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.

Proposed Folkestone & Hythe District Council Response

If further changes to the methodology are introduced, the use of past affordability trends over a ten year period would reflect longer term trends and ensure that housing provision for a local authority's plan period would not be unduly influenced by an anomalous result from the most recent available year (e.g. reflecting a temporary housing price boom or slump).

However, if a ten year affordability average is used, it is not clear why the formula should also have the most recent housing affordability figure as a separate input into the calculation. This complicates the formula and creates an element of double-counting. It would be clearer and simpler to have an average affordability figure over a ten year period as the only input for this factor, in a similar way to how the housing projections are factored into the formula using a ten year average.

Question 5: Do you agree that affordability is given an appropriate weighting within the standard method? If not, please explain why.

Proposed Folkestone & Hythe District Council Response

The methodology currently measures affordability based on a single average wage and a mortgage of four times' annual income. To more accurately reflect affordability, the assessment needs to reflect the fact that many people buy homes with a joint mortgage. While some of these joint purchases may be a reflection of affordability problems (for example where a parent is a joint mortgagor with a child who is a first-time buyer), most will reflect a situation where the buyers are a couple and both mortgagors are in employment.

Do you agree that authorities should be planning having regard to their revised standard method need figure, from the publication date of the revised guidance, with the exception of:

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

Proposed Folkestone & Hythe District Council Response

See response to Question 7.

Question 7: Authorities close to publishing their second stage consultation (Regulation 19), which should be given 3 months from the publication date

of the revised guidance to publish their Regulation 19 plan, and a further 6 months to submit their plan to the Planning Inspectorate?

Proposed Folkestone & Hythe District Council Response

The council has already submitted its Core Strategy Review for examination, so understands that the emerging plan will not be affected by the current proposals, although they will be a factor when the district council's plan is next reviewed.

In general, it is important that local planning authorities are given sufficient time to advance their local plans before new national policies and guidance are brought into effect. The council has had to amend its Core Strategy Review three times while preparing the plan for submission to take account of changing national policy and guidance relating to housing provision; frequent changes in national policy only add to the time taken to adopt a local plan.

It is not clear how the proposals for the new housing methodology in this consultation relate to the proposals set out in the White Paper 'Planning for the Future'. The White Paper states that the new methodology will be binding on authorities and will factor in land constraints. The consultation on 'Changes to planning policy and regulations' does not refer to land constraints. The planning policy and regulations consultation also states that the proposed methodology will be temporary, prior to the changes in the White Paper being introduced; however, it also states that the new methodology will form 'part of the process' for setting the binding requirement, which suggests it will continue into the new system.

It is not clear from this how land constraints will be factored into this process: whether this will be a matter for testing at the examination of a local plan or whether the Government intends to introduce further changes to the national methodology at some future date. This is a very important consideration for Folkestone & Hythe, where large areas of the district are covered by Area of Outstanding Natural Beauty designation, are subject to high risk of flooding or are subject to international protection for their rare habitats.

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

Proposed Folkestone & Hythe District Council Response

See responses to Questions 5 and 6.

DELIVERING FIRST HOMES

Question 8: 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)

Proposed Folkestone & Hythe District Council Response

The council generally supports the intention behind the First Homes proposals, to help local people buy their first home. The current proposals have several advantages over the previous Starter Homes initiative in that: homes would be reserved for local buyers; the discount would be set at a default value of 30 per cent of market value (rather than 20 per cent); and the intention is that the homes could only be sold on to other local first time buyers, rather than being sold on the open market after five years.

However, the levels of discount do not suggest that this will be an affordable option in this district; it appears that First Homes would be less affordable than existing shared ownership schemes where buyers usually purchase around 25 to 50 per cent of the property and have the ability to buy further shares later if their financial circumstances allow.

ONS figures from September 2019 show that the average house price in Folkestone & Hythe district is £260,000. This suggests that the average First Home would command a value of around £182,000, applying the default 30 per cent discount. Using the measure of affordability set out in the Government's national methodology for housing provision, which assumes a single wage and a mortgage of four times' annual income, this suggests that the average First Home in the district would only be affordable to a person earning above £45,000 a year. ONS figures show that the median workplace-based wage in the district is £27,310. This suggests that, using the government's own measure of affordability, First Homes will not be an affordable option in this district, particularly for single wage earning households.

For context, the council's Healthier Housing Strategy (2018-2023) found that 64 per cent of newly-forming households were unable to access shared ownership homes, with 36 per cent being able to consider shared ownership. The Strategy found that an entry-level two bedroom flat in the district of around £124,000 would require an income of approximately £35,000 and deposit savings of approximately £21,000. In the case of a three-bedroom family home valued at £219,000 and available for purchase on a 50 per cent shared ownership basis, the Housing Strategy found that buyers would require access to a deposit of approximately £18,615 and a gross household income of at least £31,000. This suggests that it will be considerably easier for newly forming households to buy an entry-level property on the open market, or a shared ownership family home at a 50 per cent share, than to buy the average First Home in Folkestone & Hythe district.

The council considers that First Homes may be one option but they should not take priority over other types of affordable housing; it should be left to local authorities to determine the mix of affordable tenures according to local circumstances and local evidence of need.

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

Question 9: 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?

Proposed Folkestone & Hythe District Council Response

As outlined in the council's response to Question 8, the First Home option is likely to be at the very upper limits of affordability in Folkestone & Hythe district. While it may be an attractive option for some relatively high earning first time buyers, the council does not agree that it should be the default affordable housing product.

It is not clear why build-to-rent schemes should be exempt from this requirement if it is brought in. As a relatively expensive product, First Homes should not have as detrimental an impact on viability as affordable rented or shared ownership tenures.

The use of viability tests to reduce the numbers of affordable homes that schemes provide is a relatively new feature of the planning system and leads to great concern from local people about the quality of information and transparency of the planning system.

Question 10: Are any existing exemptions not required? If not, please set out which exemptions and why.

Proposed Folkestone & Hythe District Council Response

See the council's response to Question 9.

Question 11: Are any other exemptions needed? If so, please provide reasons and /or evidence for your views.

Proposed Folkestone & Hythe District Council Response

See the council's response to Question 9.

Question 12: Do you agree with the proposed approach to transitional arrangements set out above?

Proposed Folkestone & Hythe District Council Response

As outlined in the response to Question 7, it is important that local planning authorities are given sufficient time to advance their local plans before new national policies and guidance are brought into effect; frequent changes in national policy only add to the time taken to adopt a local plan.

Question 13: Do you agree with the proposed approach to different levels of discount?

Proposed Folkestone & Hythe District Council Response

As outlined in the council's response to Question 8, the First Home option is likely to be at the very upper limits of affordability in Folkestone & Hythe district, assuming a discount of 30 per cent of market price.

If this scheme is brought in, then local planning authorities should be able to set higher levels of discount in their local plans, based on local circumstances and evidence of local need.

Question 14: 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?

Proposed Folkestone & Hythe District Council Response

As outlined in the council's response to Question 8, the First Home option is likely to be at the very upper limits of affordability in Folkestone & Hythe district. While it may be an attractive option to some relatively high earning first time buyers, the council does not agree that it should be the default affordable housing product.

The consultation states that the current exceptions sites policy in the National Planning Policy Framework will be amended to specify that affordable homes delivered on exceptions sites should be First Homes, but that the policy would 'allow a small proportion of other affordable homes to be delivered on these sites where there is a significant identified local need ...'

The council considers that First Homes may be one option for exceptions sites, but they should not take priority over other types of affordable housing; it should be left to local authorities to determine the mix of affordable tenures on exceptions sites according to local circumstances and local evidence of need.

It is not clear why market housing would be needed on exceptions sites to allow development for First Homes; as a relatively expensive product First Homes should not have as detrimental an impact on viability as affordable rented or shared ownership tenures. The use of viability tests to reduce the numbers of affordable homes that schemes provide is a relatively new feature of the planning system and leads to great concern from local people about the quality of information and transparency of the planning system.

Question 15: Do you agree with the removal of the site size threshold set out in the National Planning Policy Framework?

Proposed Folkestone & Hythe District Council Response

The National Planning Policy Framework specifies that entry-level exceptions sites should not be larger than one hectare in size or exceed 5 per cent of the size of the existing settlement. This does seem an arbitrary threshold; the council would support a change to state that exceptions sites should be proportionate in size to the existing settlement. This would then be determined through the development management process based on local circumstances.

Question 16: Do you agree that the First Homes exception sites policy should not apply in designated rural areas?

Proposed Folkestone & Hythe District Council Response

As outlined in the council's response to Question 8, the First Home option is likely to be at the very upper limits of affordability in Folkestone & Hythe district. It should be left to local authorities to determine the mix of affordable tenures on rural exceptions sites according to local circumstances and local evidence of need.

SUPPORTING SMALL- AND MEDIUM-SIZED DEVELOPERS

Question 17: Do you agree with the proposed approach to raise the small sites threshold for a time-limited period?

Proposed Folkestone & Hythe District Council Response

While it is appreciated that, at face value, this proposal could temporarily assist the viability of some schemes, it could disproportionately harm the district's supply of affordable housing given our reliance on smaller sites, especially as we are not dependant on Section 106 for the majority of contributions.

While the council is bringing forward ambitious plans for a new sustainable garden settlement of up to 10,000 new homes, the council's Places and Policies Local Plan identifies a number of smaller sites throughout the district that would fall below the revised threshold (40 or 50 homes) and so not contribute to affordable housing in the district if these proposals are introduced.

At present we are not aware of any evidence that the district's limited Section 106 contributions (mainly for affordable housing) are a barrier for bringing forward smaller sites, which tend to have far less upfront infrastructure costs than larger sites.

The Government's own research suggests that 50 units would reduce the delivery of affordable units via developer contributions by between ten and 20 per cent.

Developers bringing forward sites slightly above the threshold may also be disincentivised from bringing forward schemes because it would be more profitable, as well as cheaper and quicker, to deliver slightly smaller schemes.

Another issue is that the policy may become a windfall for the landowner rather than an incentive for the developer.

There is also no certainty that the time-limited restriction would deliver housing faster or aid a swift recovery unless this is coupled with a shorter implementation period of 12 months and a bond or clawback mechanism, should the implementation not be substantially completed in a short time period.

The consultation does not put forward any evidence that the requirement to provide affordable housing is a significant problem for SMEs or that this is the main issue affecting housing delivery in the period of Covid-19 recovery. There may be much more significant issues with grant availability for affordable housing, or more general problems with the availability of construction materials, skilled or un-skilled labour, development finance, connections to infrastructure networks or other factors.

Question 18: What is the appropriate level of small sites threshold?

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

Proposed Folkestone & Hythe District Council Response

See the council's response to Question 17; the council does not consider that this threshold needs to be raised.

Question 19: Do you agree with the proposed approach to the site size threshold?

Proposed Folkestone & Hythe District Council Response

See the council's response to Question 17; the council does not consider that this threshold needs to be raised.

Question 20: Do you agree with linking the time-limited period to economic recovery and raising the threshold for an initial period of 18 months?

Proposed Folkestone & Hythe District Council Response

See the council's response to Question 17; the council does not consider that this threshold needs to be raised. However, if these changes are introduced, the removal of the requirement to provide affordable housing should be time-limited to economic recovery (see the response to Question 17).

The council would only support the raising of threshold where the implementation is within 12 months of the permission being granted and a bond or clawback mechanism is introduced, if the implementation is not substantially completed in a short time period.

Question 21: Do you agree with the proposed approach to minimising threshold effects?

Proposed Folkestone & Hythe District Council Response

If this change is introduced, then the council would agree with the intent behind this part of the proposal, but the consultation includes scant detail on how the approach would work.

Question 22: Do you agree with the Government's proposed approach to setting thresholds in rural areas?

Proposed Folkestone & Hythe District Council Response

See the council's response to Question 17; the council does not consider that this threshold needs to be raised. The council would not wish to see thresholds raised in designated areas, such as AONBs, where sites are likely to be smaller and most would fall under the revised threshold so avoiding the need to provide any affordable housing in these areas.

Question 23: Are there any other ways in which the Government can support SME builders to deliver new homes during the economic recovery period?

Proposed Folkestone & Hythe District Council Response

As outlined above, there may be much more significant issues with grant availability for affordable housing, or more general problems with the availability of construction materials, skilled or un-skilled labour, development finance, connections to infrastructure networks or other factors.

EXTENSION OF PERMISSION IN PRINCIPLE CONSENT REGIME

Question 24: Do you agree that the new Permission in Principle should remove the restriction on major development?

Proposed Folkestone & Hythe District Council Response

The council does not agree with this proposal, and it would seem to undermine the aspirations of the planning White Paper to secure higher standards of design in new developments.

National Planning Practice Guidance states that, in requesting further details for determining technical details consent, 'Local planning authorities are encouraged to consider whether this could be achieved by requesting that such information is provided in a single concise statement.'

The current proposal to widen Permission in Principle could encompass some very large schemes, effectively removing them from the need to provide detailed design information; it is not clear how this fits with the White Paper's proposal to use design codes as the key part of the development management process, if limited detail is provided at technical details consent stage for Permission in Principle schemes.

Question 25: 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.

Proposed Folkestone & Hythe District Council Response

If these proposals are brought into force, then there should be a limit on the amount of commercial development.

This must be part of a sustainable, strategic and plan-led system which still seeks to focus commercial development on local centres which are well-served by existing infrastructure. Having no limit would undermine this premise.

Question 26: 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?

Proposed Folkestone & Hythe District Council Response

See the council's response to Question 24 regarding securing high standards of design in new developments. In addition, the council would suggest that:

1. A minimum number of houses lacks flexibility should unknown site constraints come to light. A minimum also has potential to result in cramped developments which lack the beauty that the Government aspires to, should developers be forced to achieve a minimum.
2. That a minimum open space parameter is included. The Covid-19 pandemic has demonstrated the need and benefits of open space and this should be ingrained in all development going forward.

Question 27: Should there be an additional height parameter for Permission in Principle? Please provide comments in support of your views.

Proposed Folkestone & Hythe District Council Response

See the council's response to Question 24 regarding securing high standards of design in new developments. In addition, maximum height lacks flexibility and is not assessable without significant levels of detail. Maximum storeys is a better measure as it focuses on the user, not an arbitrary measurement.

Question 28: 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.

Proposed Folkestone & Hythe District Council Response

If these changes are introduced, publicity should be on a local planning authority's website with direct consultation with neighbouring landowners.

Question 29: Do you agree with our proposal for a banded fee structure based on a flat fee per hectare, with a maximum fee cap?

Proposed Folkestone & Hythe District Council Response

The fee structure must be set at a level that recoups local authorities' full costs in determining Permission in Principle and technical details consent applications.

The consultation states that: 'We are keen to promote Permission in Principle by application as a more streamlined and cheaper alternative to outline permission and have considered a number of options to facilitate this.'

This appears to go against the planning White Paper's statement that: 'Planning fees should continue to be set on a national basis and cover at least the full cost of processing the application type based on clear national benchmarking.'

The current proposal seems to be designed to undercut the existing planning application fee structure to divert large proposals into the Permission in Principle route; at the very least, the fee structure for Permission in Principle should be based on a national assessment of evidence from local authorities into the full costs of processing these types of application, as the planning White Paper states will be undertaken.

Question 30: What level of flat fee do you consider appropriate, and why?

Proposed Folkestone & Hythe District Council Response

See the council's response to Question 29.

Question 31: Do you agree that any brownfield site that is granted Permission in Principle through the application process should be included in Part 2 of the Brownfield Land Register? If you disagree, please state why.

Proposed Folkestone & Hythe District Council Response

Part 2 of the brownfield land register comprises only those sites that would be suitable for a grant of permission in principle for residential development. It would therefore make sense if brownfield sites that were granted Permission in Principle through the new system were also included on Part 2 of the register.

Question 32: What guidance would help support applicants and local planning authorities to make decisions about Permission in Principle? Where possible, please set out any areas of guidance you consider are currently lacking and would assist stakeholders.

Proposed Folkestone & Hythe District Council Response

Clear and concise guidance is needed about what the Permission in Principle route will approve and what it cannot.

Question 33: What costs and benefits do you envisage the proposed scheme would cause? Where you have identified drawbacks, how might these be overcome?

Proposed Folkestone & Hythe District Council Response

See the council's response to Question 29.

In addition, expanding Permission in Principle to large schemes opens up scope for additional challenges through judicial review, with the associated costs these entail for local planning authorities.

Question 34: To what extent do you consider landowners and developers are likely to use the proposed measure? Please provide evidence where possible.

Proposed Folkestone & Hythe District Council Response

The council has experienced very little interest from developers for the existing Permission in Principle regime.

Question 35: 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?

Proposed Folkestone & Hythe District Council Response

No comment.