

Committee: Cabinet

Agenda Item

Date: 18 October 2017

15

Title: Planning for the right homes in the right places: consultation proposals

Portfolio Holder: Cllr Susan Barker Cabinet Member for Environmental Services

Key decision: No

Summary

1. On 14 September 2017, the Government published [Planning for the right homes in the right places: consultation proposals](#). In this document, the Government sets out its approach to:
 - a. The standard method for calculating local authorities' housing need;
 - b. How neighbourhood planning groups can have greater certainty on the level of housing need to plan for;
 - c. A statement of common ground to improve how local authorities work together to meet housing and other needs across boundaries;
 - d. Making the use of viability assessments simpler, quicker and more transparent; and
 - e. Increased planning application fees in those areas where local planning authorities are delivering the homes their communities need.
2. This report seeks agreement on the Council's response to this consultation to be submitted to the Government.

Recommendations

3. That Cabinet note the publication of the government's proposals "Planning for the right homes in the right places" and endorse the Draft response to government set out at Appendix A. Any changes to the response subsequent to PPWG should be agreed by the Leader and the Chief Executive.

Financial Implications

4. The consultation includes questions on how a 20% increase in planning fees could be implemented.

Background Papers

5. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

None

Impact

6.

Communication/Consultation	The measures proposed in Planning for the right homes in the right places are subject to consultation
Community Safety	N/a
Equalities	N/a
Health and Safety	N/a
Human Rights/Legal Implications	N/a
Sustainability	The proposals relate to the calculation of housing need, how this relates to neighbourhood planning, joint working to meet needs across boundaries, viability assessments and planning fees.
Ward-specific impacts	All
Workforce/Workplace	N/a

Situation

7. The Planning for the right homes in the right places: consultation proposals was published on Thursday 14 September 2017. The consultation runs until 9 November 2017. A copy of the consultation paper can be found online [here](#).
8. In this consultation document, the Government sets out its approach to:
 - a. The standard method for calculating local authorities' housing need;
 - b. How neighbourhood planning groups can have greater certainty on the level of housing need to plan for;
 - c. A statement of common ground to improve how local authorities work together to meet housing and other needs across boundaries;
 - d. Making the use of viability assessments simpler, quicker and more transparent; and
 - e. Increased planning application fees in those areas where local planning authorities are delivering the homes their communities need.
9. The first of the proposals contained in the consultation document relates to a new proposed methodology for calculating housing need. It states that the

lack of a simple, standard approach to assessing local housing need has led to a costly and time-consuming process which lacks transparency. Local planning authorities spend public funds justifying their housing need, local plan examination hearings spend time debating the advantages of particular methodologies and affordability is not fully factored in.

10. The proposed methodology is meant to be simple, transparent, based on publically available data and realistically reflect affordability issues around new homes. It proposes to project forward household growth over the last 10 years as a baseline, and then adjust this by a factor to take account of affordability issues in the local area. The need would then be capped so that it could not be greater than 40% of the annual requirement in an adopted local plan, or where there is no up-to-date local plan (as is the case in Uttlesford), capped at no higher than 40% of the household projections. Pages 10 to 12 of the government's consultation paper set out the detail around this proposal.
11. It is proposed that there is a very strong assumption that the standard methodology to calculating housing need is used when preparing a Local Plan.
12. The document also contains transitional arrangements to recognise the significant progress that many Local Planning Authorities have made. These are set out on page 20 of the consultation document. For Uttlesford, the proposals contained in the consultation mean that if the plan is submitted for examination on or before 31 March 2018, or before the revised Framework is published (whichever is later) then the plan preparation may continue with the current methodology for calculating housing need. Otherwise, the plan should use the standard methodology.
13. The [spreadsheet](#) accompanying the consultation contains indicative housing need figures for all the districts in England. For Uttlesford this indicative figure is 740 dwellings per annum.
14. Were Uttlesford to have to change the objectively assessed housing need in the Local Plan this would lead to considerable delay in plan making. Much of the evidence base would need to be re-run, and the Council would have to consider whether it was appropriate to go straight to regulation 19 consultation after such a major change to the plan.
15. The proposed response to the standard methodology, in appendix A, argues that where plan making is advanced and the proposed plan is ambitious and complex, local planning authorities should be able to continue with current plan preparation. See the answers to questions 5)a) and 6).
16. The consultation proposes that Local Plans should set out the housing need for designated Neighbourhood Plan areas, on a proportional basis to their existing population. The proposed response to this part of the consultation argues that this formulaic approach to housing need for Neighbourhood Plans fails to take into account existing constraints and opportunities, and a negotiated approach is more appropriate. See the answer to question 11)b).

17. It is proposed that all Local Planning Authorities should produce a Statement of Common Ground with other authorities in their housing market area, and sets out the content of these statements. The proposed response to the consultation supports these proposals, see the answers to questions 7)a) and 8).
18. The consultation proposals make various recommendations relating to viability. The common theme to these proposals is to try and reduce complexity and increase certainty in viability assessments. Questions 12) to 17) cover these elements.
19. The consultation also talks about the proposed 20% increase to planning fees, proposed in the Housing White Paper earlier in the year. The first question relating to planning fees is what criteria should be used to determine whether a Local Planning Authority is “delivering the homes their communities need”, and therefore should get to increase the fees by 20%. Questions 18)a) to 18)d) cover planning fees.
20. The government states that it intends to publish a revised National Planning Policy Framework in Spring 2018.

Risk Analysis

21.

Risk	Likelihood	Impact	Mitigating actions
That the Council submits its Local Plan after the cut-off date for the standard methodology, necessitating a change in the housing need in the Local Plan, and consequential delays.	3. Factors raised in the Local Plan regulation 18 consultation require additional work to be undertaken which means that the submission date for the Local Plan is likely to be after 31 March.	3. Significant – delay to plan making while evidence is updated	The Councils proposed response to the consultation is that where plan making is advanced and the proposed plan is ambitious and complex, local planning authorities should be able to continue with current plan preparation.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

Appendix A: Draft response to Planning for the right homes in the right places

Question 1(a):

Do you agree with the proposed standard approach to assessing local housing need? If not, what alternative approach or other factors should be considered?

Yes.

The principle of a standardised approach to assessing housing need is supported as it will save costly and time consuming debates at examination hearings and public inquiries. The problem with the approach taken is that in areas of high housing demand, the proposed OAHN is set so much higher than existing OAHN that it will be very challenging to meet. This in turn will risk leading to a lack of five year housing land supply and speculative planning applications being allowed on appeal. Simply setting a high objectively assessed housing need figure will not guarantee delivery of homes or prevent land banking by developers. A more pragmatic approach would be to set the cap as a proportion of the current need figure, say 20%. This would enable local authorities to plan realistically for an increase in housing supply in a stepped manner.

Furthermore, the approach proposed, by only considering affordability, is relatively crude and is likely to lead to abnormal results where the affordability of housing relative to median wages is great.

Question 1 (b)

How can information on local housing need be made more transparent?

This is not a particular problem. Information relating to objectively assessed need, housing trajectory etc. can be published prominently on council websites. Were a particular standard of publication proposed this could be adhered to.

Question 2:

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

The principle of this proposal is supported. At present there is additional uncertainty introduced whenever new data is published. In a worst case scenario, plan making can be stalled every time new data is published whilst the housing need figure is recalculated and further consultation carried out. However, the proposal does not go far enough, if new information is published soon before a plan is submitted it will still lead to stalled plans, even though plan production will be very advanced. To allow for the situation when plan making is very advanced, even though the plan has not been submitted, whilst still encouraging timely plan production, it is proposed that an assessment of local housing need should be able to be relied upon for a period of two and a half years from the date six months before the plan is submitted. This will allow well advanced plans to avoid disruption just before submission.

Question 3:

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

Yes.

Making the approach to identifying local housing needs using a clear and justified method (which the proposed standard method will be sufficient to satisfy) unarguable in national policy is supported. This is necessary to ensure the benefits of reduced costs and time at examination hearings and public enquiries are realised.

Question 4:

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

Yes

This proposal is supported and is necessary to ensure the benefits of reduced costs and time at examination hearings and public enquiries are realised. The proposals allow ambitious local planning authorities to plan for greater housing than the standard method requires with some degree of certainty, but not stopping those who wish to object from doing so.

Question 5(a):

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

Yes

There should be discretion in deferring the period for using the baseline where local authorities have ambitious plans to deliver new homes through garden communities. Planning for new settlements raises complex challenges and local authorities should not be penalised for planning for the long term growth of their communities beyond the plan period.

The Secretary of State should have the discretion to defer the period for using the standard method for the purposes of plan making where local authorities' plans are well advanced and ambitious and / or complex. Uttlesford District Council is preparing an ambitious and complex plan that has three new garden communities that will eventually grow to either 5,000 or 10,000 new homes each, with many of the homes in the Garden Communities being delivered beyond the end of the plan period. These new communities have considerable and complex infrastructure requirements. Uttlesford's Local Plan is well advanced: regulation 18 consultation has just been completed and regulation 19 consultation is planned for the new year. In these circumstances, were the housing need for the district to change this would necessitate significant extra work and would lead to a delay in plan making. In circumstances where local authorities plan making is advanced and the plan is ambitious and complex, the Secretary of State should have discretion to defer the period for using the standard method for calculating OAHN.

DCLG should engage directly with local authorities where their plans are well advanced and ambitious and / or complex, to better understand the issues and avoid an artificial timetable being imposed.

Further detail is suggested in the proposed answer to question 6.

Question 5(b):

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

Yes

Question 5(c):

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

Yes

It is logical that authorities should be able to use an emerging local plan figure for housing need as this will be based on the most up to date information available.

Question 6:

Do you agree with the proposed transitional arrangements for introducing the standard approach for calculating local housing need?

No

The approach considered is arbitrary and counterproductive as it could lead to delays in plan making. Local planning authorities would have to re-consult on the new standardised figure if it deviated from that in the current draft plan even if the objectively assessed need in the plan was based on the latest household projections.

The Secretary of State should have the discretion to defer the period for using the standard method for the purposes of plan making where local authorities' plans are well advanced and ambitious and / or complex. Uttlesford District Council is preparing an ambitious and complex plan that has three new garden communities that will eventually grow to either 5,000 or 10,000 new homes each, with many of the homes in the Garden Communities being delivered beyond the end of the plan period. These new communities have considerable and complex infrastructure requirements. Uttlesford's Local Plan is well advanced: regulation 18 consultation has just been completed and regulation 19 consultation is planned for the new year. In these circumstances, were the housing need for the district to change this would necessitate significant extra work and would lead to a delay in plan making. In circumstances where local authorities plan making is advanced and the plan is ambitious and complex, the Secretary of State should have discretion for defer the period for using the standard method for calculating OAHN.

DCLG should engage directly with local authorities where their plans are well advanced and ambitious and / or complex, to better understand the issues and avoid an artificial timetable being imposed.

It is suggested that in order to aid certainty the following proposal is clearly set out.

Where plan making is advanced and the proposed plan is ambitious and /or complex, local planning authorities should be able to continue with current plan preparation. Advanced plan making should be defined as “the regulation 19 local plan has been agreed for consultation”. The proposed plan being ambitious and complex is more of a judgement, but examples of circumstances that could meet this criterion should be included, these should be “Where LPAs are planning to at least meet OAHN, and include one or more ‘large’ proposal of over 5,000 homes (or 10,000 homes) that has significant infrastructure requirements and will deliver beyond the plan period”.

Question 7(a):

Do you agree with the proposed administrative arrangements for preparing the statement of common ground?

Yes

The choice of the agreed housing market area as the basis for preparing the statement of common ground is logical and practical. The current system is flawed because the Duty to Co-operate applies to all neighbouring authorities even where there are limited reasons to cooperate. This can lead to authorities preparing plans at the pace of their slowest neighbours. Local authorities should have the discretion to decide when they prepare more than one statement of common ground.

It is also supported that local planning authorities should only be signatories to those strategic issues covered in the statement of common ground in which they have an interest and that authorities can be signatories to more than one statement where appropriate.

Question 7(b):

How do you consider a statement of common ground should be implemented in areas where there is a Mayor with strategic plan-making powers?

No comment.

Question 7(c):

Do you consider there to be a role for directly elected Mayors without strategic plan-making powers, in the production of a statement of common ground?

No comment.

Question 8

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

Yes

The content and timescales are appropriate and proportionate. What the consultation does not make clear is what role the other (non-local authority) Duty to Co-operate partners have in the production of the statements of common ground. It can be difficult to contact and engage with these bodies. It would be helpful if there was an obligation on them to engage constructively in the production of the statements.

Question 9(a)

Do you agree with the proposal to amend the tests of soundness to include that:

i) plans should be prepared based on a strategy informed by agreements over the wider area; and

ii) plans should be based on effective joint working on cross-boundary strategic priorities, which are evidenced in the statement of common ground?

No

The current tests of soundness (that a plan is positively prepared, justified, effective and consistent with national policy) already cover the two proposed new tests. In order to be effective, justified and positively prepared, a Local Plan would have to be based on a strategy that took into account wider considerations and would be based on effective joint working. It is considered that a better approach would be to amend the existing soundness tests to make clear that they cover these cover effective joint working and a positively prepared strategy that considers wider issues where necessary. This would be preferable to introducing duplicative soundness tests.

Question 9(b)

Do you agree to the proposed transitional arrangements for amending the tests of soundness to ensure effective co-operation?

Yes

Allowing 12 months for the production of the new Statement of Common Ground allows for them to be timely and effectively produced.

Question 10(a):

Do you have any suggestions on how to streamline the process for identifying the housing need for individual groups and what evidence could be used to help plan to meet the needs of particular groups?

The housing need for specific groups is generally revealed through the Strategic Housing Market Assessment. It is difficult to identify the need for self-build and custom built development other than through the self-build register.

There is a particular problem with identifying the needs of gypsies and travellers who have ceased to travel because of the change to the national planning definition.

There is a concealed need for these groups. It would be preferable to define gypsies and travellers on grounds of ethnicity rather than lifestyle.

Question 10(b):

Do you agree that the current definition of older people within the National Planning Policy Framework is still fit-for-purpose?

No

The reference to “active newly retired” should be caveated as their housing needs are often no different from the general population.

Question 11(a)

Should a local plan set out the housing need for designated neighbourhood planning areas and parished areas within the area?

Yes

This will ensure that the neighbourhood plan is compatible with the overall strategy in the local plan.

Question 11(b)

Do you agree with the proposal for a formula-based approach to apportion housing need to neighbourhood plan bodies in circumstances where the local plan cannot be relied on as a basis for calculating housing need?

No

This is over simplistic and ignores the planning constraints and opportunities that a particular area may have. It would be preferable for the local planning authority and neighbourhood planning area to reach agreement, or failing that for the issue to be dealt with at the examination of the neighbourhood plan.

Question 12:

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

Yes

This is already done through local plans and infrastructure delivery plans. However, other than in generalised terms it would be impossible to put specific figures on developer contributions which would be negotiated through the planning application process.

Question 13:

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

In the same way that the Government is proposing a standard methodology for assessing housing need, it should set out a standardised approach for viability testing. This would circumvent all the criticisms of the present arrangements and allow for speedier Local Plan examination hearings and public enquiries.

Question 14:

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

Yes

The general assumption should be that, where policies in adopted plans have been tested for their viability, there is no need for them to be tested again at planning application stage, without very strong evidence. This would help with certainty for communities, developers and local authorities.

Question 15:

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

This is a really serious problem at present. Housing associations are usually willing to co-operate but the main infrastructure providers, particularly the utility companies and the health service are incredibly difficult to engage with in the plan making process. Government should not just point out the benefits of engagement but should also threaten sanctions to infrastructure providers if they do not.

Question 16:

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

See answer to Question 13 above. The Government should introduce a standardised approach to viability testing.

Question 17(a):

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

Yes, but as an option (or in addition) this is something that could go into any approved guidance that the local authority produces on developer contributions.

Question 17(b):

What factors should we take into account in preparing guidance on a standard approach to monitoring and reporting planning obligations?

The first point has to be ease of updating information, as things can and will change daily. Many agreements can contain multiple, complex trigger points that can be labour-intensive to monitor. Both local authorities and developers should be encouraged to think more about monitoring when drafting agreements to encourage use of fewer, but more easily understandable trigger points. Multiple trigger points in individual agreements can make progress difficult to track and understand.

Question 17(c):

How can local planning authorities and applicants work together to better publicise infrastructure and affordable housing secured through new development once development has commenced, or at other stages of the process?

Many developers already use indexed and coloured site plans on their websites to show availability of new houses by date and type. It ought to be possible to expand this plan to include all other infrastructure associated with the development and included in Section 106 agreements. This could be done by further colouring on the plan and a simple timeline chart that allows clauses to be “ticked off” when they have been complied with. For authenticity, the plan would need to show some kind of local authority endorsement.

Question 18(a):

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

Yes

Suitable criteria would be the delivery of major applications through approvals by the Local Planning Authority rather than through allowed appeals (very much in line with the current qualitative designation criteria).

Question 18(b):

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

Not sure how this question differs from Question 18 (a). Maybe should also be judged through the quantitative/ timeliness criteria. Although the planning fee increase could be required in order to deliver timely planning decisions.

Question 18(c):

Should any additional fee increase be applied nationally once all local planning authorities meet the required criteria, or only to individual authorities who meet them?

Possibly only be applied to those who meet criteria. To wait for all LPAs to meet the criteria would be unfair to those that are meeting the criteria.

Question 18(d):

Are there any other issues we should consider in developing a framework for this additional fee increase?

The timing of the fee increase needs to be immediate without any advance warning, to publicise I advance will result in a spike in submissions of applications pre-increase.

Possible revisit the free go options following withdrawals and refusals (possibly making them half cost or reducing to six months). The poor quality of submissions increases the need for second go applications and the abortive no fee work by LPAs.

Question 19:

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

Yes

Introduce legislation to prevent land banking by developers. This could include an earlier expiry of planning permission if not implemented and changing the legal definition of implementing a planning permission for housing.