

# RTPI response to MHCLG consultation on changes to the current planning system

*October 2020*

## About the RTPI

The Royal Town Planning Institute (RTPI) champions the power of planning in creating prosperous places and vibrant communities. As a learned society, we use our expertise and research to bring evidence and thought leadership to shape planning policies and thinking. As a professional body, we have over 25,000 members across all sectors, and are responsible for setting formal standards for planning practice and education.

This is the RTPI's response to the Ministry of Housing, Communities and Local Government's consultation on [Changes to the current planning system](#).

## General comments

### Housing Policy

We support the Government's objectives to increase people's access to housing they can afford, but stress that simply granting more planning permissions can only play one part in that strategy. Our *Priorities for Planning Reform in England*<sup>1</sup> set out our views on the wider strategies in housing and planning policy, which should form the context.

### Standard Methodology

We welcome a move away from reliance on household projections as the key driver of housing policy. For years, this approach has merely reinforced existing trends and served to disable the delivery of serious proactive strategic planning. However, we do not feel that enough has changed in the methodology and are especially concerned at the spatial consequences of employing the method as proposed.

While we share a commitment to increasing housing supply of all tenures including market housing, we would question an approach, which starts with an "England" total and works from there. England comprises a series of unrelated housing markets and homes completed in one region do not meet the needs of other regions.

Taken as a whole, the new method exacerbates a current imbalance in the national housing requirement, which results in the three northern regions having a much smaller proportion of the total than their population would imply. Yet there is undoubtedly considerable housing need in these regions.

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<sup>1</sup> RTPI, 2020: [Priorities for Planning Reform in England](#)

As regards high demand areas, the unprecedentedly high targets in the South of England are undeliverable for some local authorities, particularly those in London and the South East. To illustrate this, the constrained borough of Bromley has gone from a requirement of 897 to 2,487 per year. The physical and policy constraints in London particularly have meant that reconciling “objectively-assessed need” and capacity has been challenging. The majority of London boroughs’ achieve 95% or more of new housing on previously developed sites – there are no greenfield sites other than Green Belt and Metropolitan Open Land, both of which have the same level of policy protection. There is a need for effective strategic planning to address these kinds of issues – which also arise around other conurbations.

We note that the Government supports the role of what it terms “constraints” in moderating the housing figures that local authorities are given. While this seems to be reserved for official implementation of the binding targets proposed in the White Paper, it is still the case that many considerations are influencing the application of the methodology at present (e.g. Green Belts). This results in a level of uncertainty regarding where housing which is not provided in a given area, due to its constraints, will end up being provided. This is why an effective level of strategic planning across wider areas is required, rather than too much dependence on a formula.

The housing growth figures do not go far enough in supporting the Governments’ levelling up agenda or delivering on the Government’s Industrial Strategy. We would like to see potential locations for economic growth given appropriate consideration and weighting in the housing formula. There are potentially significant opportunities for new job creation in areas of the Midlands and North of England, such as the nuclear industry in West Cumbria and off-shore industry in Tyneside and Humberside, to name just a few. In pursuit of its levelling up agenda, the Government should therefore work hard to underpin housing and jobs growth in places with potential for growth and regeneration. The housing and economic growth agendas should be aligned, and the contribution of new places to economic revival must be factored in to the long term planning of housing. Indeed *building* these homes will be part of that revival. We are concerned that – in the absence of broad funding for local authorities to deliver homes - the funding from Homes England has been disproportionately focused on Southern England, which only serves to reinforce existing patterns of disadvantage.

The RTPI’s research on *Settlement Patterns, Urban Form and Sustainability*<sup>2</sup> demonstrates the importance of location to Government’s objectives around economic productivity, climate change and public health. Delivering sustainable development requires matching the emphasis on increased housing delivery with a focus on ensuring access to a high quality and affordable public transport offer, along with other critical infrastructure<sup>3</sup>. However, the high housing numbers proposed for some parts of the country risk working against this ambition by increasing levels of speculative development, with decisions upheld at appeal, which make it very challenging to meet wider sustainability objectives.

The RTPI’s research on the *Location of Development*<sup>4</sup>, which analysed housing permissions between 2012 and 2017, has shown that the planning system has delivered fairly well in this regard. However, this is partly because housing permitted in the 2010s was strongly influenced

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<sup>2</sup> RTPI, 2018: [Settlement Patterns, Urban Form and Sustainability: An Evidence Review](#)

<sup>3</sup> For research on how to better integrate infrastructure with land use planning, see RTPI, 2019: [A Smarter Approach to Infrastructure Planning](#) and CIHT, 2019: [Better Planning, Better Transport, Better Places](#)

<sup>4</sup> RTPI, 2018: [The Location of Development](#)

by long-term strategic policy from the 2000s. More recent observations on how the NPPF's 'presumption in favour of sustainable development' have been working suggest that the presumption is operating in favour of schemes which are not necessarily best located to optimise public transport use. For example, recent research from Transport for New Homes<sup>5</sup> has revealed the serious problem of new settlements and urban extensions being located and designed in ways that exacerbate car dependency. We are concerned that the kinds of districts which will see the highest increases in housing numbers as a result of the new methodology are especially difficult areas to provide with sustainable solutions. For example, a large number of authorities between Northampton in the South and Worksop in the North, characterised as having smaller but substantial former industrial towns in a wider rural context, see exceptionally high uplifts to requirements, often in places that are already seeing substantial development.

Covid-19 has added further complications. If current conditions persist, it could exacerbate – pre-existing trends by increasing demand for housing in small towns in rural areas not too far from conurbations. Under the standard methodology, all that would happen here is that demand would rise and be translated into higher targets for such areas. This is not a satisfactory way to proceed: we need a proper democratic national debate on matters of this importance, not just a formula.

## First Homes

We would support a strategy, which works towards a position where all who wish to enter home ownership can do so. However, we stress that – especially in a period when many incomes are low and increasingly precarious – home ownership can only form *part* of an overall strategy. A particular concern is the possible impact on the provision of other forms of affordable housing.

In 2019, around 35,000 affordable homes in all tenures were produced via developer contributions. It appears that this would fall by one quarter (or nearly 10,000 homes) if one quarter were diverted to First Homes from other affordable tenures. The Government's Impact Assessment concluded that while the new policy would deliver 7,000 First Homes a year (and 2,000 extra market homes) there would also be 7,000 fewer Affordable Home Ownership units and 2,000 fewer social and affordable rent units.

The proposal for a minimum of 25% of all affordable housing units provided by developer contributions to be "First Homes" is too inflexible. There needs to be more flexibility to permit Local Planning Authorities (LPAs) to deliver a locally appropriate mix of housing typologies.

We note that a **pilot programme** of 1500 homes is proposed with funding from the Affordable Homes Programme. However, we consider it is vital that the S106 proposals are also piloted in order to address the following issues:

- a) Many LPAs lack expertise or experience in dealing with the day-to-day administration of such a scheme, such as checking the eligibility of applicants and enforcement. A national housing or planning agency such as Homes England or the Planning Advisory Service should be given responsibility for devising and testing the scheme in detail. They could also be tasked with providing guidance to individual local authorities about implementation and supporting a consistent approach.

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<sup>5</sup> TfNH, 2018: [Transport for New Homes](#) and [Garden Villages and Garden Towns: Vision and Reality](#)



- b) The house price cap could be set at no more than regional average house prices. Allowing local authorities to set lower price caps, for an initial 3 month sales period, appears unworkable. Local authorities must also be allowed, backed up by local evidence, to set lower price caps than those set regionally or nationally and to maintain those caps over time.
- c) The minimum discount should be reduced to 20%, with discretion for local authorities to adopt a higher rate, based on local evidence. This would be in line with the present arrangements for discounted housing for sale.
- d) Minimum size standards for First Homes will be required, to safeguard any attempts to minimise discount obligations.
- e) Any First Home scheme should be designed and implemented to maintain the discount in perpetuity and to avoid developers or individual house buyers from making windfall profits. In particular, covenants need to be carefully drafted (and enforced on second and subsequent buyers). The proposed restrictions on letting by purchasers should also be clearly set out.
- f) Where local connections tests are not met after three months there should be the option for Registered Providers to acquire the unsold First Homes at the 30% discount for use as alternative affordable tenures.

### Small and Medium Builders

We welcome the Government's aspirations to help to protect and invigorate the SME sector, particularly in the current challenging economic climate. However, it is not clear that the proposed approach is the most effective way to achieve this.

There appears to be confusion between the role of SME builders as *house builders* and the wider role of some firms in acquiring land and obtaining planning permission on it, building homes and selling them. These wider activities are not necessary in order to provide SME builders with work, and are add-on activities to the core business. There are many ways in which SME builders can grow their businesses, such as by building homes for sale and other tenures as part of council-led development. The RTPI surveyed council-led development<sup>6</sup> and found that in 2019 69% of local authorities were engaged in direct delivery involving nearly 9,000 homes. This is primarily because they felt that other forms of leadership in development were not providing sufficient numbers of homes. The Government via Homes England could provide work opportunities for SME builders to directly build homes on its land to gain greater control of build out and contribute to achieving the 300,000 homes target.

The wider activities of SME builders also could be supported by Homes England (and others) giving them preferential bidding opportunities to purchase publicly owned land and greater efforts by public bodies to make land sales in smaller plots.

Allowing publicly-owned sites to be developed under licence, thus reducing the need for working capital, would also be a helpful measure. All of these could be pursued to help then secure development funding, without the downsides of the proposals in this consultation document.

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<sup>6</sup> RTPI, 2017 and 2019: [Local authority direct delivery of housing](#)

Since viability is already a consideration in decision-making we would question the need for these changes. There is a strong risk that all that will happen is that SME builders become able to bid higher prices for land, and the benefits will accrue to land owners. There is a need to tighten the definitions in this process or else it could be abused.

Changing the threshold could have serious implications in certain areas. We note the exemption for officially defined rural areas. However, there are rural districts where a significant volume of housing completions are on sites of less than 50 units. In South Lakeland for example, 43% of all housing for the 2020-25 period came forward on sites of less than 50 units. Under the new proposals, this would result in substantial reductions in affordable housing delivery in these types of districts.

Proposals have been made in this consultation about *two* impacts on developer contributions to affordable housing. However, it is not clear what the *combined* impact of both First Homes and the SME changes would be on affordable housing delivery in specific districts. We think that this should be modelled as a matter of urgency, and the results made available to assist this debate.

#### **Extending Permission in Principle (PiP) to cover major development:**

RTPI research on this subject has found that:

- The current pressures on resources and on planning departments in particular mean it would be a challenge for local authorities to assemble the information required to implement PiP to any significant degree, although it may be easier for small sites.
- PiP will provide some certainty about the range of development that will be allowed, but will leave the developer and planning authority to negotiate detailed conditions.
- PiP will reduce but not eliminate planning risk.
- PiP will reduce but not eliminate delay, since the negotiation of conditions is often the most time-consuming element of the planning process

In order for this concept to be extended, it will be necessary to provide clarity on what information should be required of applicants at Stage 1, and what information is only to be assessed at Stage 2. Limits on the size of commercial space permitted should be introduced. Using a PiP for large scale schemes such as for a retail or business park should not become a route to avoid robust assessments of the traffic, environmental or economic impacts. Local authorities need to be assured that their costs in operating this scheme are fully recovered.

## Questionnaire Responses

### The standard method for assessing housing numbers in strategic plans

**Q1. Do you agree that planning practice guidance should be amended to specify that the appropriate baseline for the standard method is whichever is the higher of the level of 0.5% of housing stock in each local authority area OR the latest household projections averaged over a 10-year period?**

1. It is important that any amendments to the standard methodology reflect real housing demand by using robust and accurate data. Concerns have been expressed about the ongoing validity of using household projections to calculate housing need. The Government should continue to work with the profession to deliver better outcomes on this matter.

#### Housing stock

2. Using a percentage of stock as a minimum is positive because it has the benefit of showing commitment to improving energy performance and quality of homes and allowing areas of poorer housing stock to become economically viable for large-scale regeneration. Percent of stock is also something that local residents understand.
3. Using the level of 0.5% for housing stock appears low and unlikely to support the Government in meeting its housing delivery targets and we suggest the Government explores raising the figure.
4. A risk to focussing on existing stock (as the baseline of the formula) is that local authorities who under-deliver will always have a lower existing stock or baseline to start their calculations from. This consequently results in a lower housing need, which further compounds the housing supply issue. This could lead to long-term under-delivery as each year the baseline is lower than it should be.

**Q2. In the stock element of the baseline, do you agree that 0.5% of existing stock for the standard method is appropriate? If not, please explain why.**

5. No, we suggest that the Government explores increasing this figure to 0.75%. From the Lichfields analysis, it is clear that many of the authorities where the method is producing a standard figure below recent housebuilding rates, these results occur because these areas have low affordability ratios, although the 0.5% stock ratio result is less than would be needed to match recent delivery.
6. Christopher Young QC has proposed that raising the stock element to 0.75% would go a long way towards correcting some of the proposed tilt away from the North by raising the Northern element to 66,000 homes a year.
7. Consideration should be given to introducing a cap on the housing need figure for London. This would produce a more realistic target that more accurately reflects the specific physical constraints that exist. Reallocating a proportion of London's figure to the Northern regions could also increase the prospects of delivery and more effectively support the Government's levelling up agenda.



**Q3. Do you agree that using the workplace-based median house price to median earnings ratio from the most recent year for which data is available to adjust the standard method's baseline is appropriate? If not, please explain why.**

8. No. The data behind the Affordability Ratio (AR) is not sensitive and has many data quality issues. The workplace-based ratio is based on the Annual Survey of Hours and Earnings (ASHE) data, which has significant sampling uncertainty and does not include self-employed people in the survey. The house price data largely reflects transactions in the existing stock and serves to reinforce affordability issues existing areas.
9. Accelerated housing delivery is likely to improve affordability over time, but the periods of plan making are far outside the response times for AR data. The decreased affordability over the past decade has primarily been driven by stagnant wages (for those included in the ASHE data – presumably worse if all wages in area were considered).

**Q4. Do you agree that incorporating an adjustment for the change of affordability over 10 years is a positive way to look at whether affordability has improved? If not, please explain why.**

10. As noted in Q3, there are significant issues with using the AHSE data. The representativeness of sales transactions and the lag times for new dwellings limit the impact it can have on the AR.
11. Adding the “trend” measure results in approximately an extra 75,000 dwellings per annum to the standard method. Given that the resulting numbers are self-evidently unachievable for some councils, we do not see the benefit in adding this to the “starting place” number.
12. Using two data points as a trend introduces even greater problems for some LPAs where there has been interannual variability, as opposed to any potential trend. We have looked at the difference between using smoothed trends and this results in only approximately 14,000 fewer dwellings per annum nationally, and does slightly reduce dwelling targets from some southern and London LPAs, although it still results in very challenging numbers.

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

13. As noted in the answers to Q4 and Q5 the lag times for large numbers of new dwellings to have any impact on the AR mean this is of limited value in driving change. Sampling problems in the ASHE data and transaction data mean that the published AR data is not a robust measurement.
14. There are several alternative options provided by strategic planning, to deliver a step change in residential development. Meanwhile a small percentage uplift, across the board, on the current standard method can introduce some stretching targets (for some local authorities) and add up to the notional 300,000 dwellings per annum.
15. However, introducing such significant changes, particularly where some resulting numbers are very challenging, will cause uncertainty and risk significant delay in local plan making progress.



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:

**Q6. 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?**

16. The Regulation 19 process takes a minimum of 6 weeks, plus time to then analyse responses and take through committees. Where a Local Plan is already in Regulation 19 consultation we suggest at least 6 months from the closing date of that consultation.

**Q7. 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?**

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

17. As our answer to Q6 outlines, where Regulation 19 consultation commences within 3 months of the date of issuing revised guidance, for a plan to be considered under current guidance the plan should be submitted 6 months from the closing date of that consultation.
18. With many LPAs under resourcing their local plan teams, the proposed targets are challenging and fail to indicate how areas will be deallocated or included in new allocations with sufficient time for stakeholders, local communities and Planning Inspectorate to react to these potentially large alterations to evolving local plans.
19. The paper does not indicate what happens if there are delays outside the projected timeline or who will complete unfinished work that local authorities with limited resources cannot undertake.

## Delivering First Homes

**Q8. The Government is proposing policy compliant planning applications will deliver a minimum of 25% of onsite affordable housing as First Homes, and a minimum of 25% of offsite contributions towards First Homes where appropriate. Which do you think is the most appropriate option for the remaining 75% of affordable housing secured through developer contributions? Please provide reasons and / or evidence for your views (if possible):**

- i. **Prioritising the replacement of affordable home ownership tenures, and delivering rental tenures in the ratio set out in the local plan policy.**
  - ii. **Negotiation between a local authority and developer.**
  - iii. **Other (please specify)**
20. **The RTPI proposes “Other”:** The first option proposes that the remaining 75% is provided in line with the Council’s affordable housing policy. While this provides more certainty in the process, it could ultimately result in the under-provision of affordable





ownership (and some rented) products, the need of which would have been assessed and tested through the Local Plan process. While this may be appropriate in some areas, other local authorities may struggle to address the outstanding need. The second option proposes negotiation between the local authority and the developer. This is a more flexible approach but could lead to protracted discussions.

21. As proposed, First Homes will affect the ability of LPAs to meet all types of housing need through the planning system. It is our belief that LPAs should be free to meet objectively assessed need in the best way possible, including the provision of other forms of affordable housing alongside First Homes. The National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) require affordable housing mix policies to be based on local evidence of need (and viability). However, the framework for First Homes would elevate First Homes above all other tenures. This undermines the local plan-led approach. It is crucial to ensure the primacy of Local Plans, using local need and viability evidence to decide what affordable tenure is most appropriate – not a national one size fits all.
22. We suggest another approach whereby LPAs are encouraged to demonstrate the types of affordable housing that have the highest need in their area to support transparent and productive negotiations. They should have the discretion to adjust the tenure mix in their affordable housing policy, to suit local circumstances. Negotiation on s106 between local authority and developer should be retained. These discussions also enable a market-specific response to housing need. Some markets, particularly rural markets, cannot support a large number of shared ownership products and ultimately the final agreements need to reflect local demand.

**Q9. Should the existing exemptions from the requirement for affordable home ownership products (e.g. for build to rent) also apply to apply to this First Homes requirement?**

23. Yes. First Homes are just another affordable home ownership tenure type and therefore impact the relevant build for sale schemes. First Homes and any home ownership-based tenure is incompatible with built to rent which is a completely different development typology with a different set of scheme economics. This is already reflected in the PPG and there are rental base affordable housing tenure types which are applicable to build to rent schemes e.g. Affordable Private Rent.

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

24. All existing exemptions are still required. In particular, it is important that exemptions for Council-led housing schemes and estate regeneration are in force.

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

25. First Homes cannot be allowed to exempt developers from making necessary overall affordable housing contributions, in accordance with local plan policy. Developers should be prevented from delivering 100% First Home schemes, or if they are permitted, the remaining 75% of the normal affordable housing commitment should be taken as a cash contribution. First Homes should not be exempt from the Community Infrastructure Levy or any successor.



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

26. Yes, except that the 6-month period set out in para 57 should be 12 months.

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

27. We would like to see a representative balance from the funds available for affordable housing delivering a diverse locally appropriate mix of home ownership and social and affordable rental housing products. We would welcome further consideration of changing the minimum level of discount for first homes to 20% from 25%. It is important to recognise that the uplift in land value from a development scheme is finite and to acknowledge that a **30%, 40% or 50% discount will still be not enough to make homes affordable in some areas.**

28. We support allowing individual LPA's the freedom to set a higher discount subject to the following caveats:

- If implementing discounts above 30%, LPA's must assess the cumulative impact on viability of other policy requirements. It should be noted that areas requiring a higher discount of 40% or 50% might lose developers to neighbouring authorities with lower requirements.
- Guidance will be required that sets out the evidence LPA's need to provide if they plan to raise the discount levels to 40 – 50%.

**Q14. Do you agree with the approach of allowing a small proportion of market housing on First Homes exception sites, in order to ensure site viability?**

29. Any decision to allow First Homes on exception sites should be made by LPAs, where there is robust local evidence to support this.

30. The risk with allowing market housing to be built on First Homes exception sites is that it blurs the boundaries between normal site allocations and exceptions sites. Introducing market housing could lead to the landowners' value expectations being raised so the value flows to the landowner and not to the affordable housing cross-subsidy. It would be necessary to emphasise the existing use value (EUV) in these circumstances and no premium.

31. If the size limits on exception sites were increased, an unintended consequence could be that they become a new route to building open market housing on sites where housing would otherwise not be permitted.

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

32. As long as the 5% threshold remains this will be acceptable. There is some inconsistency in whether the 5% of "settlement" refers to a parish or hamlet etc, but as worded, this provides a proportionate application of the policy.

**Q16. Do you agree that the First Homes exception sites policy should not apply in designated rural areas?**

33. When it comes to the delivery of rural affordable housing, we understand from Action with Communities in Rural England (ACRE) that the definition being used for 'designated



rural areas' is the same definition as those areas that are designated under S157 of the 1985 Housing Act. The consequences of this choice are set out below.

34. As part of implementing First Homes the Government is replacing Entry Level Exception Sites with First Homes Exception Sites where the majority of the scheme has to be First Homes. These will command a higher land value than Rural Exception Sites and this risks losing the supply of such sites. The consultation document does provide a rural exemption, however this is only in designated rural areas. We understand that this will be those designated under S157 of the 1985 Housing Act. The result would be in approximately 70% of parishes with a population below 3,000, there would be fewer opportunities to provide affordable rented homes, which remains the dominant need. In many rural areas there are not sufficient numbers of rural workers/residents seeking such an ownership tenure. With limited local demand, this will result in expanding the eligibility to people outside the rural community potentially introducing unsustainable commuting patterns.
35. To avoid this outcome, the Government should retain the exemption from First Homes Exception sites in rural areas, but change the definition of designated rural areas to cover all parishes of 3,000 or less population.

## Supporting small and medium-sized developers

### **Q17. Do you agree with the proposed approach to raise the small sites threshold for a time-limited period? (see question 18 for comments on level of threshold)**

36. We welcome the Government's aspirations to help to protect and invigorate the SME sector, particularly in the current challenging economic climate. However, it is not clear that the proposed approach is the most effective way to achieve this and it could be open to abuse by non-eligible participants. It is also unclear what evidence exists to demonstrate how much of an issue affordable provision is to SME builders relative to other issues.
37. We therefore strongly oppose a one size fits all national approach on this matter due to the lack of evidence that has been provided to justify this. A more effective approach would be to base the decision on the level of threshold for small sites on local evidence. National and local plan policies already allow viability to be taken into account in decision making. Some areas have a threshold lower than the current threshold of 10. Raising the threshold risks simply increasing land prices instead of helping SME) developers. The proposals as drafted could also unnecessarily slow down development as developers that were progressing permissions with the level of affordable housing provision agreed may decide to go back to planning under the new threshold to remove their affordable housing obligations.
38. We would like to see greater clarity on what is an SME. Will just the submission of a planning application qualify for the exemption? We suggest introducing a legal agreement that the development would be personal to the SME to whom the permission would be granted to ensure that the permission could not be sold on, as a means of avoiding the need to provide affordable housing.
39. The issue with small sites is not that they are less viable than large sites (all sites are appraised by the residual land value methodology). The problem with small sites is that it



is harder to implement S106 affordable housing on small sites due to smaller numbers and the divisibility of units. For example, in a scheme of 10 units, 20% affordable housing is 2 units. A Registered Provider may not be found to take only 2 units in the particular location. For example, in a scheme of 7 units and 20% affordable housing, the requirement is 1.4 units. This leads to further complication about the 0.4 unit.

40. The extent and impacts from the loss of affordable housing should be considered, particularly where certain types of affordable housing are to be replaced by First Homes. Increasing the supply of market housing without freeing up existing affordable housing could add undue pressure on the affordable market. Therefore, the proposed time-limited approach allows the impact to be reviewed and reassessed while supporting SME developers in the short / medium-term.

**Q18. What is the appropriate level of small sites threshold?**

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

41. Registered Providers of social housing often wish to have more than one or two dwellings on a site for maintenance, tenant management and social reasons. There is some argument for a larger threshold as small sites often deliver offsite affordable housing contributions. A site of 30 dwellings should deliver around eight affordable dwellings which would be suitable.

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

42. The evidence or explanation for these thresholds is missing from the consultation paper and this would be helpful to see.
43. The unfortunate consequence of the site size threshold for affordable housing has always been the large number of proposals just below the trigger. We acknowledge that in some cases this is to prevent triggering requirements for determination of a Major development, but there are countless examples of sites with capacity to deliver far more than 9 dwellings being proposed as 10 larger dwellings. For this reason we recommend that the threshold be a) based on “**sites with capacity for 10, or XX, dwellings**” in order to avoid a site being designed for under-delivery.
44. Similarly, a fixed threshold (all or nothing) introduces artificial breakpoints and under-promotion of a site. This could be dealt with through the introduction of stepped requirements for affordable homes.

**Q20. Do you agree with linking the time-limited period to economic recovery and raising the threshold for an initial period of 18 months?**

45. We are concerned that the policy will lead to problems when it is removed with demand to subsequently extend the time period with the provision of affordable housing continuing to be lost.
46. It is also not clear what evidence has been drawn on to support the choice of an 18-month period. Challenges may arise when the concessions were withdrawn. For example, would it exclude sites already acquired or those going through the planning application system?

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

47. No. Different sites will have different capacities depending on site constraints and likely density. This can be set responsively by noting “site capacity” for xx dwelling. Capacity can be agreed between the applicant and LPA or provided by an independent design review panel where there is disagreement on capacity
48. Minimising potential abuse of the increased threshold through, for example subdividing a site and submitting separate planning applications to qualify for the threshold, will be important. Where the landowner is a public body, this could be controlled by a land contract.

**Q22. Do you agree with the Government’s proposed approach to setting thresholds in rural areas?**

49. In part, but we think the definition of Designated Rural Areas needs extending. The Government has provided a rural exemption that in Designated Rural Areas the current arrangements of securing affordable housing from sites of five or fewer dwellings will apply. The S157 designation has been used here, this means that in 70% of parishes of less than 3,000 population LPAs will only be able to secure an affordable housing contribution from sites of 40 dwellings or more.
50. We agree with Action for Communities in Rural England (ACRE) that the definition of Designated Rural Areas should be changed to cover all parishes with a population of 3,000 or less. The wording of the exemption should also be amended in order for it to reflect the National Planning Policy Guidance (as amended in July 2019) that allows for LPAs to set their own thresholds in designated rural areas.

**Q23. Are there any other ways in which the Government can support SME builders to deliver new homes during the economic recovery period?**

51. There appears to be confusion between the role of SME builders as *house builders* and the wider role of some firms in acquiring land and obtaining planning permission on it, building homes and selling them. These wider activities are not necessary in order to provide SME builders with work and are add-on activities to the core business. There are plenty of ways in which SME builders can build up more business, such as building homes for sale and other tenures as part of Council-led development. The RTPI surveyed council-led development <sup>7</sup>and found that in 2019 69% of local authorities were engaged in this, involving nearly 9,000 homes, primarily because they felt that other forms of leadership in development were not providing sufficient numbers of homes. The Government via Homes England could provide work opportunities for SME builders to directly build homes on its land to gain greater control of build out and contribute to achieving the 300,000 homes target.
52. The wider activities of SME builders could be supported by Homes England (and others) giving them preferential bidding opportunities to purchase publicly owned land and greater efforts by public bodies to make land sales in smaller plots. Allowing publicly owned sites to be developed under licence thus reducing the need for working capital would also be a helpful measure. All of these could be pursued without the downsides of

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<sup>7</sup> RTPI, 2017 and 2019: [Local authority direct delivery of housing](#)



the proposals in this consultation document and would also help them secure development funding.

## Extending Permission in Principle to cover major development

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

53. The RTPI published research in 2018<sup>8</sup> which included analysis of Permission in Principle (PiP) and found:
- The current pressures on resources and on planning departments in particular mean it would be a challenge for local authorities to assemble the information required to implement PiP to any significant degree, although it may be easier for small sites.
  - PiP will provide some certainty about the range of development that will be allowed, but will leave the developer and planning authority to negotiate detailed conditions.
  - PiP will reduce but not eliminate planning risk.
  - Similarly, it will reduce but not eliminate delay, since the negotiation of conditions is often the most time-consuming element of the planning process.
54. PiPs should work in principle because a LPA has the ability to create a list of all the brownfield sites that it would consider for development. This is Part 1 of the Brownfield Land Register and could provide more confidence to an owner or developer to invest in redevelopment potential, instead of a site simply being identified in Years 0-5 of a Strategic Housing Land Availability Assessment (SHLAA). Importantly, the work required by a LPA to get a site from Part 1 to Part 2 of the register and grant it PiP, is not insignificant. However, the LPA is not compensated for this work because the fee for submitting details pursuant to the PiP is less than what would otherwise be the fee for submitting a planning application. Adding larger sites to the PiP regime appears sensible, although the issue of fees matching the work required by the LPA will need to be addressed.
55. The Government's proposals in this consultation document widen the target market (by making PiP available to major schemes) and secondly intend to lower the planning fees for this route. Practical points we recommend are resolved before this is introduced are as follows:
- a) The PiP system creates a parallel system to conventional planning permission, which is confusing for residents and developers. Councils will struggle to deliver this parallel system while resources are tight (and getting even tighter due to massive impact of Covid-19 on Council budgets). Timescales are too tight for consultation and decision, and there is no mention of Planning Committees. It is important that the proposals do not undermine the democratic basis of planning.
  - b) We would welcome additional guidance and detail to support the PiP route. Guidance should provide clarity on what information should be required of applicants at Stage 1, and what information is only to be assessed at Stage 2.

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<sup>8</sup> RTPI, 2018: [Planning Risk and Development](#)



- c) The main aim of this guidance would be to remove the ambiguity regarding the differences between fundamental matters of principle and the subsequent technical details. Guidance should be clear and concise and state what documents need to be submitted, what consultations need to be undertaken by LPAs, what issues need to be considered and what timescales the assessment and subsequent determination should be undertaken within.
- d) We support the retention of existing restrictions in the PiP regulations relating to EIA and Habitats requirements. We agree that there would not be sufficient environmental information for these requirements to be accurately assessed at the point of decision. These matters should be dealt with at the Local Plan stage as part of formal consideration by the LPA.
- e) An important advantage of PiPs is the speed in which a decision should be made by a LPA. This requires resourcing and the LPA should be adequately compensated for any reduction in the application fee for a PiP.
- f) Public participation in decision making and the need to consult landowners and occupiers, particularly residential occupiers is necessary. The present application system ensures that they are specifically notified
- g) PiP should not apply to major development on agricultural land or on any form of greenspace used by or valued by local communities.

**Q25. Should the new Permission in Principle for major development set any limit on the amount of commercial development (providing housing still occupies the majority of the floorspace of the overall scheme)? Please provide any comments in support of your views.**

56. PiP by application may include other uses such as retail, commercial or community spaces. We support the proposal that housing use should occupy the majority of the overall development scheme. We also agree that non-housing development should be compatible with the proposed scale and siting of the housing development. We also agree that non-housing development that is compatible and well integrated into residential development can help to create sustainable neighbourhoods helping to mitigate the impact of climate change.
57. We have concerns about any proposals that do not set a limit for commercial space. Instead, we would support guidance on limits being provided by the LPA when preparing the Local Plan. The use of a PiP for large-scale schemes such as a 20,000 sq. m retail park or a 50,000 sq. m business park should not become a route to avoid robust assessments of the traffic, environmental or economic impacts.

**Q26. Do you agree with our proposal that information requirements for Permission in Principle by application for major development should broadly remain unchanged? If you disagree, what changes would you suggest and why?**

58. In our answer to Q24, we set out that we would welcome additional guidance and detail to support the PiP route. Guidance should provide clarity on what information should be required of applicants at Stage 1, and what information should only be assessed at Stage 2. The main aim of this guidance would be to remove the ambiguity regarding the



differences between fundamental matters of principle and the subsequent technical details.

59. Additional information that the PiP could include would be to specify either that the scheme will involve the re-use of existing buildings or set out the principal development parameters for each use. These should, at a minimum, set out (i) gross floorspace for each use and (ii) the maximum height of each building or groups of buildings.

**Q27. Should there be an additional height parameter for Permission in Principle? Please provide comments in support of your views.**

60. Yes. See the response to Q26.

**Q28. Do you agree that publicity arrangements for Permission in Principle by application should be extended for large developments? If so, should local planning authorities be:**

- i) required to publish a notice in a local newspaper?**
- ii) subject to a general requirement to publicise the application or**
- iii) both?**
- iv) disagree**

**If you disagree, please state your reasons**

61. We welcomed the regulations allowing changes to the ways that LPAs publicise applications where they could not meet existing statutory requirements, including by using social media in May 2020 to assist during Covid-19.
62. It is important to note as the Government has done in the consultation, that digital engagement cannot be the only method and must be part of a multi-faceted engagement strategy. Given that, the size and scale of the large developments proposed to be created by the extended PiP, a variety of publicity arrangements are needed to reach the widest population in the community due to the potential impacts being spread over a large local area. We would welcome further analysis as to the resource effectiveness of placing notices in local newspapers.

**Q29. Do you agree with our proposal for a banded fee structure based on a flat fee per hectare, with a maximum fee cap?**

63. It is not clear from this section of the consultation what the implications of the different options are and there are no details on the potential costs of the 'technical details consent' as the second stage of the PiP process. The PiP should be a different option for the development industry to outline planning permission with the necessary checks carried out.
64. The implications and increased workload for LPA's of increasing the size limit for PiP applications could necessitate the following checks and that should be factored in when deciding on an appropriate fee. Proposals need to ensure that fees are based on full cost recovery for LPA's. On many sites, the LPA will need to:
- Consider the application against policy





- Engage with appropriate development parameters and the risk of environmental impacts.
- For larger PiP applications, involving multiple owners and occupiers, this will require substantial community engagement, which the LPA must consider and respond to.

**Q30. What level of flat fee do you consider appropriate, and why?**

65. Not enough evidence provided to answer this question.

**Q31. 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.**

66. Yes.

**Q32. 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.**

67. We agree with the reference in paragraph 117 that understanding of the PiP consent route among landowners, developers and LPAs is often limited.

68. We also agree that some local authorities may lack the knowledge to provide detailed guidance on PiP to prospective applicants and here the Planning Portal may be a useful source for all parties.

69. Requiring LPAs to maintain and update on an ongoing basis a register of PiP applications received, and decisions issued would also increase awareness.

**Q33. What costs and benefits do you envisage the proposed scheme would cause? Where you have identified drawbacks, how might these be overcome?**

70. The certainty of the grant of PiP is the major benefit of the process for all parties provided the LPA, developer and community find the outcome acceptable. It is important to note that each potential development is unique in terms of its siting, location and many other aspects to consider when assessing the development proposals and costs incurred.

**Q34. To what extent do you consider landowners and developers are likely to use the proposed measure? Please provide evidence where possible.**

71. The evidence of poor uptake of the PiP route in the period 2017-2020 suggests further work will be needed to clarify the process and demonstrate the potential benefits before the measure is widely adopted and used. This could be achieved through preparing guidance about the PiP route for all those involved in the development industry including LPAs and communities. A period of adjustment and learning from all players will need to take place supported by the appropriate resourcing.

**Q35. In light of the proposals set out in this consultation, are there any direct or indirect impacts in terms of eliminating unlawful discrimination, advancing equality of opportunity and fostering good relations on people who share characteristics protected under the Public Sector Equality Duty?**



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**If so, please specify the proposal and explain the impact. If there is an impact – are there any actions which the department could take to mitigate that impact?**

No answer.