

To: Executive Member for Planning and Transport
21st September 2020

Changes to the current planning system - consultation on changes to planning policy and regulations
Director of Place, Planning and Regeneration

1 Purpose of Report

- 1.1 The Government published two significant consultations on planning matters on Thursday 6th August. The most far-reaching is the Planning White Paper 'Planning for the Future' which sets out plans to undertake a fundamental reform of the planning system. As responses are required by Thursday 29th October, the Council's response is to be considered by the Executive at its meeting on 20th October.
- 1.2 The other consultation sets out proposals for measures to improve the effectiveness of the current planning system. Four changes are proposed:
 - Changes to the standard method for calculating housing need.
 - Securing First Homes, sold at a discount to market price for first time buyers, through developer contributions in the short term.
 - Increasing the small sites threshold below which developers do not need to contribute to affordable housing, to up to 40 or 50 units for a temporary period.
 - The extension of the 'permission in principle' process to major developments.

The closing date for responses is Thursday 1st October..

2 Recommendation

- 2.1 That the Executive Member for Planning and Transport agrees the content of Bracknell Forest Council's response to the Government's consultation on 'Changes to the current planning system - consultation on changes to planning policy and regulations' as set out in Appendix A.

3 Reasons for Recommendation

- 3.1 It is considered necessary for the Council to respond to the consultation since it contains proposals that could have implications for future planning policy including housing need and the ability to deliver affordable housing. It could also have an impact on the consideration of planning applications.

4 Alternative Options Considered

- 4.1 The alternative option is for the Council not to respond to the consultation. However, this would mean that the Council would lose the opportunity to influence possible changes in national legislation, planning policy and guidance.

5 Supporting Information

- 5.1 The Government is consulting on proposed changes that are intended to improve the effectiveness of the current system. The changes outlined are likely to be implemented more quickly than the proposals in the White Paper as they do not require primary legislation to be passed. The 4 main proposals are dealt with in the sections below.

Standard methodology for housing need

- 5.2 There is currently a national standard methodology that uses a formula set out in Planning Practice Guidance to identify the minimum number of homes expected to be planned for in local plan-making. The Government is suggesting a new formula.
- 5.3 The main changes to the formula can be summarised as follows:
- The use of 0.5% of the existing housing stock in a local authority area or the latest household projections averaged over a 10 year period, whichever is the higher of the two baseline figures.
 - The need to factor in changes in affordability over the last ten years, in addition to the use of the local affordability ratio. This would result in a much greater emphasis on affordability.
 - Abandonment of the cap limiting the level of increase for certain authorities since this detracts from trying to address need.
- 5.4 Based on this approach and using the most recent information available (including the 2018-based household projections), Bracknell Forest's housing need would be 805 homes per annum. This compares with 614 per annum that is currently being used. In terms of the requirement in the emerging Local Plan, the effect may be tempered by not needing to allow for a 10% buffer in addition to the need figure as this is built into the new formula. The need to factor in changes in affordability over the last ten years, in addition to the use of the local affordability ratio is considered to result in a disproportionate amount of weight being placed on affordability. There is no evidence to support the view that releasing additional land will result in accelerated delivery or a significant reduction in the cost of new housing.
- 5.5 Transitional arrangements are suggested which mean that authorities that are at the Regulation 19 stage when revised guidance is published, will be able to submit their emerging local plan within 6 months of the new measures coming into effect without having to start again under the new regime. Those that are close to publishing their Regulation 19 version will be given 3 months from the publication of revised guidance to publish and a further 6 months to submit their plan.
- 5.6 Whilst no timescale is given for the publication of revised guidance, it is likely that the emerging Bracknell Forest Local Plan will be covered by these transitional arrangements. However, that will not prevent developers exerting pressure through the examination process to increase the provision made for future housing in the Borough. The consultation document does not make it clear how the suggested approach might be introduced in terms of calculating the five year land supply position and the Housing Delivery Test. It is critical that this is clarified as it could have an adverse impact on the Council's ability to demonstrate a five year supply and its Housing Delivery Test result. This has consequences for the activation of the presumption in favour of development, buffer to be added to the five year land supply and requirement for an action plan.
- 5.7 Further proposals for using the standard method to assist in setting binding housing requirements are outlined in the White Paper. Those will be responded to as part of the consultation on that document

First Homes

- 5.8 This part of the consultation is concerned with a new affordable housing product that largely replaces Starter Homes. First Homes are defined as homes to be sold at a minimum of 30% discount from the market price to local first-time buyers in need of housing. The proposals are:
- 25% of all affordable homes secured via developer contributions would be First Homes.
 - Initially these would be secured through S106 agreements, but it is suggested that these arrangements would be replaced with a new infrastructure levy as proposed in the White Paper.
 - They would be delivered onsite unless an alternative approach is justified.
 - First Homes would comprise 25% of affordable units delivered onsite and 25% of any element of offsite contributions.
 - The First Homes requirements would not need to be reflected in any Local Plan that is submitted for Examination within 6 months of the policy being enacted. It is also proposed to give local authorities flexibility in application where much work has already been completed on a planning application, on the basis of a different tenure mix of affordable housing.
 - First Homes would be exempt from CIL, although this will require changes to the CIL Regulations.
- 5.9 Requiring a minimum of 25% of any affordable housing provision to be met through First Homes will have the impact of reducing the housing options possible for households requiring affordable housing and particularly those that are in greatest need. The Bracknell Forest Housing Needs Assessment identifies a clear and acute need for rented affordable housing in the Borough. The proposal will therefore make it more difficult for the Council to meet this need. Furthermore, it is considered that shared ownership housing has an important role to play and should still feature alongside First Homes. It should be left to local authorities to determine affordable housing expectations based on local evidence and needs assessments. The suggested approach is overly prescriptive.

Affordable housing thresholds

- 5.10 This section aims to reduce the financial burden on small and medium sized developers to help with the effects of the COVID19 pandemic. It is proposed to raise the threshold for requiring affordable housing from 10 units (net) to 40 or 50 units for an initial time-limited period of 18 months. The guidance would include measures to enable planning authorities to secure affordable housing contributions where it becomes apparent that a developer is bringing forward a larger site in a phased manner. The assumptions are that this would result in a 7-14% (if 40 units) or 10-20% (if 50 units) reduction in affordable housing delivery.
- 5.11 This proposal seems contrary to the Government's emphasis on the need to address affordability in other consultation proposals. A number of sites (particularly windfall sites) would fall within the size range suggested in Bracknell Forest. Whilst in some cases viability is already argued, it is feared that this measure will further reduce the Council's ability to deliver affordable housing. Policies already allow for viability to be considered at the planning application stage in exceptional circumstances. Where suitable evidence demonstrates that a site is unviable, it is possible for a developer to negotiate a lower contribution to affordable housing or other infrastructure payments. The move to reduce the potential supply of affordable housing is not justified by the current economic position. SMEs are continuing to deliver and sell housing in Bracknell Forest. It is unclear what evidence there is that affordable housing is stopping small and medium builders from accessing sites.

- 5.12 The consultation states that the Government would monitor the impacts on the sector before reviewing the approach. However, it is worth noting that very similar wording was used when office to residential permitted development rights were introduced in 2013, and these were rolled forward and made permanent. There is a strong possibility that this threshold could similarly be rolled forward after the initial period.

Permission in Principle

- 5.13 A 'Permission in Principle' application route has been in place for a couple of years, in which an application can be made for permission in principle for housing-led development on sites of up to 10 dwellings. This then needs to be followed by a technical details consent stage, at which the detailed matters are considered.
- 5.14 The proposal is to extend the 'permission in principle' application route to include major developments. The EIA Regulations 2017 Schedule 2 threshold for urban development will restrict permission in principle by application applying to sites capable of delivering more than 150 dwellings or being more than 5 hectares, except where a screening opinion has been obtained which has concluded that the proposal is not EIA development. It will also be unsuitable for sites in areas where, applying the Conservation of Species and Habitats Regulations 2017, there is a probability or risk that the project is likely to have a significant effect on a European site, unless the application is accompanied by an appropriate assessment demonstrating that there is unlikely to be a significant impact on the site.
- 5.15 A time period of 5 weeks would continue to apply to these larger developments, as would the same, very minimal, requirements in terms of information submission. The consultation asks if a maximum height parameter should be included at permission in principle stage or left to the technical details consent stage. It is proposed to keep fees low and based on the area of the site rather than dwelling numbers – these may not be clear until the technical details are agreed. It can apply to mixed use schemes but housing must occupy the majority of the overall scheme. No limit is proposed for commercial development space. A revised fee structure and amended publicity requirements are included in the proposals.
- 5.16 Use of the permission in principle route is restricted in Bracknell Forest due to the presence of the Thames Basin Heaths Special Protection Area and the risk that a development may have a significant effect. Irrespective of this, a 5-week route to some form of consent may prove attractive to some landowners/developers, especially if fees are lower. However, concern is expressed that the minimal amount of information likely to be required at permission in principle stage will very rarely be sufficient to establish the principle of the location, land use and amount of development. The timescale is also of concern together with the application fee which must reflect the costs of assessing the information for what could be complex sites. The proposal could reduce the ability of local authorities to effectively manage development.

6 Consultation and Other Considerations

Legal Advice

- 6.1 The consultation document suggests that any changes would be introduced by a range of measures including changes to national policy, guidance and regulations. At this stage no further details are available.

Financial Advice

UNRESTRICTED

- 6.2 There are no financial implications arising from the recommendation in this report at this stage since it relates to a consultation from the Government.

Equalities Impact Assessment

- 6.3 This is not applicable as the report is concerned with formulating a response to a consultation from the Government.

Strategic Risk Management Issues

- 6.4 There are no specific risks identified in the Strategic Risk Register (2020) which affect this consultation response.

Background Papers

Changes to the current planning system - consultation on changes to planning policy and regulations

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

Appendices

Appendix A: Bracknell Forest Council's response to 'Changes to the current planning system - consultation on changes to planning policy and regulations'

Contact for further information

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