

RESPONSE TO THE GOVERNMENT (DCLG) CONSULTATION ON “PLANNING FOR THE RIGHT HOMES IN THE RIGHT PLACES: CONSULTATION PROPOSALS”

1. PURPOSE OF REPORT

- 1.1 To agree the Council's response to the DCLG consultation entitled *Planning for the Right Homes in the Right Places* (closing date New Forest National Park consultation regarding potential alternative housing sites (Local Plan) closing on the 9 November 2017.

2. BACKGROUND

- 2.1 This is a very important consultation seen by the Government as a major element of their intentions to address the “dysfunctional” housing market by “getting England building”. The proposals are seen as ensuring Local Authorities plan for the right homes in the right places by creating a system that is clear and transparent, less bureaucratic and complex than at present and more inclusive of local communities.
- 2.2 It covers a wide range of issues and the responses received will help inform a revised National Planning Policy Framework due to be released in draft early next year. The consultation looks in some detail as to how local housing need should be established and sets out a proposed “simpler” nationally applied approach. It does however intimate that one-off approaches may be acceptable in limited circumstances if a robust case is made. It then builds on the existing duty to co-operate and introduces the concept of all authorities adopting a statement of common ground covering housing need.
- 2.3 Having covered these main issues, it then looks at how a mix of housing types to reflect local needs should come about, the interaction of a Local Plan with Neighbourhood Plans, site viability – a key issue for this District, with the proposed approach to have this all agreed at the plan making stage, and a further proposed increase in planning fees to be paid in defined circumstances.

3. PROPOSED RESPONSE

- 3.1 This is a major consultation with profound effects on Local Plan making across the country. It has some particular impacts on this District that it is very important the Government is made aware of. The proposed response in the form of answers to the specific questions posed in the consultation is attached as Appendix 1 of this report.

4. ENVIRONMENTAL IMPLICATIONS

- 4.1 The potential environmental impact of the proposals are significant given the impact they have on the number and type of houses to be provided in the District for the foreseeable future.

5. FINANCIAL, EQUALITY & DIVERSITY AND CRIME & DISORDER IMPLICATIONS

5.1 None

6. RECOMMENDATIONS

6.1 To agree the consultation response attached as Appendix 1.

PORTFOLIO HOLDER DECISION

I have agreed to the recommendations of this report.

Signed: CLLR E J HERON

Date: 1 NOVEMBER 2017

For further information contact:

**Background Papers: DCLG Consultation dated
Sept 2017**

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Date on which notice given of this Decision: – 1 November 2017

Last date for call-in: - 8 November 2017

APPENDIX 1: RESPONSE TO CONSULTATION QUESTIONS

Consultation response proforma

If you are responding by email or in writing, please reply using this questionnaire proforma, which should be read alongside the consultation document. You are able to expand the comments box should you need more space

Your Details (Required fields are indicated with an asterix(*))

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Are the views expressed on this consultation your own personal views or an official response from an organisation you represent?* (please tick as appropriate)

Organisational Response

Name of Organisation: New Forest District Council

If you are responding on behalf of an organisation, please tick the box which best describes your organisation

Local Authority (including National Parks, Broads Authority, the Greater London Authority and London Boroughs)

Proposed approach to calculating the local housing need

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?

No, not in the simplistic form proposed. The Council recognises the potential benefits of a standardised approach, but raises the following issues with the methodology set out.

General issues

We have fundamental concern with an approach that simply reinforces existing growth trends and pressures without critically examining whether that is the right answer to the housing supply crisis nationally. We also question the underlying premise that a statistical method would 'close down' the debate on what housing targets should be, and we doubt that the proposed approach would make any difference to the speed of the planning system.

An objective of the proposed methodology is to be 'realistic' about need. There is equally a need to be realistic about achievability. A standard approach that produces local plan targets that would be undeliverable in London and much of southern England simply shifts the debate in constrained areas to examination stage debate on 'why this approach will not work here' (elaborated below in the NFDC context). This would compound and back-end the complexities of the Duty to Cooperate rather than front load and resolve them.

We agree that a step change in housing delivery is needed nationally, but to be realistic and deliverable any national approach needs to be reconciled at a strategic level with long term economic policy objectives for the whole of the country, high level consideration of land supply opportunities, and sufficient funding for the delivery of infrastructure, provision of affordable homes and acquisition of land. Achievability and deliverability is a mantra at local plan level that needs to be embraced at government level. A national solution is needed to the persistent inability of London to meet its housing needs especially given much of the South East is also highly constrained.

This does not necessitate a return to regional planning structures, but Government should enable or put in place a streamlined mechanism to define broad growth priorities that are informed by some evidence that they are capable of being delivered, and set broad housing targets in relation to them. Local authority partnership working under the duty to cooperate can deal effectively with the detail if there is a clear and reasonable starting point and transition period. More could be made of the role of early joint working on strategic matters before preparing local plans, without needing to be prescriptive about process.

NFDC specific issues

Step 1 ONS household projections

Page 2 of the ONS information paper on quality and methodology paper, May 2016, acknowledges that the subnational projections 'take **no account** of local development **aims**, policies on **growth**, **capacity** of a given area to accommodate population change, **economic factors** that could impact the population in future or and **international factors** that may affect the UK population.' It goes on to say on page 3 that 'if local areas can demonstrate that the trend data are **unreliable** because of an **atypical** observation in the area, then **appropriate adjustments may be made**' it continues with 'there is a limitation in that the projections are demographic and trend based taking no account of the growth policies of the area **so may not accurately reflect precisely what future populations are going to be**. They simply provide an **indication** of population levels arising **if** the underlying

assumptions were realised **Local authorities are advised to also use local information in producing their plans' .**

For New Forest District, it would appear that the 2014 based household projections overestimate future household growth. There is a clear disconnect between longer term past migration trends and the shorter term trends used in the latest DCLG household projections. This in turn inflates the standard methodology figure for the area, which sits rather starkly alongside the statistic provided that 86% of the district is covered by the subset of primary constraints reported in the consultation data files.

As an aside, if constraints information is going to be used or recorded in some way, it would make sense to include all of the NPPF footnote 9 constraints plus some allowance for existing built up areas.

Step 2

We appreciate that the use of affordability ratios is a simple proxy for market pressure and the current 'market signals' adjustments to SHMAs. But the reasons for perceived market imbalance also need to be considered. Prices in the New Forest (and other attractive and constrained areas) are in part driven by lifestyle and retirement aspirations. It seems to us that economic needs and opportunities are a stronger rationale for deciding where we need to provide more housing.

Step 3

Whilst it makes sense to control more extreme outcomes, if the aim of the 40% cap is intended to help ensure deliverability then it is no substitute for appropriate consideration of or allowance for supply side factors.

The application of the same 40% cap to subsequent reviews may have the effect of progressively escalating the need figure, and that may be the intention. But no useful purpose is served if the original capped figure cannot be achieved in the first place.

Question 1(b) How can information on local housing need be made more transparent?

It can be published in authorities' monitoring reports or PS1/PS2 returns

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?

No, there is a need for a level of stability; however, the stated proposal will not achieve that. The stated intention is that housing need figures should be published at the start of the plan review process, so it would make more sense to apply the fix whilst the plan is in preparation starting from the first Regulation 18 consultation (assuming a need figure is published at that point). This would also provide greater certainty to infrastructure providers in their work supporting plan preparation, and to inform the preparation of other evidence base studies where demography is an input. Given the average time from submission to adoption of a plan *after* the plan has been prepared is currently 17 months, a minimum 3 year time frame would be more appropriate.

It would also be helpful if housing need figures agreed for examined plans were fixed from adoption until an update is published in the next cycle of review, given that will be within 5 years. The annualised five year supply figures arising would continue to reflect housing delivery progress, and we report this annually already. Time and effort is expended at s.78 appeal in arguments that recently

adopted local plan targets are out of date because there is new evidence about need or a new policy approach emerging, which undermines public faith in the concept and benefits of a plan-led system.

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?

No. The change is unnecessary, the examination process does this already.

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, especially if Government is minded to persist with the formulaic approach consulted upon.

Enabling places to provide more homes than the methodology suggests seems a sensible way to avoid limiting the ambitions of areas to grow and pursue growth on a 'policy on' basis.

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 and we would also suggest that the tight timeframe proposed to introduce the changes generally is unduly hasty. It does not give affected authorities sufficient transition time to put in place a plan-led response to whatever need approach is introduced after this consultation. If that provokes a further round of land supply s.78 applications and appeals as seems likely, it would further damage communities' perception of planning and plan-making.

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, there should be maximum discretion and support for cooperative working that front loads duty to cooperate engagement on housing provision, on a non-prescriptive basis. The option to do the same for delivery makes sense on the same basis.

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 as a transitional arrangement. It should apply until an updated need assessment is published as part of a local plan review, or until the inspector's examination report is issued if the new assessment is lower than the adopted Local Plan target.

Question 6: Do you agree with the proposed transitional arrangements for introducing the standard approach for calculating local housing need?

No. This is a significant change and any plans in preparation that would otherwise be approaching Regulation 19 stage by 31 March 2018 would be delayed waiting for whatever the final methodology

is. Those needing to do more as a consequence of the methodology could face lengthy delays, effectively returning to initial Issues and Options stage and re-consulting. Given that there needs to be changes to the NPPF/NPPG, we suggest a transition period of a minimum of 6 months starting **from publication of these changes including the final new methodology**. Any plans that submit in that window would progress under the previous methods. Early review requirements could be applied at examination stage if warranted.

Statement of Common Ground

Question 7(a): Do you agree with the proposed administrative arrangements for preparing the statement of common ground?

General comment: The use of Statements of Common Ground to address strategic and cross-boundary planning issues will always be a problematic way of trying to address strategic planning issues.

In answer to question 7a: Yes to a point, but the view (para 65) that front-loaded statements of common ground are not intended to be a burden or replicate plan making processes is simply naive. The resource implications of preparing what for many local planning authorities like ourselves, will be a complex network of Statements of Common Ground will be significant. Our planning area is partly within three strategic housing market areas and shares boundaries with three counties and six local planning authorities.

Reaching agreement on contents of SOCG within 12 months is unrealistic. The practical reality is that in a political environment no authority is likely to accept a claim that another cannot meet its needs until there is a comprehensive evidence base in place to demonstrate that is a fact and to quantify the shortfall. Even then matters of judgement in assessing potential supply and the details of where any shortfall should be met will continue to be contested.

If SOCG are to be anything more than a list of agreed issues without agreed outcomes it would make more sense to recognise that where strategic matters cannot be resolved by agreement, that there should be front-loaded joint working to resolve them. Guidance on SOCG should define the required outcomes and tie these in to the legal Duty to Cooperate test, and leave the details of process to be agreed locally.

HMA's are a logical starting geography and there should be a requirement that adjoining HMA-based areas agree in an SOCG how fringe or transition areas are addressed to ensure full coverage without gaps. We agree that strategic cross-boundary issues should also be addressed proportionately.

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 (SOCG) are appropriate and will support more effective co-

operation on strategic cross-boundary planning matters?

No in regard to timescales. The resource implications of preparing SOCGs and the impact of this on for plan making timetables should not be underestimated. As stated above for some areas, a complex network of SOCG may be required and as there is not always shared understanding of the extent of strategic housing market areas or their boundaries these may not be simple to agree.

The implementation date or transition periods for other matters covered in the consultation should be amended to be consistent. The SOCG stage is the key to making the other proposed reforms work in logical sequence without unnecessary disruption.

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?

Theoretically yes, but the proposals as set out do not provide an effective means of achieving these aims without, potentially, a protracted and relatively unstructured process of multi-party negotiations, which may not result in agreement and for which there is no mechanism to be resolved other than through individual local plan examinations.

Question 9(b): Do you agree to the proposed transitional arrangements for amending the tests of soundness to ensure effective co-operation?

No, unless the above mentioned concerns are addressed.

Planning for a mix of housing needs

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?

Local assessments of housing needs can continue to provide this information. Standardised methodologies are unlikely to provide information of value.

We tend to use consultants for this type of work and that is generally satisfactory. Methodologies tend to involve making judgments about the propensity of different types of household (in terms of accommodation type) to form and their needs given income, age, statistical prevalence of disabilities and local prices for different home tenures and sizes.

We would welcome additional support for achieving diversified tenures as builders tend to prefer to build what is most profitable rather than what is locally needed.

Question 10(b): Do you agree that the current definition of older people within the National Planning Policy Framework is still fit-for-purpose?

Yes

Neighbourhood Planning

Question 11(a): Should a local plan set out the housing need for designated neighbourhood planning areas and parished areas within the area?

Yes, the Local Plan will have considered the capacity and potential of Neighbourhood Planning areas to deliver growth within a plan area. Where the housing distribution across the plan area is not fully resolved through an up-to-date Local Plan, initial guideline figures (or targets) could be published based on the suggested formula approach. It would be sufficient to publish the area target on the Council website

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?

Yes in principle but the risks of formulaic over-simplification we have identified at local plan level apply equally to different plan-making tiers. This approach should only be preferred in the absence of an up-to-date Local Plan which has assessed the capacity of neighbourhood plan areas to accommodate growth. Further, a pro-rata housing need figure may be a significant disincentive to undertaking a NP as it may be taken to imply that target should be met though the NP itself. Is that what is intended? In addition there could be tensions with local plans, which typically reconcile need and opportunity across plan areas to address their requirements unhindered by a presumption of proportionality. Local plan work may include allocations that address some, all or more than the needs that arise pro rata in a given town/parish area.

Proposed approach to Viability Assessment

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, Local Plans do this already to a point, as they have to demonstrate that the plan is deliverable at examination stage. The problem is that getting clear information about the existing capacity of infrastructure and the cost and delivery arrangements where upgrades are needed is difficult. It would be helpful if there was a duty on infrastructure providers to publish or provide periodic statements about their current capacity and to resilience test it for growth scenarios looking 10 and 20 years ahead, having regard to household projections as a baseline and the standardised housing need methodology as a variant scenario. Sensibly this should be aligned to the front loaded preparation of statements of common ground.

Question 13: In reviewing guidance on testing plans and policies for viability, what amendments could be made to improve current practice?

Publication of land and development valuation benchmark data to be used in local plan preparation and for s106 purposes, and to inform developer acquisitions. A requirement to publish the supporting viability appraisal if the applicant is seeking to provide less than policy compliant infrastructure and affordable housing, given that will already have been tested at examination. A requirement to submit to Councils proof of land purchase cost or a copy of the option agreement to inform the review (on a

confidential basis if necessary). Government instruction to PINS to refuse s106 renegotiation appeals deriving from inflated land price expectations or unrealistic development cost estimates so that land owners or developers have to settle for lower returns.

The guidance must state that all viability work is undertaken on an open book basis and that issues of viability which had been resolved at the Local Plan stage will carry on into the application process for the lifetime of the Plan with some adjustment for inflation included within the standard methodology set out in the guidance.

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: See above, but it should be made clear that any revised testing will only be in exceptional circumstances to include matters which could not have been anticipated at the local plan stage and that this will not include site purchase costs.

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?

All Infrastructure providers must be obliged to respond to consultations at the Local Plan stage and required to provide costed and justified requests for relevant contributions for the Local Authority to assess. Most Local Authorities already have good links to Housing Associations and these could be used to facilitate the beneficial input into the process the Associations would provide.

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?

A standardised approach and format could help. Clarity and openness should be the driving factors. Current guidance states that “In all cases, estimated land or site value should ... reflect emerging policy requirements and planning obligations and, where applicable, any Community Infrastructure Levy charge”. Experience shows that purchasers of land and land owners often do not take full account of these considerations in their site valuations – leading to non-delivery of important planning objectives/requirements.

We strongly agree that post Local Plan adoption viability re-assessments must be exceptional and only entertained in very limited, (defined) circumstances.

Question 17:

- a. Do you agree that LPA’s 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, although basic guidance on such requirements could be set at a national level to ensure consistency.

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

That a standard approach must be taken with full transparency in terms of what agreements should have provided in order to be 'policy compliant', what agreements have actually secured, what has been delivered and, when delivery has not been achieved what action is underway if any to secure its provision.

c. How can LPAs 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?

Through being open and transparent and through close working to address issues as they arise. LPA's can produce annual reports, use their web sites to publicise such reports, can send information to local Town and Parish Councils and can provide updates on individual applications though the online Planning Register. Applicants can communicate with communities they are working within through Parish and Town Councils, District Councillors and amenity groups and via their own general and site specific websites.

Developers that have not complied with an adopted Local Plan policy requirement in full could be asked to produce a statement explaining why it has not been possible for them to comply with the policy requirements, set out any mitigation measures they proposed to address issues raised by non-compliance, and identify the impact on the community of non-compliance with adopted Local Plan policy.

Planning fees

Question 18:

a) Do you agree that a further 20% increase should be applied to those LPA's who are delivering the homes their communities need?

Yes

What should be the criteria to measure this?

In simple terms, processing applications and appeals on time and to required. Achieving a step change in new development delivery rates in the area – measure and reward increases in performance rather than absolute numbers.

b) Do you think there are more appropriate circumstances when a LPA should be able to charge the further 20% If so, do you have views on how these circumstances could work in practice?

Where a step change in development rates needs to be delivered.

c) Should any additional fee increase be applied nationally once all LPA's meet the required criteria, or only to individual authorities who meet them?

Should apply immediately to any LPA that can demonstrate it is hitting the key housing delivery target.

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

NO

Other Issues

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.

For residential development schemes of (say) 10 or more units, the planning permission should include an agreed implementation schedule. Non-implementation of the agreed scheme in accordance with the delivery schedule could result in financial penalties for landowners/developers for non-implementation of planning permission.