

**CABINET  
1 OCTOBER 2020**

**AGENDA ITEM:**

**REPORT OF THE HEAD OF PLANNING, ECONOMY AND REGENERATION**

**MID DEVON DISTRICT COUNCIL'S RESPONSE TO THE GOVERNMENT'S  
CONSULTATIONS ON CHANGES TO THE CURRENT PLANNING SYSTEM**

**Cabinet Member:** Cllr Richard Chesterton, Cabinet Member for Planning and Economic Regeneration

**Responsible Officer:** Mrs Jenny Clifford, Head of Planning, Economy and Regeneration

**Reason for Report and Recommendations:**

To consider two current consultation papers published by the Government: "Changes to the current planning system – consultation on changes planning policy and regulations", and "Planning for the Future – White Paper" and responses by Mid Devon District Council to these. The recommendations sought are to approve the responses for submission to the Government, so that the Council has engaged with the consultation.

**RECOMMENDATION(S):**

**That Cabinet:**

- **Considers the draft responses to the Government's consultation papers in Appendices 1 and 2**
- **Approves the submission of the draft responses in Appendix 1 together with any amendments to these agreed by the Cabinet, to the Government's consultation on the technical paper "Changes to the current planning system"**
- **Informs officers of any further responses needed Appendix 2 to the Government's consultation "Planning for the Future – White Paper"**
- **Delegates authority for the Head of Planning, Economy and Regeneration in consultation with the Cabinet Member for Planning and Economic Regeneration to finalise responses to the Government's consultation on the "Planning for the Future – White Paper" and to submit these to the Government.**

**Financial Implications:** There are no direct financial implications arising from this consultation. However, the proposed extension of permission principle may affect the number of planning applications submitted for determination and fee income to the Council.

**Budget and Policy Framework:** The consultation is about changes to the planning system, including the scope of development plans and the way that they are prepared. A more detailed analysis will be needed in order to understand budget implications.

**Legal Implications:** There are no legal implications directly arising from the consultation.

**Risk Assessment:** There are no risks directly from the consultation. However, the Government's proposed changes to the planning system will bring a period of uncertainty that may impact on the need to progress the preparation of new developments for Mid Devon.

**Equality Impact Assessment:** Low impact. A move towards a more digitalised planning system will need to make provision for parts of the community that have no / poor access to the internet.

**Impact on Climate Change:** Low impact. The Government's proposed changes to the planning system will require the preparation of Local Plans to be subject to a sustainability test.

**Relationship to Corporate Plan:** The consultation proposals for First Homes could result in a reduction in the supply of other forms of affordable housing coming through the planning system. This will impact on the ability to meet objectives in the Corporate Plan for delivering more affordable housing and greater numbers of social rented homes.

## **1.0 Background**

1.1 The Government has announced proposals to modernise the planning system to get Britain building. It considers the current planning system is complicated, favours large developers and often means that much needed new homes are delayed. In its White Paper "Planning for the Future", the Government is proposing a new system which is easier for the public to access, transforms the way communities are shaped and builds the homes the country needs. Alongside the White Paper, the Government has published a technical consultation on short-term changes to the current planning system that it believes will improve effectiveness of this system.

1.2 This report provides more information about the Government’s proposed changes to the planning system in the White Paper “Planning for the Future” and also its proposed changes to current planning system. The Government has invited comments on both consultation documents, with specific questions to each. There is now an opportunity for the Council to consider both consultation documents and respond to these. This report asks the Cabinet to consider draft responses prepared by officers to both consultation documents in consultation with Members, and that approval be given for these responses, together with any amendments agreed by the Cabinet, to be submitted to the Government.

## **2.0 “Changes to the current planning system – consultation on changes planning policy and regulations”**

2.1 The Government is consulting on proposals for measures to improve the effectiveness of the current planning system. These proposals are detailed in **Appendix 3** to this report. There is now an opportunity for the Council to consider and respond to the consultation, which will close at 23.45 on the 1<sup>st</sup> October.

2.2 The consultation seeks views on four main proposals:

- changes to the standard method for assessing local housing need, which as well as being a proposal to change guidance in the short term has relevance to proposals for land supply reforms set out in the Government’s white paper “Planning for the Future” that it is also consulting on;
- securing of First Homes, sold at a discount to market price for first time buyers, including key workers, through developer contributions in the short term until the transition to a new system;
- temporarily lifting the small sites threshold below which developers do not need to contribute to affordable housing, to up to 40 or 50 units to support SME builders as the economy recovers from the impact of Covid-19;
- extending the current Permission in Principle to major development so landowners and developers now have a fast route to secure the principle of development for housing on sites without having to work up detailed plans first.

### *Changes to the standard method*

- 2.3 Housing targets in Local Plans have previously been informed through technical evidence in the form of strategic housing market assessments ('HMA's). These provided an objectively assessed need for new homes in the area, looking at past population trends and projecting these forward into the future. Population growth was translated into housing requirements using headship rates and vacancy rates, and taking into consideration the projected increase in jobs and workforce. The recently adopted Mid Devon Local Plan Review 2013 – 2033 includes an annual housing target of 393 homes which has been informed by the Exeter Housing Market Area Strategic Housing Market Assessment 2014/15 and later assessment of additional homes needed as result of jobs created through planned retail and leisure development at Junction 27.
- 2.4 In 2018 the Government introduced the 'standard method' for assessing the minimum number of homes needed for an area, which was implemented through the revised National Planning Policy Framework (2019). The standard method uses national household projections to set a baseline for the area and calculating projected average annual household growth over a 10 year period. The average annual projected household growth figure is then adjusted based on the affordability in the area using the most recent median workplace-based affordability ratios and the Government's formula. A cap may then be applied which limits the increase in the minimum annual housing need figure which is calculated depending on the current status of relevant strategic policies for housing. The current standard method assessment shows a minimum of 367 homes needed each year in Mid Devon. While this figure is used for the purposes of calculations for the Housing Delivery Test, the adopted Local Plan target figure of 393 homes is used for the purpose of housing land supply calculations (since the Local Plan was examined through transitional arrangements).
- 2.5 While the Government made a short-term change to the standard method in February 2019 it has maintained a commitment to review the formula. This is in light of its aspirations for creating a housing market that is capable of delivering 300,000 homes annually nationally. This current consultation proposes that the standard method is revised and which will be used as the basis for plans created prior to any changed outlined in its white paper "Planning for the Future" being introduced.
- 2.6 The Government's proposed change introduces a new element to the standard method, a percentage of existing housing stock levels, which takes into account the number of homes that are already in the area. It is intended

this will provide stability into the calculations, whereas household projections can vary. The revised standard method will therefore have a blended approach using housing stock and household projections. It is proposed that the baseline for the standard method should be whichever is the higher of 0.5% of the existing household stock in each local authority, or, the latest projected average annual household growth over a 10 year period. The Government considers 0.5% represents a basic level of increase in all areas without putting a disproportionate emphasis on existing stock levels. The Government also proposes to introduce an affordability adjustment that takes into account changes over time, in addition to the existing approach of considering absolute affordability. This will increase the overall emphasis on affordability and be more responsive to local circumstances. Finally, the Government proposes to remove the cap which artificially suppresses the level of housing identified.

2.7 The Government’s proposed revised standard method would result in substantial increases in the minimum number of homes needed in many local authority areas in Devon as shown in the table below:

Local Authority	Current Local Plan requirement	Average delivery (last 3 years)	Current Standard Method	Proposed new Standard Method	Change from current standard method
Exeter	600	653	625	694	11%
Torbay	494	424	586	635	8%
East Devon	950	842	928	1,614	74%
<b>Mid Devon</b>	<b>393</b>	<b>429</b>	<b>367</b>	<b>641</b>	<b>74%</b>
Teignbridge	621	696	758	1,532	102%
North Devon	431	599	336	650	93%
Torridge	431	284	420	417	-1%
Plymouth	445	954	623	823	32%
South Hams	445	449	355	769	117%
West Devon	445	170	321	278	-13%

Source: Lichfields.uk

2.8 The current standard method calculates is a minimum of 367 homes needed in Mid Devon each year. The proposed revised standard method would result in a substantial (74%) increase minimum of 641 new homes needed each year.

- 2.9 The 641 new homes would be the minimum number of new homes to be planned for each year for the purpose of preparing a new Local Plan for Mid Devon, subject to any transitional arrangements put in place. This figure may need to be adjusted further (increased) taking into consideration economic uplift through forecast new jobs created. There may also remain the possibility that the Duty to Cooperate could result in Council's having to take some unmet housing need from neighbouring local authority areas. However, the Government has indicated in its white paper "Planning for the Future" that the Duty to Cooperate could be abolished although it has not made clear what alternative arrangement might be established to help address strategic cross-border planning issues. The capacity of the district to accommodate this level of growth has not been tested in terms of suitable and available land supply, market absorption, topographical, landscape and other constraints, including flood risk, nature conservation, heritage and the predominantly rural and poor accessibility of much of the district. There has been no assessment of what infrastructure may be needed and how this may be funded.

#### *Securing of First Homes*

- 2.10 The Government consulted on its First Homes proposals in February 2020. The First Homes scheme is intended to support first-time buyers by providing discounts of at least 30% on new build properties in their area compared to market prices, but with flexibility for Local Authorities to shape the scheme to support those most in need in their area. The discount will apply in perpetuity and passed on every time a First Home is resold.
- 2.11 The Government's current consultation proposes that a minimum of 25% of all affordable housing units secured through developer contributions should be First Homes. This will be a national threshold, set out in planning policy, and the First Homes will initially be secured through section 106 planning obligations, but under proposed reforms (in the white paper "Planning for the Future"), these would subsequently be secured through the Infrastructure Levy. In the majority of cases the provision would be delivered onsite. However, where cash contributions to affordable housing are secured instead of on-site contributions, a minimum of 25% of these should be used to secure First Homes. Local Authorities would have discretion to increase the 30 discount from market price to 40% or 50% evidenced in the Local Plan making process. The consultation includes two options for the remaining 75% of affordable housing. Where the First Homes replaces all the home ownership products any rental products are delivered in the same ratio for as set out in local plan policy, or where the 25% First Homes does not replace all home ownership products the remainder of the home ownership tenures are delivered, and the rental tenure mix is delivered in line with the proportions set

out in the local plan policy. In the second option the local authority and developer can negotiate the tenure mix for the remaining 75% of the units.

- 2.12 The Government intends to introduce a First Homes exception sites policy to replace the existing the entry-level exception sites policy. However, this will not apply in designated rural areas, where delivery of affordable homes will be through the rural exception sites policy. Mid Devon is a designated rural area, with the exception of the towns of Tiverton, Crediton and Cullompton, and the rural areas outside these towns will not be impacted by this change.
- 2.13 It is most likely that transitional arrangements will not apply for the preparation of a new Local Plan for Mid Devon due to the anticipated stage of plan making reached before the new system would come into force. This will similarly be the case for the preparation of neighbourhood plans in the district. The national requirement for 25% First Homes is likely to reduce the number of other forms of affordable homes that can be secured in rental tenures, including affordable and social rent, thereby not helping households that may be in most acute housing needed, including those unable to secure mortgages. It is likely to impact on the Council's ability to achieve key ambitions in its Corporate Plan for securing affordable and social rented properties.

*Lifting the small sites threshold*

- 2.14 Current national policy is clear that affordable housing contributions should not be sought for developments of fewer than 10 units (small sites). In designated rural areas policies may set a lower threshold of five units or fewer. The recently adopted Mid Devon Local Plan Review 2013 – 2033 sets a threshold for affordable housing in developments of 11 dwellings or more in Tiverton, Cullompton and Crediton, and on sites elsewhere in developments of 6 dwellings or more. In the case of the latter, affordable housing may be in the form of financial contributions to provide the affordable dwellings in another location.
- 2.15 The Government's consultation proposes that the small sites threshold for affordable housing contributions is raised for a time-limited period until the economy recovers from the impact of Covid-19. The intention is that this would reduce the burden of developer contributions on small and medium builders (SMEs) and help allow more small sites to come forward for development.
- 2.16 The Government proposes to raise the small sites threshold to up to either 40 or 50 new homes through changes to national planning policy for an initial

period of 18 months. Additionally, the minimum site size threshold would be scaled up from 0.5 hectares. The Government proposes to set out in planning guidance how local planning authorities can secure contributions for affordable housing where it is apparent that a larger site is being brought forward (i.e. where developers attempt to bring forward larger sites in phasing of up to 40 or 50 homes).

- 2.17 It is understood that the Government's proposals, if introduced, would apply to Tiverton, Cullompton and Crediton (i.e. not elsewhere in the district, which is a designated rural area). This could result in a reduction of affordable housing being secured in some of the site allocations for housing in these towns that are included in the adopted Local Plan where planning permission has not yet been granted, and also in windfall sites. Raising the threshold could therefore have the effect of restricting the ability to secure new affordable housing in those locations where the need for affordable housing is most concentrated. It is suggested Mid Devon's response to the Government's consultation could recommend that should the threshold be raised, the removal of the requirement for affordable housing should be looked at on a case by case basis through viability assessment, taking into consideration the impact of Covid-19 (which is the justification made by the Government for seeking to raise the threshold).

*Extending the current Permission in Principle*

- 2.18 Permission in principle was introduced in 2017 as a new faster way of obtaining planning permission for housing-led development, which reduced the need for landowners and developers to incur significant costs to establish the principle of development for housing. Councils were given the power to grant Permission in Principle to suitable sites allocated in brownfield registers. Permission in Principle by application was introduced in 2018 for minor development (i.e. small sites that support fewer than 10 dwellings). The consent route has two stages – the first is to establish whether a site is suitable in-principle for development. The grant of Permission in Principle is for 5 years and no planning conditions can be attached to it. The second stage (technical details consent) is when the detailed development proposals are assessed, and conditions can be attached. A grant of Permission in Principle plus a grant of technical details consent together equates to full planning permission.
- 2.19 As part of the Government's plans towards economic recovery it now proposes to extend the scope of the current Permission in Principle by application route to major development (excluding those subject to Environmental Impact Assessment (EIA) or habitats assessments). This will

enable Permission in Principle to be made to a far wider range of sites. The Government considers this will benefit small and medium sized developers and reduce their upfront planning costs and provide certainty quickly about the principle of development. Regulations relating to EIA and Habitats requirements will remain and this means that Permission in Principle will not in practice be a route to permission for large sites capable of delivering more than 150 dwellings or more than 5 hectares. Permission in Principle will not be suitable 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 was accompanied by an appropriate assessment demonstrating there was unlikely to be significant impact on the site. Permission in Principle may include other uses such as retail, offices, or community spaces but where housing occupies the majority of the overall scheme. The Government proposes that the current limit of 1,000 sq m or size capped at 1 hectare is removed and there is no set limit for commercial development space.

- 2.20 The current process for granting Permission in Principle is by application on a form and with basic information provided (e.g. description, minimum and maximum number of dwellings, site size), with a 5 week determination period and a 14 day period for consultation with the public and statutory consultees. The decision to grant Permission in Principle will take account of national and local policy. Permission in Principle must be followed by an application for technical details consent to agree the details of the scheme before the applicant obtains full planning permission. The Government has asked the question whether for larger scale development there should be an additional maximum height threshold parameter, and whether the publicity requirements for such development should go beyond just a site notice and website publication.
- 2.21 The Government is keen to promote Permission in Principle by application as a more streamlined and cheaper alternative to outline permission. The current fee for minor development is £402 per 0.1 hectare (capped at 1 hectare) which is to cover the costs incurred in processing the application, as well as the costs of undertaking consultation and assessment against national and local policy. The Government therefore considers whether the fee should be lowered, adopting a site size criterion with a charging scheme based on the actual number of dwellings, or a simplified banded structure (site size) with a fixed fee per 0.1 hectare in each band.
- 2.22 The Government's consultation also considers that Brownfield Registers should automatically include all Permission in Principle by application "consents" that are on brownfield land in the Part 2 of these registers.

2.23 The Government's proposed changes to the Permission in Principle regime could have the effect of reducing the number of planning applications submitted to the Council for determination by the conventional route and a restricted ability to scrutinise larger scale development proposals prior to the technical details consent stage. It could also lead to a reduced fee income to the Council, but with continued case load and costs incurred to process applications for Permission in Principle.

### 3.0 "Planning for the Future – White Paper"

3.1 "Planning for the Future" (see **Appendix 4** to this report) sets out plans by the Government to undertake a fundamental reform of the planning system. There is now an opportunity for the Council to consider and respond to the consultation, which will close at 23.45 on the 29<sup>th</sup> October.

3.2 In summary, the Government sets out wide-ranging and fundamental reform of the plan-making process, promotes greater use of digital data, strengthens focus on design quality and environmental outcomes, and introduces a new infrastructure levy. This is set out under three pillars in the White Paper which are summarised below.

#### *Pillar One – Planning for development*

3.3 This pillar focuses on the role of Local Plans, it seeks to ensure decision making is faster, identifies the role of Neighbourhood Plans, it seeks a stronger emphasis on build out through planning and the greater use of digital technology. The proposals set out the following:

- The role of land use plans is proposed to be simplified. In summary it is proposed that Local Plans should identify three types of land:
  - Growth areas suitable for substantial development. Outline planning permission for the principle of the development would be conferred by adoption of the Local Plan.
  - Renewal areas suitable for development. Presumption in favour of development with plans establishing the general appropriateness of these areas for development.
  - Areas that are protected. Development would come forward as a planning application and judged against policy in the National Planning Policy Framework.
- Local Plans will be subject to a single statutory 'sustainable development' test, replacing the tests of soundness and the duty to co-operate.

- Development management policies are to be established at a national scale.
- Local Plans should be visual and map-based, standardised, based on the latest digital technology and supported by a new template.
- Local Plans and the Planning Inspectorate will be required through legislation to meet a statutory timetable for key stages of a Local Plan process of which Local Plans should be completed and made within 30 months with sanctions for those who fail to do so.
- A revised standard method for establishing housing requirement figures. This will look at the size of existing urban settlements, the relative affordability of places, the extent of land constraints, brownfield opportunities, allowance of non-residential development and a buffer to ensure enough land is provided to account for the drop off rate between permissions and completions.
- For exceptionally large sites such as a new town, the paper wants to explore whether a Development Consent Order under the Nationally Significant Infrastructure Projects regime could be an appropriate route to secure consents.
- Decision-making should be faster and more certain, with firm deadlines and greater use of digital technology.
- Neighbourhood Plans should be retained with support for communities to make better use of digital tools.
- There will be a stronger emphasis on build out through planning.

*Pillar Two: Planning for beautiful and sustainable places*

3.4 This pillar focusses on how a simpler planning process could improve certainty about what can be built where, as well as offering greater flexibility in the use of land to meet our changing economic needs. It reflects on the findings of the Building Better, Building Beautiful Commission, which as has shown that too many recent places built during recent decades fail to reflect what is special about their local area or create a high quality environment of which local people can be proud. The White Paper includes a number of proposals to resolve these issues:

- More visual and predictable design expectations through expecting design guidance and codes to be prepared locally with community involvement, and by ensuring that codes are more binding on decisions about development;
- Supporting the transition to a planning system which is more visual and rooted in local preferences and character. The Government proposes to establish a new body to support the delivery of provably locally-popular design codes, and proposes that each authority has a chief officer for design and place-making;

- Consideration of how Homes England's strategic objectives can give greater emphasis to delivering beautiful places;
- Introducing a fast-track for beauty through changes to national policy and legislation, to incentivise and accelerate high quality development which reflects local character and preferences;
- Amending the National Planning Policy Framework to ensure that it targets areas where a reformed planning system can most effectively play a role in mitigating and adapting to climate change and maximise environmental benefits;
- Designing a quicker, simpler framework for assessing environmental impacts and enhancement opportunities, that speeds up the process while protecting and enhancing the most valuable and important habitats and species in England;
- Conserving and enhancing historic buildings and areas in the 21<sup>st</sup> Century
- Facilitate ambitious improvements in the energy efficiency standards for buildings to help deliver the commitment to net-zero by 2050.

*Pillar Three: Planning for infrastructure and connected places*

3.5 This pillar focuses planning for infrastructure with includes the consideration of affordable housing. Within this section of the White Paper the skills strategy for the planning sector is also discussed including the strengthening of enforcement resources and powers including more sanctions. The proposals set out the following:

- Community Infrastructure Levy (CIL) should be reformed to be charged as a fixed proportion of the development value above a threshold, with a mandatory nationally-set rate or rates and the current system of planning obligations abolished.
- The scope of the Infrastructure Levy could be extended to capture changes of use through Permitted Development Rights.
- The reformed Infrastructure Levy should deliver affordable housing provision. This would be through in-kind delivery on-site or as a right to purchase at discounted rates for local authorities. There is a risk with in-kind payment that some risk in transferring to the Local Planning Authority. Such as, if the value secured through in-kind units is greater than the levy liability then there would be an overpayment risk. The paper proposes to ensure such risks are mitigated through policy design such as ensuring the developer has no right to reclaim overpayments.
- More freedoms could be given to Local Authority's over how they spend the Infrastructure Levy.
- A comprehensive resources and skills strategy for the planning sector to support the implementation of the reforms in the White Paper will be developed.

- Enforcement powers and sanctions are sought to be strengthened.

#### **4.0 Groups consulted**

4.1 A briefing about the Government's consultation documents was provided, open to all Council Members, on Monday 7<sup>th</sup> September. The Planning Policy Advisory Group met on 17<sup>th</sup> September to consider the Government's consultation documents. These have provided opportunities for Members to provide feedback that has helped to inform the Council's responses to these consultation documents.

#### **5.0 Next steps**

5.1 Subject to Cabinet approval, officers will amend the responses to questions set out in Appendix 1 about the Government's proposed changes to the current planning system, and submit these to the Government to meet the deadline for comments by 23.45 on the 1<sup>st</sup> October.

5.2 Subject to Cabinet approval, the Head of Planning, Economy and Regeneration in consultation with the Cabinet Member for Planning and Economic Regeneration will finalise responses to the Government's consultation on the "Planning for the Future – White Paper" and submit these to the Government to meet the deadline for comments by 23.45 on the 29<sup>th</sup> October.

#### **Contact for more Information:**

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**Circulation of the Report:** Cllr Richard Chesterton

#### **List of Background Papers:**

"Changes to the current planning system – consultation on changes to planning policy and regulations" (August 2020) MHCLG  
<https://www.gov.uk/government/consultations/changes-to-the-current-planning-system>

"Planning for the Future – White Paper" (August 2020) MHCLG

<https://www.gov.uk/government/consultations/planning-for-the-future>