

28 SEPTEMBER 2020

PR 10-20 | CHANGES TO THE CURRENT PLANNING SYSTEM

I am writing in response to the Ministry of Housing, Communities and Local Government (MHCLG) 'Changes to the current planning system' consultation.

The National Association of Local Councils (NALC) is the nationally recognised membership and support organisation representing the interests of around 10,000 parish and town councils and many parish meetings in England, 70% of which are situated in rural areas. Local (parish and town) councils are the backbone of our democracy and closest to local people, providing our neighbourhoods, villages, towns and small cities with a democratic voice and structure for taking action, contributing in excess of £2 billion of community investment to supporting and improving local communities and delivering neighbourhood level services.

Executive summary

- NALC agrees with the government that the planning system could be improved and should have more emphasis on building design, (we endorse the recommendations in the report 'Living with beauty' published by the Building Better, Building Beautiful Commission: (<https://www.gov.uk/government/publications/living-with-beauty-report-of-the-building-better-building-beautiful-commission>) .
- However, NALC urges MHCLG to re-think the changes it has proposed in the Planning White Paper and in 'Changes to the Current Planning System'. The changes would result in a democratic deficit and less community involvement and would not tackle the key issue slowing down the delivery of more housing that was identified by Sir Oliver Letwin in his report 'Independent Review of Build Out' which he presented to parliament in October 2018 (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/752124/Letwin_review_web_version.pdf).
- Sir Oliver Letwin identified that the key problem was the market absorption rate (i.e. the rate at which builders were prepared to deliver homes which would ensure their market price in any given local area was not affected in an adverse manner). Sir Oliver, whose report was commissioned by the chancellor of the exchequer, expressed support for master planning (which is not mentioned in the current consultation documents) and the use of Section 106 agreements (which, it is proposed, should be dropped, despite these agreements having delivered significant affordable housing). Master planning

is eminently sensible and 106 agreements have been very successful in delivering affordable housing.

- Whilst the narrative in the two consultation documents says much about having a planning system that is fit for purpose, inclusive and which improves public trust, the proposals come on top of a significant extension to permitted development rights and they:
 - Dictate the amount of housing each Local Planning Authority (LPA) has to deliver, based on an algorithm geared to delivering over 300,000 housing units per year – despite a lack of verisimilitude for that over-arching figure and despite falling population projections.
 - Require LPAs to divide all land into one of three (or possibly only two) zones, ensuring that the two development zones ('Growth' and 'Renewal') together are large enough to accommodate the housing they have been instructed centrally to supply, thereby forcing the LPAs to not place land in the 'Protected' zone which would be worthy of being there.
 - Allow only 30 months for the evolution of and consultation on Local Plans and thereafter remove from principal authorities the right to decide on planning applications on a case by case basis and the right of local councils to comment upon them.
 - Abolish Sustainability Appraisals and question the value of the 'Duty to Co-operate' between neighbouring local authorities and Strategic Environmental Assessments.
 - Do nothing to strengthen Neighbourhood Plans and stop them from being overturned when principal authorities cannot meet housing delivery numbers or any land tests that may apply and do not tackle the community capacity problem if they have to be reviewed five yearly.
 - Do not recommend that a percentage of the income to LPAs from developers is automatically distributed via local councils for the benefit of their local communities.
 - Do not align with the climate change agenda (NALC has declared a climate emergency).

Consultation questions

NALC's responses to the consultation questions are as follows:

1. 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?

No. There are any number of pitfalls in adopting a standard methodology for complex planning issues. The proposed approach for generating housing numbers of taking three disparate baselines – existing stock levels, household projections and affordability ratios – appears to have been devised in order to arrive at a national headline housing figure of over 300,000 per year. But the intention is to only abide by the housing projection figures so long as they produce a figure of 300,000 or above. If they do not, they are to be dismissed as not robust.

From our perspective, developers (as the Local Government Association recently confirmed), have been given 1 million planning permissions in the last ten years which still have not been built out – so a focus should be given to rectifying that first. Local communities will feel aggrieved if they are required to surrender more land for development when existing planning permissions have not been delivered.

NALC is calling on the MHCLG to establish a housing delivery test focused on developers which requires them to build out sites for which they have planning permission - rather than allowing a punitive system which punishes local authority areas for not meeting either artificially high housing delivery numbers (or their five-year housing land supply if this measure is in fact retained) and which forces them to accept even more development.

We doubt that the government will be able to deliver on its commitment in the White Paper to build 337,000 new homes. The government should revise its aspirations to ensure they are based on the latest ONS population figures. We would point out that since 2014 ONS household projections have declined significantly whilst the government's target has escalated. We concur that more homes are needed and that there is a dire shortage of affordable homes but we cannot support the government's contention that the country requires 300,000 homes plus every year.

2. 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.

No. There are undoubtedly issues around both the baselines and the headline figure. For instance, a statement in paragraph 20 maintains that diverse housing needs are taken into account. But it is not possible to find a basis for this statement. Meanwhile, the headline figure (of 300,000 or 337,000) appears to NALC to be more or less a fixed entity, despite the fact that the ONS population figures have declined since 2014 and irrespective of future variations in population predictions or any other relevant factors which may emerge. With all the

variables that actually exist, it would be very difficult to support any standard methodology but it is not possible to support this one which does not withstand serious scrutiny.

The figure of 300,000 houses per year nationally is approximately 1.2% of national stock. Consequently, many areas would have to contribute well in excess of 0.5%. Also, the proposed new methodology does not only fail to focus development on urban areas but directs it to areas which are less sustainable and where housing is more expensive.

We also think that the requirement in the National Planning Policy Framework (NPPF) for a five year land supply for housing - needs to be amended and clarified in a way which prevents developers riding roughshod over Local Plans, contrary to the wishes of local communities, endorsed planning policies and emerging and 'made' Neighbourhood Plans. We agree with the Kent Association of Local Councils that the government should amend the 300,000 target for new dwellings as ONS population figures become available. Housing allocation across authorities is fundamental and should be agreed regionally for that reason.

3. 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.

No, on balance. The idea of trying to second guess how the economy will react in future, particularly after COVID 19, is deeply flawed, as old methods of housing need assessment will go out of the window with more and more people working from home. We would like the government to reverse the negative impact on the availability of affordable social housing caused by factors such as the reduced contribution to Housing Associations and a failure to make use of empty properties that could be used for housing for local people.

4. 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.

No. See position in response to Q.3. Also, local councils (e.g. Newport Pagnell) are telling us that such approaches may not last forever as it is not possible to predict yet what the impacts on house building from COVID 19 will be. We see this as an attempt to smooth calculation using trends, but we have the same concerns as for question 3. In our view, the proposed methodology would do little to address affordability. It merely places a lot of pressure on high value

areas where developers would restrict their build-out rates in order to keep property values high. The demand for affordable housing would not be met.

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

No. NALC supports the linking of housing need calculations to affordability but it is unable to concur with any of these three propositions or with the proposition that the housing figures which emanate from the proposed new methodology should become mandatory. The affordability formula put forward has the effect of directing the biggest increase in housing numbers to areas of high demand and high housing prices. Whilst this might improve the amount of land that is made available, it will not improve the delivery of housing.

Builders will not build out at a rate which would affect the prices they can achieve. (Oliver Letwin's 2018 review of build out rates explained that builders work to a 'market absorption rate', only constructing new homes at a pace which the local market can stand without materially affecting the market price). The need is to boost the supply of affordable tenures, not the supply as a whole. The other point that NALC would make here is that less affordable housing would be delivered if the government went ahead with the idea of exempting developments of fewer than 40 or 50 homes from having to pay the proposed new levy. See again our answer to question 3. But, for the future, MHCLG needs to consider the following factors when assessing housing need:

The real issues are where is new industry that requires close proximity to the workplace to be built?

Where will tax break incentives for this to happen take place?

How much of retail sales will move to online sales, where warehousing and logistics become far more important than proximity of people to a central shopping area?

6. 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:

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?

On balance, no. Whilst this strikes an appropriate balance between the needs of those planning authorities not already at the second stage of the strategic plan consultation process and those which are - the government must ensure that Local Planning Authorities (LPAs) can only rely on accountable and transparent evidence of housing need which they are obliged to share with local councils progressing Neighbourhood Plans. This would ensure that a failure to do so should result in the new Infrastructure Levy (IL) being payable as if relevant councils had adopted a Neighbourhood Plan. Government should be undertaking research into these questions, both to kick-start the economy and to prepare for what will be a new housing market in the future with no basis on old standard methods of assessing housing needs, that were always at best, nothing more than a guess based on past experience.

7. 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?

We do not agree. There is an element of unreality to these suggested transitional timescales. If the new methodology results in a significant change (upwards or downwards) to a local authority's housing figures, obviously, it is going to affect their need for development sites. There could also be wider impacts on other parts of the Local Plan. Are these adjustments supposed to be made without collecting further evidence and without further consultation? Certainly, the time frames proposed do not allow for either.

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

See our answer to question 6.

8. 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)

NALC does not feel able to endorse these proposals because they do not deal with the need for a range of different types of tenures to be available. These proposals are linked to the government's (apparently exclusive) commitment to home ownership as the preferred tenure despite the evidence that facilitating home ownership does not improve affordability. Shelter demonstrated in 2015 that the 'Help to Buy' scheme had added over £8,000 to the average house price and that those 'helped to buy' were able to do so at the expense of worsening the affordability situation for everyone else.

We agree with the Kent Association of Local Councils that affordable housing targets should be re-assessed and re-aggregated from a county to a regional perspective. We think that key to all housing development is the delivery of required infrastructure. GP surgeries, roads and schools should be built ahead of new housing developments – according to the government's own manifesto priorities. We also think that climate change factors and health and wellbeing factors for residents should also be considered when affordable housing targets are set. We think this also depends on existing need and demand.

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

No (the 'Changes to the current planning system' document does not appear to contain the relevant information necessary to answer this question fully). There should be a clear policy uncluttered by conditions giving ways out. One would expect the local authority to have all the facts to ensure they meet local needs for First Homes and not be governed by exemptions which could lead to fewer First Homes becoming available.

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

No (the 'Changes to the current planning system' document does not appear to contain the relevant information necessary to answer this question fully). Exemptions tend to cause confusion. The Local and Neighbourhood Plans should already have dictated the number and tenure mix required.

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

No (the 'Changes to the current planning system' document does not appear to contain the relevant information necessary to answer this question fully). Further exemptions would add to the confusion. The definition of key workers needs to be clearly thought about. From a local council perspective there are key workers too, working in leisure, parks, play areas, cemeteries, etc.

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

More detailed clarification is required around the proposed transitional arrangements. For instance, what would happen to a Local Plan submitted now? Neighbourhood Plans must reflect Local Plans. If a Local Plan is in a Regulation 19 phase - and MHCLG gives 6 months for aligning it to new proposals, the Neighbourhood Plan that must relate to the Local Plan will not be at Regulation 19 stage-equivalent, and so should be given longer (say 1 year) to bring the Plan in line. We are also asking MHCLG to expressly set out the relationship that will exist between neighbourhood plans and any new types of future spatial plans.

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

It is apparent that very high levels of discount would be required in some areas in order to bring house prices to an affordable level. This prompts the question, should significant sums be invested in this way - or would some of the money be better spent enabling affordable rented properties and / or socially rented ones? NALC also asks MHCLG to reconsider its decision to require local authorities to review their Local Plans every 5 years as this means that neighbourhood plans also have to be reviewed with the same frequency. There are capacity issues related to both types of spatial plans and, in any event, a longer period of currency would bring with it more certainty.

14. 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?

No, on balance. A mix of homes (market and affordable) seems to work well and MHCLG have imposed constraints to ensure that is the way forward by insisting on a percentage of a development being affordable etc. Allowing for the ratio of affordable to market to be reversed in this way does not seem well thought through. We are also asking for the mandatory provision of protection for parishes from speculative development during the creation of Neighbourhood Plans and greater certainty that 'made' plans will be upheld.

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

No. Any new development must, by necessity, be proportionate to the existing settlement which suggests a size limit is required. Paragraph 64 says First Home Exception Sites are small sites brought forward outside the Local Plan. MHCLG cannot refer to 'small' and then leave, undefined, what is meant by the word. The size limit should be retained. Government should change the National Planning Policy Framework (NPPF) so that local councils (and Neighbourhood Planning bodies) have the same right as promoters / developers to appeal planning decisions. Developments must have a proportion of affordable housing.

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

In the first instance, clarification is needed as to what constitute 'designated rural areas'. Communities need to understand whether they are in a designated area or not and how they would be affected. Clarification is also needed as to how exception sites would be treated within the different zones proposed in the Planning White Paper. It is understood, however, that the proposals change how exception sites would be used. Up to now, the purpose of exception sites has been to enable the provision of affordable housing by using sites that would not otherwise have achieved planning consent. But the proposal in 'Changes to the current planning system' is that small sites can be promoted outside the Local Plan for First Homes - but not for other tenures. Studies have shown that building owner-occupied housing in an area tends to cause prices to rise - and quite rapidly. Hence housing in that area quickly becomes unaffordable. There needs to be an exclusion of the Right to Buy extension to housing in rural areas and, where this is not possible, for priority to be given to land already pre-allocated by LPAs for local need.

17. Do you agree with the proposed approach to raise the small sites threshold for a time-limited period?

Only if the LPA thinks so after consultation with affected local councils. We applaud the desire to help small businesses to recover, but this approach is not right for rural areas. Furthermore there is no telling how long the COVID restrictions and their impact will last. Smaller sites making a contribution to affordable housing are more acceptable to rural communities than larger ones. Other ways of supporting SME builders with their cashflow should be considered such as subsidised loans, VAT exemption for a specified period, tax breaks. It is important not to trade off help for SMEs with a reduction in supply of affordable homes. The government should give local councils the freedom to spend what should be a statutorily fixed share of Infrastructure Levy monies (developers'

contributions) on leisure and recreation facilities – or other community facilities – as they judge to be necessary.

18. What is the appropriate level of small sites threshold? i) Up to 40 homes ii) Up to 50 homes iii) Other (please specify)

Other – see 16. We need much more affordable housing, not less. It has been estimated that if SMEs were allowed to completely forego affordable housing provision for sites of up to 50 units, it would lead to a reduction of affordable housing of between 10% and 20%. A far better way to secure employment for small builders is to make it a requirement of large build sites that a percentage of the available land is sold off to small builders, at a ‘reasonable price’ that does not see huge margins on original cost of site. However, we agree with the Kent Association of Local Councils that, as matters currently stand, authorities have to maintain a 5 year housing land supply and maintain a retrospective housing delivery test and - on the ground - the two are not compatible.

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

No. Local councils should be legally consulted on site size threshold up to 40 homes – see 16. Our view is that land banking is one of the major reasons for lack of home building, be this by developer or land ownership, and we accept that both are occurring.

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

No, on balance. Developers of large sites are taking an unnecessarily long time to build, as developers like to hold their price levels by building no more than 100 homes per year. Any new planning system should robustly counteract that by insisting that a major development site (anything over 50 homes) must be completed (not just started) no less than 3 years from the date of detailed planning application. This would ensure major developers work collaboratively with minor builders to get many more workers onto site at the same time, and would have the beneficial effect of reducing house prices.

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

No. Forty or fifty homes on one site in a small rural community is a lot and could change the character of that community. Proportionality should be a factor if this idea is introduced. Also, it has to be said that short term economic boosts for

specific sectors historically only tend to be effective for as long as the initiative lasts.

22. Do you agree with the Government's proposed approach to setting thresholds in rural areas?

NALC would repeat here a point it made earlier in this consultation response and that is that circumstances vary around the country and even within local authority areas. Consequently, it would be better to leave this matter to each LPA. Also, communities preparing neighbourhood plans need a 'breathing space' in which to plan and national planning policy and guidance must explicitly recognise this.

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

Yes – by engaging with local councils and LPAs on housing sites and allocations through neighbourhood plans. The government should be examining ways to help local authorities to deliver social housing. MHCLG must be aware that the ability for a community to shape its area through neighbourhood planning is an important part of the social role of planning. Methods of collaboration between major and minor builders can vary from a straight supply and demand agreement to purchase of land subject to conditions of build. No planning applications on adjoining sites that could share a common build should be allowed to come forward in piecemeal ways.

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

No, on balance. This should be optional for LPAs to decide whether it is appropriate case by case to remove such restrictions. Communities should always be consulted where major developments are concerned. The detailed planning stage is where the average person and Neighbourhood Plans can have the most influence.

25. 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.

Yes, on balance. A limit should be imposed and communities (including local councils) should be consulted on the size of commercial development as needed – especially in rural areas.

26. 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?

Yes. But more information is needed when consulting local councils. Without this phase important contributions to landscaping, amenities, nature of schooling, community centres, public open space and all the other very important issues for residents are ignored. These items are only touched on very briefly during the outline planning phase, so the detailed planning phase is required to ensure that places are built which people want to live in.

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

Yes. A ceiling should be set for the number of storeys a building can be built to and local councils / the community should be consulted on heights during the application process. There should also be a requirement when submitting planning applications that all plans should have dimensions for all proposed buildings, including the height above ground level, and the distance from the plot boundary. This also depends on the local character of the area.

28. 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

Both. The more publicity local councils have access to for permission in principle applications for large developments, the better.

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

NALC has no view on this question.

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

We have no view on this. But it should strike a balance between what SMEs can afford to pay and what large developers should pay.

31. 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.

Yes - but there needs to be a national housing land supply policy which does not have such a totally negating effect on so many neighbourhood plans.

32. 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.

NALC believes that permitted development rights should come within the purview of LPAs and Neighbourhood Planning Fora.

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

Our concerns are that communities and local councils will not be consulted enough; that despite the need for more balanced development – development will be excessive, that developers will simply sit on housing permissions, and quality of builds will suffer.

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

We think it will be widely used. But neighbourhood planning must be factored in here. NPs cannot be completely side-tracked by PiP. NP is the best way local councils and communities will likely have a say on housing in their communities. As MHCLG seeks to promote NP in urban areas it needs to create a direct link between NP and PIP.

35. 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?

Not that we know of.

Should you require any further information on this response please do not hesitate to contact Chris Borg, policy manager, on 07714 771049 or via email at chris.borg@nalc.gov.uk.

Yours sincerely,

A handwritten signature in black ink that reads "Sue Baxter." The signature is written in a cursive style with a period at the end.

Cllr Sue Baxter

Chairman of NALC

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