

Medway Council response to the “Changes to the Planning System Consultation”

The Government consultation “changes to the current planning system” proposes a number of changes to the planning system that if implemented would have significant implications.

Medway Council fundamentally disagrees with the premise in both the planning consultation document and the white paper that the planning system is the fundamental block to delivering housing.

It does agree that successive changes to the planning system have made it unnecessarily complex and that stripping away the complexity would be beneficial. However, this increased complexity is largely of the Governments own making and a wish to circumvent local authorities and permit housing on more land than is needed to meet commitments. The ever increasing permitted development rights may deliver housing but certainly does not meet the Governments ambition for delivering “the right housing in the right places” as a recent publication of a report highlighting the poor accommodation created by such rights demonstrates.

Medway Council also agrees that the public are losing faith in the planning system. However, it disagrees that this is because of fundamental flaws in the system, rather it is because the public, particularly in the south east, are seeing a level of housing planning permissions being granted which has not been seen for 50 years, but without the level of investment in infrastructure necessary and the front loading of delivery of that infrastructure. There is also significant concern over the poor quality of housing delivered by permitted development rights in particular and an understandable lack of understanding on why their LPA has no or limited control over its delivery. The introduction of mechanisms such as the 5 year housing land supply test and the presumption in favour of sustainable development have further undermined public confidence in the planning system. The consequence is that the anti development lobby is increasing dramatically in the south east and will remain regardless of the proposed changes to the planning system.

Medway, as a proactive and positive authority has demonstrated that high quality developments can be planned for and delivered under the current system. Rochester Riverside is highlighted in the Planning White paper quite rightly, as an exceptionally high quality development that is being delivered at pace. Medway has also recently secured £170m of HiF money towards delivering road, rail and environmental benefits to facilitate the delivery of a new expanded market town providing for a sustainable community including 10,600 houses, employment, retail, community facilities, community parks, and sports and health facilities, but all being worked up within the existing planning system.

The real block to delivery is the development industries appetite to build at a level which will affect house prices and their profit margins. Nor will issuing an excess of planning permissions address developer delivery strategies as they will manage construction rates to maintain price and profit margins. Simply put the developer retains control over their market. The Government makes no substantive proposals

to unlock this real issue through incentives or penalties and instead simply looks for more land to be allocated or granted permission in the hope that someone will build and all that achieves is to even further undermine public confidence in the system and the growth of the anti development lobby.

The summary of Medway Council's comments on the 4 areas of the consultation is as follows;

The standard method for assessing housing numbers in strategic plans

- The existing and proposed standard methods make no sense – undeliverable housing targets in Medway and the South East and a lowering of housing in the Midlands and North, at times to a level below what the development industry has been delivering in those areas.
- Household projections are too volatile at LA level to be one of only two factors to drive a standard method
- Affordability does not respond proportionate to the scale of housebuilding and is similarly unsuitable as one of only two factors to drive a standard method
- Government must recognise that the real blocks to delivery is development industries requirement to build at a level that maintains house prices and profit margins
- Standard approach should be scrapped and an alternative approach introduced that brings in a range of factors including demography and affordability along with infrastructure investment, environmental impacts and proportionality

Delivering First Homes

- Delivery of First Homes at the expense of affordable housing will reduce housing options for those households in greatest need
- First Homes should be in addition to other affordable housing provision.

Supporting small and medium sized developers

- Medway Council was at the forefront of the introduction and establishment of the North Kent SME forum and is demonstrating support for SME's.
- The requirement for affordable housing is not inhibiting SME's nor affecting viability on green field sites. The issue is the lack of registered providers wishing to take up small numbers and/or competing for those sites with SME's rather than working in partnership
- The Government needs to look at measures to facilitate RP's to work better with SME's which could include grant funding for affordable housing delivered through S106's
- Any increase in the threshold for developers to exclude affordable housing will impact hugely on delivery of affordable housing to meet the needs of the local area, potentially increasing pressure for temporary accommodation and increased homelessness.

Extension of the Permission in Principle consent regime

- Major developments are not suitable for the PiP regime as the minimal information requirements will not provide developer certainty on scale and numbers or allow permissions to be granted
- Medway Council's approach of upfront detailed pre application discussion, allied to proper engagement with Members and the local community, followed by a planning application works well and is proven in Medway to deliver planning permissions while minimising risks for developers.

THE STANDARD METHOD FOR ASSESSING HOUSING NUMBERS IN STRATEGIC PLANS

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

While Medway Council is pleased to see that the application of the new methodology for Medway would mean that our housing target would go down to a figure which is potentially achievable with delivery of infrastructure, a strong economy and a positive response from the Development Industry, Medway does have concerns regarding both the existing methodology and the inputs to the proposed methodology.

The outcome of the proposed methodology would lead to a sharp increase in the target for new housing in the south east to a level that is unachievable. This is the same concern that Medway has in relation to the existing methodology and the target for Medway which even the Development Industry advise is unachievable.

The proposed methodology would also result in a lower level of housing targets for the midlands and northern regions, which in places is less than the amount built over recent years and therefore is illogical.

Housing stock statistics are factual and based on a count and cannot be said to represent housing need.

Household projections act to reinforce recent trends which will be influenced by past decisions. They do not represent housing need and they do not ask the central question of where housing should be directed.

Projections at national or regional scale are broadly stable in outcome, at local level the outcome is highly influenced by single inputs or short term trends. This is clearly illustrated by the wide variation in growth between the 2014, 2016 and 2018 based projections.

One of the reasons for the volatility of the 2018 based projections is the application of a revised methodology to consider migration, which considers only 2 years of data, thereby heightening the influence of short term trends.

The planning for the future white paper proposes that the Government will set a binding housing requirement on individual local authorities. This will require a robust and sound process and the standard methodology as it exists or is proposed does not provide this.

Medway Council requests the Government to scrap the approach of a standard method and instead introduce an alternative approach which takes account of a range of factors to establish a robust housing requirement in consultation and engagement with local authorities. Factors should include demography and affordability but also other factors such as infrastructure investment, environmental impacts and proportionality. Household projections and affordability should not be

applied without judgement being exercised. The outcome should remain in place for a period of time and not be amended on an annual basis thus enabling a genuinely plan led system.

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

See Q1.

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

No

A median average is the middle figure, so that if all house sales were put in order of price the median would be the one at half way.

Affordability is more suitably considered by reference to lower quartile house prices and earnings. This reflects affordability for those likely to have difficulty accessing the housing market. Land registry data shows that lower quartile house prices are less impacted by the inflationary effect of house sales on average prices.

Both existing and proposed standard method utilise affordability as the sole factor to adjust the baseline input to calculate the minimum homes to be planned for each local authority. The Government logic that building a greater number of homes improves affordability is demonstrably flawed.

Land registry data is clear that greater levels of house building have not acted to stabilise or reduce house prices. While house building will have some impact, it is clear that house prices and affordability are influenced by a range of factors including developers business strategies to manage house prices and profit margins.

Affordability cannot be addressed simply by building more. The Government must consider real and workable ways to address the need for homes. This means recognising that Councils currently build proportionally few homes and that the development industry act in the interests of their shareholders and will not build if it harms profits nor will they accelerate delivery for the same reason. The Government should focus on delivering innovative housing products through local authorities or other agents.

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a period of time and not be amended on an annual basis thus enabling a genuinely plan led system.

There is an increasing trend in working from home and more flexible working patterns which has increased during covid-19. This makes consideration of residence based earnings of increasing relevance compared to workplace based earnings. The consultation document states that the Government considers workplace based earning statistics to be more appropriate than residence based, but provides no explanation on how they have reached that conclusion.

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

Yes.

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

No

There is too much emphasis on affordability. Focusing pretty much solely on affordability is focusing development towards 'hotspots'. This is not sustainable in the medium to longer term.

Do you agree that authorities should be planning having regard to their revised standard method need figure, from the publication date of the revised guidance, with the exception of:

Q6: Authorities which are already at the second stage of the strategic plan consultation process (Regulation 19), which should be given 6 months to submit their plan to the Planning Inspectorate for examination?

Q7: Authorities close to publishing their second stage consultation (Regulation 19), which should be given 3 months from the publication date of the revised guidance to publish their Regulation 19 plan, and a further 6 months to submit their plan to the Planning Inspectorate?

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

Yes

DELIVERING FIRST HOMES

Q8: The Government is proposing policy compliant planning applications will deliver a minimum of 25% of onsite affordable housing as First Homes, and a minimum of 25% of offsite contributions towards First Homes where appropriate. Which do you think is the most appropriate option for the remaining 75% of affordable housing secured through developer

contributions? Please provide reasons and / or evidence for your views (if possible):

- i) Prioritising the replacement of affordable home ownership tenures, and delivering rental tenures in the ratio set out in the local plan policy.**
- ii) Negotiation between a local authority and developer.**
- iii) Other (please specify)**

Whilst recognising that First Homes will potentially meet the needs of a sector of our residents, 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 for those households in greatest need. It is the view of Medway Council that it should be for Local Authorities to set out the affordable housing tenure expectations that best meet the needs in their local areas. It is at local level that assessments of needs have been carried out which should inform these expectations.

If the Government insists that First Homes should be a requirement in affordable housing then this should be in addition to the affordable housing required by LA's.

If however, the Government is insistent that First Homes should be as proposed in the consultation paper, then in answer to the question about the remaining 75% Medway Council considers that this should be determined in negotiation between LA and developer in order to meet Locally Assessed Housing Need. An emphasis should be placed on the delivery of Social rented or affordable rent (capped at Local Housing Allowance) units, in order to reduce financial pressures associated with placing households in temporary accommodation and those awaiting housing on LA waiting lists.

With regards to current exemptions from delivery of affordable home ownership products:

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

Yes the exemption should apply

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

N/A – see answer to Q9

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

No additional exemptions are required, as long as the wording “unless this would.... Significantly prejudice the ability to meet the identified affordable housing needs of specific groups” (paragraph 64) is retained. Loss of this wording would unacceptably limit local flexibility and may result in the need for further exemptions to be established.

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

Yes in principle. This should allow LPA’s the option to review tenure mix of any schemes where advice has already been given but if the LPA decides that the previous requested tenure mix remains appropriate then the scheme should be progressed on that basis reducing risks of delays in delivery.

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

Yes in principle. Requiring 25% of all affordable housing provided to be first homes sold at 30% discount will impact on our ability to meet our local housing need. However significantly increasing discount could impact on delivery of shared ownership units secured through a planning obligation which in turn would impact the delivery of social and affordable rented tenure units which are cross subsidised by the shared ownership units. Therefore the discount level for First Homes should be tested through the Local Plan making process

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

No

It is the view of Medway Council that any decision on the most appropriate affordable housing tenure for those sites should be made at Local Authority level based on local needs and affordability – with First Homes as one of the options for consideration.

We agree with the option of providing a small proportion of market housing but only in exceptional circumstances based on viability and the onus must be on the applicant to demonstrate why this is necessary based on viability considerations only.

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

No

The removal of the threshold limit could allow for substantial developments to come forward without any reference to Local Plan policy, since exception sites are only required to reference policy in the NPPF or local design policies. This could significantly undermine the adopted Local Plan and the plan led approach to development set out in national legislation and guidance.

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

Yes

SUPPORTING SMALL AND MEDIUM –SIZED DEVELOPERS

Q17: Do you agree with the proposed approach to raise the small sites threshold for a time-limited period?

No

Medway Council strongly objects to the proposal to raise the threshold at which contributions to affordable housing can be sought, particularly given the government's emphasis, rightly, on the need to address affordability elsewhere in the consultation document.

Medway is very supportive of the retention and growth of SME's and indeed was at the forefront of developing the North Kent SME forum which is now chaired by a rep from an SME and is growing in numbers and is making a difference both to delivery of SME schemes in North Kent and also to positive engagement between SME's and LPA's.

However, the feedback from that group is that viability is not the reason for the struggle to deliver affordable housing on small green field sites (less than 50 units). It is the fact that registered providers are not currently interested in taking small numbers of S106 affordable housing in such sites or make offers that are financially inappropriate. It is this issue that MHCLG need to tackle as delivery of affordable housing on such sites, that are often on edge of settlements and villages is important to meet local housing needs. Options such as allowing grant funding to be available for S106 affordable housing products would be a better way of addressing this issue.

In addition these SME's are often competing with RP's for these smaller sites and the SME often loses out. There needs to be found a way to facilitate the SME and RP's to work together better on delivery of such sites. Increasing the threshold will only force up land values and as such will benefit no one but the land owner.

Despite the Secretary himself being on record (through appealed developments) as placing significant weight on the provision of affordable housing, securing affordable housing is being made substantially more difficult through changes to the planning system such as the irrational and continued expansion of permitted development rights and the vacant building credit. In that context a 7-20% reduction in affordable housing is not acceptable and will result in more households being placed in temporary accommodation and even worse increase rough sleeping and homelessness.

In addition the move to reduce the potential supply of affordable housing is not justified by the current economic position, where (as advised) provision is viable and could be deliverable if the alternative action were taken in relation to RP's.

Notwithstanding that, local planning policies do allow for viability to be considered at application stage and therefore there is no justification or requirement to raise the threshold which will negatively impact on delivery of affordable housing.

A further unintended consequence of this proposal would be for developers to ensure that sites are designed to limit numbers to below the threshold and therefore not necessarily developing sites in the most efficient and effective manner and therefore impacting on potential housing delivery numbers.

Q18: What is the appropriate level of small sites threshold?

i) Up to 40 homes

ii) Up to 50 homes

iii) Other (please specify)

See answer to question 17, Medway Council strongly objects to the proposal to raise the threshold. National policy should not prevent LPA's from seeking delivery of affordable housing (or contributions) for any size of site if it can be justified by evidence.

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

No – Medway Council strongly objects

See answers to Q17 and 18

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

No – Medway Council strongly objects.

See answers to Q17 and 18

However, if it is to be introduced it should come with a clear presumption that the threshold will expire automatically after 18 months. Any extension to that period must be subject to further consultation and based on evidence. There is a perception that changes to the planning system are NOT based on evidence as demonstrated by the recent expansion of permitted development rights on the same day as a report highlighting the poor accommodation created by such rights!

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

No – Medway Council strongly objects

See answers to Q17 and 18

It is agreed that where a threshold exists there should be measures to minimise the effects of this threshold by preventing sites from being artificially divided.

Q22: Do you agree with the Governments proposed approach to setting thresholds in rural areas?

No

Medway Council believes that there should be no artificial distinction between urban and rural parishes and that in both instances LPA's should have the ability to set suitable thresholds for any size if it can be justified by evidence. This stance supports the emphasis elsewhere in the consultation document on the need to address affordability.

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

A better solution would be to review the availability of grant funding for affordable housing secured through S1006's and thereby make the sites more attractive to RP's to work in partnership with SME's.

EXTENSION OF THE PERMISSION IN PRINCIPLE CONSENT REGIME

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

No

Permission in principle (PiP) rarely offers any clear advantages over more traditional routes to development, such as outline and reserved matters, or pre application advice followed by a full application.

In consultation with developers in Medway on the poor take up of PiP's the answer is clear that they do not provide the certainty that applicants/developers need in terms of scale and numbers. Experience shows it is rarely possible to divorce consideration of principle of land use and amount of development from detailed consideration of some of the key issues such as contamination, flood risk, biodiversity, transport impacts, character, trees and heritage.

The current NPPF very much encourages positive pre application engagement with LPA's and the appropriate use of PPA's and this is very much the route advocated by Medway Council and our applicant/developer customers.

Q25: Should the new Permission in Principle for major development set any limit on the amount of commercial development (providing housing still occupies the majority of the floor space of the overall scheme)?

Yes

In answer to Q24 Medway Council objects to the extending of the PiP to major developments

Notwithstanding that, should the Government proposal stand, it would be reasonable to establish guidelines on the level of commercial development that could be considered through a PiP. This would best be done as a proportion of the total development, rather than floorspace and therefore responding to different scales of development.

As larger scale mixed use developments are more likely to have impacts beyond the immediate locality of the site which will then require testing (e.g. retail impacts) it is suggested the proportion should be around 20% of the total development.

Q26: Do you agree with our proposal that information requirements for PiP's by application for major development should broadly remain unchanged? If you disagree, what changes would you suggest and why?

In answer to Q24 Medway Council objected to extending PiP to major developments.

The minimal information submitted at PiP stage will rarely be sufficient to establish the principle of the location, land use and amount of development. Larger scale developments are more likely to have impacts beyond the immediate locality of the site which will require testing. This underlines why it is not logical to extend PiP to major developments.

Furthermore, if the amount of information to be submitted at PiP stage were to be extended, the 5 week timescale would not be sufficient to assess it while the 2 week period for consultation is also likely to be insufficient.

Q27: Should there be an additional height parameter for PiP's ? Please provide comments to support your views.

In answer to Q24 Medway Council objected to extending PiP to major developments.

The minimal information submitted at PiP stage will rarely be sufficient to establish the principle of the location, land use and amount of development.

The issue of height illustrates the difficulties with using the PiP process. Height is often a key factor in the consideration of PiP's in established built up areas. Height is also a key determinate of the amount of development that can be achieved on site. Sensitivities on site include impacts on the historic environment (particularly key in Medway), townscape and landscape (again key in Medway), air traffic, climate and energy efficiency and daylight. For many sites principle cannot be divorced from considerations of height. Therefore height should be considered at the PiP stage rather than technical details.

However, if height is included the 5 week consideration period is inadequate. This is because height brings the likelihood of needing to consider daylight and sunlight

assessments, wind effects, impact on heritage assets, and townscape and landscape visual impact assessments, while there is also likely to be considerable local representation raising comments that can only be answered through consideration of the assessments needed.

The issue of height demonstrates why PiP should not be extended to major developments.

Q28: Do you agree that publicity arrangements for PiP by application should be extended for large developments? If so should LPA's be:

- i) **Required to publish a notice in a local newspaper?**
- ii) **Subject to a general requirement to publicise the application or**
- iii) **Both?**
- iv) **Disagree**

If you disagree please state your reasons.

Medway Council supports option ii)

Advertising in local newspapers and rarely represents value for money as these days relatively few members of public use that as a way of being notified of an application.

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

No.

While this does reflect outline application fee arrangements, a flat fee based on hectare is unlikely to reflect the complexity of consideration of a proposal and a flat fee may fall significantly short of covering the costs of assessing an application.

Q30: What level of flat fee do you consider appropriate and why?

Current PiP fees are below the equivalent outline application fee. The fee should avoid a significant incentive to use a PiP route rather than outline where an outline application may well be the most appropriate approach. Maybe a similar approach to major applications may be the most appropriate.

Q31: Do you agree that any brownfield site that is granted PiP through the application process should be included in part 2 of the Brownfield Land Register? If you disagree please state why.

Yes

Q32: What guidance would help support applicants and LPA's to make decisions about PiP's? Where possible please set out any areas of guidance you consider are currently lacking and would assist stakeholders.

Guidance is not the issue

As previously stated, the issue with PiP's is that the information at application stage to justify the location, land use and amount of development will be lacking for more complex sensitive sites. Due to this an applicant/developer may have to reduce the development capacity of a site to provide sufficient confidence that impacts will be acceptable. Extending PiP to major developments will simply increase this problem.

National guidance will not resolve this issue unless it expands the minimum requirement for submission and in which case the timescales for consideration will need to be extended. Expanding should at the very least include desk based analysis of the relevant issues such as contamination, flood, archaeology, noise etc.

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

Responses to previous questions make clear the issues – level of information required, timescales for determination and application fee.

Without significantly greater information requirements for major applications for PiP's it will often simply not be possible to agree the principle of development

A 5 week timescale is insufficient to assess the information requirements for major schemes and the application fee MUST reflect the costs of assessing the information.

A PiP rarely offers any advantage over the more traditional routes to development such as outline and reserved matters or pre application advice followed by a full application.

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

A PiP rarely offers any advantage over the more traditional routes to development such as outline and reserved matters or pre application advice followed by a full application.

Upfront detailed pre application discussion and engagement with the local community followed by a planning application works well and delivers a planning permission whilst minimising risks for the applicants at the earliest stage. It is not clear what advantage PiP offer over the current system.

If a PiP were set at significantly lower fee than an outline application, it is possible there may be more applications, but with the minimal information required it is unlikely that it will often be possible to grant PiP in most cases, which will only serve to place more costs on the applicant and lead to further delays.

SECTOR EQUALITY DUTY

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

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

Medway Council has no comments in response to this question.