

**ALTERATIONS AND ADDITIONS TO CHELMSFORD POLICY BOARD**

**1<sup>ST</sup> OCTOBER 2020**

**AGENDA ITEM 5**

**CONSULTATION RESPONSE TO GOVERNMENT'S PLANNING WHITE PAPER**

The following is likely to be proposed by a member of the Liberal Democrat Group during the consideration of this item:

That the proposed consultation response to the White Paper "Planning for the Future" set out in Appendix 1 be approved, subject to any amendments made at the meeting and changes the Director of Sustainable Communities and the Cabinet Member for Sustainable Development consider necessary to finalise it, and submitted to the Ministry of Housing, Communities and Local Government;

That the proposed consultation responses should be amended to reflect and emphasise concerns that the proposals in the White Paper will:

- (a) Reduce public engagement and consultation in the production of Local Plans and reduce or remove the right for residents to object to subsequent planning applications near them.
- (b) Grant automatic planning permission for developers to build on land identified as 'for growth'.
- (c) Remove section 106 payments and the Community Infrastructure Levy for infrastructure and their replacement with a national levy which will almost certainly be to Chelmsford's disadvantage.
- (d) Increase the number of dwellings required to be built in the future per annum from 805 in the Local Plan adopted this year, which was locally assessed, to in excess of 1,500pa using the Government's new national method, a 94% increase.
- (e) Reduce the delivery of more genuinely affordable housing whereas the focus should be on accelerating that delivery to meet the increasing demand.
- (f) Water down the importance of environmental assessments and not sufficiently take into consideration the provisions in the Climate Change Act 2008 that address carbon dioxide emission standards for future housing stock.
- (g) Put at risk archaeology and heritage by undermining pre-commencement archaeological conditions.

That the three Members of Parliament for Chelmsford be urged to oppose those proposals in the White Paper about which the Council has concerns, as set out in (a) to (g) above, and their responses be circulated to members.

That Parish Councils and residents of Chelmsford be informed of the concerns of the Policy Board described in (a) to (g) above.

That the public be informed that the Policy Board is of the view that they should continue to have their full say in the planning process.

### **Response to technical consultation - Changes to the Current Planning System**

The consultation closing date for the Changes to the Current Planning System is the 1<sup>st</sup> October. Therefore, the Director for Sustainable Communities in consultation with the Cabinet Member for Sustainable Development have submitted the City Council's response to this consultation which is set out below:

***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?***

Yes, because stock does not vary significantly unlike a household projections-only approach. The latest 2018 Household Projections do provide lower household growth than the previously used 2014 release, albeit this does not result in the overall reduction of national annual housing requirement because it forms proportionately less of the overall need number than the current standard method does.

***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.***

Yes

***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.***

Whilst it is important to balance the needs of the workforce, it is also relevant to consider the large role existing residents play in market moves and the degree to which housing market adjustments using workplace based ratios are more 'over-represented' in the algorithm in areas close to London over the longer term. In order to achieve the Government's 'levelling up' agenda, it might be more appropriate for some locations in the South East to use median resident based earnings ratios, whilst the workplace earnings ratios are retained for those areas that are considered regional focal points of inequality in the levelling-up programme; but only if the longer-term view is taken and a 10 year affordability adjustment retained.

**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.**

The affordability adjustment over a 10-year period considers the period just after the last recession which is not representative. Were a 5-year time period included, the adjustment would still require significant increases in the housing required but more realistic delivery targets for landowners, developers and the housing supply chain to achieve. A five-year timescale should retain workplace-based median house price to median earnings ratios.

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

The City Council recognise that there is a national housing crisis and delivering more housing is an essential response to this. Where local planning authorities such as Chelmsford have ensured the planning system has allocated enough land to address its housing needs, the issues around the delivery of the required housing at a rate to address housing needs should be explored more in terms of the provision of essential infrastructure required to support the housing requirements; in addition to the two pronged approach to addressing affordability, which focuses on the identification of the housing requirements and the annual Housing Delivery Test. The impact of the proposed short-term adjustment to the standard method for establishing minimum housing requirement figures results in a 93% increase on the current housing requirement in Chelmsford contained within a Local Plan adopted in May 2020. It produces a figure of 1,558 net new dwellings per year which hasn't been achieved in the last 19 years a period, despite continuous development plan coverage. Annual housing delivery has only ever exceeded 1,000 dwellings per annum on four occasions since 2001/02. Chelmsford was an early adopter of the Local Development Framework and has recently adopted a new Local Plan for the period 2013 – 2036 (May 2020). Therefore, investment in infrastructure delivery is critical to support the proposed step change in housing delivery.

**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?**

This will depend on the impact of the proposed change. The guidance should be clear that recently adopted Local Plans will not be affected by this change if less than five years old and the standard method would only be considered the housing requirement in the context of reviewing a Local Plan. The revised guidance should not trigger a review of a Local Plan and potentially slow delivery of housing in an area with an up to date Local Plan.

**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?**

This will depend on the impact of the proposed change. The guidance should be clear that recently adopted Local Plans will not be affected by this change until they are due to commence their 5-year review of their Local Plan. The revised guidance should not trigger a review of a Local Plan and slow delivery of housing in an area with an up to date Local Plan. **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)**

The replacement of affordable home ownership tenures and delivering rental tenures in the ratio set out in the local plan policy is the best approach to ensure that the planning system continues to meet local housing need in the proportions set out in the Local Plan and locally evidenced. This approach provides more clarity for developers as to what constitutes a policy compliant development and would reduce negotiation that can slow the development process. In Chelmsford, this would protect the provision of affordable housing for rent secured through planning obligations at the current level required to meet identified housing need. However, the corresponding reduction in shared ownership housing could reduce Registered Providers' role in the intermediate market. Many Registered Providers use staircasing receipts to deliver additional affordable homes therefore their investment in new homes could be cut back.

**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?**

Exemptions should continue to apply to 100% affordable housing schemes and self-build housing.

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

Market specialist housing for older people (sheltered housing) and build for rent which generate significantly higher market returns.

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

No.

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

If the replacement of the affordable homes ownership tenures approach is retained, then the transitional approach seems reasonable. The flexibility where significant work has already been undertaken to progress planning applications based on a different tenure mix of

affordable housing to allow First Homes to be substituted for another tenure, either at 25% or a lower proportion, is also welcome.

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

Because the new product is predicated on discounts from the open market, its role will vary dramatically across the country. A 30% discount to Open Market Value still leaves the homes very expensive in Chelmsford and hence most people buying First Homes will be those who currently stretch their finances (possibly with help from ‘the bank of mum and dad’) to buy market homes, not those who are currently renting or utilising shared ownership housing. The result will be a reduction in the supply of new shared ownership housing with no reduction in the demand for this affordable home ownership product. Shared ownership is accessible to a wider range of households because the deposit and borrowing requirements are lower. It is logical that a higher discount should be tested through the Local Plan because of the assumptions made in the viability testing of our Local Plan policies; but this will not be the case everywhere.

***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, the introduction of the possibility of market housing raises expectations regarding land values and generates viability issues.

***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 site size threshold raises expectations regarding land values and undermines the Local Plan process in communities.

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

It is not clear what ‘designation’ the consultation is referring to. It will only protect the provision of rural exception sites in a minority of areas if it is the same designation that applies to the relaxation of the national threshold - the only relevant areas for S106 threshold purposes are those set out in section 157 of the Housing Act 1985 (National Parks, Areas of Outstanding Natural Beauty and areas designated as rural for the purposes of Right to Buy by the Secretary of State) – of which there are none in the administrative area of Chelmsford.

Chelmsford has identified the promotion of entry-level exception sites to help meet our priority housing needs and deliver additional larger affordable housing for rent as a priority. The re-casting of national planning policy in favour of First Homes will make this priority difficult to deliver unless the flexibility regarding other affordable housing tenures is realised in the revised national policy and isn’t confined to the localities in which they are situated i.e. the strong evidence of local need remains ‘district-wide’.

***Q17: Do you agree with the proposed approach to raise the small sites threshold for a time-limited period? (see question 18 for comments on level of threshold)***

No, on the contrary affordable housing can provide an essential supply of housing in a fragile housing market, whilst providing guaranteed cashflow for SME builders. The perceived benefit of even a temporary reduction in the affordable housing 'burden' on SME builders will be negated by increased expectations regarding land values and ultimately increase calls on the Exchequer, via MHCLG, for assistance to support the extra costs created. Chelmsford is already exercising existing flexibilities around enforcing CIL, in advance of changes in the regulations to defer CIL payments and disapply the obligation to charge late payment interests in order to help SME developers.

This proposal would reduce the impact of the potential extension of the reformed Infrastructure Levy to capture development carried out through change of use and permitted development rights – which typically in Chelmsford fall within the 40-50 dwelling range. Any reduction in the delivery of affordable housing for rent, however temporary, will have a detrimental impact on a local housing authority's ability to meet their statutory housing obligations.

**Q18: What is the appropriate level of small sites threshold? i) Up to 40 homes ii) Up to 50 homes iii) Other (please specify**

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Other - retain the current national site threshold of 10 homes for the reasons stated in our answer to question 17 above.

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

Site size thresholds don't always apply outside of the urban area in the same way for same typologies of development. It is not possible to comment without the proposed site/size for the 40 -50-unit threshold, nor the method for scaling up the site size threshold 'proportionately'.

**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, please see our response to question 17 above.

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

Yes, if a larger threshold is brought forward, it is critical that national policy is clear that where developers attempt to bring forward larger sites in phases of up to 40 or 50 homes, and it is apparent that a larger site is being brought forward, that contributions for affordable housing will apply.

**Q22: Do you agree with the Government's proposed approach to setting thresholds in rural areas?**

This approach only protects the provision of affordable housing in a minority of areas which contain designated rural areas, of which there are none in the rural areas that fall under the administrative area of Chelmsford City Council.

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

The government currently has several initiatives through the planning system that seek to assist SME developers. In addition to policy interventions, a better way to help SMEs would

be to use Homes England to encourage investment in affordable housing in a way that supports smaller sites and SME developers.

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

Chelmsford City Council have no objection in principle to the restriction on major development being removed. In our experience however, the regime has not been taken up by developers. We would therefore question the need to extend the Permission in Principle (PIP) regime further. We have only received 2 applications for PIP since it was introduced, with both being dismissed at appeal. It is our understanding that the lack of take up to the regime is not just limited to Chelmsford, and that it has not been widely used nationally. In locations such as Essex where a strategic approach to addressing the impact of development on the protected wildlife sites on the Essex coast, all development of more than 1 dwelling requires Appropriate Assessment which would negate the use of PIPs.

**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 floorspace of the overall scheme)? Please provide any comments in support of your views.**

Chelmsford City Council agrees that there does not appear to be a need to restrict the amount of commercial development as schemes would still need to be housing-led (the overwhelming proportion of the scheme is residential) in order to be granted. Any scheme that was not housing-led could be refused Permission in Principle under the consideration of 'use'.

**Q26: 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?**

One of the key difficulties with considering applications for Permission in Principle is the lack of detail that is required. This is particularly the case when establishing whether the 'amount', the range, of housing (and other development) proposed could be accommodated within the site. It is the view of CCC that granting Permission in Principle for a range of development without any indication of whether that range could be accommodated on the site does not provide greater certainty for developers. For this reason, CCC would suggest that as a minimum an indicative site plan should be provided to assist in ascertaining whether the proposed range of development could be accommodated.

**Q27: Should there be an additional height parameter for Permission in Principle? Please provide comments in support of your views.**

Chelmsford City Council would support a height parameter for Permission in Principle for the reason set out in the answer to Q26. A height parameter would give more certainty.

**Q28: 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*

***If you disagree, please state your reasons.***

PIP applications should be subject to general requirements to publicise an application. Chelmsford City Council are of the view that the requirement to publish a notice in a local newspaper no longer reflects advancements in technology or the way in which people would want to be notified of applications. We are of the view that this requirement should be reviewed for all types of applications. Given the shorter determination periods given for PIP applications consideration should be given to the requirement to publish notice of an intended application before it's submission to the local authority.

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

Chelmsford City Council believe that approach (c) would appear to be the fairest and most appropriate to ensure that larger scale applications, which would also attract greater requirements for publicity, would attract a higher fee. CCC agree that approach (b), a fee based on the number of dwellings, could not be implemented.

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

CCC consider that the current fee of £402 per 0.1 hectare would be appropriate for sites up to 2.5ha in size. This would reflect the more limited scope of considerations when compared to applications for outline planning permission, albeit ensure that the fees are not too dissimilar as the same level of processing and publicity is likely to be required. Following this, a fee for PIP applications on sites greater than 2.5ha should start around £11,000 to reflect the current starting fee for outline planning applications.

***Q31: 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. Not including sites on a Part 2 register would result in a confusing system. Any sites granted Permission in Principle, whether through the application process or through moving sites from Part 1 to Part 2 should be included for consistency.

***Q32: 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.***

Chelmsford City Council considers that one of the most challenging elements of an application for Permission in Principle is deciding whether the site could be developed for the proposed amount of development when having regard to statutory duties (such as those relating to Conservation Areas and Listed Buildings) and national planning policy objectives (such as preserving the openness of the Green Belt and avoiding adverse impacts on ecology). These tests cannot be properly considered in the absence of an indication of scale and layout of the proposed development. Details of a development often indicate whether it is acceptable in principle. Chelmsford City Council would welcome guidance on how these issues can be dealt with in the context of Permission in Principle.



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

Chelmsford City Council is of the view that whilst the proposal to remove the restriction on major development for PIP applications would not add any additional burden on the Council, the worth of PIP consents should be fully considered. It is our view that PIP consents do not provide sufficient clarity for developers about how much development could be achieved on a site. The limited considerations of location, use and range of amount do not provide sufficient clarity to avoid new issues and considerations (such as affordable housing, access requirements, ecology and heritage matters) being introduced for the first time at the Technical Details consent stage. These considerations can have a great impact on the viability or acceptability of a scheme. As such it is the Council's view that PIP consents can generate a false sense of what may be achievable and deliverable on a site.

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

Chelmsford City Council has only received 2 applications for Permission in Principle. Our understanding is that nationally uptake has been low. This could be as a result of the lack of certainty described in our answer to Q33. For these reasons, and based on our experience, we believe it is unlikely that an expanded Permission in Principle application route would be used.