
Elmbridge Borough Council - Response to Government's Changes to the current planning system consultation (August 2020)

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?

No. The Council does not support this proposal.

The Government's proposal would mean that those areas that have taken significant levels of growth in previous years would show as having a greater housing need and would result in a continuation of existing development patterns without regard to social and environmental factors. The Council is unclear why housing stock levels have been used as a new element for calculating housing need except to artificially inflate housing numbers. The Council would therefore question whether this is a good indicator of future housing need.

The proposed new standard method results in a growth in housing need in the Borough (623 dpa to 774 dpa) which will be increasingly challenging to meet within our existing urban areas given environmental and policy constraints to our housing land supply.

The Council's position is that the amendments to the proposed methodology are a continuation of the Government's 'number game' and the overall ambition of providing 300,000 homes per annum, regardless of the cost to individual local authorities and their communities.

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.

No. It is not clear how 0.5% has been chosen as an appropriate proportion and therefore on what basis it has been justified as a relevant factor for calculating housing need.

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. The Council disagrees with the continued use of workplace-based median house prices to median earnings ratio.

Whilst the Government's rationale for this is understood i.e. seeking to ensure those who work in an area can afford to live there, this approach places an over reliance on the assumption that people wish to live and work in the same area. There appears to be no robust evidence that supports this assumption. The use of work-place earnings also completely ignores functional relationships and reality that, in areas such as Elmbridge, resident earnings are higher due the accessibility of the London employment market. Also, in light of the COVID-19 pandemic, it is evident that there is a shift towards more flexible working patterns including working from home.

On this basis, it is considered that the calculation should be based on residence-based earnings. In addition, it is considered that this should be based on the average **household** earnings as opposed to taking into account the earnings of an individual.

In terms of median house prices, the use of this data as the basis of the calculation in areas such as Elmbridge, is unfortunately overinflated by distinct areas where house prices are not representative of the wider area. For example, between the period 1 April 2019 and 31 March 2020, the Land Registry Price Paid Data reveals 2,251 residential transactions in Elmbridge Borough. Looking at the total value of sales during this period, the data shows that over 50% of the value is generated from only 25% of sales. Over 432 transactions (approx. 20%) were for £1m or above, the highest being for £9.7m. This data clearly shows a distortion of the market. In the case of Elmbridge, the actual 'average' property that would be accessible to the vast majority of the market, would be well below this distorted average. It is therefore considered that the use of lower quartile property prices would be more appropriate, or a threshold is set where local authorities can remove the upper quartile value properties e.g. the highest 25%, and then recalculate the adjusted median average house price.

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.

No. Whilst the Council recognises that this measure indicates whether affordability has improved or worsened, there may be a number of reasons why affordability has changed in recent years including for example, regeneration of urban areas or new settlements which initially command higher new build prices than existing stock. Including adjustments for both current affordability issues and additionally for changes in affordability over time appears to be making two adjustments for essentially the same issue.

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

No. The Council considers that the weighting given to affordability is too high in particular the multiplication of the difference between the latest affordability ratio and the ratio 10 years ago by a factor of 0.25. Current affordability issues are already adjusted

for in the previous step in the calculations and the Council does not consider that this additional uplift is justified in view of the uplift that has already been included for current affordability.

For example, on the basis of the figures used in Steps 1 – 3 (as proposed) the need to provide 455 homes per annum in Elmbridge is attributed to the double-stage affordability increase (Step 2). 455 homes per annum is 61% of the total number of homes needed in the Borough (744 pa) as prescribed by the proposed amendments. In addition, the Government's proposals continue to incorrectly assumes an unproven / outdated link that by simply boosting housing land supply, affordability in the market will be improved.

The Council maintains its objection that affordability is not a true measure of housing need. It fails to take into consideration other social and environmental factors. Other factors such as levels of deprivation and homelessness would be a more accurate measure of housing need.

Research published by Professor Geoffrey Meen of Reading University (Policy approaches for improving affordability, 3 September 2018) continues to stress that, *“in order to have a significant effect on affordability – however it is measured - increases in supply have to be long-lasting and large... Most reports that advocate supply increases as the solution fail to provide quantitative estimates of the necessary changes or to consider adequately the feasibility of the changes. As a guide, a 50% increase in the number of housing starts in England for ten years compared with current levels might improve affordability, measured by the price to income ratio, by about one point”* (page 28).

Attention is also drawn to the Letwin Review and findings on absorption rates - the number of homes developers build at any one time on sites is limited to prevent a glut driving down prices. There is no evidence to support the view that releasing additional land will result in accelerated delivery or a significant reduction in the cost of new housing.

If the Government wants to increase affordability, the focus should be shifted towards realistic methods of delivery as opposed to theoretical numerical modelling. For example, the Government should rescind restrictive actions in relation to the provision of affordable housing on small sites and the application of Vacant Building Credit. The Government should also abandon its proposal of temporarily banning local authorities from collecting affordable housing units on sites of less than 40 (or potentially 50) units.

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?

The Council does not agree that authorities should be preparing a local plan having regard to the revised standard method need figure from the publication date of the revised guidance.

Reading this consultation document alongside the Housing White Paper, it is understood that the Government is proposing to publish a set of binding housing requirements having regard to the constraints within each local authority area. Given the stage of the Elmbridge Local Plan (approaching Regulation 19) it would be more effective for the Council to understand the likely binding housing requirement in preparing its plan rather than allocate resources to re-examine its evidence base and exploring how an increase in its housing figure through the revised methodology could be met.

Whilst it is understood that the Government promised to review the temporary changes agreed to the standard methodology in February 2019 it is absurd that an interim change is being proposed ahead of and yet at the same time as consulting on the fundamental changes to the planning system in the White Paper. It appears as if this workstream has carried on regardless of the accelerated White Paper workstream. If the Government wants to provide certainty and to ensure progress on Local Plans underway these interim changes should be abolished ahead of the White Paper changes and the binding housing figures

Nevertheless, if the Government does proceed with this approach then those authorities that are at Regulation 19 should be given the opportunity to have their plans examined within a reasonable period without having to apply the revised method.

Where the proposed method results in a higher housing number, it is likely that developers will use the suggested approach outlined in this consultation as a vehicle for arguing that further sites should be released. If transitional arrangements are to be meaningful, the Government and Planning Inspectorate must support Authorities that submit on the basis of calculations that draw upon the current method and data.

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)

For areas such as Elmbridge, house prices are well above the national average, therefore even with First Home scheme discounts, it would not be feasible for large sections of our local community to purchase discounted market housing or, due to viability there would be little opportunity remaining to deliver other types of affordable housing tenures.

Housing delivery is also heavily skewed towards small sites (less than 10 units) in Elmbridge which, coupled with the Government's proposals to increase the small sites threshold to 40 or 50 units, means that the delivery of First Homes will also be significantly restricted let alone other forms of affordable homes for which there is a higher need.

The Council considers that if First Homes is implemented as proposed then the most appropriate option for the remaining 75% would in the first instance to reflect current local plan policy (option i) with any future approach to be determined through a Local Plan review having regards to the introduction of First Homes and priorities for local housing needs. This Option would minimise delays in determining applications. This is subject to an affordable housing policy remaining within Local Plans in the proposed new Local Plan system.

Q9. 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?

The Council has no objection to existing exemptions including those relating to Build to Rent, and specialist accommodation for those with special needs applying to First Homes.

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

No further comments.

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

No further comments

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

The consultation proposals are unclear as to whether the transitional period will start from the date of new planning policy or relevant legislation and this should be clarified. Due to the stage of the Local Plan, Elmbridge needs clarity on the need to include the requirement for First Homes in emerging Policy.

The Council is concerned that little reference is made to the additional resources that will be required by local authorities to implement First Homes and measures will need to be in place to ensure that this initiative is properly resourced.

With regards to the progress of planning applications, the Council welcomes the flexibility to seek alternative mixes, in line with adopted policies and evidence where significant progress has been made. No guidance is given as to the approach to large sites, for example with outline permission and to be brought forward over a number of years in phases and it would be helpful if this could be clarified.

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

The Council supports the ability to be able to set a higher discount based on local circumstances.

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?

The Council considers that in order to maximise affordable housing that a proportion of market housing should only be allowed where it can be demonstrated that the site is not viable without it.

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

The Council has no objection to the removal of the site size threshold but would suggest that Local Plans define what would be proportionate.

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

The Council has no objection to First Homes Exception Sites not applying in designated rural areas. However, it is concerned that in other rural areas such sites would command a higher land value than rural exception sites resulting in fewer opportunities to provide affordable rented schemes.

Supporting small and medium sized developers

For each of these questions, please provide reasons and / or evidence for your views (if possible):

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

No.

The Council recognises the importance of small and medium sized builders (SMEs) and that the intention of the proposals is to protect them as a source of housing delivery. However, if the proposals are implemented there will be significant negative consequences for local residents who are in housing need, particularly in localities such as Elmbridge. It would also cut off an important funding stream for small builders who regularly use affordable housing to forward fund developments given the difficulties small builders have in borrowing.

There is a significant need for affordable housing in Elmbridge which, coupled with our limited land supply and reliance on small sites, means that every opportunity must be taken to secure the provision of affordable homes. Securing affordable housing is already being made substantially more difficult through the planning system by the continued expansion of permitted development rights that do not allow for affordable housing to be secured and by the application of vacant building credit.

The Council has set out for example the likely impact that this proposal could have on its delivery of affordable homes:

In the last 5 years (2015 – 2020) and as at 31.03.2020, the Council has secured under existing Local Plan policy, the provision of:

- 216 affordable homes completed across 13 sites;
- 90 affordable homes under construction across 7 sites; and
- 180 affordable homes with planning permission across 16 sites.

These figures do not include sites providing 100% affordable housing.

Applying the proposed site size threshold of 40 and 50 units respectively, would have the affect of reducing the delivery of affordable housing, as set out above, to:

- 132 affordable homes completed across 2 sites (on sites of 40+ units) or 128 affordable homes completed on 1 site (on sites of 50+ units);
- 40 affordable homes under construction on 1 site (on sites of 40+ and 50+); and
- 99 affordable homes with planning permission on 1 site (at both 40 and 50 units).

Based on passed delivery and the type of sites that come forward in Elmbridge, the introduction of a 40 or 50-unit threshold could cut the provision of affordable housing by nearly 50%. This is significantly higher than the decrease estimated by the Government of between 7 – 14% (on a threshold of 40 units) and between 10 – 20% (on a threshold of 50 units).

Raising the threshold for the delivery of affordable housing would deprive those in housing need, whether for rent or purchase, of a means to accessing the housing market. It would serve to undermine community cohesion by depriving people of a permanent home and ability to develop local connections, which is essential for physical and mental health, particularly at a time of a global pandemic. It seems contrary to the Government's emphasis on the need to address affordability in other consultation proposals. For example, the non-delivery of adequate affordable housing will affect the affordability ratio going forward, as it has done to date, which will result in an increased level of housing need for Elmbridge as calculated by the Standard Method. The move to reduce the potential supply of affordable housing is also not justified by the current economic position as SMEs are continuing to deliver and sell housing in Elmbridge.

In any case, local planning policies generally allow for viability to be considered at the planning application stage in exceptional circumstances. Where a site is unviable, a local authority may upon suitable evidence accept a lower contribution to affordable housing or lower infrastructure payments. This is current and normal practice. Furthermore, by the time developments come to be built, the economy may well have recovered. A blanket threshold approach prevents mechanisms being built into Section 106 agreements to secure contributions where viability improves.

Whilst it is proposed that this approach would be time limited, this change would have implications on the delivery of affordable housing over a longer time-period as developments without affordable home provision are built out over the lifetime of their permission.

We are not clear whether this proposal has come about due to concerns about the housing market's short to medium term response to the Covid-19 pandemic. If it has, at the present time, with the changes to stamp duty charges, the market is performing strongly, so it is assumed that housebuilders of all types are somewhat sheltered from risks. In the medium-term, with the likely ending of the furlough scheme in October and significant rises in unemployment likely, actual levels of homelessness and the need for affordable housing will increase, and policies that significantly impact on new supply of affordable homes (particularly for rent) will be particularly ill-timed.

We are concerned that the very proposal itself will impact on delivery as developers may well hold off submitting applications for schemes below the proposed thresholds, until they know whether this proposal is going ahead. Similarly, developers with extant but unimplemented permissions (with affordable housing obligations attached) may seek to vary the consent to benefit from this relaxation.

For the reasons set out above, the Council strongly objects to this proposal.

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

- i) Up to 40 homes**
- ii) Up to 50 homes**
- iii) Other (please specify)**

Please see Q17 above.

The Council does not believe the National Planning Policy Framework (NPPF) should be amended to include a lower threshold.

If this proposal is to be introduced, the Council would seek the lower threshold so as to minimise the impact on affordable housing delivery as much as possible within the context of national policy.

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

The Council does not agree in principle to proposals that would reduce the delivery of affordable housing. If this proposal is to be introduced, then it has no objection to consequent site size amendments.

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. The impact of raising the threshold would extend beyond 18 months i.e. a scheme approved within the 18-month period could be implemented 3 years after the grant of the planning permission. The Council also reminds Government that the threshold of 10 was only proposed as a temporary measure, however, as with most temporary measures it was eventually adopted as a permanent change.

In terms of the time-limit being lifted as the economy recovers from the impact of Covid-19 (paragraph 78), the Council seeks clarification as to what is meant by this i.e. at what point will it be considered that the economy has recovered?

If it is to be introduced for a time limited period of 18 months, it should come with a clear statement that the threshold will expire automatically after 18 months unless there are clear recovery-related reasons for extending it. Such an extension should be subject to further consultation and clearly based on relevant evidence.

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

If this proposal is introduced the Council would support provisions that ensure that developers are not able to phase or break up sites into smaller parcels to avoid the need for affordable housing delivery. The Council would also need provisions to ensure it can resist development proposals that are deliberately planned to fall just under the threshold to avoid the need to provide affordable housing, particularly where this would prejudice an efficient use of land.

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

The Council would support thresholds in rural areas being unchanged as these areas tend to have smaller sites. However, the Council would highlight that the reliance on small sites is not unique to rural areas alone and areas such as Elmbridge which is

deemed 'urban' also relies heavily on small-sites as its key source of housing land supply.

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

A survey of SMEs by the Federation of Master Builders in 2019 identified a range of burdens on SMEs that were considered to be more significant than S106 agreements. These were the availability of land, the planning system (costs and delays) and lack of finance. Whilst this survey was prior to Covid-19 the Council considers that these and other matters should be addressed in more detail to support SMEs before allowing a reduction in affordable housing. The Council recognises that some of the changes proposed in this consultation and the Planning White Paper may address some of these issues as well.

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.

The PiP process might be acceptable for major development if limited to consideration of location and land use. For larger sites (of up to 150 units), it will be difficult to make an assessment as to the potential amount of development that might be acceptable without supporting technical material concerned with matters such as surface water drainage which can have an impact on the developable area of a site and potentially reduce capacity. Similarly, a transport statement is critical to addressing traffic impact especially for larger schemes.

Furthermore, in order to comply with the Habitats Regulations, a Habitats Regulations Assessment would need to be agreed with the Council and Natural England in order to demonstrate no likely significant effect on habitats sites. In order to do this an air quality assessment will be required and air quality mitigation agreed (if required). To date we are not aware that mitigation to address air quality effects on habitats sites has been agreed in England.

In practice a significant amount of work is undertaken to review the acceptability of a PiP which is not covered by the reduced application fee. This will place further burdens on planning teams and local authority finances.

A further concern is how this approach would deal with phasing which is often an issue with major development. At present, it is possible to deal with phasing by condition at the outline stage. S106s are also dealt with at the outline stage which is critical for infrastructure. The proposal would undermine the position with legal obligations in that these are only reasonable if they are necessary to make a development acceptable. By granting a PiP you would be confirming that it is acceptable, without first identifying what obligations might be required.

The 5-week period for determination and 14-day period for Statutory Consultations is also unrealistic given the potentially complex nature and scale of the proposed development. For example, there are frequently delays in the response from Statutory Consultees as applicants have not submitted the correct / sufficient information for them to consider the application. However, this point is only established once the application has been registered / validated and the time-frame for determining the application has commenced.

If a response is not received from a Statutory Consultee within the 14-day period, then local authorities should be able to refuse the PiP without fear of financial repercussions (linked to other Government proposals as set out in the Housing White Paper) or, be able to extend the 5-week period for determination to one which allows for a satisfactory response to be made.

These changes may also create unnecessary concern amongst local communities in terms of the scale of development that is being proposed and how they engage in the process.

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.

Yes. Larger scale developments including a mix of uses might be more likely to have impacts beyond the immediate locality of the site which will take time to deal with, for example wider retail impacts. Therefore, the amount permitted to be considered under PiP should be limited.

Government should also clearly state that PiP can be refused if the balance of uses seems unacceptable to the Council and, should clearly define the terms "housing-led" and "majority of floorspace".

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?

No. The minimal information currently required for a PiP will very rarely be sufficient to establish the principle of the location, land use and amount of development for major development. There needs to be a plan showing the distribution of uses on the site. This would help where there are constraints on part of a site e.g. flood zones. The type of development (e.g. houses or flats) should also be specified. Larger scale developments are more likely to have impacts beyond the immediate locality of the site which will require testing and to continue with current minimum requirements will further exacerbate the current issues experienced when considering such applications.

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

Yes, the more certainty the better as height is often a key factor in the consideration of the principle of development in established built-up areas. Height is also a key determinant of the amount of development that can be achieved on a site. Sensitivities of height include impacts on the historic environments, townscape and landscape, climate (including energy efficiency) daylight and sunlight.

However, adding further considerations takes time and has significant cost implications. Also, there is a danger that by setting a maximum parameter, schemes will be designed to this limit without regard to surrounding development

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.

Agree that publicity arrangements for PiP by application should be extended.

Option ii) is supported.

Advertising in local newspapers is expensive and is no longer an effective means of informing those that could be affected by a particular development. The COVID-19 pandemic has seen a significant shift towards on-line services and the Government's proposed technical innovation in regard to the planning systems (as set out in the Housing White Paper) should be applied here.

Whilst Option (ii) is supported, it would be helpful if further advice was provided on the range of methods that could be employed. Site notices and notification of residents living in the vicinity are usually the most effective means.

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. It is unlikely that a flat fee based on hectareage will reflect the complexity of consideration of a proposal, particularly on a small site in a sustainable location where a higher density may be appropriate. A flat fee may well fall significantly short of covering the costs of assessing the application.

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

No comment.

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.

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.

The main issue is that supporting information to justify the location, land use and amount of development will be lacking for larger sites that are often more complex and sensitive.

If this proposal is implemented, the Council would require more clarification as to how it would assess an application of between 10 – 150 units if the quantity is not known. It would also be important to understand the national validation requirements for PiP if we are not permitted to ask for our own local requirements.

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

A five-week timescale is insufficient to assess the information requirements for major schemes. The application fee also needs to reflect the costs of assessing this information.

Experience is that PiP rarely offers any clear advantages over a more traditional route to development, such as outline and reserved matters, or pre-application advice followed by a full application. The Council is also concerned that increasing the use of PiP for major schemes will undermine local democracy, significantly reducing our residents and communities ability to meaningfully and effectively engage in the development management process.

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

Since PiP was introduced in 2018, the Council has received only 7 applications of which, 4 have provided technical details. Each application has also attracted a significant number of objections.

Whilst a 5-week route to some form of consent may prove attractive, it is believed there is a greater confidence in more traditional routes to development, such as outline and reserved matters, or pre-application advice followed by a full application.

Given 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.

Public 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?

The Council has not identified any direct or indirect impacts but would assume that these proposals are subject to an Equalities Impact Assessment. As set out in our previous response on the First Homes consultation we consider that First Homes may impact on the provision of social rented and affordable rented housing which is of greater need than discounted market housing. As such there may be a detrimental impact upon protected groups and those most in need of housing support.