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**Changes to the Current Planning System**

**Consultation Response**

30 September 2020

**Summary**

Bath Preservation Trust is committed to campaigning on planning to protect and enhance Bath’s historic and future environment, amenity and countryside. We are a charity promoting high standards of planning and architecture in Bath, striving to ensure the future success of our special heritage city through conservation, education and museums. We have a long history of engaging with planning policy and development proposals since the charity was founded in 1934.

While the current planning system has some faults, we believe it is a system that is not broken and works well to deliver more planning approvals than the industry can or will build. However, we agree that development needs to be a better quality, and we support the need for that change.

A fit-for-purpose decentralised and resourced planning system, with participation at its heart, has the power to enhance and sustain the natural and historic environment, create and maintain healthy and sustainable communities, and meet the challenge of climate change in practicable ways. And ensure everyone has a decent home that meets their needs and that they can afford.

While many of the stated ‘aims’ of the reforms are principles we can support, our understanding of the proposals leads us to believe that they will in many cases make achieving the stated ambitions more difficult, and less democratic. The proposals do not guarantee better outcomes or quality. We do not believe centralised planning is beneficial to the desired outcomes. We support bottom-up, local housing targets, guidance and policies.

We therefore have serious misgivings about the impact of the Government’s proposals as set out in both the Planning White Paper, and in this consultation on Changes to the Current Planning System, and our major concerns can be summarised as follows:

* Weakened environmental, heritage and green space protection
* Loss of local democracy
* Housing affordability
* Local Authority resourcing

These issues are expanded on in responses to the consultation questions below and in our response to the Planning for the Future White Paper.

We believe that there is much that needs to be clarified and a different set of changes is needed in order to maintain a balance between speedy development, better places, and environmental protection.

**Questions**

**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, we do not.**

The standard method will be based on how many existing homes are in an area, the projected rise in households, and changes in affordability. This is unworkable in a highly protected and designated area such as B&NES since demand will outstrip supply and new housing not necessarily leading to reduction in housing need.

This approach in the first alternative above assumes that in every area the amount of new housing required will be the same percentage extra. That is a clear false assumption. The only proper approach is to consider all the relevant local factors and estimate the need for housing.

To set a central government figure based on political aspirations to achieve 1,000,000 new homes by the next parliament and then attempt to justify these by non-scientific measurements whereby the answer comes to 1,000,000 is neither clear nor transparent ~~nor honest~~. It removes all local planning considerations and input and fails to address how much of that target could be met by existing planning permissions.

Here in the West of England, the impact of the proposals on the residents of our four Unitary Authorities will be dramatic. The now discarded ‘Joint Strategic Plan’ for the sub-region envisaged increasing the number of homes required to 105,500, although the immense difficulties in both justifying that figure and in working out how to accommodate it were among the reasons for the plan being halted at the Examination stage. The Government’s new proposals would take the target figure to 159,260. This is unjustified by the most robust demographic and economic data. It is also undeliverable in any way that is remotely sustainable or does not do irreparable harm to the precious green spaces, countryside and historic environment which are among the most important reasons why people choose to live here.

**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 because the existing stock does not necessarily indicate the need for housing. A uniform arithmetic approach will inevitably give the wrong figure more often than the right figure. The standard method will be based on how many existing homes are in an area, the projected rise in households, and changes in affordability. This is unworkable in a highly protected and designated area such as B&NES.

**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.

There is no simple relationship between supply and demand, and house availability, prices and earnings, in an historic city such as Bath. The high price paid for land can lead developers to renege on affordable housing promises due to ‘viability’ concerns and to build for an ‘incoming’ external market rather than building what is needed to fulfil local housing need.

**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 because it will be a very poor indicator of housing need and sites available. It is only one of a number of factors that would need to be considered in this complex task.

Affordable housing in this report only looks at the option of private housing and not social housing, the absence of which has contributed to the current housing ‘crisis’.

Fixing the housing crisis requires investment in social housing.

Changes in delivery of affordable housing mean that it is likely that a much smaller percentage of this final figure would actually be built for people who are in housing need. There are more details based on figures produced by the Lichfield’s Consultancy which we understand the Government does not contest.

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

No.

This approach, as well as the proposed new forecasting method, is too centralised and does not sufficiently take into-account the needs or environmental and heritage constraints of local areas. It is also likely to make it more difficult for local authorities to acquire land to build affordable homes or social housing as large developers and land agents will bid prices up for land that is more likely to be developed under the new system. Much more priority needs to be given to helping local authorities regenerate brownfield sites and build more affordable homes to meet local needs.

**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?**

No.

A deadline may be helpful to get to Inspection. However, there is no point in putting a deadline under LA’s if there is not then a significant increased investment in the Planning Inspectorate to be able properly to consider what may be rushed plans.

In the current climate there is also a challenge for local authorities to be able to perform their functions properly due to funding and resource shortfalls. This uniform period assumes that all local authorities have the same workload per member of staff and the same resources. Six months might be something to aim for but there would need to be some flexibility.

It would also only be effective if proper use is made of the result of the strategic plan consultation to beneficial effect.

**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?**

No

The deadlines seem arbitrary though we are not against deadlines. See resourcing point above.

**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):**

The issue of funding offsite affordable is irrelevant in places with a restricted land supply. All developments over a (low) threshold should have to include affordable provision onsite by law. This would stop affordable housing being marginalised and used as a battleground with LPAs over viability. It should be a given that any new development makes provision for affordable/first home housing.

An important question is the 25% limit, but the consultation exercise poses a question only for the remaining 75% which is not so important. The whole proposal about affordable homes is deeply flawed and will deliver ~~delivered extra profits for the developer and~~ fewer affordable homes.

We do not consider that there should be any distinction between affordable housing and housing as first homes. First homes do not have to be new builds but the issue of affordable housing becomes more relevant in rural and high heritage value locations where housing is denied to home starters because of ~~the~~ second home buyers purchasing for holiday purposes.

For example, a recent planning application for residential development at Holburne Park, the Warminster Road ex MOD site, in Bath proposed an affordable housing provision, against policy, of under 40% by claiming that the development costs had rendered the scheme unviable. The application only proposed a 23% ‘affordable’ provision under the ‘help to buy’ scheme for first time buyers and continues to claim that houses valued and sold for £545,000 are ‘affordable’.

**i) Prioritising the replacement of affordable home ownership tenures, and delivering rental tenures in the ratio set out in the local plan policy.**

No. The best way is to stick with the current arrangements which in many areas requires 40% of homes to be affordable homes, and making clear in law that the risk of paying too much for land lies solely with the developer and does not remove planning obligations for affordable housing.

**ii) Negotiation between a local authority and developer.**

Affordable housing should be removed from negotiation between a developer and an LPA and appropriate on-site levels enshrined in national policy or law. All new developments should make affordable provision. The best way is to stick with and reinforce in law the current arrangements which in many areas requires 40% of homes to be affordable homes.

**iii) Other (please specify)**

~~No.~~ The important question is the 25% limit, but the consultation exercise poses a non-neutral question only.

**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?**

No. The best way is to stick with the current arrangements which in many areas requires 40% of homes to be affordable homes.

We do not consider that there should be any distinction between affordable housing and housing as first homes. First homes do not have to be new builds but the issue of affordable housing becomes more relevant in rural and high heritage value locations where housing is denied to home starters because of ~~the~~ second home buyers purchasing for holiday purposes.

Furthermore, a second purchase individual may be elderly, disabled or vulnerable and his or her need may be greater than a first-time buyer.

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

No. The best way is to stick with the current arrangements which in many areas requires 40% of homes to be affordable homes.

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

No. The best way is to stick with the current arrangements which in many areas requires 40% of homes to be affordable homes.

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

No, there should be no transitional arrangements as the new arrangements are flawed.

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

No. The new arrangements are flawed.

**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. There should be housing only for those who satisfy the criteria.

For questions 8-14: Until it has been made clear that government schemes such as ’First Homes’ will be earmarked specifically for those genuinely in need, it is difficult to make any comments. The Help to Buy and Right to Buy scheme have been assessed by the National Audit Office and as at summer 2019 the conclusion was that more than half of the 211,000 participants in Help to Buy would have been able to purchase without state support and 11,000 had household incomes in excess of £100,000. The NAO noted that the main beneficiaries had been the building companies. It has also trapped many buyers in negative equity with 1 in 20 in arrears and been described as ‘subsidy for a housing bubble’. This also continues to expose the government to significant market risk if property values fall – which is the underlying assumption (even intention) that they will with the intention of making housing more affordable.

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

No. This would eliminate any small and medium sized sites from providing any affordable housing and in many rural areas, towns and cities with protected areas this is the only option.

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

No. This is not a neutral question as some parts of the scheme are flawed and other parts are to be welcome. The policy is desperately needed in rural areas.

The consultation paper states a wish to protect the important rural exceptions sites in delivering affordable homes and there is mention that there will be an update in planning guidance in due course, but we do not know what that is.

**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. The threshold in question is the number of units which trigger the affordable homes provision. To raise the limits from 6 which is what it is in many areas to 40 or 50 units will be to destroy the principle of affordable homes, especially if developers, when building on a large site could choose to build it in stages below the limit avoiding all affordable home liabilities. The outcome will be significantly fewer affordable homes.

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

1. **Up to 40 homes**

NO

1. **Up to 50 homes**

NO

1. **Other (please specify)**

6 units

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

No, because it will reduce the number of affordable homes significantly. The proposal means that the affordable element does not kick in until the site has 40 houses. This will remove the much-needed options of affordable housing on many sites. This means fewer homes that people of lower incomes, including many key workers, can afford. These proposed short-term changes sit in direct contradiction to the longer-term reforms proposed in the Planning for the Future White Paper, which repeatedly calls for maintaining and improving the levels of affordable housing.

**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, because it will reduce the number of affordable homes significantly.

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

No. A simple formula is required and this provision will reduce the number of affordable homes and create no public benefit.

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

The proposal is to maintain the affordable homes threshold in designated rural areas. Assuming designated means designated as rural and not designated on some other criteria, the answer is Yes.

For questions 17-22 we would not support the small sites threshold in B&NES as it would mean that no affordable houses would be included unless the site had more than 40 houses. The issue is to encourage developers to include affordable housing in all developments. This in turn might reduce land prices (by making affordable inclusion a legal obligation) rather than to increase the affordable threshold.

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

To legislate against land banking and insist on shedding of land if it is not to be developed within a limited timescale.

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

No. We are not in favour of the new Permission in Principle for major development. We do not believe Permission in Principle and removal of community engagement can be compatible with good planning outcomes.

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

No. We would not be comfortable allowing PiP to become standard practice. PiP could by-pass important local heritage and environmental considerations. PiP will rush through developments that should be properly assessed with thorough consideration to heritage and environmental impact. It makes no sense to submit technical details after planning consent is given and especially where issues, such as design and environmental impact play such an important factor in AONBs, WHS’s and Conservation Areas.

If restrictions are removed there should be more rules to ensure the community is properly informed about what is proposed.

**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.**

No. There are many location specific issues relating to commercial development (nature of commerce, environmental impact, traffic impact) which should be determined on a site-by-site basis rather than wrapped up in a PiP. After a three-year period the system should be analysed to see if it is working well.

**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 information requirement needs to increase. It should include sufficient details about proposal for the local authority to make an informed decision.

Authorities can currently ask for full details where outline planning applications affect listed buildings and conservation areas. The same should apply for PIP applications also.

The consultation states that "Similarly, Permission in Principle will not be suitable for sites in areas where, applying the Conservation of Species and Habitats Regulations 2017, there is a probability or risk that the project is likely to have a significant effect on a European site, unless the application was accompanied by an appropriate assessment demonstrating there was unlikely to be significant impact on the site." We would question why it is not stated that Permission in Principle is also not suitable for sites with designated heritage value, including international value, such as World Heritage Sites, conservation areas, listed buildings and scheduled monuments. These sites also require appropriate assessment to demonstrate whether there will be significant impact or not.

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

Yes. The height of a development is crucial to its readability in terms of massing, density and viability. Unless there is a height parameter there cannot be certainty about any of the above three issues. LPAs should be required to set height parameters in their locality based on local environmental factors, and national guidance.

It is appropriate to limit Permission in Principle to low rise building. Taller buildings can contribute to the character and quality of a place but need to be controlled to ensure they are not built in unsuitable locations. The scale and grain of local areas should be respected in the height of new buildings. Buildings should not impact detrimentally on existing skylines and at the more personal scale on streetscapes. The control of height of new buildings is especially important in the setting of historic buildings and areas.

**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:**

1. **required to publish a notice in a local newspaper?**

No

1. s**ubject to a general requirement to publicise the application or**

YES and this should be more specific such as front page link on website for planning consultations, physical notices in local areas etc.

**iii) both?**

**iv) disagree**

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

BOTH

We consider that publicity of all planning applications should be increased and never drop below existing requirements. In-location site notice are essential for public awareness.

Very few people read local papers which often only are published once a week. The PiP applications are in danger of facilitating a fast-track application process which by-passes local views and opinions.

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

No comment.

**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.**

No. We do not support PiP proposals which by-pass heritage impact assessment of individual developments. Local authorities should make assessments on each application.

The national Brownfield Land Register map will automatically record sites suitable for housing. Placing a Brownfield label on land does not make a qualitative judgement regarding the value of its current use, or a use that may have already been approved to go in its place. Brownfield land may currently be beneficially occupied and these uses should sometimes be maintained.

We are concerned what the impact may be for the historic environment with this broad-brush approach. We are concerned that inclusion as Brownfield might inhibit the adaptive re-use of historic and traditional buildings or even encourage their demolition and replacement.

The reuse of redundant buildings, especially industrial and agricultural buildings, such as mills and barns, are currently delayed because developers claim they are unviable as an alternative to the development greenfield sites. Buildings which should be reused, lie empty and in disrepair. Reuse of existing buildings is the most environmentally sustainable option.

Permission in Principle (PIP) changes may cause further viability issues across the historic environment. We suggest that a new subsidy is imposed to ensure previously permitted ~~historic~~ building schemes proceed.

**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.**

For questions 29-32: We do not support PiP proposals. Local authorities should make assessments on each application.

We consider the designation of the Growth Areas, Renewable Areas and Protected Areas should be clearly explained and effectively and fairly introduced and protected areas vigorously defended.

Further clear guidance is required for PiP and for the designation of Protected areas in relation to brownfield land in World Heritage Sites, Greenbelts, AONB, conservation areas and within the setting of listed buildings.

Conservation Area Appraisals (CAA) already give guidance on appropriate development in special areas, many of which are town centres. Development that pays attention to these Appraisals gives developers confidence to come forward for planning permission. CAA steer development in places that can and should be incentivised to change, without the destruction of quality, value and character that would come with deregulation.

Long established community organisations like BPT and other civic and community organisations are available, and relied upon, to provide free-of-charge expert commentary on sites and individual proposals. Managed well this is valued by all parties including developers. This assists local democracy both by enabling participation and also by doing much of the ‘heavy lifting’ for hard-pressed local authorities and government agencies.

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

We do not see any benefit to the planning system, to public benefit, or to the delivery of the housing that people need and want.

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

Developers and landowners will only need to successfully influence a local plan and will then have sweeping powers to build however and whenever they like on most sites. This is not conducive to good planning.

**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?**

No comment