

Changes to the current planning system

Consultation on changes to planning policy and regulation: August 2020

Response from Westminster City

Through our new City Plan 2019 – 2040, City for All Strategy and regeneration programme, the council has placed building new homes at the forefront of its ambitions. Our draft City Plan, which is currently under public examination includes provision for over 20,000 new homes to be built by 2040, 35% of which will be affordable.

We are committed to working with Government to increase housing delivery and to enable homeownership and we support the aims of the proposed changes and the aims of the White Paper. As is recognised by the White Paper, to achieve increased housing delivery requires whole systems change, beyond simply increasing housing targets, and wider areas where councils could assist Government in achieving its vision include:

- Devolved affordable housing funding for local authorities with ambitions to develop
- Working with Government to identify and release other public sector land for housing delivery
- Powers for local authorities to ensure planning permissions are implemented
- Increased flexibility around planning decisions, to enable them to be more responsive to changes in local need
- Reform of planning obligations and CIL to better capture land value uplift and reduce the prevalence of viability assessments in planning decisions
- Joint work with Government on home ownership products which works well in central London.

We have some concerns about the cumulative impact of the proposals as they have the potential in an area like Westminster to reduce affordable housing delivery in the city and therefore the council's ability to meet local needs. They also may impact on resident support for regeneration schemes, for example, which is essential for them to succeed and to respond to local priorities and needs.

Also, housing delivery cannot simply be looked at in isolation and local authorities, particularly in a complex inner London environment are best placed to balance housing requirements with commercial growth, good design and protecting heritage.

The standard method for assessing housing numbers in strategic plans

While we support an ambitious target, it does need to be realistic and deliverable and the following needs to be taken into account.

Timing

- We support Government's aim to make the standard methodology simpler and more transparent, however, to introduce a new methodology in advance of further changes (referred to in the White Paper) will only cause uncertainty and unnecessary administration. Support firstly needs to be built around the methodology and to ensure it works for all. This will mitigate against challenges and debates around any unrealistically high targets.
- Due to Covid-19 we are in period of uncertainty and housing markets may undergo change, which could make the assumptions within any new methodology questionable

Constraints

- While the White Paper acknowledges that the proposed methodology does not yet take account of constraints, without their inclusion, the delivery targets for high value areas like Westminster are unrealistic. Were they to be adopted, Westminster's annual target would increase by 4,254 homes annually, a rise of 484% increase against emerging London Plan targets. There is no evidence of land availability in the city to meet this target and attempts to meet a higher target could compromise the quality of new homes. We understand Government may be considering a meaningful cap to targets would very much support this.

Flexibility

- We acknowledge that developing an ambitious and workable methodology for the whole country is complex and that every methodology has its limitations. Flexibility to deviate from the standard methodology should always be built into it, where this is justified.

Points in need of a clarification

- How the housing need figure interacts with emerging London Plan targets and affordable housing thresholds and products. We note that the proposal does not set a housing target, and is described as a 'starting point'
- How the proposal interacts with the current housing delivery test. Paragraph 9 refers to 'targeted government interventions' to ensure homes are built. Build out however should already be taken into account in the housing delivery test.
- How the figure would apply to local authorities with plans already under examination.

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?

Household projections in London, averaged over 10 years, would generally be higher and the figure used for the baseline. The difficulty with using population projections as a starting point are:

- They can become inflated between Census'. In Westminster the publication of the Census in both 2002 and 2012 caused ONS to substantially revise downwards the modelled population

projections. Westminster's modelled mid-year estimates have outstripped growth as measured by Council Tax data in the past decade, so we expect a downwardly revised set of population figures following the new Census. To illustrate our point, in 2010 the DCLG's household projections for Westminster by 2020 were forecast at 149,000, whereas the current 2018 ONS based model estimates household numbers to be 121,823.

- The logic of the link between a rising population and a corresponding need for housing does not work in areas such as Westminster where household projection growth is influenced by net growth in migration. Excessive housebuilding will not necessarily meet current local housing needs.

Population growth based on Council Tax records would be a more realistic indicator (see Appendix 1 for the worked example).

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 the answer above.

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.

This calculation assigns more housing in areas that are the most unaffordable which does not work in central London. The current median to house price ratio in Westminster is over 21. The (intended) effect of the ratio is to add a multiplier to the baseline of 1.1. A ratio using lower quartile property prices is likely to be more realistic for central London, although we know in central London that more housing will not necessarily drive prices downwards and the impact could lead to fewer households being occupied by local workers, as they can't afford them. Homes in central London are unaffordable for a range of complex reasons.

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 calculation assumes that changes in unaffordability drive new housing needs but as stated above just developing new housing in central London does not necessarily improve affordability for local people and workers. Also, Westminster has seen a significant change in affordability over the past 10 years (see the example in Appendix 1) probably because 2009 was at the height of the economic downturn.

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

This element added to the current affordability ratio creates a double count of affordability in the calculations, and it is unclear as to why both components should be included.

Do you Agree that authorities should be planning having regard to their revised standard method need figure, from the publication 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?

Yes

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?

Yes.

Delivering First Homes

While fully supportive of the aims of First homes, the product as currently proposed will not work well in a high value area and is likely to have unintended consequences. We are keen to work with Government to adapt First Homes into a workable home ownership product for central London, including in the Central Activities Zone, where homes are needed for local workers.

Rather than answering all of the questions below in detail, we make some general points about our concerns about First Homes and have included some examples to illustrate these points:

- To deliver First Homes larger than studio's, discounts of 40 – 50% would be needed and even with these discounts, delivery could still be **heavily skewed to studio accommodation** given the £90k income threshold and price cap. Our strategic analysis shows a need for all sizes of homes *except for studio's* and as a result our City Plan supports their restriction.
- Even with a 50% discount, a minimum income of £50k would be needed to buy a studio First Home in Westminster and even then, they still **wouldn't be affordable to 63% of the 1,529 applicants on our list for intermediate housing**. The product would only be affordable to those on our list with upper quartile incomes. Family sized First Homes would also not be feasible. Delivering estate regeneration relies on ongoing local support including support for new additional housing being affordable and meeting local needs.
- Given that the maximum discount proposed (50%) would generally be needed to deliver 25% of First Homes on schemes, **other forms of affordable housing could be reduced as a result**. Our analysis has shown a need for 563 new affordable homes annually. A reduction in social housing in particular would impact on the council's ability to address homelessness and would impact on those with some of the highest housing (see our answer to Q35).
- The cost of delivering First Homes to required levels could negatively impact on the councils overall affordable housing programme as could lead to a reduction in payments in lieu into the Affordable Housing Fund. Plans to deliver at least 1,850 affordable homes by 2023 rely on receipts into the Fund of at least £25m annually, which are anticipated based on past receipts.
- It is also important to note that local authorities may be bringing forward regeneration schemes, which to succeed require the buy in and support of local communities. A specific tenure mix and product type may have already been communicated to residents and formed part of engagement with them.

	Studio	1 bed	2 bed	Total
Market value	£400,000	£600,000	£780,000	
30% discount	£120,000	£180,000	£234,000	
Value after discount	£280,000	£420,000	£546,000	
Income needed	£63,000	£105,000	£136,500	
No that could afford	326			326

	Studio	1 bed	2 bed	Total
Market value	£400,000	£600,000	£780,000	
40% discount	£160,000	£240,000	£312,000	
Value after discount	£240,000	£360,000	£468,000	
Income needed	£54,000	£81,000	£105,300	
No that could afford	439	59		498

	Studio	1 bed	2 bed	Total
Market value	£400,000	£600,000	£780,000	
50% discount	£200,000	£300,000	£390,000	
Value after discount	£200,000	£300,000	£390,000	
Income needed	£50,000	£75,000	£97,500	
No that could afford	696	228		924

Given the challenges of developing affordable low cost home ownership in the city, our City Plan supports intermediate rent as the preferred intermediate tenure as it is the best way of enabling working households with moderate incomes to remain in the city.

We suggest that where boroughs can demonstrate that First Homes don't meet local need as they aren't affordable, they retain the flexibility to require intermediate housing products which work locally. This could be determined with reference to local incomes and property prices. As a minimum, the pilot should include a high value London area to assess the feasibility of delivering and the impact

Clarity is needed on how other costs associated with delivering First Homes will be funded such as the cost of independent valuations and administration of the discount in perpetuity.

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.

As outlined above, First Homes will not work in Westminster and support councils having the flexibility to determine the right intermediate housing products for their area.

ii) Negotiation between a local authority and developer.

iii) Other (please specify)

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.

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

No.

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

Exemptions are needed in areas where it can be demonstrated that local need cannot be met through First Homes.

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

Yes.

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

We agree that local authorities should have as much flexibility as possible over the level of discount.

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?

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

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

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. This will have a serious impact in places like Westminster, where the majority of development sites are small sites. **During 2019/20 only 6 (4%) of the 165 completed permissions provided 40+ homes (less than 4%).** Our housing supply trajectory shows that over 2,000 units are to be delivered on sites below 50 units in years 1-5 of the plan period, which is 1/3 of overall supply. Excluding sites below the existing 10 unit threshold, this leaves c. 1,150 homes, which if 35% were affordable would lead to a potential reduction in c. 400 affordable homes with a time limited period of 5 years and c. 133 affordable homes with a time limited period of 18 months¹.

The impact would however go beyond any time limit however as the council's affordable development programme (at least 1,850 homes by 2023 relies on continual cross subsidy from ongoing payments in lieu of developer contributions into the Affordable Housing Fund. Resident

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www.westminster.gov.uk/sites/default/files/uploads/ev_h_013_housing_supply_paper_wcc_march_2020.pdf

www.westminster.gov.uk/sites/default/files/uploads/ev_h_014_draft_5_year_housing_land_supply_statement_wcc_april_2020.pdf

support and buy in for developments would also be compromised without affordable housing on small site developments and other benefits from developer contributions

While the trade-off between developer contributions and the increase in developable small sites/speed is acknowledged, it is not a justified one in areas with high demand for affordable housing and where developer contributions is accepted as standard practice. As stated in our answer to Q35, a reduction in affordable housing will impact detrimentally upon those with the highest needs for it. This would be at a time when demand for affordable housing could increase due to the economic impact of Covid-19.

In areas like Westminster it will also not achieve its desired intension of supporting SMEs, as in the city small site developers are not SMEs as they are generally deterred from these sites by a range of factors such as the price of land, not the required contributions.

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

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

iii) Other: We do not support any change to the current **10 unit threshold** in areas like Westminster for the reasons stated above, which are in summary:

- Reduction in affordable housing in areas where small sites predominate and affordable housing needs are high
- Disproportionate impact on groups in need of affordable housing which have protected characteristics under equalities legislation
- Ongoing impact beyond the proposed 18 months period
- Would not meet the desired of objective of supporting SMEs.

If the measure were introduced there should be exemptions for councils where it would lead to a significant reduction in affordable housing for example where small sites make up over 20% of development sites. .

It also needs to be clarified how any increase in the small sites threshold would sit alongside the Mayor's requirement for 50% of housing on public land to be affordable.

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

No. Ten units remains an appropriate threshold.

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

As stated above even if only implemented for a time limited period only, the impacts will be longer term. A limited time period, linked to economic recovery, will also create uncertainty in the market, at a time when the long term impact of Covid -19 is still uncertain.

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

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

Not applicable.

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

Government could encourage councils to work proactively with SMEs, as the council has done on some of its infill sites. They could also encourage councils to develop procurement policies favourable to SMEs.

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?

Yes

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, it would be preferable for Government to set a limit for the commercial element so that developers and councils are clear on what providing the 'majority of the floorspace' on a site for housing means (i.e. is this to be taken literally, namely a 51% residential, 49% commercial split or is a more definitive majority for residential floorspace intended). Failure to define the majority proportion of new floorspace intended to be residential will lead to unnecessary refusals on procedural grounds and general delay in processing applications.

Whilst it is recommended that a limit is set on the commercial element, the 'cap' should not be unduly limiting on the proportion of commercial development that may be delivered. Setting a limit that is too low will limit the use of Permission in Principle (PiP) in established urban environments, such as central London, where successful new development can often comprise a mix of commercial and residential uses.

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?

In complex established urban environments such as Westminster the current information requirements for PiP applications would not be sufficient to allow the council to robustly determine an application for major scale development. This is because on more constrained urban sites the size area is significantly less relevant to the quantum of development that a site can accommodate than in a suburban or rural location. Understanding the height and bulk of a proposal is key to assessing the appropriateness of the number of residential units/ floorspace being proposed.

It is therefore critical that an additional maximum height threshold is included in the information requirements. Whilst it is suggested that this is measured in terms of the number of storeys, the experience in Westminster is that storey heights can vary significantly from one development to another and therefore the height should be measured in terms of metres above ground level as well as by indicating the proposed number of storeys. We would also welcome consideration of other information requirements such as a requirement to establish front and rear building lines so that the overall bulk of the intended development can be demonstrated to be capable of being consistent with the prevailing townscape.

As noted in the consultation document guidance will be required in the NPPG to ensure that applicants are aware that maximum heights, and any other height or bulk constraints that may be

introduced, relate only the maximum envelope of development and that the detailed design within these parameters will still need to be determined pursuant at Technical Details stage.

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

See answer to Q26 above.

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.

No. Westminster's experience is that notices published in local newspapers elicit little or no responses from members of the public and are often published after local communities have become aware of applications by other means (i.e. via the Council's website, a site notice or via neighbour consultation letters). Given this and the Government's direction of travel in the White Paper, towards a more digital planning process, it would be inconsistent to introduce the need for notices to be published in a newspaper for PiP where this has not been a requirement to date. This would also increase the administrative and cost burden of PiP on councils and slow the processing of the applications down as the placing of a newspaper notice is much slower than the process of erecting a site notice and advertising the application on the Council's website.

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. Whilst it is acknowledged that the first technical details application delivers an application fee that relates to the number of units proposed, the use of site area at PiP stage penalises councils in urban areas, particularly in densely developed areas, where major scale development is often brought forward on sites with a comparatively small area. Consideration should therefore be given to a banded approach using housing unit numbers, which could be in addition to the use of site area. The issue of housing unit numbers typically being expressed as a range in PiP applications could be overcome by applying the fee required to the highest number of units proposed within the proposed range. If configured correctly, this need not penalise applicants, but would deliver a fairer approach to PiP application fees in urban areas such as Westminster.

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

The flat fee should deliver a PiP application fee that is consistent with the existing Outline planning application fee. Any discount that Government intends to provide for use of PiP rather than Outline applications should be minimised to avoid causing a significant adverse impact on council funding.

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.

Existing guidance on the use and scope of PiPs in the NPPG is not as clear as it could be and should be reviewed. The proposed changes to include their use for major applications will assist in reducing the confusion over their purpose for applicants. To date within Westminster we have found that the current restriction of the use of PiPs to minor applications makes their use in complex urban environments unattractive to applicants, especially where the principle of residential use is a basic policy presumption across much of the City. Therefore, multi stage PiP applications (and Outline applications) are often not used by applicants when a single application for planning permission can deliver both the principle of development and the detailed design of a scheme in a single application determined in 8 weeks.

Further consideration should therefore be given to what the perceived benefits of PiPs are having regard to the different types of site they may be used on and how these benefits can be better communicated to applicants

Regulatory Impact Assessment

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

In complex urban environment such as Westminster there is a risk that PiP will lead to conservative decision making at PiP application stage. This is because the ultimate quantum of floorspace deliverable on sites in complex urban environments is typically determined by the ability of architects and designers to develop schemes that are appropriate to their context in terms of their form and height. In this regard a full planning application proposing a new building that is high quality in terms of its architecture and overall public benefit is likely to deliver more residential units than could reasonably be agreed via a PiP using the information requirements proposed. There is therefore a risk that in some urban locations PiP will result in underutilisation of some sites relative to a well-conceived full planning application.

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

See answers to Q32 and Q33. Even with extension of PiP applications to major applications, where there is a policy presumption in favour of residential development (such as in Westminster) and where there are a significant number of site constraints, it is likely that developers will continue to submit full planning applications as these are likely to better demonstrate to councils that the number of residential units they are proposing are deliverable in an acceptable form on constrained sites.

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 cumulative impact of the proposals could result in a reduction in affordable housing supply, both social and intermediate in Westminster. As the tables below show, the 4,500 households in need of social housing are particularly likely to have protected characteristics under the Equality Act 2010 and more likely to be:

- Women
- From a Black, Arab or Asian ethnic background
- In the 25 – 64 age group
- In households with children and lone parents.

Fifty one per cent of social housing applicants are homeless households so the proposals have the potential to impact them in particular and could lead to longer periods of time spent in temporary accommodation which are identified to have a negative impact on children in particular. This would come at a time when demand from homeless households has the potential to grow due to Covid-19.

While paragraph 77 highlights that the small sites proposal may be a ‘trade-off’ between affordable housing and stimulating the economy, the potentially negative impacts of the policy can only be mitigated by exempting councils in high demand areas from it where they would experience a significant reduction in affordable housing delivery.

	Social Housing Applicants	Westminster Population (2017 ONS Mid-year estimates)
Women	67%	48%
Men	33%	52%

Ethnicity	Social Housing Applicants	Westminster population (GLA Ethnic Projections for 2018 – persons)
White	27%	60%
Black	23%	7%
Arab	18%	8%
Asian	16%	12%
Mixed	5%	5%

Ethnicity	Social Housing Applicants	Westminster population (GLA Ethnic Projections for 2018 – persons)
Other (includes Chinese)	11%	6%

Age	Social Housing Applicants	Westminster Population (2017 ONS Mid-year estimates, for adult population)
16-24	3%	13%
25-44	48%	45%
45-64	37%	27%
65-74	7%	8%
75+	4%	7%

	Social Housing Applicants	Westminster Population (2011 Census)
Households with children	65%	19%
Of which are lone parents	32%	6%

Appendix 1: Worked example

Westminster	Govt Model	Westminster Alternative
		(variant) that assumes a different housing stock growth - based on Ctax growth of 7%
Key Figures		
Current Housing Stock (2020)	121,823	121,823
Housing Stock in 10 years time (2030)	135,572	130,351
Affordability Ratio (2019)	21.75	
Affordability Ratio (2009)	13.46	
Proposal Options (whichever is greater)		
0.5% of current housing stock	609	
average growth projected for the next 10 years	1375	853
Affordability	2019 Affordability Ratio	
Median House Price / Workplace Median Gross Annual Salary (local affordability ratio)]	21.75	21.75
Adjustment Factor	Government Calcs (using the 4)	
first half of equation	1.109375	1.109375
second half of equation	2.0725	
add one	1	1
Total	4.18	2.11
$\text{Adjustment Factor} = \left[\left(\left(\frac{\text{Local affordability ratio}_{t=0} - 4}{4} \right) \times 0.25 \right) + \left(\text{Local affordability ratio}_{t=0} - \text{Local affordability ratio}_{t=-10} \right) \times 0.25 \right] + 1$ <p>Where $t = 0$ is current year and $t = -10$ is 10 years back.</p>		
Local Housing Need = Total Adjustment Factor * Baseline (higher of the two options)		
	Total Housing Need	
Annual Figure	5,750	1799
% of housing stock	4.7%	1.5%