



Ministry of Housing,
Communities &
Local Government

Changes to the current planning system

Consultation on changes to planning policy and regulations



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Scope of the consultation

Topic of this consultation:	This consultation seeks views on a range of proposed changes to the current planning system including: <ul style="list-style-type: none"> • changes to the standard method for assessing local housing need • securing of First Homes through developer contributions • temporarily lifting the small sites threshold • extending the current Permission in Principle to major development
Scope of this consultation:	The Ministry of Housing, Communities and Local Government is consulting on changes to planning policy and legislation.
Geographical scope:	These proposals relate to England only.
Impact Assessment:	N/A

Basic Information

To:	This consultation is open to everyone. We are keen to hear from a wide range of interested parties from across the public and private sectors, as well as from the general public.
Body/bodies responsible for the consultation:	Ministry of Housing, Communities and Local Government
Duration:	This consultation will last for 8 weeks from 06 August 2020 and will close at 23.45 on Thursday 1 st October 2020.
Enquiries:	For any enquiries about the consultation please contact: TechnicalPlanningConsultation@communities.gov.uk
How to respond:	You may respond by going to our website: www.gov.uk/government/consultations/changes-to-the-current-planning-system Alternatively you can email your response to the questions in this consultation to: TechnicalPlanningConsultation@communities.gov.uk If you are responding in writing, please make it clear which questions you are responding to.

Written responses should be sent to:
Changes to the current planning system consultation
Ministry of Housing, Communities and Local Government,
3rd Floor, South East Fry Building
2 Marsham Street
LONDON
SW1P 4DF

When you reply it would be very useful if you confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include:

- your name,
- your position (if applicable), and
- the name of organisation (if applicable).

Introduction

1. Since 2010 the Government has introduced planning reforms to improve the current system. In 2010 only 17% of local authorities had local plans in place and now 91% of local authorities have plans. Over 2,700 groups have started the neighbourhood planning process since 2012. We've delivered over 1.5 million new homes since 2010 including over 241,000 last year alone – that's the highest level for over 30 years. And planning permissions for new homes have more than doubled since 2010. But this isn't enough – we want to deliver the housing people need because happier, more rooted communities bring our country together.
2. *Planning for the Future*¹ sets out plans to undertake a fundamental reform of the planning system and explains that this would be accompanied by shorter-term measures. This consultation sets out proposals for measures to improve the effectiveness of the current system. The four main proposals are:
 - changes to the standard method for assessing local housing need, which as well as being a proposal to change guidance in the short term has relevance to proposals for land supply reforms set out in *Planning for the Future*;
 - securing of First Homes, sold at a discount to market price for first time buyers, including key workers, through developer contributions in the short term until the transition to a new system;
 - temporarily lifting the small sites threshold below which developers do not need to contribute to affordable housing, to up to 40 or 50 units to support SME builders as the economy recovers from the impact of Covid-19;
 - extending the current Permission in Principle to major development so landowners and developers now have a fast route to secure the principle of development for housing on sites without having to work up detailed plans first.

¹ See *Planning for the Future* <https://www.gov.uk/government/consultations/planning-for-the-future>

The standard method for assessing housing numbers in strategic plans

3. This consultation is seeking views on changes to planning practice guidance on the standard method for assessing local housing need (“the standard method”). The standard method provides the starting point for planning for housing and does not establish the housing requirement.
4. The standard method was first implemented in 2018 through the revised National Planning Policy Framework² to make assessing the minimum number of homes needed in an area easier, cheaper and more transparent. In February 2019, following the technical consultation on updates to national planning policy and guidance, a short-term change was made to the standard method. At the same time, a commitment was made to review the formula to balance the need for clarity, simplicity and transparency for local communities with the Government’s aspirations for the housing market.
5. This part of the consultation is about the standard method for assessing local housing need. There are wider policy proposals for introducing a standard method for setting binding housing requirements, set out in the separate consultation *Planning for the Future*³. It is the Government’s intention that the method set out in this document would form part of the process for setting any binding housing requirement. However, this consultation does not set out how this binding requirement would be calculated, which will be determined following the *Planning for the Future* consultation. Instead, it proposes a revised standard method for calculating local housing need which will be used as the basis for plans created prior to any changes outlined in *Planning for the Future* being introduced.

Boosting Supply

6. This consultation should be read in the context of the wider government reforms *Planning for the Future* in relation to the planning system and in particular the reforms to ensure sufficient land is released for homes. As this sets out, our aspirations are to create a housing market that is capable of delivering 300,000 homes annually and one million homes over this Parliament. Adopted local plans, where they are in place, provide for 187,000 homes per year across England – not just significantly below our ambition for 300,000 new homes annually, but also lower than the number of homes delivered last year (241,000).

² <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

³ See the wider reform policy paper Proposal 4 within *Planning for the Future*.

The role of the standard method in strategic plans

7. Plans are a key vehicle for ensuring that the community gets its chance to shape the development that takes place in its area. The standard method identifies the minimum number of homes that a local authority should plan for in an area. The National Planning Policy Framework is clear that this number should be considered in making sure enough land is identified to accommodate the new homes our communities need. Once the quantity of homes has been identified by the standard method, the supporting policy encourages local authorities to then consider how these can best be accommodated – through a combination of intensification and densification of brownfield land, regeneration of former commercial sites and under-used sites such as car parks, through well-planned new settlements and urban expansions.

8. The National Planning Policy Framework and associated planning practice guidance⁴ set out that local areas should identify enough land by using the housing need reflected by the standard method to:
 - a. identify the minimum number of homes that their communities need;
 - b. consider whether local circumstances mean that actual need is higher than that minimum (because, for example, strategic infrastructure is expected or growth beyond past trends is anticipated);
 - c. seek as a minimum to meet those needs by ensuring that sufficient land can be released over at least the next 15 years.

9. By directing that sufficient land should be released as above, the amount of need identified by the standard method has a direct influence on how many homes will be built in the future. It does not ensure that the homes are actually built - that is reliant on wider market conditions and targeted government interventions to support the market. However, identifying sufficient land so that the market is not prevented from delivering the homes that are needed is vitally important to prevent the under-delivery of the past from continuing to happen.

10. The overall level of need identified by the standard method therefore needs to be sufficient to ensure that land supply does not become a limiter in achieving national supply aspirations.

⁴ <https://www.gov.uk/guidance/housing-and-economic-development-needs-assessments>

The current standard method for assessing local housing need

11. The Government introduced the standard method to make the process of identifying the level of need in an area simple, quick and transparent. Previously, local authorities spent time and money estimating need and these numbers were heavily contested at examination. The standard method is designed to cut this time and ensure that the plan-making process focuses on how and where the homes can best be built, how they can be best designed and how the infrastructure can be aligned rather than time-consuming debates about the number of homes. The Government is clear that the standard method has an important role in achieving these ends and that it should continue to be: an easy and transparent process for people to understand; based on publicly available data; and reflect the need for homes in an area by taking in account the affordability of homes locally.
12. Currently, the method comprises a baseline of household projections which are then adjusted to take account of affordability and capped to limit the increase for areas. Step 1 of the current method sets the baseline using a 10-year average of the 2014-based national household growth projections. Step 2 goes on to adjust the Step 1 outcome based on the affordability of the area, using the most recent median workplace-based affordability ratios so that for each 1% the ratio is above 4, the average household growth is increased by a quarter of a percent (with a ratio of 8 representing a 100% increase). Step 3 then applies a 40% cap to limit the increases an individual local authority can face. The way this cap is applied depends on the current status of an area's strategic policies for housing.
13. Household projections, used in the current method, have attracted criticism for their volatility and the way in which they can result in artificially low projections in some places, where overcrowding and concealed households suppress the numbers. Crucially, they cannot in isolation forecast housing need – they project past trends forward. Despite this, we have seen many progress arguments that recent reductions in projected growth should lead to less homes being built. This should not be the logical conclusion, as the Office for National Statistics (ONS) has clarified^{5& 6}.
14. Improvements on the standard method are designed in order to:
 - a. Ensure it is more agile in using up-to-date data. We announced in the February 2019 Government response to the technical consultation on updates to national planning policy and guidance⁷, that the standard method would remain based on the 2014-based household projections. While this

⁵ <https://blog.ons.gov.uk/2018/10/19/what-our-household-projections-really-show/>

⁶

<https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationprojections/article/s/variant-household-projections-for-england/2016-based#things-you-need-to-know-about-this-release>

⁷ <https://www.gov.uk/government/consultations/changes-to-planning-policy-and-guidance-including-the-standard-method-for-assessing-local-housing-need>

was an appropriate solution in the short-term, a new standard method is intended to be more agile in using the most recent data.

- b. Achieve a better distribution of homes where homes are identified in more high-demand areas and in emerging demand areas across the country (such as the Northern Powerhouse). This will help avoid issues where unaffordable areas in high demand are planning for low numbers of homes due to past trends of suppressed household formation. In addition, the Government has heard powerful representations that the current formula underestimates demand for housing in the growing cities in the Northern Powerhouse by being based on historic trends.
- c. Provide stability to the method by smoothing out areas of potential volatility so that the basis on which local authorities are expected to plan for is more predictable.
- d. Be consistent with the Government's ambition for a housing market that supports 300,000 homes by creating a method with a suitable overall national number that enables achievement of this aim.

15. The Government has welcomed contributions from experts, including Savills⁸ and Lichfields⁹, on helpful proposals on how to adjust the methodology to address better these issues of alignment with real demand, stability, and consistency with the overall 300,000 target. There is general support for incorporating housing stock into the methodology, as a way of balancing out some of the issues identified with relying on household projections in isolation. We have taken into consideration the varied and useful feedback, both on the individual data inputs and also on how these might be applied in informing options for consideration.

16. In line with our commitments¹⁰, we are now proposing a revised standard method which aligns with the Government's aspirations for the housing market. This should provide stability and certainty for all stakeholders and seek to address the issues with the current approach and use of household projections identified above.

The Government's proposed approach

17. The Government has based the proposed new approach on a number of principles for reform. These include ensuring that the new standard method delivers a number nationally that is consistent with the commitment to plan for the delivery of 300,000 new homes a year, a focus on achieving a more appropriate distribution of homes, and on targeting more homes into areas where they are least affordable.

18. The standard method results in a local authority-wide number that needs to be planned for. The local area then decides how and where in their authority that need is best met in accordance with national policy. The supporting policy is not the

⁸ <https://pdf.euro.savills.co.uk/uk/spotlight-on/housing-need-and-the-standard-method-may-2020.pdf>

⁹ <https://lichfields.uk/blog/2020/may/21/setting-the-standard-towards-a-new-method-for-housing-need/>

¹⁰ <https://www.gov.uk/government/publications/planning-for-the-future>

subject of this consultation, but wider reforms proposed in the *Planning for the Future* consultation are focusing on how land supply policies would operate going forward. As such, this standard method provides the starting point and not the final housing requirement.

19. The new standard method should ensure that all areas of the country are encouraged to build the homes their communities need. The reasons for which homes are needed varies in different areas of the country. In some areas, new homes can play a vital role in schemes to regenerate deprived areas. In others the existing stock doesn't meet the needs of the existing communities in terms of providing the right size, type and tenure for different groups within the community and new homes are required to address this.
20. We therefore propose to introduce a new element into the standard method, a percentage of existing housing stock levels, which takes into account the number of homes that are already in an area. This should ensure that diverse housing needs in all parts of the country are taken into account. It should also offer the stability and predictability which has been absent when solely relying on household projections.
21. However, household projections, which are based on freely and publicly accessible data available at a local authority level, are still the most robust estimates of future growth trends. Projections have been used for decades in the planning system as a basis for future housing land requirements due to their simple and relatable concept of linking housing growth to the population. Therefore, we propose to retain a role for them as part of the new blended approach which takes account of stock. This helps achieve the stability and distributional benefits offered by stock whilst not losing the benefits of using projections. Further details of the exact approach are set out below.
22. The Government also proposes to introduce an affordability adjustment that takes into account changes over time, in addition to the existing approach of considering absolute affordability. This will increase the overall emphasis on affordability in the formula and ensure that the revised standard method is more responsive to changing local circumstances, so that homes are planned for where they are least affordable. For example, where affordability improves, this will be reflected by lower need for housing being identified. The Government also proposes to remove the cap which artificially suppresses the level of housing identified.

Step 1

Setting the baseline – providing stability and certainty by incorporating a blend of household projections and stock

23. We consider that the **baseline for the standard method should be *whichever is the higher of 0.5% of existing housing stock in each local authority OR the latest projected average annual household growth over a 10-year period.***

24. Recognising the limitations of household projections for the purposes of identifying housing need, the Government considers that they continue to remain the best way of projecting forward likely trends in household formation. Household projections therefore continue to form a part of the baseline, but will act as a “top-up” to a basic percentage of existing stock in each area. This allows areas that experience significant increases in projections compared to existing stock to plan for the homes they may need as a result of recent trends. This results in a “higher of” approach.
25. Focusing the new standard method baseline on stock with a household projections “top-up” helps bring stability to the method. This is because stock is stable and does not vary significantly, unlike a household projections-only approach. It is based on current data, and is also a tangible and easily understandable concept. Using stock will ensure that all areas, as a minimum, are contributing a share of the national total, proportionate to the size of their current housing market. Basing the approach on stock also helps to reinforce development in existing urban areas, thereby ensuring that new homes can maximise existing infrastructure such as public transport, schools, medical facilities and shops.
26. We propose a simple 0.5% of existing stock as a starting point for the baseline. The most robust data source of stock levels is the annually published **Dwelling stock estimates by local authority districts¹¹ and the most recent data published at the time should be used**. The number of net additional dwellings delivered in 2018-19 represents an increase of approximately 1% on the previous dwelling stock estimate of 24.2 million dwellings in England as at March 2018. 0.5% represents a basic level of increase in all areas without putting a disproportionate emphasis on existing stock levels.
27. The **household projections element of the baseline will use the latest ONS national household growth projections¹²** for the local authority area (Principal projection, table 406). The projected **average annual household growth over a 10-year period** (10 consecutive years, with the current year being used as the starting point from which to calculate growth over that period) will be used.
28. **Whichever is higher of 0.5% of existing stock or the projected average annual household growth over a 10-year period will be used as the baseline**. Note the overall outcome of the baseline should not be considered in isolation, as it forms proportionately less of the overall need number than the current standard method does. This is because the revised formula puts a greater weighting on market signals in Step 2.

¹¹ <https://www.gov.uk/government/collections/dwelling-stock-including-vacants> (Table 125)

¹²

<https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationprojections/datasets/householdprojectionsforengland>

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?*

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.

Step 2

Adjusting for market signals – maintaining price signals using the current affordability ratio and the change in affordability over the last 10 years

29. We propose the standard method will include two adjustments to the baseline using **the workplace-based median house price to median earnings ratio¹³**. Initially it is proposed that the **ratio for the most recent year for which data is available** in order to address current affordability of homes would be used. Then **how affordability has changed over the last 10 years of published data** would be incorporated, using that same statistic.

30. The precise formula is as follows:

Adjustment Factor

$$= \left[\left(\left(\frac{\text{Local affordability ratio}_{t=0} - 4}{4} \right) \times 0.25 \right) + \left((\text{Local affordability ratio}_{t=0} - \text{Local affordability ratio}_{t=-10}) \times 0.25 \right) \right] + 1$$

Where $t = 0$ is current year and $t = -10$ is 10 years back.

31. The Government considers that price signals, in the form of an affordability adjustment, are an integral part of the standard method. High house prices indicate a relative imbalance between the supply and demand for new homes, making homes less affordable. The affordability of homes is the best evidence that supply is not keeping up with demand.

32. The workplace-based median house price to median earnings ratio is a nationally recognised and robust publicly available national statistic. It reflects the relationship between local house prices and earnings and is relatively stable over time. Using a ratio based on house price aligns with Government aspirations about home ownership and importantly it ensures that the standard method is responsive and

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<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoworkplacebasedearningslowerquartileandmedian>

targeted to where affordability issues are most acute. Consideration has been given to the relative merits of the house price to workplace-based earnings ratio against the house price to residence-based earnings ratio. The workplace-based ratio (used in the current standard method) is felt to be most appropriate.

33. Using the most recent ratio enables an assessment of current affordability in an area. This ensures the formula responds to the most recent data. Incorporating an affordability trend over a 10-year period enables an assessment of the direction of travel in an authority area. Where affordability improves, a proportionately lower need level will be established. However, if an area's affordability worsens, then the housing need identified will be proportionately higher.
34. The affordability adjustment is a two part method aimed to deliver greater overall emphasis on affordability than in the current standard method. It is also designed to factor affordability changes over a 10-year period.
35. Part one of the affordability adjustment follows a similar method to that used in the current standard method. For each 1% the ratio is above 4, the baseline is increased by a quarter of a percent. Current guidance states that no adjustment is applied where the ratio is 4 or below. However, now that stock helps to stabilise the baseline, the affordability element of the new standard method can be responsive in areas where affordability is below 4 and we propose to amend guidance to this effect.
36. The formula now allows for downwards adjustments, where for each 1% the ratio is below 4, the baseline is decreased by a quarter of a percent. This means that these areas would not experience an uplift on the baseline as a result of this element of the formula. Four is the threshold as four times a person's earnings¹⁴ is the maximum amount that can typically be borrowed for a mortgage - if an average worker cannot get a mortgage for an average home in the area without additional help then there are not enough homes in the area.
37. Part two of the affordability adjustment focuses on the absolute difference between the latest affordability ratio and the affordability ratio 10 years ago. The difference calculated is multiplied by a factor of 0.25. This emphasis puts more pressure on local authorities whose affordability ratio has increased over the 10-year time frame, but likewise allows for local authorities whose ratio has improved to benefit from reductions in their affordability adjustment.
38. The affordability adjustment in part one and part two are added together (with a constant of 1), to reach a total affordability factor which is subsequently applied to the baseline. The combined effect is an increased responsiveness to affordability, reflecting the importance that the Government attaches to this.

¹⁴ The Council Mortgage Lenders found that in 2015 the average first time buyer loan to income ratio in England was 3.61.

39. Unlike the previous method, the new standard method does not have a cap applied to limit the level of increase for individual authorities. The Government is clear that in order to significantly boost the supply of homes and address the past under-supply as quickly as possible, a step change is needed. Capping the level of need is not compatible with this aim. In no longer applying a cap, the resultant housing need is the level of need that authorities should be planning to release land for, according to their specific circumstances.

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.

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.

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

Result of the revised standard method

40. The new standard method results in a national housing need of 337,000 on the basis of currently available data. This is the starting point for planning and not the final housing requirement. Not all homes that are planned for are built, therefore the new standard method total is designed to provide enough land to account for the drop-off rate between permissions and completions.

41. The revised method identifies 76% of local housing need nationally focused in local authorities classified as urban (10,000 people or more in a built-up area – i.e. major and minor conurbations, cities and towns and towns in a sparse setting) by the 2011 ONS classification¹⁵. This will make the most of our transport hubs, support the objectives of brownfield-first and gently densifying urban areas, including building upwards where appropriate.

42. At a local authority level, the revised method will affect individual authorities differently. 141 authorities (excluding London boroughs) have a change of over 25% when compared to the higher of what areas have most recently planned for or the number produced by the current standard method.

Transition

43. The Government is aware that any change in the standard method will have an impact for plans that are currently under development, as authorities expend

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<https://www.ons.gov.uk/methodology/geography/geographicalproducts/ruralurbanclassifications/2011ruralurbanclassification>

considerable resources in developing new plans. To enable an orderly transition to the revised standard method, and achieve as much short-term supply as possible while setting the right expectations for early stage plan-making, **we propose that from the publication date of the revised guidance, authorities which are already at the second stage of the strategic plan consultation process (Regulation 19)¹⁶ are given 6 months to submit¹⁷ their plan to the Planning Inspectorate for examination. Authorities close to publishing their second stage consultation (Regulation 19)¹⁸, 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.** This is to strike a balance between allowing an appropriate transition period for plans that are nearly through the process, but without causing a significant delay in planning for a higher level of need.

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?

Please see question 35 for any comments relating to the Public Sector Equality Duty and the standard method.

¹⁶ For Spatial Development Strategies this would refer to consultation under s335(2) of the Greater London Authority Act 1999

¹⁷ For spatial development strategies, 'submission' in this context means the point at which the Mayor sends to the Panel copies of all representations made in accordance with regulation 8(1) of the Town and Country Planning (London Spatial Development Strategy) Regulations 2000, or equivalent.

¹⁸ See footnote 17 above

Next steps

44. Following the outcome of this consultation, the Government will update the planning practice guidance with the revised standard method for assessing local housing need.

Delivering First Homes

45. This Government is committed to supporting people to make the dream of home ownership a reality. Over 644,000 households have now been helped by Government schemes, including Help to Buy and Right to Buy, and we are taking steps to ramp up the supply of new housing. We are undertaking the most radical reforms to our planning system since the Second World War, making it easier to build homes where they are most needed. Our £400m Brownfield Land Fund and Home Builders Fund will support the levelling up of home building across the country and our stamp duty holiday, applying to the first £500,000 of property sales, will give a much-needed boost to the economy, helping even more people to own homes of their own.
46. However, ensuring access to home ownership remains one of the greatest challenges for this Government. Although polling shows that 87% of people would prefer to own a home given a free choice, high prices, high deposits and difficulty accessing mortgage finance still mean that far too many people are denied this opportunity. This is why we are determined to ensure that First Homes are built in all parts of the country.
47. The Government consulted on its First Homes proposals in February 2020¹⁹. This included consultation around both the design of the First Homes scheme and changes to the planning system to support its delivery. The Government has published a response to this consultation²⁰ and is now seeking views on the detail of the proposed changes to the current planning system.

The Government's proposed approach

Setting developer contributions for First Homes

Percentage of affordable housing secured through developer contributions

48. The Government intends to set out in policy that a minimum of 25 per cent of all affordable housing units secured through developer contributions should be First Homes. This will be a national threshold, set out in planning policy. Initially these will be secured through section 106 planning obligations but, under proposed reforms, these would subsequently be secured through the Infrastructure Levy (see Pillar Three of *Planning for the Future*).
49. In accordance with paragraph 62 of the National Planning Policy Framework, affordable housing is expected to be delivered onsite unless offsite provision or a financial contribution in lieu can be justified. Currently, around four per cent of

¹⁹ First Homes: Consultation on the design and delivery of First Homes.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/864265/First_Homes_consultation_document.pdf

²⁰ <https://www.gov.uk/government/consultations/first-homes>

affordable housing contributions are secured as cash or land contributions, rather than as onsite affordable housing. Therefore, in the majority of cases we would expect this policy to be delivered onsite. However, where cash contributions to affordable housing are secured instead of onsite contributions, a minimum of 25 per cent of these should be used to secure First Homes. This could be achieved, for instance, by acquiring additional First Homes from market development, paying the developer a sum to offset the discount from market price, and securing the tenure through section 106 planning obligations. Where a mixture of cash and onsite contributions are secured, 25% of the overall value of contributions should be applied to First Homes.

50. Local authorities should already have affordable housing policies set out in their local plan, which will include the amounts of affordable housing to be sought, and the tenure mix of this housing. The National Planning Policy Framework currently states that where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. Under our intended approach, therefore, it is necessary to define the criteria for policy compliance, under which a development is assumed to be viable.
51. The Government proposes that, under the new system, a policy compliant planning application should seek to capture the same amount of value as would be captured under the local authority's up-to-date published policy. For instance, a local policy may require 20% affordable housing on site, half of which is shared ownership, and half of which is social rent. The plan viability assessment will set out assumptions on the amount of value captured – for example, a social rent home may be discounted by 50% from market price, and a shared ownership home may be discounted by 20%. This allows the total value captured under the policy to be calculated. This value can then be reallocated to a different affordable housing mix under the new policy.
52. In addition to capturing the same amount of value towards affordable housing as the existing policy, where onsite affordable housing is required, a policy compliant application will have a minimum of 25% of affordable housing units onsite as First Homes. For the remaining 75% of affordable housing secured through developer contributions, there are two broad options:
 - **Option 1:** Where a local authority has a policy on affordable housing tenure mix, that policy should be followed, but with First Homes delivering a minimum of 25% of the affordable housing products. First Homes should replace as a priority other affordable home-ownership products, as defined in the National Planning Policy Framework, prioritising the replacement of those tenures which secure the smallest discount from market price.
 - i. Where this replaces all home ownership products, any rental products are then delivered in the same ratio as set out in the local plan policy. For instance, if a local plan policy requires an affordable housing mix of 20% shared ownership units, 40% affordable rent units and 40% social rent units, a compliant application would deliver an affordable

housing tenure mix of 25% First Homes; 37.5% affordable rent and 37.5% social rent.²¹

- ii. Where this does not replace all home ownership products, the remainder of the home ownership tenures are delivered, and the rental tenure mix is delivered in line with the proportions set out in the local authority plan policy. For instance, if a local plan policy requires 80% of units to be shared ownership and 20% to be social rent, a policy compliant application would deliver 25% First Homes units, 55% shared ownership and 20% social rent.

- **Option 2:** A local authority and developer can negotiate the tenure mix for the remaining 75% of units.

53. If a local authority has an up-to-date policy on cash contributions in lieu of onsite contributions, then a policy compliant application will align with this approach.

54. Option 1 would provide more early clarity for developers as to what constituted a policy compliant development, and would reduce negotiation, which can slow the development process. Option 2 would give local authorities more flexibility but would increase delay. For that reason, the Government prefers Option 1.

55. Currently, sites or proposed developments such as those that provide solely for Build to Rent homes are exempt from requirements to deliver affordable home ownership products. This is set out in paragraph 64 in the National Planning Policy Framework. In line with existing policy, we are considering how to implement these exemptions with regards to 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)**

²¹ The actual number of homes of any tenure type should be rounded to whole numbers, where the ratio would deliver, for instance, half an affordable home.

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 this First Homes requirement?

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

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

Local plans and transitional arrangements

56. We recognise that local authorities may need to review the tenure mix for the remainder of the affordable housing that they are seeking to secure. Where local authorities choose to update their tenure mix to reflect this policy, they can do this through a local plan review, although we believe that prioritising the replacement of home-ownership tenures by First Homes will reduce the need for this.

57. We also recognise that there will be a number of local plans and neighbourhood plans that have been prepared based on the existing National Planning Policy Framework and that have reached more advanced stages of the plan-making process. Therefore, local plans and neighbourhood plans that are submitted for Examination within 6 months of this new policy being enacted will not need to reflect the First Homes policy requirements.

58. We also recognise that many developers will have been preparing planning applications under different assumptions. Where significant work has already been undertaken to progress a planning application, including where there has been significant pre-engagement with a local authority on the basis of a different tenure mix of affordable housing, the local authority should have flexibility to accept alternative tenure mixes, although they should consider whether First Homes could be easily substituted for another tenure, either at 25% or a lower proportion.

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

Level of discount

59. The minimum discount for First Homes should be 30% from market price which will be set by an independent registered valuer. The valuation should assume the home is sold as an open market dwelling without restrictions. Local authorities will have discretion to increase the discount to 40% or 50%. This would need to be evidenced in the local plan making process.

60. Where discounts of more than 30% are applied to First Homes, the requirement for a minimum of 25% of units onsite to be First Homes will remain in place.

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

Community Infrastructure Levy

61. In line with other affordable housing tenures, we intend to introduce an exemption from the Community Infrastructure Levy (CIL) for First Homes. We intend to introduce this national exemption through regulations.
62. Prior to regulations being laid, we encourage CIL charging authorities to make use of discretionary affordable housing relief in order to support immediate delivery of First Homes.
63. Further proposals are being developed for an Infrastructure Levy, which would replace CIL and Section 106 planning obligations. First Homes will remain integral to this approach, as will the delivery of affordable housing more generally. We will consider the balance of infrastructure and affordable housing as part of this approach.

Exception sites

Exception sites and rural exception sites

64. We intend to introduce a First Homes exception sites policy, to replace the existing entry-level exception sites policy. Exception sites are small sites brought forward outside the local plan to deliver affordable housing. Under the amended policy, we will specify that the affordable homes delivered should be First Homes for local, first-time buyers. There will be the flexibility in the policy to allow a small proportion of other affordable homes to be delivered on these sites where there is significant identified local need as well as a small proportion of market homes where this would be necessary to ensure the viability of the site overall. This policy will not apply in designated rural areas, where delivery will be through the rural exception sites policy.
65. We intend to remove the National Planning Policy Framework threshold on site size that currently applies for entry-level exception sites in footnote 33, but retain the requirement that First Homes exception sites should be proportionate in size to the existing settlement.
66. We intend to protect the important role that rural exception sites play in delivering affordable homes in rural areas, with rural exception sites being retained as a vehicle for delivering affordable housing in designated rural areas. However, we recognise that this delivery mechanism is currently underused in many cases, and we will update planning guidance in due course.

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?

Please see question 35 for any comments relating to the Public Sector Equality Duty and the delivery of First Homes.

Next steps

67. We intend to begin by making planning policy changes, to ensure that clear expectations are set. However, to ensure that First Homes are delivered, nationwide, on a consistent basis, we are keeping under consideration the option to strengthen the policy through primary legislation at a future date. We also intend to introduce an exemption from the Community Infrastructure Levy for First Homes, to enable delivery prior to wider developer contribution reform. This would require changes to regulations. Lastly, we are also considering significant reforms to the system of developer contributions. We will ensure that First Homes will continue to be delivered under a reformed approach.

Supporting small and medium-sized developers

68. Small and medium-sized builders (SMEs) make an important contribution to overall housing supply. Small sites typically build out more quickly than larger sites, as they are less constrained by the market absorption rate. SMEs build the majority of smaller sites. In addition, the majority of apartments across the country are built by SME builders.²² As well as having national importance, SMEs play a significant role in local areas – providing people with increased choice in type and design of housing. A range of builders, using different designs, across different site sizes in different locations increases build out rates and overall supply.
69. SME builders have been declining in the long term and were hit hard by the last recession. There were 16% more builder and developer insolvencies in 2019 than in 2018²³, the vast majority of which were SMEs. They are now under further pressure due to Covid-19. We are committed to supporting SMEs and measures taken that support the sector include the Home Building Fund, Help to Buy programme and the ENABLE Build guarantee scheme. We are also providing a package of measures to help the sector grow and develop, including the Housing Growth Partnership, Housing Delivery Fund, as well as our ongoing reforms to the planning system.
70. Contributions from developers play an important role in delivering the infrastructure and affordable housing to support communities and local economies. Local authorities can obtain these contributions by negotiating section 106 planning obligations with a developer and charging a Community Infrastructure Levy on new development.
71. We have introduced legislation to give local authorities more flexibility to support SMEs, by allowing them to defer Community Infrastructure Levy payments. This will enable local planning authorities to support SMEs who are struggling with cashflow, while ensuring that local communities still receive contributions towards infrastructure from developers in the longer term.
72. To support SMEs in the medium term during economic recovery from Covid-19, we are also proposing to reduce the burden of contributions on SMEs for more sites for a time-limited period.

²² Source: MHCLG analysis of Glenigan data.

²³ Source: MHCLG analysis of [Insolvency Service statistics](#) on firms involved in the Construction of Buildings (SIC 41).

Small sites planning policy

Developer contributions

73. Research into developer contributions²⁴ has found that Section 106 planning obligations remain a core aspect of planning practice and recent reform of the system in 2019 has been largely welcomed. However, there are still inconsistencies in local planning authority practice and delay remains a hallmark of the system.
74. National policy is clear that affordable housing contributions should not be sought for developments of fewer than 10 units (small sites). This is to ensure that a disproportionate burden of developer contributions is not placed on SMEs. In designated rural areas policies may set out a lower threshold of five units or fewer. This approach was introduced through a Written Ministerial Statement in November 2014 and taken forward in the revised National Planning Policy Framework in 2018.
75. We are aware that the majority of local planning authorities have taken this approach forward. Only 8% of authorities have policies in up-to-date plans (less than five years old) that do not comply with national policy and are currently seeking affordable housing contributions for small sites.

Economic recovery

Extending the small sites policy

76. To stimulate economic recovery with a particular focus on SMEs, the threshold for affordable housing contributions could be raised. This would reduce the burden of developer contributions, as smaller sites are more likely to be built out by SMEs.
77. We understand the trade-off between introducing measures to increase the number of developable small sites and the importance of securing section 106 planning obligations to deliver affordable housing including First Homes. For example, for a threshold of up to 40 units we would expect to see a reduction of between 7% and 14% of section 106 affordable housing delivery over a single year, assuming overall housing delivery remained constant. For a threshold of up to 50 units, this would be between 10% and 20%. However, we anticipate that raising the threshold would make more sites viable for SME developers and would increase the pace of their delivery as the need for negotiation would be removed. On balance, the proposed approach would allow more small sites to come forward and help minimise the economic pressure that SMEs are under.

²⁴ The Incidence, Value and Delivery of Planning Obligations and Community Infrastructure Levy in England in 2018-19. Joint research from the University of Liverpool, the University of Cambridge, the University of Sheffield and the London School of Economics <https://gov.uk/government/publications/section-106-planning-obligations-and-the-community-infrastructure-levy-in-england-2018-to-2019-report-of-study>

78. To ensure that this measure is targeted at the economic recovery phase and does not inflate land prices in the longer term, we are proposing that the higher threshold is implemented for a time-limited period and lifted as the economy recovers from the impact of Covid-19. This should also minimise any constraints on the introduction of First Homes. We are keen to hear views on the benefits and impacts of this proposal on the delivery of new homes.

The Government's proposed approach

79. We are proposing to raise the small sites threshold to up to either 40 or 50 new homes through changes to national planning policy and are seeking views on the most appropriate level. These thresholds balance the aim of supporting SMEs with the need to deliver new affordable homes. This will be for an initial period of 18 months in which we will monitor the impact of the raised threshold on the sector before reviewing the approach.

80. National policy currently sets out a site size threshold for residential development in addition to number of homes. It makes clear that affordable housing contributions should not be sought for developments that have a site area of less than 0.5 hectares. We propose to scale up the site size threshold at the same proportion as the increase in number of homes threshold and we are seeking views on whether this is the most appropriate approach.

81. There could be adverse threshold effects whereby developers attempt to bring forward larger sites in phasings of up to 40 or 50 homes (depending on which threshold is taken forward in legislation) to avoid contributions. To minimise the impact of this potential threshold effect, we propose to set out in planning guidance how local planning authorities can secure contributions for affordable housing where it is apparent that a larger site is being brought forward.

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?

(see question 18 for comments on level of threshold)

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

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

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

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

Affordable housing in rural areas

82. In designated rural areas, local planning authorities can set a lower threshold of five units or fewer in their plans. We are aware that rural local authorities secure greater proportions of their housing supply as affordable on average when compared to urban local authorities. In designated rural areas, we therefore propose to maintain the current threshold.

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

Supporting SMEs

83. The Government recognises that in addition to planning contributions, there may be many reasons why SME builders are unable to access and progress developable sites during this time. We are keen to hear whether there are any other ways in which the Government can support SME builders to deliver new homes.

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

Please see question 35 for any comments relating to the Public Sector Equality Duty and the small sites proposals.

Next steps

84. Following the consultation, a decision will be taken on whether to proceed with this approach. If it is taken forward, this could be through the introduction of a Written Ministerial Statement in the Autumn.

Extension of the Permission in Principle consent regime

Introduction of applications process for major developments

85. Permission in Principle was introduced in 2017 as a new faster way of obtaining planning permission for housing-led development, which reduced the need for landowners and developers to incur significant costs to establish the principle of development for housing. This was done by giving authorities the power to grant Permission in Principle to suitable sites allocated on registers of brownfield land. Subsequently, Permission in Principle by application was introduced in 2018, for minor development (i.e. small sites that support fewer than 10 dwellings).
86. Permission in Principle is designed to separate decision making on 'in principle' issues addressing land use, location, and scale of development from matters of technical detail, such as the design of buildings, tenure mix, transport and environmental matters. The aim is to give up-front certainty that the fundamental principles of development are acceptable before developers need to work up detailed plans and commission technical studies. It also ensures that the principle of development only needs to be established once.
87. The Permission in Principle consent route has two stages:
- the first stage ("Permission in Principle") establishes whether a site is suitable in-principle for development. This grant of Permission in Principle is for five years and no planning conditions can be attached to it
 - the second ('technical details consent') stage is when the detailed development proposals are assessed, and conditions can be attached
88. A grant of Permission in Principle plus a grant of technical details consent together equates to full planning permission.

Securing the principle of development for housing on more sites

89. As part of our plans to support economic recovery, the Government wants to make it easier for landowners and developers to have certainty that the principle of development for housing only needs to be established once in the process before developers need to get into more costly, technical matters. This is particularly important for smaller sites which have not been allocated in local plans and where there is now, due to the rapidly changing economic circumstances, a desire by landowners to release the land for housing.
90. *Planning for the Future* proposes that land allocated for substantive development in local plans should be automatically granted a form of permission of principle so that

the principle of development is established, and subsequent consents only focus on detailed technical matters. As this new framework will take time to implement, the Government is keen to expand the current Permission in Principle framework for housing-led development as an early opportunity to move towards this new approach.

91. As part of this consultation, we are interested in your views on:

- extending the scope of the current Permission in Principle by application route to major development (not subject to EIA or habitats assessments);
- enhancing the information requirements and publicity arrangements for these applications;
- introducing a revised fee structure, at lower cost, to incentivise their use;
- including automatically any Permission in Principle granted onto Part 2 of the local brownfield land register; and
- strengthening guidance to support implementation.

Extending Permission in Principle to cover major development

92. Since 2018, applications for Permission in Principle have gradually increased as more developers have become more aware of it. However, the restriction limiting the scope of the principle to minor development limits its potential. In particular, in town centres and other high-density urban areas, relatively small sites are capable of supporting apartment developments of over 10 units, making these sites ineligible for Permission in Principle applications.

93. For these sites, if they are brownfield, a landowner could approach the local planning authority to add the site to its brownfield land register where Permission in Principle status can be granted after consultation. However, this takes time and requires proactive local planning authority engagement. Or the landowner could submit a full or outline planning permission to secure the principle of development before they sell the land interests on to a developer; but given the level of detail required, these can be costly to prepare, take time to determine, and often the subsequent developer will submit a new outline or full application to reflect their own plans.

94. To address this current anomaly, we propose **to remove the restriction in the current Permission in Principle regulations on major development**²⁵. This will enable applications for Permission in Principle to be made for a far wider range of sites, enabling more landowners and developers to use this route to secure permission for housing development. Currently, 84% of planning applications for residential development are for schemes of 10-150 homes, which deliver 46% of new housing development each year.

²⁵ <http://www.legislation.gov.uk/uksi/2017/1309/made>

95. We envisage that a change of this kind will particularly benefit small and medium-sized developers who tend to focus on building smaller major developments. It will reduce their upfront planning costs and provide certainty quickly about the principle of development. In doing so, it will complement the Government's wider initiatives to support small and medium developers, including through the Home Builders Fund which provides loan funding to meet the development costs of building homes for sale or rent and where a loan offer is conditional on applicants having a clear route to achieving planning consent.
96. The existing restrictions in the Permission in Principle Regulations relating to EIA and Habitats requirements will remain, reflecting the fact that Permission in Principle is granted on the basis of limited technical information and there is not sufficient environmental information for these requirements to be accurately assessed at the point of decision.
97. This means Permission in Principle by application will not in practice be a route to permission for large sites capable of delivering more than 150 dwellings or more than 5 hectares – the EIA Regulations 2017 Schedule 2 threshold for urban development, save where a screening opinion has been obtained which concluded the proposal was not EIA development. 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.

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

98. Permission in Principle by application may include other uses as retail, offices, or community spaces. However, housing must occupy the majority of the overall scheme. Additionally, non-housing development should be compatible with the proposed residential development.
99. The current regulations for Permission in Principle by application for minor development sets a limit of commercial development to 1,000 sqm, with a maximum size capped at 1 hectare. For the expanded Permission in Principle route extending to major development, **we do not propose to set a limit for commercial development space**. We do not believe it is necessary to limit the amount of commercial floorspace as it will still be the case that Permission in Principle should only be granted for development that is housing-led. Non-housing development that is compatible and well-integrated into residential development can help to create sustainable neighbourhoods.

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.

Process for making a Permission in Principle application for major development

100. We anticipate it will not be necessary to make any significant changes to the current process set out in regulations for granting Permission in Principle by application. We believe they will largely work for major developments too. This includes the 5-week determination period and the 14-day period for consultation with the public and statutory consultees, which is critical to ensuring an early decision on the principle of development. However, views are sought on maintaining the existing information requirements and publicity arrangements as these may need to be amended.

Information requirements

101. The primary decisions about when to grant Permission in Principle will be locally driven, taking account of national and local policy. Permission in Principle must be followed by an application for technical details consent to agree the details of the scheme before the applicant obtains full planning permission and can start work on site.
102. We anticipate that the process for making a Permission in Principle application for a major development would follow these same procedures, where the relevant matters for consideration are location, land use and the amount of development.
103. A Permission in Principle application must be made in writing on a form published by the Secretary of State (or a form to substantially the same effect) and include the particulars specified or referred to in the form which include:
- a description of the proposed development,
 - the proposed minimum and maximum number of dwellings,
 - the amount of any non-residential development,
 - the size of the site in hectares, and
 - a brief description of any supporting information that is accompanying the application.
104. The local planning authority may not require the submission of any other information, including that specified on its local list.
105. For the Permission in Principle stage, we intend to apply broadly the same information requirements as for minor development applications²⁶ – that is, the developer would only have to provide information as to: the minimum and maximum net number of dwellings, and a map or plan of the site (drawn to an identified scale). Technical details consent requirements would provide the necessary supplementary information for the local planning authority to determine the application.

²⁶ <http://www.legislation.gov.uk/ukxi/2017/1309/article/4/made> - Article 5D

106. However, we would be interested in whether, given the larger scale of development, there should be an additional maximum height threshold parameter, in terms of number of storeys, as part of the Permission in Principle. This would provide greater clarity to the applicant and local planning authority about the scale of housing development that is acceptable for the site, particularly in high density urban areas. Conversely, the inclusion of a maximum height parameter would add further complexity to the determination of Permission in Principle as it starts to bring in design considerations, and may in practice lead to greater confusion - for instance, a high height threshold may only be acceptable for part of the site given the impact on neighbouring dwellings.

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?

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

Publicity arrangements

107. Publicity requirements for Permission in Principle by application, as set out in regulations,²⁷ require local planning authorities to publicise consultations by site notice and by including the application on their website. By contrast, applications for planning permission²⁸ require a site notice, publication on the website and placing a notice in a local newspaper.

108. We consider that local communities should have the opportunity to make representation on major development that might affect them. We propose to amend the publicity requirements for Permission in Principle by application so applications for Permission in Principle on large sites are subject to publicity beyond just a site notice and website publication.

109. Given the shorter timescales for determining Permission in Principle applications we want to ensure that local communities are notified quickly about an application. In May 2020 we introduced temporary regulations to provide flexibility to how local planning authorities can publicise applications if they cannot meet existing statutory requirements, including through the use of social media. We would like to understand whether there would be benefits in amending the publicity requirements for Permission in Principle to enable similar flexibility or whether they should be subject to more traditional publicity requirements such as notices in newspapers.

110. We plan to retain the current publicity requirements for statutory consultees and parish councils.

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:

²⁷ <http://www.legislation.gov.uk/uksi/2017/1309/made>

²⁸ <http://www.legislation.gov.uk/uksi/2015/595/article/15/made>

- 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.

Revised fee structure to incentive Permission in Principle by application

111. The current fee for Permission in Principle by application for minor development is £402 per 0.1 hectare (capped at a maximum of 1 hectare), which is to cover the costs incurred in processing the application, as well as the costs of undertaking consultation and assessment against local and national policy.
112. Under this fee structure, a Permission in Principle application for a 1-hectare development would cost approximately £4000, which is only slightly less than the cost of an outline planning application (£4600). We are keen to promote Permission in Principle by application as a more streamlined and cheaper alternative to outline permission and have considered a number of options to facilitate this. Options considered include: a) retaining the current fee structure based on a flat fee per 0.1 hectare but with a lower fee; b) adopting a site-size criterion, with a charging scheme based on the actual number of dwellings (NB. this is not considered practical because the exact number of housing units in the proposed scheme will not be known until the applicant submits the technical details consent application); and c) our **preferred option of a simplified banded fee structure, with a fixed fee per 0.1 hectare in each band**, and maximum fee cap based on the following site sizes:
- less than 1 hectare (= £x fee per 0.1 hectare)
 - between 1 to 2.5 hectares (= £y fee per 0.1 hectare)
 - more than 2.5 hectares, capped at a maximum (= £z fee per 0.1 hectare, capped)
113. We think lower fees are reasonable because a local planning authority only needs to make a decision on the principle of the development, not on the technical details of the development like a normal planning application.

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

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

Brownfield Land Registers and Permission in Principle

114. Every local authority is required to publish and maintain a Brownfield Land Register, which provides up-to-date, digitally and publicly available information on brownfield land that is suitable for housing. Brownfield Land Registers are divided into two

parts. Part 1 contains a list of brownfield sites that are considered appropriate for residential development; and Part 2 consists of sites which have been taken forward from Part 1 of the register and granted automatic Permission in Principle by the local planning authority (following consultation). Individual Permission in Principle applications granted by local planning authorities from sites that were contained in Part 1 of the Brownfield Land Register must also be included in Part 2 of the Register.

115. Brownfield Land Registers can improve the quality and consistency of data held by local planning authorities and help to provide certainty for developers and communities, encouraging investment in local areas. Having sufficient and accurate data is integral to providing greater transparency about where brownfield sites are available across the country. We are soon to publish a national brownfield map which will bring together all sites identified in local Brownfield Land Registers so there is a clear national picture of brownfield sites suitable for housing.
116. To ensure that Brownfield Land Registers continue to be a single source of information for developers and to inform the national brownfield map in the short term, we propose that all Permission in Principle by application “consents” that are on brownfield land should also be automatically recorded in Part 2 of the Brownfield Land Register. In the longer term, under the *Planning for the Future* proposals, as the new local plans are produced, we intend to review the role of Brownfield Land Registers.

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.

Additional guidance to support implementation

117. As Permission in Principle by application is still a new consent route, we are aware from anecdotal evidence that understanding of this consent route among landowners, developers and local planning authorities is often limited.
118. In particular, it seems some local planning authorities continue to make decisions on Permission in Principle based on detailed matters, such as transport access, when these should only be taken into consideration at the technical details consent stage. It is also not certain that developers and landowners appreciate the gains they can make in terms of savings on costs and assessments when ascertaining, up front, the suitability of a particular site for development. Providing further clarity in guidance on the purpose, process and benefits of Permission in Principle should help mitigate this, particularly where consultation responses highlight areas of confusion.

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.

Regulatory Impact Assessment

119. Our preliminary assessment is that these regulation changes to Permission in Principle will not increase the regulatory burden on business, charities or voluntary bodies. The measure should enable applicants to establish upfront, and at minimal cost, whether sites are suitable for residential development. Under the existing system, applicants typically will pay the much higher cost of preparing and submitting a full planning application in order to determine the suitability of a site for housing-led development²⁹.
120. After obtaining a grant of Permission in Principle, medium-sized developers should find it easier to secure the finance needed to fund a technical detail consent application rather than having to fund the cost of a full planning application without the certainty afforded by a grant of Permission in Principle.
121. Feedback from consultees will help inform our understanding of the practicalities of the proposed measure, as well as to undertake a 'costs and benefit' analysis as part of a Full Regulatory Impact Assessment, including estimating take-up trajectories.

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

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

Next steps

122. Following this consultation, if we introduce Permission in Principle by application for major development, we aim to introduce amending regulations this Autumn, with the regulations expected to come into force by the end of the calendar year. Changes to the fee structure would require separate changes to the Planning Fees Regulations.

²⁹ Estimates from the Impact Assessment prepared for the Town and Country (Permission in Principle) (as amended) Order 2017 show that the typical cost of preparing and submitting a full planning application at approximately £25,000 for a minor site, including fee costs. The cost for full planning permission for a major site (based on 100 dwellings) is approximately £40-£50,000.

Public Sector Equality Duty

123. The Equality Act 2010 requires public authorities to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations. It relates specifically to groups with protected characteristics including age, disability, sex, race, religion or belief, sexual orientation, gender reassignment, pregnancy, and maternity.

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?

About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal data, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), the General Data Protection Regulation, and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, as a public authority, the Department is bound by the Freedom of Information Act and may therefore be obliged to disclose all or some of the information you provide. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Ministry of Housing, Communities and Local Government will process your personal data in accordance with the law and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. A full privacy notice is included at Annex A.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).

Annex A

The following is to explain your rights and give you the information you are be entitled to under data protection legislation.

These rights apply to your personal data (your name, direct contact details such as an email address, and any other information that could be used to identify you personally).

1. The identity of the data controller and contact details of our Data Protection Officer

The Ministry of Housing, Communities and Local Government (MHCLG) is the data controller. The Data Protection Officer can be contacted at dataprotection@communities.gov.uk.

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

3. Our legal basis for processing your personal data

Article 6(1)(e) of the General Data Protection Regulation 2016 (GDPR) provides that processing shall be lawful if processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller. Section 8(d) of the Data Protection Act 2018 further provides that this shall include processing of personal data that is necessary for the exercise of a function of the Crown, a Minister of the Crown or a government department.

The processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Ministry of Housing, Communities and Local Government. The task is consulting on departmental policies or proposals or obtaining opinion data in order to develop good effective government policies in relation to planning.

4. With whom we will be sharing your personal data

We will not share your personal data with organisations outside of MHCLG without contacting you for your permission first.

5. For how long we will keep your personal data, or criteria used to determine the retention period.

Your personal data will be held for two years from the closure of the consultation.

6. Your rights, e.g. access, rectification, erasure

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right:

- a. to see what data, we have about you
- b. to ask us to stop using your data, but keep it on record
- c. to ask to have all or some of your data deleted or corrected

d. to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/> , or telephone 0303 123 1113.

7. Storage of your personal data

The Data you provide directly will be stored by MHCLG's appointed third-party on their servers. We have taken all necessary precautions to ensure that your rights in terms of data protection will not be compromised by this.

If you submit information to this consultation using our third-party survey provider, it will be moved to our secure government IT systems at a date following the consultation publication date.

8. Your personal data will not be used for any automated decision making.