

Changes to the current planning system (consultation on changes to planning policy and regulations) Consultation Response



THE ROYAL BOROUGH OF
KENSINGTON
AND CHELSEA

Royal Borough of Kensington and Chelsea

The standard method for assessing housing numbers in strategic plans

Q1: Do you agree that planning practice guidance should be amended to specify that the appropriate baseline for the standard method is whichever is the higher of the level of 0.5 per cent of housing stock in each local authority area OR the latest household projections averaged over a 10-year period?

The Council recognises the importance of meeting its housing needs and strongly supports the Government in its ambition to build more homes.

However, the Council is deeply concerned with the proposed standard method for establishing housing requirement figures. This assumes an increase of 0.5 per cent over current housing stock regardless of the nature of an area. This would result in dense urban areas with existing high densities and thereby housing stock, generating large unachievable numbers which will not reflect local housing needs. Kensington and Chelsea is a Central London borough. It is often quoted as an exemplar of high density built environment. At about 4.5 sq miles it is the smallest London borough with three quarters of the Borough within conservation areas. Almost all our development is on brownfield land.

The proposed methodology generates an overall housing need figure for the Borough of 3,285 new homes per annum. This is the equivalent of delivering a new opportunity area site every year such as the one we have in our borough – Kensal Canalside Opportunity Area. There is a high discrepancy between the numbers generated by 0.5 per cent of existing housing stock (439 for RBKC) and the projected average annual household growth over a 10-year period (156 for RBKC). The methodology requires us to use the higher of these figures.

The emerging New London Plan considered a similar approach for small sites with a density assumption of 0.25 per cent for conservation areas. The work behind this was undertaken in the London wide Strategic Housing Land Availability Assessment (SHLAA), 2017. This uses a modelled approach for small sites and assumes that there will be a 1 per cent increase in existing housing stock in areas with good public transport (PTALs 3 – 6). In conservation areas the yield rate of 1 per cent is reduced by 75 per cent, so in these areas the modelling assumes that only 0.25 per cent of the stock of dwelling houses will intensify each year. This reflects the fact that the scope for residential intensification will be more limited in these areas but increases in existing density levels can still be expected. This approach gave a figure of 50 homes per annum¹ for Kensington and Chelsea. This is because the SHLAA methodology also took a finer grained approach looking at housing typologies

¹ London SHLAA 2017, Table 6.5

(terraced and non-terraced housing) when applying assumptions around increase in housing stock. Even this approach was found to be undeliverable at the London Plan examination with the Panel of Inspectors recommending a reduction in the figures.

The evidence undertaken in the SHLAA 2017 identified the true capacity of what is deliverable in the Borough. This is based on identified sites and includes a factor for small sites. Following the examination of the emerging New London Plan the Borough's housing target is expected to be 448 homes per annum. The Panel of Inspectors carefully considered the targets for London and reduced them to about 52,000 homes per annum following examination. They concluded the targets were not realistically achievable and therefore not justified.

It is acknowledged that the Planning White Paper suggests that we would be able to take account of land constraints including designated areas of heritage value but it does not explicitly state conservation areas. Even if we assume that the unconstrained figure of 3,285 would be reduced by 75 per cent on the basis of conservation areas, this would still produce a housing target of about 820 homes per annum. This target is almost double that in the emerging New London Plan, examined recently and evidenced through the SHLAA process and based on a realistic capacity given the nature of sites and the Borough. We also undertook a "call for sites" through the SHLAA process and no new sites were put forward by developers or landowners at that time.

The consultation document is explicit in stating that the standard approach is being taken to accommodate the country-wide target of 300,000. We consider that the proposed method will not help achieve this target. This is because it is generating unachievable targets that cannot be delivered. In principle we support the addition of land constraints on top of the standard method but we would like to see more details on how these will apply. Importantly, we are keen to deliver a target that is **realistic and achievable** and this element needs to be added to any standard method.

Q2: In the stock element of the baseline, do you agree that 0.5 per cent of existing stock for the standard method is appropriate? If not, please explain why.

We do not agree with the 0.5 per cent element as housing stock cannot increase at this rate. A similar modelled approach was examined at the New London Plan examination and was found to be undeliverable for London. The consultation document itself acknowledges that 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. Using household projection provides a much lower figure for the Borough. We are very much in support of development but housing targets have to be realistic and deliverable. We do not consider that the 0.5 per cent assumption generates realistic figures. The assumption does not seem to be supported by any evidence.

Q3: Do you agree that using the workplace-based median house price to median earnings ratio from the most recent year for which data is available to adjust the standard method's baseline is appropriate? If not, please explain why.

No – The White Paper says that the standard method would enable “*the least affordable places where historic under-supply has been most chronic take a greater share of future development*”. Kensington and Chelsea is the least affordable place in the whole country based on the affordability ratio which stands at 39.62. However, it simply does not have the capacity to take a larger share of future development as explained in our response to Q1.

We do not agree with the methodology that expects areas with the worst affordability to release the most land. As a result this should be capped as per the current method. It is not the planning regime that is responsible for the issues of affordability in these areas, but the basic economic concept of supply and demand is at play here, with land that is heavily constrained in the first place impacting on supply.

We urge the Government to fundamentally rethink this aspect of their proposals and enable local authorities to set realistic targets based on land capacity. No amount of new housing will make Central London land values the same as elsewhere.

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.

We do not consider that the relative affordability of Central London or other land constrained areas bearing similar characteristics will improve over time. The [Office for National Statistics \(ONS\)](#) reports that the median price paid for homes to the end of September 2019 was £4.6m in the Borough. We question whether the building of new homes within our Borough will ever increase “affordability” to a meaningful degree. Demand is such that it will never be met. Over much of the Borough prices will continue to reflect the prime and super prime national and international housing markets. We do not have the sites or the capacity to provide the volume of homes that would be needed to begin the housing market back into balance and to begin to address affordability. Any impact on affordability potentially caused by increases in housing stock will be more than countered by ever spiralling property prices.

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

No - We consider that affordability is being accorded too much weight in the method. The thinking behind levelling up the housing market across the country is a good one. However, as explained in the responses above, the factors behind affordability issues cannot simply be tackled by expecting a much larger share of homes to be built in the least affordable areas. In an extremely dense urban environment such as in our Borough as well as others in Central London it is simply not possible to balance the market as there isn't sufficient land to build the numbers generated in this way.

Q6: 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:

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?

We note that there could potentially be four methods of calculating housing need at any one point until the new process is fully embedded: 1. Existing Local Plans with figures derived from old style Strategic Housing Market Assessments (SHMA); 2. Using the existing standard method (using 2014 household projections); 3. The new standard method and; 4, using the housing targets set through the London Plan process. The latter has proved an effective framework to assist in the delivery of the homes which the capital needs through borough specific housing targets. The London Plan examination process provides the mechanism by which these can be properly tested

Whilst we do not support the method proposed due to the reasons set out above, we would urge the Government to be explicit on the method to be used and to fix it for a number of years. This will help direct resources in working to meet the housing needs and reduce the burden to change and adapt Local Plans as they progress.

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?

N/A.

If not, please explain why. Are there particular circumstances which need to be catered for?

Delivering First Homes

Q8: The Government is proposing policy compliant planning applications will deliver a minimum of 25per cent of onsite affordable housing as First Homes, and a minimum of 25per cent of offsite contributions towards First Homes where appropriate. Which do you think is the most appropriate option for the remaining 75per cent of affordable housing secured through developer contributions? Please provide reasons and / or evidence for your views (if possible):

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

ii) Negotiation between a local authority and developer.

iii) Other (please specify)

The Council supports the Government's ambitions to deliver more affordable homes for sale. However, we are concerned that making it a mandatory requirement for all areas may be to the detriment of overall affordable housing provision. For example, it is unrealistic to expect for sale affordable homes to be provided in extremely high value areas such as Knightsbridge. It is far better to capture these very high land values to maximise the provision of affordable rent products to meet the need of those on the housing register.

We note that the clear intention is to require suitable developments to provide a minimum 25 per cent of on-site affordable homes as First Homes, and this consultation asks how the remaining 75 per cent should be determined.

For clarity and consistency, we would favour option three – other. This option could be an offshoot of Option 1 and recognise that the 25 per cent first homes requirement will not apply in extremely high value areas.

The Government can set an upper limit of the discount from market values which would recognise high value areas. The February 2020 consultation on First Homes recognised this, stating that “a 30 per cent discount may not, however, be sufficient to ensure First Homes are affordable to local people where affordability is particularly challenging.... Local Authorities have discretion to set higher discounts on properties on a site-by-site basis, and we expect them to seriously consider this when determining local discounts.” This consultation went on to state that, “The Government is clear that this scheme is not to be used to subsidise the purchase of exceptionally expensive property... we are minded to introduce a cap on the value of properties available for this scheme before the discount is applied.” We supported this approach, as this subsidy for the wealthy could otherwise be an unintended consequence of the First Homes initiative.

We explain this in more detail in our response to Q 13 below.

We support delivering the remaining 75 per cent in accordance with the policies set out within our own Local Plan. This may allow the provision of some social rented homes – those in greatest need in this Borough.

Clearly, this is dependent on an LPA being able to have its own locally determined development management policies, an issue being questioned by the current consultation on the Planning White Paper.

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?

Yes, built to rent schemes are suitable for discounted market rent rather than for sale products which could include First Homes. There should be further flexibilities, for example, where specialist purpose built accommodation for the elderly, is rendered no longer viable by the requirement for First Homes.

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

In RBKC exemption d) *is exclusively for affordable housing, an entry-level exception site or a rural exception site* does not apply in the Borough therefore not required.

This may be an opportunity to consider whether the existing exemption remains relevant for all forms of affordable housing. Purpose built student accommodation, for example, is a high value use which should, and can, make an affordable housing contribution.

The Council also notes that purpose built accommodation for the elderly can differ considerably in both form and function. It should be liable for an affordable housing contribution where is housing rather than a use which offers a degree of care. Such uses can have an extremely high value, and any affordable housing continuation would not render it unviable.

This would ensure the starting assumption would be that a wider range of uses would be liable for an affordable housing contribution. This may have the effect to deflating the purchase price to allow this provision. It may be that affordable housing could not be provided – but the “maximum reasonable amount” test would allow this to be tested.

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

Yes. We have stated above where we think schemes should be exempt from the provision of First Homes. This includes extremely high value areas where First Homes have the potential to substantially reduce overall affordable housing provision.

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

Yes. Notwithstanding our concerns about the provision of First Homes in extremely high value areas, we would support the transitional arrangements proposed.

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

No.

The Council shares the Government's view that if First Homes are to be a form of "affordable" housing they must be offered with a meaningful discount. The median house price is nearly 40 times the median workplace-based earnings in the Borough, The [Office for National Statistics \(ONS\)](#) reports that the median price paid for homes to the end of September 2019 was £4.6m in the Borough. Therefore, a 30 per cent discount will clearly not be sufficient in the majority of the Borough.

The Council has carried out an exercise to assess the value of a property which households of different incomes may be able to afford. (February 2020) This is set out in the table below.

| Household income level | £60,000 | £40,000 | £30,000 |
|--|----------------|----------------|----------------|
| Net income of tax | £44,491 | £25,491 | £15,991 |
| 10per cent deposit | £30,278 | £16,944 | £10,278 |
| Total purchase price affordable (rounded) | £300,000 | £170,000 | £100,000 |
| Value of property before 30per cent discount | £430,000 | £242,000 | £143,000 |

This assumes a property budget of 40 per cent of the household's income, a 4per cent interest rate on a 25 year repayment mortgage, a service charge of £10 psm and a 10 per cent deposit.

With a small one-bedroom flat in the least expensive part of the Borough, being close to £500,000 in value, it is clear that a First Homes discount of 30 per cent will not create homes which are affordable to those households with an income of £60,000. The actual discount needed for a property with a value of £500,000 to be affordable for a household with an income of £60,000 would be 40 per cent. This would rise to 66 per cent for those on an income of £40,000 and to 80 per cent for those on an income of £30,000.

With family homes considerably more expensive, they are even more out of reach of the types of people the First Homes initiative is intended to reach

As such we would urge the Government to set an upper limit of discount, say as suggested of 50 per cent maximum. This would then enable an exception for the very high value areas as we suggest in our response to Qs 8 and 11 above. This would support the delivery of new First Homes but not jeopardise the delivery of other forms of affordable homes in high value areas.

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?

N/A

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

Given the built up nature of this Borough it is unlikely to have any “exception sites”. As such this Council has no comment.

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

N/A

Supporting small and medium-sized developers

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

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

No. The Council strongly supports the Government's aims to support SMEs during economic recovery from Covid-19. However, we are concerned that a raising of the affordable housing threshold for even a limited period of 18 months will result in significant loss of contributions towards affordable housing and community infrastructure levies. We differ from most of authorities in that the majority of our contributions come from small sites of less than 40 units.

The loss of these contributions will have an immediate effect on our ability to provide affordable homes but also the range of other initiatives also so essential to support SME's in this challenging time. We suggest that the triggers should be, as suggested for Infrastructure Levy in the Planning White Paper be based on development value. As stated earlier, the [Office for National Statistics \(ONS\)](#) reports that the median price paid for homes to the end of September 2019 was £4.6m in the Borough, therefore the value of 40 or 50 homes will be phenomenal in our Borough. Not requiring any affordable housing from such sites will be a missed opportunity to address the acute housing needs in the Borough.

Whilst we note that the proposals are intended to be for an 18 month period only, it is inevitable that landowner/developers will rush to secure permission within this time frame so as to avoid the cost of any contributions. It is unlikely to increase the quantum of development which will come forward over the longer term. It is merely likely to accelerate proposals which would come forward in their own time. It will not increase the delivery of homes over the longer term.

(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)

The recently adopted Local Plan, examined by a Planning Inspector and found to be sound allows the Council to deviate from the small site's threshold. We have demonstrated that a 650 sq m threshold is appropriate and will not impact upon the delivery of new homes. The proposed 40 or 50 home threshold would mean minimal contributions would be collected and therefore worsen the delivery of affordable housing for the Borough. As stated above rather than the number of home perhaps the trigger should be based on development value. Given the land values, a 40 or 50 home scheme is unlikely to be delivered by an SME in our borough.

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

No - we do not agree as per the response above. The Borough has very few housing schemes that are over 40 or 50 homes and the majority of affordable housing delivery comes from small sites.

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

No - we don't agree as per the response to Q.17 and 18.

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

Yes, we would welcome guidance which would allow LPA to take a robust approach to resisting applications brought forward in such a way as to avoid the delivery of affordable homes.

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

N/A

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?

The Council does not support extending Permission in Principle to cover major developments. We are concerned that whilst there may be circumstances where a PIP may be of some value to a landowner, it offers few real benefits over and above a detailed allocation within a Local Plan. This allocation will offer the “certainty” required, with the subsequent planning application allowing an LPA to properly assess the details of the application as and when it is made. This allows full engagement with residents and other local stakeholders, who will be best placed to make informed comments at two stages: the allocation and then again with the subsequent application.

We note that many of these new PIP sites (major development but below the Schedule 2 threshold) will be windfalls. Such sites are best considered through a full planning application, as by their very definition will not have been included within a Local Plan review. A full planning application will be quicker than a two stage PIP process.

Q25: Should the new Permission in Principle for major development set any limit on the amount of commercial development (providing housing still occupies the majority of the floorspace of the overall scheme)? Please provide any comments in support of your views.

Notwithstanding our comments concerning the extension of PIP to cover major developments, we would have no objection were commercial uses to make up a larger proportion of the floorspace on a site. We endorse the view that commercial development can help create sustainable neighbourhoods.

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?

It would be helpful if major developments considered under PIP were to provide details of the proposed unit mix. This is essential if those housing developments which do come forward are to meet the particular housing needs in this borough.

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

Notwithstanding our concerns about extending PIP to major developments, it is essential that an LPA is given adequate information at the PIP stage, so that the full impact of the proposal can be properly addressed. An LPA is best placed to decide what information should be forthcoming to ensure development of the highest quality and which meets its particular needs. At the very least we would suggest that the mix (unit type/size) proposed and housing tenure must be included as part of any PIP. Building heights are an extremely important parameter given the historic context

in the Borough and we strongly agree this should be included in the requirements for PIP.

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.

Publicity of PIPs should be subject to a general requirement to publicise the application. These requirements will depend on the scale and the nature of the development and the potential impact it may have upon those who live in its vicinity, and in the case of large proposals, a wider area. We would encourage the use of more innovative methods to notify and consult, as would question the reach of a notice in a local newspaper.

Revised fee structure to incentive Permission in Principle by 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?

We would support a banded fee structure, as we do recognise that larger applications are usually more complex and require considerably more assessment by the LPA. However, we would be reluctant to see a reduction in fees as even the existing fees do not cover the cost of determining these more complex applications. For the same reason we would strongly resist the setting of a fee cap.

Such an approach would reduce the resources necessary if an LPA is to work with developers to ensure that high quality proposals come forward. We have seen no evidence to suggest that the current level of fees discourages applications.

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

Brownfield Land Registers and Permission in Principle

We have no comment at this stage, as the level of fee necessary will depend on what information has to be provided for a PIP, and has to be assessed by the LPA. By the same token the consultation requirements will have a direct impact upon the cost of determining a PIP, and these have yet to have been confirmed.

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 we agree that any brownfield sites that is granted PIP should be included in Part 2 of the Brownfield Land Register.

At present RBKC only have sites listed in part 1 because there are no sites that have been granted PIP. Therefore, we already follow the proposed guidance in this regard.

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.

Further guidance to assist stakeholders could be the suggested mix (unit type/size) proposed and housing tenure must be included as part of any PIP. However LPA should still be given the flexibility to decide what information should be forthcoming to ensure development of the highest quality and which meets its particular needs.

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?

Without more detail it is impossible to make a detailed assessment. However, we recognise that benefits are likely to mean shorter timeframes to make decisions, which may result in faster housing delivery of major schemes. However, the cost will be to the quality of the schemes, with LPA's having less control over decision making process.

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

Past experience has not indicated a pressure from developers for the Council to actively promote or to roll out permissions in principal. This reflects the certainty already offered through the site allocations in the Local Plan and our proactive approach to work with developers, be this through site briefs or through PPAs.

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?

RBKC already promote Public Sector Equality by mitigating possible impacts by using the Equality Impact Analysis Tool and ensuring appropriate measures are taken to ensure any direct or indirect impacts are eliminated by using this process. There are a diverse community groups that may be affected by the proposed changes by Government in relation to affordable housing and various user groups that may rely on supported housing in the Borough.