

The response of Cornwall Council regarding to specific questions posed in the consultation on proposed changes to National Planning Policy

a) Affordable Housing

Q1. Do you have any comments or suggestions about the proposal to amend the definition of affordable housing in national planning policy to include a wider range of low cost home ownership options?

We would urge the Government to support locally based policies based upon a local assessment of housing need. Clearly, affordable housing solutions must be appropriate to local circumstances, evidenced and flexible. Housing affordability to average wage ratios in Cornwall remain significantly different to the national average. We do not have evidence of a significant level of latent and unmet need for the type of low cost home ownership proposed at the suggested price levels. The greatest level of need and demand for affordable housing products in Cornwall is for social rented units to support those in the greatest need. The majority of this group would not be able to access the proposed starter homes or raise a mortgage.

Circumstances vary, in any local assessment of housing need; the need for affordable forms of home ownership is far outstripped by the need for rented homes. In Cornwall, we have 28,000 households on low incomes, seeking rented homes unlikely to find alternative tenures and of those only 1,500 households on our register looking for affordable housing to buy. A key concern for the Council in preparing for a Local Plan examination this year is that we will be able to demonstrate our policies are based on an objective assessment of local housing need were the home ownership products to be subject to greater levels of prescription. There are considerable fears that a focus on starter homes coupled with a reduction in funding for other products will make it almost impossible to provide other products that our need indicates.

The Council is very concerned about the ability of genuinely local people to be able to purchase a home with only a discount of 20% from open market value. The evidence included within draft policies within the emerging Local Plan indicates that that the average 'purchasing power' of households looking to buy an affordable home may only be £87,000-£104,500 for typical 2 and 3-bedroom houses. With average house prices as high in Cornwall as they currently are, we do not believe that a 20% discount will enable a significant number of additional households to purchase a property.

As the consultation paper states, these changes will break down the central tenet of affordable housing policy that either preserves the affordability of housing in perpetuity or permits staircasing and the recycling of value when disposals happen. The starter homes initiative represents a significant departure

from this approach. We would question whether this leakage of value is fair or represents the best use of public funds.

The Council supports a number of examples of low cost home ownership products that successfully promote home ownership but preserve the benefits for future occupiers. The main barrier to these products is not demand or mortgage affordability but a highly risk averse view of s106 legal agreements amongst high street lenders, even where loan to values ratios are attractive. We have campaigned for some time for Government assistance in securing greater access to high street lending for these products but with no success. We would ask the Government once again to consider what more could be done to unlock mortgage lending for these schemes.

Similarly, given the long term success of low cost home ownership products in Cornwall (there are several thousands of dwellings for private low cost sale and shared ownership), we are also concerned about the potentially severe impact on this sector of the new announcements, especially in the resale market. There will be far fewer buyers attracted to these homes because of the incentives of new products which relatively quickly become open market with a resultant windfall value. In some cases, reductions in demand will lead to more and more requests for such s 106 restrictions to be lifted on other products. This further erodes the in perpetuity concept and reduces our stock of affordable homes.

Similarly, a fundamental principle of planning gain is that value generated through the granting of planning permission is used to mitigate the impact of the development because planning gain benefits are held in the local community. The Government supports this principle through the use of CIL and new homes bonus. We are concerned that the value accrued and held in affordable housing for the benefit of the wider community will be shared solely between first occupiers in a significant windfall and the developer. In an era where there will be far less public investment in affordable housing, the recycling of the proceeds of sale has been (and could be) a valuable future investment stream to supplement or replace public subsidy. Housing associations have proved that there are significant financial benefits from using RCGF (recycled capital grant funding) which has increased the level of local investment. In Cornwall, this has also been extended to private developers who have covenanted to offer back staircasing receipts to be re-invested by the Council. Such models ought to be explored more fully but will not be able to compete with the attraction of homes where value is released in one windfall.

Rural exception sites have played a vital role in the provision of affordable housing in perpetuity in Cornwall, helping thousands of households find a home that they can afford to rent or part-purchase. The proposal to allow exception sites for starter homes could significantly reduce the willingness of landowners to make sites available for affordable housing outside of starter homes. Exception

sites have been a very successful vehicle for delivery of affordable homes to meet local needs in Cornwall. Over 1000 dwellings have been provided in this way over the last 5 years. The loss of this approach or undermining its acceptance with local communities and landowners could significantly reduce the delivery of local needs housing. The paper is not wholly clear on how the policy might relate to such sites. There is a suggestion that a local connection restriction could be applied but is this limited to the first purchaser or in perpetuity and how is local defined? In which case, we would seek that exemption in accordance with the designated rural areas definitions; albeit that we consider that this should be fully revised as the original survey resulted in some strange anomalies in Cornwall with rural areas classified incorrectly as urban. Some work would need to be done to explore how best to impose such obligations and to reconsider the ad hoc definition of rural areas as currently designated.

Far more clarity is required on how the price of starter homes will be set; is it a 20% discount of a market value (and how should this be assessed and by whom?) or a price set by the Council that reflects affordability?

Clarity is also required on whether the Local plan can still specify the split of tenure to meet local needs or whether starter homes will essentially take on the role of an intermediate product. The Council contends that the Local Plan should be able to define the process and framework for the provision of affordable housing based on the evidence collected for that purpose. This allows a solution to be achieved that takes into account the evidence collected to understand housing need and is more responsive to that identified need.

Q2. Do you have any views on the implications of the proposed change to the definition of affordable housing on people with protected characteristics as defined in the Equalities Act 2010? What evidence do you have on this matter?

The age limit of 40 appears arbitrary and conflicts with European models of home ownership. Why should the elderly or those members of the community who through divorce or other social change become first time buyers at an older age be excluded from this facet of home ownership?

b) Increasing residential density around commuter hubs

Q3. Do you agree with the Government's definition of commuter hub? If not, what changes do you consider are required?

Airports, park and ride facilities and parkway style rail stations should be omitted from the definition. They are often in rural areas and their function may be compromised by encouraging high density development around them.

Q4. Do you have any further suggestions for proposals to support higher density development around commuter hubs through the planning system?

No comments

Q5. Do you agree that the Government should not introduce a minimum level of residential densities in national policy for areas around commuter hubs? If not, why not?

No comments

c) Supporting new settlements, development on brownfield land and small sites, and delivery of housing agreed in Local Plans

Q6. Do you consider that national planning policy should provide greater policy support for new settlements in meeting development needs? If not, why not?

New settlements can provide an option to provide for growth. These need supporting powers (for example for land assembly). However, these are not a quick, easy or cheap solution to meeting housing needs. Clarity of how settlements should be 'locally led' and the implications for demonstrating this should be given in any new advice.

Additional guidance should be provided to assist the consideration of new settlements and provide a standard for new places that seeks to create a vision for the future as a new community.

The Council notes that no new funding proposals have been put forward to assist the substantial up front work required to aid the development of new settlements. Proper consideration of how essential infrastructure costs are to be borne and met for new settlements should accompany the Policy proposal.

Q7. Do you consider that it would be beneficial to strengthen policy on development of brownfield land for housing? If not, why not and are there any unintended impacts that we should take into account?

Cornwall Council supports the principle of a presumption in favour of brownfield land where there are no overriding conflicts with the Local Plan or the NPPF and where brownfield sites are not of high environmental value. It is noted that "high environmental value" is not defined in the NPPF and it is therefore assumed that this will be for local planning authorities to establish. We would wish to be assured that this does not simply apply to designated landscapes as the Council believes that every landscape matters. Despite our general support, we do hold

concerns around how the presumption and the registers of brownfield land will be established and applied in practice as set out below.

We would seek clarity on the definition of brownfield land and how it relates to mining or MOD sites. The NPPF's definition of "previously developed land" does not provide sufficient detail to enable all sites to be categorised in terms of brownfield land or greenfield land in such a way that is necessarily appropriate for permission in principle to be granted. There are a number of complexities, for example:

- Pre-1948 mining sites that would not have required planning permission and therefore were not subject to a restoration condition. Not all of these sites will have "blended into the landscape" but former minerals extractions sites can hold geodiversity and biodiversity value (e.g. Open Mosaic Habitat) and are often in unsustainable locations.
- Foliage can be deliberately removed or superficial changes can be made so that sites are no longer "blended into the landscape".
- Open-air car parks – whether these should come down to the surfacing material for example. We understand that recreational areas with hardstanding would be considered greenfield land meanwhile.
- Whether sites should be split into components where there are built facilities on one part of a site only (e.g. campsites).

To protect the universal value of the World Heritage Sites it is essential that the cultural importance of brownfield sites is reflected in the definition or an amendment is made to footnote 9, paragraph 14 to include World Heritage Sites and other sites of cultural significance, as brownfield land can contain considerable value in terms of heritage and cultural significance. This includes mineral workings in Cornwall, many of which are poorly located for development. There are a considerable number of these sites that may be classed as 'brownfield' (because they are not subject to Restoration conditions, due to their age) across Cornwall, but would not be suitable for development due to their importance to the community. In the same way, many of Cornwall's distinctive landscapes are not always nationally designated, but can hold considerable value for communities, both culturally and environmentally.

Furthermore the frontloading of the decision-making process through granting permission in principle is expected to be a time-consuming process which would not simply be a minor addition to the work undertaken for the Strategic Housing Land Availability Assessment. At a time of considerable pressure on resources this is a notable concern. We also query how the approval of "limited technical details" would enable the goals of the development plan to be achieved, including factors such as design quality and these should be included as a robust requirement.

The Council would encourage the addition of a criterion requiring brownfield land to be in a sustainable location, i.e. within or well related to existing settlements, in order to qualify for the register of brownfield land to prevent unintended threat to the open countryside.

In reality the principle of developing most brownfield sites is not the issue. The issue relates to how other technical issues, such as traffic, flooding and design for instance, and it is unclear how these will be dealt with in a way which increases either certainty or speed in the process for either the community or developer. There are considerable risks of granting permission in principle without the undertaking of surveys to understand the sub-surface conditions and potential contamination of sites. Clearly these would be a further burden on the Council.

Q8. Do you consider that it would be beneficial to strengthen policy on development of small sites for housing? If not, why not? How could the change impact on the calculation of local planning authorities' five-year land supply?

The contribution from small sites in rural areas is even greater than that suggested in the consultation. In Cornwall, for example, 37% of all completions over the last 5 years were on small sites.

Current policy already gives support for small sites regardless of whether they are brownfield or not in the form of support for infill. However, this should include caveats of proportionality, for example, to the smallest villages and hamlets where up to 10 units might be inappropriate to the local context.

In the case of Cornwall an approach to support small sites would be unlikely to significantly change the approach to five year supply as the Council does not include a windfall allowance for the first five years based on the premise that current permissions provide sufficient supply to meet needs over 5 years. If the changes mean that windfall sites could be added to the 5 year supply calculation this would help the Council.

Support in principle for the development of small sites on the edge of settlements however risks conflicting with the delivery of exception sites. This will increase hope value for all land adjoining settlements even where settlements limits have been defined and make the use of exceptions redundant. Exception sites form a major source of the delivery of affordable homes to meet local needs and this change could significantly reduce that delivery.

Q9. Do you agree with the Government proposal to define a small site as a site of less than 10 units? If not, what other definition do you consider is appropriate, and why?

The Council supports the definition of a small site as a site less than ten dwellings, however it should be noted that in rural areas a ten dwelling scheme can often be significant.

Q10. Do you consider that national planning policy should set out that local planning authorities should put in place a specific positive local policy for assessing applications for development on small sites not allocated in the Local Plan?

The Council doesn't support a distinction for small sites. The same principle should apply to all forms of infill development whether it is 8 units or 12 units. We have noted some previous national commentary and reports which indicate a view that small sites are inherently less viable or less deliverable and should therefore receive some additional support or protection. We have no evidence that this is typically the case. Whilst small sites might have some challenges, equally, they also have benefits – they do not carry the significant infrastructure burden or overheads of larger developments and are often able to be more flexible in terms of expectations of return and the need for sub-contractors. This is borne out by the fact that a significant proportion of development in Cornwall is successfully carried out on small sites.

The consultation also appears to lend support for small developments on the edge of villages (potentially through permission in principle), this would reduce the ability to provide for rural exceptions that assist in meeting local need for affordable housing by increasing hope value for land on the edges of villages that would currently be used for exception schemes.

Q11. We would welcome your views on how best to implement the housing delivery test, and in particular:

- **What do you consider should be the baseline against which to monitor delivery of new housing?**
- **What should constitute significant under-delivery, and over what time period?**
- **What steps should be taken in response to significant under-delivery?**
- **How do you see this approach working when the housing policies in the Local Plan are not up-to-date?**

Clearer guidance on 'under delivery' is necessary. Any definition should take into account the failure of the market to deliver even when the supply is available.

The current approach appears to be based on the false premise that the sole cause of under delivery is a lack of supply of land. The wider issues that impact on delivery (such as market forces, shareholder expectation etc.) need to be fully explored to understand the complexities of delivery beyond imposing time limits on Local Planning Authorities.

The suggested baseline of the local plan target and proposed housing trajectories is a logical one and is supported.

The proposed approach should take into account that there may be sites, such as sustainable urban allocations, that will rectify the shortfall over the plan period, but will take time to deliver homes on site in early phases. Therefore additional sites may not be needed over the plan period.

Q12. What would be the impact of a housing delivery test on development activity?

The Council does not have a view on the effectiveness of the test. The presumption in favour of sustainable development in the NPPF and the way that it has been applied has reduced confidence in the community that sites that they consider inappropriate for development will be refused and has increased the perception of intervention into local planning decisions by Government. There are concerns that this approach will be extended to cover a lack of delivery by others, further increasing a feeling of disenfranchisement by communities over how the plan-led system and how their areas are developed and through no fault of the Council or community. This would apply particularly to neighbourhood Plans.

The new approach may increase the number of consents by overriding local policies and allocations, but is unlikely to increase real delivery. The Council would suggest that the delivery test should be able to make a more sophisticated analysis of why delivery is not being achieved in areas where circumstances exist of persistent under delivery despite a plentiful supply of housing land. How will the effect of market conditions be assessed in deciding whether additional sites should be released? Is there a link to reported skills shortage in the construction industry that would merit further investment?

We note and support the Government's attempts to incentivise delivery. It is not made clear how developers will be incentivised to deliver. The parameters of DCLG discussion with the development industry should be made clear to allow a considered response to the measures that could be put in place to secure delivery of sites. Whilst delivery can be assessed by the Council in collaboration with developers there is no mechanism to force the delivery of land.

Perversely, the suggested policy may actually incentivise non-delivery of sites as a means to stimulate the granting of additional unallocated sites.

We would argue that interventions to date have focused upon the perceived barriers imposed by the planning system. Many of these (and previous) Government's changes seek to overcome these barriers considering process, viability and permitted development. We would urge the Government to consider some penalties for non-delivery by the development sector alongside rewards. For example, initiatives which require a "use it or lose it" approach to planning permissions or the LGA proposals in terms of charging Council tax on such consents. Volume housebuilders are responsive to their shareholders and will not always see merit in exceeding their own delivery targets. Finally, barriers imposed by other providers such as utility companies should also be understood and tackled.

Q13. What evidence would you suggest could be used to justify retention of land for commercial or similar use? Should there be a fixed time limit on land retention for commercial use?

The Council has concerns over the loss of job opportunities of such a measure. The time suggestions made in the consultation paper are not long enough a time period for judging whether the need to retain land has expired. This is especially the case in Cornwall where external investment in projects may take time to assemble and conditions created to reach a viable stage. Industrial land is generally rarely viable and receives public sector support. A range of sites is needed to provide flexibility and meet employment needs in a timely way. The proposed approach will undermine planning for delivery of employment land and erode local decision making.

In practice, measures such as this will further reduce the viability of employment use as hope value for housing increases. This should not be allowed to push investment in employment development in to increasingly more peripheral locations where there is less hope value for residential development.

It is unclear from the consultation how and by whom it must be demonstrated that the land is not unviable or underused. The requirement for assessments would be onerous on LPAs to produce, especially an assessment of significant market demand. In any case a precautionary approach should be applied. The proposed measure is unsophisticated and fails to exhaust alternatives, for example, should the first test be whether alternative employment based uses could ensure delivery?

The definition of underused or unviable land should take into account where land should be safeguarded for a longer period; for instance where land needs to be retained for employment use due to a proximity to waterside location or other natural resource that cannot be replicated elsewhere. These sites may take

longer to deliver, but should not be lost to other development when they are irreplaceable assets.

In practice, the setting of any timescale for judging whether land should be released is a blunt instrument and fails to take into account market patterns, the availability of funding and market changes that may increase or decrease the need for that type of employment land. In areas such as Cornwall employment land is far harder to develop because of viability, yet it is essential to create an employed and productive workforce. Any loss of employment land to residential will be difficult to replace without public subsidy and then often in less appropriate locations. The Policy approach should therefore reflect the different local circumstances that exist in the Country rather than impose a blanket approach with unforeseen consequences.

Q14. Do you consider that the starter homes exception site policy should be extended to unviable or underused retail, leisure and non-residential institutional brownfield land?

The Council does not support a an extension to the exception site policy for starter homes due to the impact this will have on the loss of non-residential uses or more appropriate affordable housing provision.

The views of the Council on extending the exception site provision to starter homes is more clearly set out in the response to question 17.

Q15. Do you support the proposal to strengthen the starter homes exception site policy? If not, why not?

The Council does not support using exception sites for starter homes. However, if it is to be introduced, the Council would raise concerns over the ability of communities to influence the location of new housing.

Starter homes will to transfer to the open market and even with possible local connection restrictions this will lead to a further loss of confidence in the planning system and a greater reluctance from communities and local landowners to support residential development or release land for exception schemes.

Q16. Should starter homes form a significant element of any housing component within mixed use developments and converted unlet commercial units?

The Council is supportive of a good mix of uses in town centres. However it questions the evidence that could be used to understand whether an unused commercial unit should be lost to the market. Should other measures also be considered e.g. a reduction in rental value, suitability for retail or other

commercial use, viability? It should also be questioned what is a reasonable period for void? The more peripheral units of many town centres currently provide opportunities for business start-ups with lower rateable values. Many of these opportunities would be lost to residential reuse, pushing such uses out of town centres.

Q17. Should rural exception sites be used to deliver starter homes in rural areas? If so, should local planning authorities have the flexibility to require local connection tests?

The Council is very concerned by proposals to extend rural exceptions to deliver starter homes. Rural exception sites have played a vital role in the provision of affordable housing in perpetuity in Cornwall, helping thousands of households find a home that they can afford to rent or part-purchase. The proposal to allow exception sites for starter homes could significantly reduce the willingness of landowners to make sites available for affordable housing outside of starter homes. As an Authority, Exception sites have been a very successful vehicle for delivery of affordable homes to meet local needs. Over 1000 dwellings have been provided in this way over the last 5 years. The loss of this approach or undermining its acceptance with local communities and landowners could significantly reduce the delivery of local needs housing.

If the provision is to be made, the Council would strongly recommend that LPAs should have the flexibility to require local connection tests. However there are concerns that this may impact on the ability to obtain a mortgage on the properties. It is not clear from the consultation whether this test would be made in-perpetuity, if not a fairer way of ensuring local people can have preference for such housing would be lost as well as the affordability of the property upon resale. A lack of connection criteria would potentially allow for abuse from people from other areas purchasing and restricting the ability of local people from obtaining a dwelling in their home area.

Furthermore, rural exception sites are often located in the most expensive and desirable areas of Cornwall; the Council is very concerned about the ability of genuinely local people to be able to purchase a home with only a discount of 20% from open market value. The evidence included within draft policies within the emerging Local Plan indicates that that the average 'purchasing power' of households looking to buy an affordable home may only be £87,000-£104,500 for typical 2 and 3-bedroom houses. With average house prices as high in Cornwall as they currently are, we do not believe that a 20% discount will enable a significant number of additional households to purchase a property. This combined with the loss of affordable rented properties likely to be squeezed out of the scheme by the provision of the starter homes will reduce the availability of truly affordable homes in these areas.

Q18. Are there any other policy approaches to delivering starter homes in rural areas that you would support?

Notwithstanding the Council's concerns regarding starter homes, it would be more supportive of the provision as part of a requirement for a mix and appropriate balance of tenures to help support the viability of delivering affordable housing. If not, the application of local connection tests in perpetuity may help to ensure that the houses are available for local people, but subject to the questions raised in response to the question 17 regarding the ability to raise a mortgage on the property.

Cornwall also has a track record of supporting community land trust developments in local communities. The majority of their schemes are low cost sale dwellings. We are concerned that starter homes could undermine the CLT model. We would be more supportive of a model which permitted a sharing of the uplift in value between the CLT and the purchaser which might be held and re-invested for the community.

Q19. Should local communities have the opportunity to allocate sites for small scale starter home developments in their Green Belt through neighbourhood plans?

The Council is not subject to greenbelt and does not wish to comment on this proposed provision.

Q20. Should planning policy be amended to allow redevelopment of brownfield sites for starter homes through a more flexible approach to assessing the impact on openness?

The Council is not subject to greenbelt and does not wish to comment on this proposed provision.

e) Transitional arrangements

Q21. We would welcome your views on our proposed transitional arrangements.

The Council has no specific comments, but questions what approach will be taken to Councils where the examination or adoption of a Local Plan is imminent.

In practice the ability to modify a Local Plan within 6 to 12 months is limited.

f) General questions

Q22. What are your views on the assumptions and data sources set out in this document to estimate the impact of the proposed changes? Is there any other evidence which you think we need to consider?

The evidence for a West Midlands employment study does not reflect the situation in Cornwall. A more flexible and evidence based approach should be used.

Q23. Have you any other views on the implications of our proposed changes to national planning policy on people with protected characteristics as defined in the Equalities Act 2010? What evidence do you have on this matter?

Many of the changes proposed are based on an unproven premise that the provision of starter homes will increase the supply of housing. The Council contends that it will not as the evidence indicates that the relationship between planning permissions and delivery is influenced by a myriad of factors. The Equalities Act is being breached as the policy would adversely affect protected groups.

Notwithstanding the above the evidence indicates that those under the age of 40 would also be unable to access housing given the time lag between the introduction of a policy and the delivery of housing. There are no transitional arrangements being proposed to address this.