

Chichester District Council

Planning Committee

6 March 2024

Response to Government consultation on 'Strengthening planning policy for brownfield development'

1. Contacts

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2. Recommendation

- 2.1 That the Planning Committee consider and agree the attached responses to the consultation questions for submission in response to the government consultation on 'Strengthening planning policy for brownfield development'.

3. Background

- 3.1 The Government is running a public consultation from 13 February to 26 March 2024 on proposed changes to national planning policy to strengthen planning support for brownfield development and ensure development makes the best use of land.
- 3.2 The document is consulting on 3 proposals:
- Changes to national planning policy that expect local planning authorities to give significant weight to the benefits of delivering as many homes as possible and take a flexible approach in applying planning policies or guidance relating to the internal layout of development. This policy would apply to all authorities.
 - Changes to the way the Housing Delivery Test operates in the 20 towns and cities subject to the uplift in the standard method. This would introduce an additional presumption in favour of sustainable development trigger, in respect of previously developed land only, for those 20 towns and cities subject to the urban uplift where their Housing Delivery Test score falls to 95% or below.
 - Reviewing the threshold for referral of applications to the Mayor of London, which is currently set at 150 homes or more.
- 3.3 The consultation can be found here:
<https://www.gov.uk/government/consultations/strengthening-planning-policy-for-brownfield-development/strengthening-planning-policy-for-brownfield-development>

4. Outcomes to be Achieved

- 4.1 To influence the changes to national policy on support for brownfield development and how planning makes the best use of land.

5. Proposal

- 5.1 The purpose of this report is to provide an input to the consultation as set out in Appendix 1 of this report following consideration of the proposals as set out below.

Background – Brownfield planning policy

- 5.2 The consultation explains the background to brownfield planning policy, emphasising that the government is committed to meeting the housing needs of communities by building the right homes in the right places and protecting the environment by making the most effective use of brownfield land (also known as ‘previously developed land’).
- 5.3 The NPPF already provides strong support for development on previously developed land. The definition of previously developed land is set out in Annex 2 of the NPPF. In summary this is land which is or was occupied by a permanent structure, including the curtilage of the developed land. The full definition provides more detail and is clear that brownfield land does not include residential gardens.
- 5.4 In recognition of the importance of development on brownfield land, recent planning reforms have already introduced a range of measures to support brownfield development including:
- directing more housing growth towards urban areas through the urban uplift,
 - requiring every local authority to publish a register of local brownfield land suitable for housing in their area,
 - introducing “Permission in Principle” for brownfield sites on the registers to speed-up housing-led development, and
 - revising permitted development and use class rules so that more homes can be created and commercial buildings can change more easily between uses, helping make best use of existing buildings.
- 5.5 Recent updates to the NPPF, in December 2023, further clarified the government’s position on brownfield development:
- the revised NPPF supports the objective of a planning system that delivers the new homes we need, whilst taking account of important areas, assets or local characteristics that should be protected or respected, and
 - revised planning policy to be clear that where the urban uplift applies, it should principally be met by the towns and cities concerned, rather than exported to surrounding areas.

Giving significant weight to the benefits of delivering homes on brownfield land

- 5.6 Recent consultation responses on the NPPF (2022/23) showed strong support for making the best use of brownfield land. The responses however indicated that developing brownfield land faces a number of key barriers, particularly in relation to

the variety and complexity of many brownfield sites and the additional costs required to bring forward schemes (i.e. land assembly and remedial works). In combination, these barriers can reduce the attractiveness of brownfield sites, particularly in relation to small urban sites and in some instances, these burdens can put development viability at risk or prevent sites from coming forward at all.

5.7 The consultation proposes a change to national planning policy to make clear that when considering planning applications, particularly on previously developed land, local planning authorities should give significant weight to the benefits of delivering as many homes as possible. Furthermore, that local planning authorities, when determining planning applications, should take a flexible approach in applying planning policies or guidance relating to the internal layout of development, where they would otherwise inhibit making the most efficient use of a site. This would extend to existing national policy related to the consideration of daylight and sunlight. National policy would continue to expect that new development would provide acceptable living standards. This proposal does not remove legal requirements nor the importance of other considerations relating to beauty or undermine wider considerations of character as part of the plan-making process.

5.8 This change could be made by additional wording to paragraph 129c) of the Framework as shown below:

*local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework, **especially where this involves land which is previously developed.** In this context, when considering applications for housing, authorities should **give significant weight to the benefits of delivering as many homes as possible and take a flexible approach in applying planning policies or guidance relating to daylight and sunlight and internal layouts of development**, where they would otherwise inhibit making **the most** efficient use of a site (as long as the resulting scheme would provide acceptable living standards).*

5.9 The government considers that the proposed change should only apply to policies and guidance related to internal layouts of development, and not apply to external design or layout standards of development, but is seeking views on this.

Applying the presumption in favour of sustainable development to brownfield applications in major towns and cities

5.10 The government recently commissioned a review of the London Plan, to identify changes to policy that could speed up the delivery of homes in the capital. The singular recommendation from this review was a presumption in favour of brownfield development, specifically for authorities who have under delivered against their London Plan housing requirement, to ensure more homes are delivered where they are needed. As part of this consultation the government is proposing to act on the recommendation made in the London Plan Review, but apply under delivery more widely not just in London but in other major towns and cities.

5.11 The presumption in favour of sustainable development sits at the core of national planning policy, and is applied in specific circumstances, including as a

consequence of the Housing Delivery Test (HDT), which assesses how well local authorities are delivering against their housing requirement.

- 5.12 The HDT currently applies a sequential approach with authorities scoring below 95% having to produce an action plan, below 85% having to apply a buffer and for any local authority that scores below 75% in the HDT being subject to the presumption in favour of sustainable development. The government's proposed change would introduce an additional presumption trigger of 95% on previously developed land only and would apply to those 19 local authorities and all London Boroughs subject to the urban uplift (the urban uplift applies a 35% uplift to the standard method for calculating housing need, as set out in paragraph 62 of the National Planning Policy Framework). For clarification Chichester District is not one of these local authorities.

Reviewing the threshold for referral of applications to the Mayor of London

- 5.13 The consultation is seeking views on whether the unit threshold that determines which applications for residential development are referred to the Mayor of London is set at the right level, which is currently set at 150 homes or more.
- 5.14 Through engagement, the government is aware that in some instances this threshold is considered to be too low, requiring what may amount to duplicative interactions by developers with the relevant London Borough and with the Greater London Authority which is not always considered proportionate to the nature of the development in question.
- 5.15 The government wants to make sure that this threshold is set at the right level, in order that it adds value to the process of determining applications for potential strategic importance (especially for residential development) and does not inadvertently slow down or disincentivise developments that could be appropriately determined by the London Borough.

Public Sector Equality Duty

- 5.16 The consultation is seeking views and information to understand any potential equalities implications that will help inform the development of this policy area.

6. Alternatives Considered

- 6.1 The alternatives are not to respond to this consultation, or to provide different consultation responses.

7. Resource and Legal Implications

- 7.1 There are no resource or legal implications connected with responding to this consultation.

8. Consultation

- 8.1 This is a public consultation being run by the government.

9. Community Impact and Corporate Risks

9.1 There are no community impacts or risks to this Council of responding to this consultation.

10. Other Implications

	Yes	No
Crime and Disorder the design and layout of a development could impact on the crime and disorder	✓	
Climate Change and Biodiversity		✓
Human Rights and Equality Impact the consultation seeks views on the potential impacts under the Public Sector Equality Duty	✓	
Safeguarding and Early Help		✓
General Data Protection Regulations (GDPR)		✓
Health and Wellbeing the design and layout of a developments could impact on the health and wellbeing of residents	✓	

11. Appendices

Appendix 1: Consultation questions and draft answers for consideration.