

ANNEX 1

Planning for the right homes in the right places: consultation proposals – Response on behalf of TMBC

The consultation ‘strongly encourages’ responses to an on-line survey to 19 set questions. Where this is not possible a pro forma may be completed and emailed with the option of including additional information or evidence. This will be the preferred option for us because we can make some general comments in a covering e-mail and in response to the proposed standardised methodology for assessing housing needs we may wish to refer to and append a copy of our evidence on deliverability.

General Comments

There are numerous references throughout the consultation document to the Government not wishing to add burdens on Local Planning Authorities or delaying plan making as a result of the proposals. Unfortunately, the uncertainty around the new housing needs assessment is having just that effect. Until there is clarity over what Government’s intentions are and what the housing need figure will be, Local Planning Authorities unable to submit their plans by 31st March may have to consider revisiting evidence to take account of the new figures, reassess sites that have been submitted under Call for Sites and carry out further rounds of consultation. For us this will slow our local plan down considerably whatever the outcome of the consultation. It is an unwelcome intervention at a time when the Borough Council was making very good progress, to reflect our traditional track record of progressive development planning.

Those few Authorities who are able submit before the deadline and are able to continue with their current needs assessments will at best have to review their Local Plans as soon as they are adopted. So in any event the implications are significant and may result in a Local Plan that is effectively out of date as soon as it is published. With the cost of preparing Local Plans running well into six figures at a time when local authority budgets are under huge pressure the consultation has caused much wider concern than simply planning matters.

The Borough Council’s overall view is that the consultation proposals are unrealistic and of little practical use in speeding up or increasing the supply of housing. Even though the proposed approach draws on affordability principles, it does not address the actual reasons for poor performance – simply setting new and probably unachievable needs assessments does not change delivery.

Question 1 (a)

Do you agree with the proposed standard approach to assessing local housing need? If not, what alternative approach or other factors should be considered?

No, for reasons that will be explained below. But first it may be helpful to set the scene with some context. Tonbridge and Malling has a good track record of housing delivery despite being heavily constrained (77% Metropolitan Green Belt and AoNB designations) consistently delivering over and above the targets set by the former South East Plan and being able to demonstrate a five year housing land supply.

It also has a good track record for getting development plans in place (the Tonbridge and Malling Local Development Framework adopted between 2007-10 was one of the first in the country to comprise a complete set of documents). Preparation on the new Local Plan started soon after the publication of the NPPF in 2012 and we have put a lot of time and resources into preparing our evidence base particularly the Strategic Housing Market Assessment working closely with neighbouring authorities and using the same consultants G L Hearn and Partners. This has been updated regularly to take account of revised sub-national population and household projections and to take on board on-going national planning reforms. We are satisfied that the methodology used is robust and fit for purpose.

Over the last 15 years, a complete economic cycle, we have delivered on average 605 new dwellings net of demolition per year. Our South East Plan housing target was 450 per year. Our latest Objectively Assessed Need (OAN) for new homes is 696. We have now prepared complementary evidence for new infrastructure and for mitigating the potential impacts of this level of growth and consulted on a proposed development strategy for our new Local Plan that could fully meet our OAN across two housing market areas, one of which is almost entirely designated as Metropolitan Green Belt where we will demonstrate exceptional circumstances for managed Green Belt land release.

Our current Local Plan timetable had anticipated us carrying out a Regulation 19 consultation in respect of a draft Local Plan for submission early in 2018, with submission later in the year, but after the 31st March, which is the date that the new methodology is expected to come into force.

The proposed standardised methodology would result in our OAN increasing from 696 to 859 per year an increase of 23%. Over the 20 year Local Plan period this equates to an additional 3,260 dwellings. To deliver this level of housing growth would require a growth rate of 1.6%, which has never been achieved in Tonbridge and Malling or indeed by any Local Authority in England over the period 2001-16. It is in simple terms undeliverable, unless there were to be intervention in the housing and construction market unprecedented in recent times. .

This level of increase will require us to revisit our evidence, reassess sites that have been submitted under Call for Sites and re-consult on them resulting in an unavoidable delay in preparing the Local Plan at a time when we were making very sound progress. A delay such as this will result in extending the period that we rely on our adopted Local Development Framework, increasing the likelihood of challenge to the good planning principles and guidance that it affords us.

If we accept the standardised OAN as a given and that there will be unmet need we then turn to the duty to cooperate and negotiate with neighbouring authorities within the two housing market areas to agree where the unmet need can be accommodated. However, we already know that our neighbours to the west (Sevenoaks and Tunbridge Wells) cannot meet their current OAN let alone the need generated by the standardised methodology which would see further increases.

Our neighbour to the east is Maidstone who are about to adopt their Local Plan based on an OAN of 883 per year. There is a requirement that their Local Plan is reviewed and adopted by 2021, so plan preparation will resume immediately. The standardised methodology generates a need for Maidstone of 1,236, one of the highest increases in Kent. It is unlikely that Maidstone will be able to meet its own need going forward. In fact the story is the same across Kent. In London the standardised methodology results in an uplift from 49,000 new homes a year to 72,000 resulting in an annual shortfall of 23,000. It is anticipated that the Mayor and GLA will be looking to meet this shortfall in the wider south east or beyond when the new London Plan is published for consultations later this year.

Therefore, applying the new standardised methodology will result in significant unmet need with no realistic prospect of this being addressed through the duty to cooperate or within the rest of the Tonbridge and Malling housing market areas, Kent or much of London and the south east.

Notwithstanding the implications for Tonbridge and Malling's Local Plan there are a number of concerns we have with the proposed methodology:

Deliverability

As noted above the levels of growth on a sustained basis required to meet the needs generated by the standardised methodology are unprecedented. If we were to include sufficient sites in our Local Plan to meet those needs there is little prospect of the levels of delivery being realised. All this would achieve would be failure to meet the new Housing Delivery Test. We strongly believe therefore that deliverability or the capacity of the development sector within an area to build new homes should be factored into the standardised methodology. We have commissioned our consultants G L Hearn and Partners to assess this capacity for Tonbridge and Malling as part of our Local Plan evidence base a copy of which is appended for information.

Increasing Affordability

The aim of embedding an affordability uplift into the standardised methodology is admirable. However, this doesn't take into consideration the influence that the London housing market has on affordability in the wider south east. The premise that increasing housing supply will increase affordability simply does not apply to those authorities that are in close proximity to London. Increasing the supply of market housing will not have a significant impact on prices, even if developers were willing and able to deliver at the rates necessary to meet the needs generated by the standardised methodology.

Moreover the majority of lower cost home ownership models proposed in the Housing White Paper will not (at 80% market rates) be affordable for most of those in need of affordable housing in areas in the wider south east like Tonbridge and Malling.

Consistency of Approach

By using a baseline household growth assumption the standardised methodology has the effect of 'penalising' those Local Planning Authorities that have had a good track record of delivery in the past while 'rewarding' those that have been less successful. As noted Tonbridge and Malling has had a good record of delivery and has been looking to build on that success, but the standardised methodology would have the effect of increasing housing needs beyond what has ever been achieved in the past, while other authorities not dissimilar to Tonbridge and Malling have had much smaller increases or in some cases a reduction in their OAN.

This can be illustrated by comparing Tonbridge and Malling with South Oxfordshire. Both authorities are quite similar in terms of constraints (i.e. Green Belt, National Parks, Areas of Outstanding Natural Beauty or Sites of Special Scientific Interest) with Tonbridge & Malling covered by 77% whilst South Oxfordshire is covered by 65%. In addition, the housing affordability ratio for both districts is the same at 11.3.

However, the average household growth for the ten year period 2016-2026 for South Oxfordshire is 424.3 per annum (see DCLG 2014-based Household Projections). This compares to an average annual household growth for Tonbridge & Malling for the same period of 613.6, a difference of +189.3. This has a significant effect on the outcome of the standardised methodology calculation because this figure represents the baseline. What this means is that South Oxfordshire's OAN reduces from a range of 725-825 to 617 per year, while Tonbridge and Malling's OAN increases from 696 to 859, which is capped at 40% (the actual figure would be higher at 894). This is a difference of 242 dwellings per annum.

Given that the 2014-based DCLG Household Projections reflect housing delivery performance during the trend period of 2009-14, the methodology is, in effect, penalising authorities that planned positively, i.e. supported growth, during this timeframe, whilst perversely rewarding authorities that delivered less, in comparison, to help boost housing supply. Essentially the expectation is that growth should continue to go to growth whilst areas of comparatively low delivery should not be required to contribute significantly to the agenda of boosting the supply of housing in the future.

Alternative Approaches

You have also asked for our views on what alternative approach or other factors should be considered:

There should be a deliverability test to ensure that the need figures being generated are realistic. One of the tests of soundness in the NPPF requires Local Plans to be 'effective' i.e. deliverable over the Plan period (para.182). As noted, the rates of growth required to meet the proposed OAN for Tonbridge and Malling are unprecedented on a sustained basis. If the

Government's intention is that unmet need should be resolved through the duty to cooperate then the deliverability test should be applied to the wider area. For Tonbridge and Malling the opportunities for other Local Authorities taking on unmet need is unlikely for the reasons set out above.

Similarly, aspirations for addressing affordability in local housing markets should be proportionate and viable. In the case of wider south east authorities like Tonbridge and Malling there should be some recognition of the influence of the London Housing market on local house prices. The physical constraints on delivery capacity already explained in these comments mean that the levels of delivery necessary to outweigh the influence of London and reduce house prices will effectively never be achieved. A way to properly address the affordability gap is necessary to accompany a new approach to overall needs assessment. That will require recognition in the NPPF that the definition of affordable housing must be changed to place a greater burden on new development to provide homes that are truly affordable in local areas. This requires a return to models of tenure and definitions of affordable housing that are substantially below the current affordable rental level, accompanied by a shift in Local Housing Allowance rates to a level more realistic in a local market context.

For a consistent and fairer approach the methodology should factor in historic shortfalls in delivery rather than use a projection figure that reflects recent trends. The most recent household projections are based on sub national population projections calculated from trends over the previous 5-6 years. Factoring in an allowance for addressing historic shortfalls using a longer trend period would address the inconsistent approach illustrated above.

In response to the consultation some have suggested that constraints should be factored into the methodology before needs are assessed. We do not think this is appropriate as the starting point should be to assess genuine needs and then plan to meet those needs as far as possible within the Local Plan taking constraints fully into account at that planning stage. If there is still unmet need to then working with others might be one way to address it. However, there should be recognition of the fact that in parts of London and the south east, Tonbridge and Malling included, there will be no sustainable solutions to meeting unmet need, especially if, in practice, the nearest authorities with capacity are hundreds of miles away from where the needs arise.

Question 1(b)

How can information on local housing need be made more transparent?

In Tonbridge and Malling the latest OAN figures are published on our website in the Strategic Housing Market Assessment, which in turn is updated regularly. We also publish Local Plan updates called Position Statements, which highlight the current OAN.

Delivery, commitments and the five year housing land supply position are published annually in the Annual Monitoring Report, which again is available on the Council's website.

We believe this to be a satisfactory way of sharing this information.

Question 2

Do you agree with the proposal that an assessment of local housing need should be able to be relied upon for a period of two years from the date a plan is submitted?

The two year period is in effect what Local Planning Authorities work to in practice now, since the sub national population projections and household projections are reviewed every two years, usually requiring Strategic Housing Market Assessments to be revised.

Arguably, all Local Plan evidence should be 'fixed' at the point of submission to enable the process to swiftly conclude to adoption. Any significant developments could be addressed in the Inspector's report and main modifications at the point of formal public examination.

Setting a 2 year limit seems unnecessary. It should apply until the Local Plan is adopted especially as once the Plan is submitted the Local Planning Authority has little control over the timing of the remaining stages (appointment of an Inspector, arranging a pre-inquiry meeting, inquiry, writing Inspector's report etc.).

Question 3

Do you agree that we should amend national planning policy so that a sound plan should identify local housing needs using a clear and justified method?

Yes. This is of course already current practice. Local Planning Authorities have to demonstrate to an Inspector that their Local Plans and the evidence on which they are based, including their SHMAs, is sound. It is highly questionable whether there is any need to actually introduce a Standardised Methodology. We are not aware of a significant delay being caused by local approaches. In fact the very nature of planning and needs assessment demands locally sensitive approaches to such matters which deserve to be debated through local plans.

If Local Planning Authorities retain the discretion to apply a different methodology to the standardised approach being consulted on, National Planning Guidance explaining what might constitute compelling reasons for doing so would be required, otherwise the debate at Public Examinations will be bogged down with argument, which could be far greater than any current delay in the system.

Question 4

Do you agree with our approach in circumstances when plan makers deviate from the proposed method, including the level of scrutiny we expect from the Planning Inspectors?

Subject to the comments and suggestions made in respect of Question 1(a) being taken into consideration before the standardised method is implemented.

Paragraph 47 of the consultation document explains the expectation that in arguing for a different approach and demonstrating this to the Inspector that the plan-making body should clearly set out how they have demonstrated joint working.

Clarification is sought as to what is meant by this. If a Local Planning Authority wishes to make the case for using a different methodology resulting in a lower OAN than the standard method, why would it be necessary to demonstrate joint working?

If the case is accepted by the Inspector there would be no unmet need (assuming this would be the difference between the standard and local methods).

Question 5(a)

Do you agree that the Secretary of State should have discretion to defer the period for using the baseline for some local planning authorities? If so, how best could this be achieved, what minimum requirements should be in place before the Secretary of State may exercise this discretion, and for how long should such deferral be permitted?

Yes. In the case of Tonbridge and Malling, which has a good record of housing delivery and has made good progress in preparing a new Local Plan that can potentially meet all of the objectively assessed needs despite being heavily constrained, the Secretary of State may wish to consider an extension to the end of July 2018 to enable this plan to be submitted in its current form.

Question 5(b)

Do you consider that authorities that have an adopted joint local plan, or which are covered by an adopted spatial development strategy, should be able to assess their five year land supply and/or be measured for the purposes of the Housing Delivery Test, across the area as a whole?

Question 5 (c)

Do you consider that authorities that are not able to use the new method for calculating local housing need should be able to use an existing or an emerging local plan figure for housing need for the purposes of calculating five year land supply and to be measured for the purposes of the Housing Delivery Test?

Questions 5b and 5c apply to areas with joint plans and/or where Local Planning Authorities do not align with administrative boundaries.

The proposals seem reasonable.

Question 6

Do you agree with the proposed transitional arrangements for introducing the standard approach for calculating local housing need?

No. As noted, above the requirement to apply the standardised methodology from 31st March 2018 or the publication of the NPPF (whichever is the later), will mean that Tonbridge and Malling's Local Plan will be delayed by approximately 6-9 months.

The proposed deadline will not incentivise Local Authorities like Tonbridge and Malling to submit their Local Plan any faster as it ignores the fact that Local Plan processes take time. Only those Authorities that were anticipating submitting their Local Plans within a few months of the 31st March will have any prospect of meeting the deadline. In any event those authorities are quite likely to have to commence a review straight away to address a changed housing need assessment and so their efforts will be, to a large degree, in vain.

Local Plan progress is monitored by the DCLG. If the objective of setting a deadline is genuinely to encourage Local Planning Authorities to accelerate their plans then a date that captures the greatest number of Plans within a reasonable response period should be applied.

Question 7(a)

Do you agree with the proposed administrative arrangements for preparing the statement of common ground?

No. Paragraph 69 acknowledges that housing market areas sometimes overlap and that the NPPF will be amended to ensure Local Planning Authorities use agreed housing market areas to develop statements of common ground.

Tonbridge and Malling has five neighbouring Local Planning Authorities and comprises two housing market areas, one to the west with Sevenoaks and Tunbridge Wells and one to the east with Maidstone. There is very limited 'fit' with the remaining neighbouring authorities in Gravesham and Medway. Tonbridge and Malling would therefore be looking to prepare two statements of common ground as proposed.

However, Medway has used a different housing market area analysis, representing a higher tier that overlaps with Maidstone and Tonbridge and Malling. We have drawn this to Medway's attention and made comments in respect of the emerging Medway Local Plan.

There may be some merit in the Government setting HMAs in same way that the standardised methodology has been set to ensure a consistent approach.

Question 7(b)

How do you consider a statement of common ground should be implemented in areas where there is a Mayor with strategic plan-making powers?

Question 7(c)

Do you consider there to be a role for directly elected Mayors without strategic plan-making powers, in the production of a statement of common ground?

In respect of the London Mayor and the GLA, might this not be the time to review the Greater London Act 1999 and the Duty to Inform to bring these matters into line with the Duty to Cooperate and Statements of Common Ground?

Question 8

Do you agree that the proposed content and timescales for publication of the statement of common ground are appropriate and will support more effective co-operation on strategic cross-boundary planning matters?

Until the issues raised in respect of the standardised methodology and the potential for meeting unmet housing needs in London and the wider south east as set out in answer to question 1(a) above are clarified preparing and agreeing statements of common ground will be challenging. The timescales for introducing the requirements should take this into consideration.

Question 9(a)

Do you agree with the proposal to amend the tests of soundness to include that:

i) plans should be prepared based on a strategy informed by agreements over the wider area; and

ii) plans should be based on effective joint working on cross-boundary strategic priorities, which are evidenced in the statement of common ground?

No. The requirement to satisfy the Duty to Cooperate is already in place and it is clear that statements of common ground will become the main evidence for demonstrating that there is agreement on cross boundary issues including meeting unmet housing needs, so the imposition of additional tests is unnecessary.

Question 9(b)

Do you agree to the proposed transitional arrangements for amending the tests of soundness to ensure effective co-operation?

No. See response to Question 9(a).

Question 10(a)

Do you have any suggestions on how to streamline the process for identifying the housing need for individual groups and what evidence could be used to help plan to meet the needs of particular groups?

In March 2016 DCLG published draft Guidance for reviews of housing needs for caravans and houseboats, but this has not been finalised to date. In the absence of guidance for assessing the needs for Gypsies and Travellers since the review of the Planning Policy for Traveller Sites in August 2015, this may be an opportunity to incorporate the PPTS into the NPPF as was originally intended and address this gap in current guidance.

Question 10(b)

Do you agree that the current definition of older people within the National Planning Policy Framework is still fit-for-purpose?

Yes, with the possible inclusion of end of life needs for example hospices?

Older people: People over retirement age, including the active, newly-retired through to the very frail elderly, whose housing needs can encompass accessible, adaptable general needs housing for those looking to downsize from family housing and the full range of retirement and specialised housing for those with support or care needs. (extract from NPPF Glossary).

Question 11(a)

Should a local plan set out the housing need for designated neighbourhood planning areas and parished areas within the area?

No and this would in any event be difficult to implement in practice. A simple apportionment of the standardised OAN (proposed in paragraph 99 of the consultation document) may not take into account proposals being brought forward through the Local Plan process that require larger allocations in some areas, for example, in order to deliver significant infrastructure.

If a larger proportion of the housing need is being met in this way, how will figures in Neighbourhood Plans be adjusted to ensure that the overall housing need is met?

In some rural parishes with a high level of constraints a simple apportionment may be much higher than can be accommodated in the neighbourhood planning area.

If Local and Neighbourhood Plans are prepared at different times, which Plan takes precedence if there are different housing need assumptions for a neighbourhood planning area?

It should remain the case that Local Plans should set clear strategic policy for the preparation of Neighbourhood plans and not be any more prescriptive.

How will unparished areas be factored into the formula?

Question 11(b)

Do you agree with the proposal for a formula-based approach to apportion housing need to neighbourhood plan bodies in circumstances where the local plan cannot be relied on as a basis for calculating housing need?

No. See response to 11(a).

Question 12

Do you agree that local plans should identify the infrastructure and affordable housing needed, how these will be funded and the contributions developers will be expected to make?

Yes. This is already addressed through Local Plan policies and allocations and in Infrastructure Delivery Plans.

Question 13

In reviewing guidance on testing plans and policies for viability, what amendments could be made to improve current practice?

Clearer guidance and greater transparency in preparing viability assessments would be welcomed. As this process can only realistically be carried out towards the end of plan making there is a risk of delays if there is uncertainty in how these assessments are carried out.

Question 14

Do you agree that where policy requirements have been tested for their viability, the issue should not usually need to be tested again at the planning application stage?

Yes.

Question 15

How can Government ensure that infrastructure providers, including housing associations, are engaged throughout the process, including in circumstances where a viability assessment may be required?

Engagement with infrastructure providers throughout the Local Plan process is already seen as good practice. This could be formalised in National Planning Practice Guidance.

Insofar as Housing Associations are concerned, there needs to be a system whereby greater certainty can be gained on the delivery of affordable housing. Housing Associations can only be expected to have such confidence if they can readily see a finance stream available to them to sustain and plan future provision alongside Local Plan programmes. Consequently, the availability of a potential funding stream to subsidise truly affordable housing at significantly less than market value needs to be in place for HAs to bid against. This will be complimentary to the proposals of the consultation paper that are substantially to address the affordability gap.

Question 16

What factors should we take into account in updating guidance to encourage viability assessments to be simpler, quicker and more transparent, for example through a standardised report or summary format?

There would be some merit in such an approach.

Question 17(a)

Do you agree that local planning authorities should set out in plans how they will monitor and report on planning agreements to help ensure that communities can easily understand what infrastructure and affordable housing has been secured and delivered through developer contributions?

Yes.

Question 17(b)

What factors should we take into account in preparing guidance on a standard approach to monitoring and reporting planning obligations?

Commercial confidentiality may be an issue for some planning agreements. Guidance could assist in setting out the limitations of reporting sensitive information.

Question 17(c)

How can local planning authorities and applicants work together to better publicise infrastructure and affordable housing secured through new development once development has commenced, or at other stages of the process?

Perhaps a similar approach to the presentation of information on Brownfield Registers could be applied to monitoring planning obligations?

Question 18(a)

Do you agree that a further 20 per cent fee increase should be applied to those local planning authorities who are delivering the homes their communities need? What should be the criteria to measure this?

If the standard methodology for assessing OAN is implemented as proposed in this consultation, the ability of most Local Planning Authorities in London and the south east to deliver this need and therefore qualify for the additional 20% will be negligible.

That is not to say that additional resources for planning departments in these areas is not needed, in fact the cost of living in the south east is a deterrent for recruitment so arguably there should be a stronger case for introducing a higher planning fee in these areas.

The costs of providing a good standard and value for money planning service should not only be judged against development performance. The satisfaction and efficiency achieved by a planning department is about a wide range of matters, quite often unrelated to housing development. Fees should be set in order to meet the estimated costs of providing good planning services and a proper approach to regular fee review built in.

Question 18(b)

Do you think there are more appropriate circumstances when a local planning authority should be able to charge the further 20 per cent? If so, do you have views on how these circumstances could work in practice?

Perhaps consideration should be given to inverting the incentive i.e. where housing targets are not being met and it can be demonstrated that the main reason for this underperformance is lack of resources in planning departments, then fees should be increased?

Question 18(c)

Should any additional fee increase be applied nationally once all local planning authorities meet the required criteria, or only to individual authorities who meet them?

See response to question 18(b).

Question 18(d)

Are there any other issues we should consider in developing a framework for this additional fee increase?

Penalising those Local Planning Authorities that are not likely to meet the standardised method for calculating OAN with lower planning fees is unfair as it is weighted in favour of those Authorities that have underperformed in the past and places greater burdens on those that have (see response to question 1(a) above).

If the aim of higher fees is to help and support planning departments a different set of criteria is needed to address poor performance where additional resources can really make a difference.

Question 19

Having regard to the measures we have already identified in the housing White Paper, are there any other actions that could increase build out rates?

This is an issue that has been addressed the South East England Councils (SEEC) see – ‘Unlock the Housing Blockers: Tackling unimplemented planning permissions and housing delivery in the south east’ – January 2017.