

DRAFT RESPONSE SERVICE

As part of the Rural Opportunities Bulletin, RSN will regularly provide concise potential responses to key current consultations. These are not intended to be definitive or to reflect the views of RSN and may include potentially opposing responses to reflect different views designed to assist individual organisations in compiling their own response. We do however recognise the pressure members are under and we hope this service will assist.

Planning Performance and Planning Contributions Consultation – Department for Communities and Local Government, March 2014

<https://www.gov.uk/government/consultations/planning-performance-and-planning-contributions>

This consultation seeks views on the implementation of 2 proposals contained in the Autumn Statement 2013:

- a new threshold for designating local planning authorities as underperforming
- a proposed 10-unit threshold for section 106 affordable housing contributions

The consultation closes on 4 May 2014.

Consultation Question 1 – *Do you agree that the threshold for designating authorities as underperforming, based on speed, should increase to 40% or fewer of decisions made on time?*

Draft Response: No. It is clearly in everyone's interests to ensure that all planning applications, including major applications, are determined within realistic timescales. However, there is no evidence presented to suggest that an increase in the threshold is required. Indeed, performance is stated to have increased from 57% to 69% for district matter authorities and from 50% to 53% for county matter authorities between 2012 and 2013. There is nothing to suggest that performance will not continue to improve without the need for raising the threshold.

The desire to continually improve performance is acknowledged but it is suggested that a review of the threshold would be more logical after more than one year's evidence.

Consultation Question 2 – *Do you think there is scope to raise the threshold for under-performance above 40% (for example to 45% or 50%); and, if so, by when?*

Draft Response: The consultation document states that it would be appropriate for the definition of under-performance to continue to change – *“How quickly this happens will depend on the overall trend in performance”*. It is difficult to argue that a trend has been established after just one year of evidence. Whilst the government's desire to continue to change the threshold is understood, any resulting change to the threshold would more appropriately be determined when a trend has been clearly identified.

Consultation Question 3 – *Do you agree that authorities that have dealt with no more than two applications for major development, over the two year assessment period, should be exempt from designation based on their speed of decisions?*

Draft Response: Yes. This is a pragmatic and justified proposal.

Consultation Question 4 – *Do you agree that the tests set out at paragraph 21 of this consultation are appropriate for taking exceptional circumstances into account, prior to designations being confirmed?*

Draft Response: Maintaining the opportunity for authorities to explain any exceptional reasons prior to confirming a designation is welcomed. As the consultation document states, “*What constitutes an ‘exceptional circumstance’ cannot, by its very nature, be defined fully in advance*”. The document sets out “*general tests*” that are proposed to be applied in considering such cases. Whilst the proposed tests seem reasonable, it should be made clear that these are indeed ‘general’ tests and not intended to be wholly prescriptive in determining the nature of any valid exceptional circumstances which could be put forward and explained by an authority.

Consultation Question 5 – *Is the Government’s objective of aiding the delivery of small scale housing sites and expanding the self build housing market supported by:*

- *the introduction of a 10-unit and 1000 square metres gross floor space threshold for section 106 affordable housing contributions; and*
- *the exclusion of domestic extensions and annexes from making section 106 affordable housing contributions?*

Draft Response: From a rural perspective, this is a hugely significant issue. Whilst the clear exemption for rural exception sites is welcomed, if the proposed introduction of a threshold for section 106 affordable housing contributions is implemented this will significantly impact on the delivery of much needed affordable homes in rural communities.

Rural affordable homes are difficult to deliver for a variety of reasons and it is critical that existing routes to deliver such homes are not cut off. A large proportion of the delivery of affordable housing in communities of less than 3,000 population is through section 106 sites that are 10 units or less. In the 2008/11 Affordable Housing Programme, for example, 75% of rural delivery was through this route. Removing this potential delivery, therefore, would have a potentially massive impact on delivery.

In addition, as the availability of public resources has reduced the section 106 route has provided an increasingly important mechanism to lever in funding to ensure that delivery still takes place. Introducing the threshold will reduce the provision of affordable homes in rural areas.

The viability of specific developments can be assessed in relation to each application and if the provision of affordable homes creates a viability problem this can rightly be assessed at that time. However, a variety of models of affordable homes exist and even where one model is proved to be unviable there may well be alternative models which do not lead to unviability of the scheme overall. Introducing the threshold would inevitably increase reliance on rural exception sites which, whilst an important route that has provided high quality homes, entails high up-front costs and delivery can be unpredictable.

In addition, the NPPF requires a plan led approach to development in rural areas. Removing the need to provide affordable homes on small sites would be directly contrary to this approach.

Consultation Question 6 – *Should the proposed exemption apply beyond affordable housing to other tariff style contributions based on standard formulae?*

Draft Response: Each ‘tariff style’ contribution should be assessed individually rather than collectively. Each exists for different purposes and it is more appropriate to consider any exemptions or other amendments in relation to the specific contribution scheme in question. This will ensure that full consideration of all relevant aspects takes place.

Consultation Question 7 – *We would like your views on the impact on the Government's policy objectives to incentivise brownfield development through proposed national policy change. This would reduce the financial burden on developers by requiring that affordable housing contributions should not be sought where buildings are brought back into any use – other than proportionately for any increase in floor space.*

Draft Response: Bringing buildings back into effective use is a very valid objective. So too is the provision of much needed affordable homes. A general exemption is considered to be too blunt a mechanism to achieve both objectives. Viability tests can be applied as readily to existing buildings as to new development and enables the financial impact of any affordable housing contribution to be assessed appropriately in relation to each scheme. The significant danger in allowing existing buildings to be excluded from the requirement to make affordable housing contributions would be a reduction in affordable homes funded through brownfield schemes where sufficient funds can indeed be generated. The plan led approach required by the NPPF is the right approach to enable brownfield and greenfield sites to be considered appropriately in relation to the needs for development of all types.