Implementing measures to improve Build Out transparency: Technical consultation[1]

Questions

Q.1. Do you agree that the build out reporting measures should apply to developments which involve the building of new dwellings (including mixed use development)? Yes/no/don't know.

Yes

Q.2. Are there any other types of residential development that the build out measures should apply to? If yes, please give your reasons. Yes/no/don't know.

Yes. Any residential development that would contribute to the 5 year housing supply calculation, including student and other communal accommodation.

Q.3. Do you agree with the proposed threshold of 50 dwellings for the build out measures to apply to? Yes/No/Don't know. Please give your reasons.

No. If the development size is under 50 dwellings **and** is delivered by an SME builder, the build out measures should not apply. If, however, the development is under 50 dwellings and is delivered by a large developer that has split their scheme into smaller parcels (to achieve the medium threshold, as set out in the Reforming Site Thresholds consultation), the build out measures should apply.

Q.4. Do you think a higher threshold should be set for development progress reports and the power to decline to determine applications? If so what should this threshold be? Yes/No/Don't know. Please give your reasons.

No. It is intended that these processes will be digital, so they should not be burdensome for any party. The large developers will be project managing their schemes so the data required will be a subset of what they are producing for their own internal monitoring purposes.

For these changes to be worthwhile, they must have 'teeth'. Reducing the number of applications that they apply to will not bring confidence that the issue of 'developer delays', or 'land banking', within the planning ecosystem is being addressed. To reduce bureaucracy further, policy should confirm that developers cannot appeal a decision to decline to determine an application.

Q.5. Do you agree that this information should be covered in the build out statements? Yes/No/Don't Know. If not, please explain why you disagree and set out any other information you think it should cover

Yes. Developers will be using this information to set the baseline for monitoring their project progress internally.

[1] https://www.gov.uk/government/consultations/implementing-measures-to-improve-build-out-transparency-technical-consultation/technical-consultation-on-implementing-measures-to-improve-build-out-transparency

Q.6. Do you have any further comments on the build out statement?

Developers should be asked to confirm any assumptions that have been made in determining the build out statement. They should also be required to provide viability appraisals (which must always be publicly available for scrutiny).

The build-out statement should include a reasonable expectation of when the commencement notice will be submitted. Any uncertainty should be clarified, and any irrational delays between permission and commencement should also trigger the right for the LPA to decline to determine the application.

Q.7. Do you agree that this information should be covered in commencement notices? Yes/No/Don't Know. If not, please explain why you disagree and set out any other information you think it should cover

The information listed should be included but in addition, developers should be asked to confirm any assumptions that have been made in determining the data in the commencement notice. They should also be required to provide viability appraisals (which must always be publicly available for scrutiny).

The process should ensure that it is not possible for a developer to dig one trench to comply with the commencement notice but then make no further progress with the site, without penalties being able to be applied.

Q.8. Do you agree with setting a 2 month period after the reporting period ends to submit the development progress reports? Yes/No/Don't Know. If not, please explain why you disagree.

Yes.

Q.9. Which option for the reporting period for development progress reports do you agree with?

Calendar Year would be consistent with annual targets and 5 year housing land supply.

Q.10. We recognise the information in development progress reports may be useful for LPAs to calculate 5 year land supply (5YLS), are there any impacts with the reporting periods proposed and the interaction with 5YLS?

Others will be better informed to consider this question.

Q.11. Do you agree with the proposals for how the completion date is specified for the purposes of development progress reports? Yes/No/Don't Know. If not, please explain why you disagree.

Yes.

Q.12. Do you agree with the proposals about who submits the development progress report? Yes/No/Don't Know. If not, please explain why you disagree.

Yes.

Q.13. Do you agree with the information it is proposed development progress reports will cover? Yes/No/Don't Know. If not, please explain why you disagree.

Yes.

Q.14. Is there any other information you think development progress reports should cover?

Developers should also be asked to confirm their list of assumptions, highlighting any that have been changed or added, as part of their progress reports. Any changes to scheme viability should be explicitly highlighted, along with the reasons for the changes.

Q.15. Do you have any views on how a joint approach to submitting a commencement notice could be facilitated on sites where multiple developers are involved?

Robotics Process Automation (RPA) within the digitisation process would be able to handle the compilation of submissions from multiple developers against one planning application approval. The process should effectively be the same as for other sites (possibly with the lead developer approving the submissions) and giving the LPA the ability to consider the totals or to 'drill down' into the data to review the details submitted by each provider involved.

Multiple developers should be measured against the 'whole site' for threshold purposes, thus preventing several developers from each falling below the 50 dwellings threshold.

Q.16. Do you agree with making provisions in the regulations that would enable a joint submission of the development progress report where multiple developers are involved? Yes/No/Don't Know. If not, please explain why you disagree.

Please see our response to question 15. With clear specification, the technology solution will easily be able to handle either scenario (a where there is one joint submission or b where there are several submissions that are combined for a specific planning application).

Q.17. Do you agree that this information should be covered in development progress reports where a joint approach is taken? Yes/No/Don't Know. If not, please explain why you disagree and set out any other information you think it should cover

Yes, and it is even more important in such cases that the assumptions are clearly set out and updated throughout the process. The technology solution should enable the list of assumptions to be tracked throughout the process. The assumptions could be an important consideration when making a decision to decline to determine applications for planning permission.

Q.18. Do you have any views on what information other than in build out statements and development progress reports LPAs should have regard to when considering whether the carrying out of the earlier development has been unreasonably slow? Please give your reasons.

The list of assumptions mentioned above are an essential part of the process and should be fully considered in making such a decision.

Q.19. Do you have any comments on the scope of the guidance?

If, having considered all the issues related to an application, the LPA makes a decision to decline to determine applications for planning permission, that decision should not be subject to the appeals process.

Q.20. Do you have any views on the implications of the proposals in this consultation for you, the environment or the group or business you represent, and on anyone with a relevant protected characteristic? If so, please explain who, which groups, including those with protected characteristics, or which businesses may be impacted and how, or any anticipated environmental impacts. Is there anything that could be done to mitigate any impact identified?

To be credible with communities, the government must ensure LPAs have the necessary authority to secure compliance. Transparency of the data available throughout the planning system is essential to enable independent monitoring by communities. Remedies for developer delays (including delays in submitting the data required by these policies) should include the imposition of financial penalties.

We would also like to emphasise that, as set out in the Homes for Everyone Report[2], the speed of build out would be substantially increased by renovating and bringing back into use empty or derelict homes, focusing on brownfield development (which would have so many additional benefits, including the regeneration of neglected areas), and consider unused commercial properties that could be repurposed for residential development.

This is one of a number of Planning Reform Working Papers and Consultations, amounting to major changes overall. Their cumulative impact should be considered, both in terms of the Environmental Principles Policy Statement and the Public Sector Equality Duty.

[2] https://homesforeveryone.org/Homes-For-Everyone-Report.pdf