Reforming Site Thresholds[1]

Questions

The following questions aim to guide sector engagement and ensure the proposed threshold delivers meaningful benefits:

1. Would a medium-sized site threshold help reduce barriers and accelerate delivery for SMEs, if linked to the proposed changes to regulatory requirements set out in the working paper?

Yes, but such a threshold should only be applied to SME developers, not the large volume developers who may benefit from breaking down large applications into smaller delivery parcels. A 'whole site' measure must, therefore, be used in the case of a large site or one with multiple developers.

There must also be some flexibility and nuance depending on location. As an example, a site of only 10 dwellings may constitute major development in a national park, or other sensitive area. The proposed changes to exemption terms for Biodiversity Net Gain and affordable housing provision must be seen in this context.

2. Should the threshold be 10–49 units, or could other size ranges provide a better balance of simplicity and impact?

We welcome the focus on higher density and on brownfield sites in urban areas. A threshold of 10-49 units is acceptable as long as the overall site size is not greater than 1 hectare. See also our responses to question 1 above and question 5 below.

3. Should the medium threshold apply to commercial and other non-residential development and how should mixed uses be reflected?

No. The NPPF already confirms that non-residential development is not considered to be 'major' unless it constitutes "*additional floorspace of 1,000m^2 or more, or a site of 1 hectare or more*".

4. If the medium-sized site threshold were introduced, should the exemption from paying the proposed Building Safety Levy for fewer than 10 dwellings be extended to align with medium-sized development sites?

Any exemption should only apply to SME developers.

5. Should there be solely area-based size thresholds (ha) given the different contexts and densities, particularly for very small, small and medium-sized sites? Or would it be more appropriate to also specify a unit size threshold?

Whilst a solely land-based threshold may be useful because it would be consistent, there could be unintended consequences, particularly in relation to the environmental and ecological impacts (see our response to question 14 below).

[1] https://www.gov.uk/government/publications/planning-reform-working-paper-reforming-site-thresholds/planning-reform-working-paper-reforming-site-thresholds

Government statistics relating to land use [2] suggest that there is a huge variation in density (dwellings per hectare) depending on the location of the development.

- *The average density of residential addresses surrounding a newly created residential address was 31 addresses per hectare, a decrease of 11 compared to 2020-21.*
- *The average density surrounding new residential addresses created on previously non-developed land was 24 addresses per hectare, an increase of 1 compared to 2020-21.*
- *The average density surrounding new residential addresses created within land designated as Green Belt was 15 addresses per hectare, a decrease of 2 compared to 2020-21.*
- *The average density surrounding new residential addresses created within Flood Zone 3 was 38 addresses per hectare, a decrease of 4 compared to 2020-21.*

See Live Tables P330 and P331 for more information.

6. Are the proposed streamlining options the right ones for government to consider?

It is important that these proposals apply only to SME builders.

We do not support the mandatory delegation of smaller/medium schemes to officers as there may be significant issues for communities which will not be addressed, and communities will have no right to be heard at a planning committee meeting. In some rural areas, 10 dwellings would constitute a significant change and could be considered major depending on context. These proposals do not allow for that nuance.

Statutory consultees typically do not object to an application unless there is a major issue, they propose remedying conditions.

If the Permission in Principle approach is uplifted to apply to these developments, there could be complaints and challenges from local residents, including as a result of a lack of genuine notification and consultation, and limited consideration of community concerns (such as the impact on neighbouring properties).

There could also be risks and unintended consequences of minimising validation and statutory information requirements, especially in relation to community safety and environmental impacts.

7. Are there further changes that could and should be linked to new or existing thresholds? Are there wider changes that could be made through national planning policy that would be beneficial?

Others will be better informed to consider this question.

8. Is the planning application process for small sites more challenging on brownfield land than greenfield land? If so, then what are these challenges or barriers?

Not necessarily. Some brownfield sites will have been identified in a brownfield register and will already be essentially allocated as part of the development plan. Brownfield sites will benefit from proximity to existing transport, infrastructure and facilities. Greenfield sites, by contrast, might have significant constraints and may require costly new infrastructure (which is typically funded by the public purse, not the developer).

[2] https://www.gov.uk/government/statistics/land-use-change-statistics-2021-to-2022/land-use-change-statistics-new-residential-addresses-2021-to-2022

9. Are the determination periods detailed in this working paper the correct ones? Would shorter determination periods be appropriate for a particular site size once wider reforms to planning fees have been implemented - including those set out in the Planning and Infrastructure Bill.

Determination periods should not limit genuine and robust community consultation requirements. It is essential that citizens are able to influence the plans and applications in their areas.

10. What are the specific barriers SMEs face during s.106 agreements and what would be the most effective action for government to take, in line with its manifesto commitments on affordable housing?

Funding for genuinely affordable homes (social housing) should be provided by the Government. If such an approach were agreed, affordable housing contributions could be removed from S106 agreements for SMEs.

Reliance on the whims of developers, particularly given viability assertions, has meant that the number of completions of social housing (shown in ONS Live Tables for Affordable Housing Supply[3]) has fallen from 57,000 in 1995 to a pitiful 6,000 in 2020!

Shelter suggests[4] that £51.2bn could be added to the economy, providing immediate and long-term value for money, along with multiple benefits for the taxpayer, by building 90,000 social homes.

With this in mind, the government should introduce a target for each district to ensure the number of social homes constructed increases significantly (no target is needed for market housing, this just creates 'noise' in the planning system, developers will build the optimum number of market homes to meet their commercial objectives, with or without a target).

11. What are the barriers to developing very small sites as defined above and what parameters could be helpfully addressed in a design code?

Others will be better informed to consider this question.

12. What types of rules set out in design codes would be most beneficial in unlocking development?

Others will be better informed to consider this question.

13. Are there other issues or opportunities to consider for ensuring the success of these proposals?

Others will be better informed to consider this question.

[3] ONS Live Tables 1006-1008 https://www.gov.uk/government/statistical-data-sets/live-tables-on-affordable-housing-supply

[4] https://england.shelter.org.uk/media/press_release/investing_in_social_housing_could_add_over_50bn_to_the_economy_

14. Do you anticipate any environmental impacts from these proposals that the government must consider under the Environmental Principles Policy Statement?

Given the integration principle, it will be recognised that brownfield land that has been derelict for some time could have rewilded and may be hosting protected or threatened species. Greenfield land will almost certainly be contributing to nature's recovery, climate mitigation and/or future food security. Policy guidance should, therefore, make it clear that, where environmental damage may occur, even on small and medium sites, environmental assessments will be required.

The prevention principle also applies, and the policy in relation to small and medium sites should ensure the impact on ecology and biodiversity is assessed in accordance with the mitigation hierarchy, which commences with avoidance of harm. This may mean that, where irreplaceable habitats or conservation areas will be impacted (directly or indirectly), alternative sites should be considered.

The guidance suggests that the "*prevention principle should generally be used in preference over the rectification at source principle or polluter pays principle, as these principles are used in instances when prevention cannot be achieved*". Given the range and scale of sites, it is likely that both principles (rectification and polluter pays) should be applied to policy guidance, particularly for greenfield sites.

The precautionary principle is also applicable, and policy guidance should reflect the need to minimise risk to our natural capital assets from 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.

15. Do you have any views on the impacts of the above proposals for you, 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. Is there anything that could be done to mitigate any impact identified?

The key impact on citizens with protected characteristics is the potential for reduced notification and consultation, which must be addressed in policy, taking into consideration that the most vulnerable in our society are not always best represented by their politicians nor council officers and every effort should be made to ensure their concerns are listened to and addressed.