

Report to Planning Services Scrutiny Standing Panel

Date of meeting: 2nd December 2010

**Portfolio: Planning and Economic Development;
Housing; Finance and ICT**

Subject: New Homes Bonus Consultation

Officer contact for further information: Ian White

Committee Secretary: Mark Jenkins



Recommendations/Decisions Required:

To consider the consultation questions and other issues raised by the principle of the bonus scheme and report direct to Council on 14th December.

Comments from Panel

- (a) To give the New Homes Bonus a cautious welcome;**
- (b) To agree, nevertheless, that the period of consultation has been far too short;**
- (c) That the council which permits the housing should retain the New Homes Bonus for the full six-year period, irrespective of any subsequent local authority boundary changes;**
- (d) That "affordable rented" housing, as introduced in the Comprehensive Spending Review, be included in the definition of affordable housing;**
- (e) That the 2005 advice from Government about Planning Principles will require significant amendment; and**
- (f) To copy Council responses to the three Epping Forest M.P.s**

Report:

1. This is a Department for Communities & Local Government (DCLG) consultation on the New Homes Bonus (NHB) – the coalition government's approach to incentivise local authorities to increase their housing supply. The consultation runs from 12th November to 24th December, the period being restricted to 6 weeks (rather than the more normal 12) so that the final scheme can be announced alongside the local government finance settlement early in the new year.

Comments from Panel

The timescale of the consultation is ludicrously short. The scheme is to be introduced on 1st April 2011, and it is also difficult to see how CLG can take on board all the consultation responses in that period of time.

The full financial implications of the scheme cannot be calculated because the reduction in Revenue Support Grant (RSG) is not known. Draft settlements for next year's RSG should already have been sent out, but this has not happened, so it is not

yet possible to prepare a budget for next year. More information is needed about floors and ceilings etc regarding the RSG. At present it would appear that those authorities with higher than average levels of housing will benefit from the bonus system, while those with lower than average levels (eg in areas of growth restraint such as Green Belts) will receive less money than at present. There is a need for transitional arrangements to be in place.

2. There are 16 questions which deal with (a) the level of bonus; (b) enhancement for affordable homes, and extension of definition; (c) bringing empty homes back into use; (d) split of bonus between local authority tiers; (e) basis of calculation; and (f) additional issues. Further comments are also welcomed.

Level of bonus

3. For each new home built in a specified period of a year, the Council will receive the “Bonus”, equal to the national average for the appropriate council tax band. This will be paid for each new property for the following six years as an unringfenced grant. The use of the national average is intended to make allowance for the relative value of properties, and not to penalise prudent authorities which have maintained lower council tax levels. The first consultation question therefore is:

- Do you agree with DCLG’s proposal to link the level of grant for each additional dwelling to the national average of the council tax band?

Issues to consider

4. There are many other current and complex changes underway to local government financing which will lead to a reduction in Revenue Support Grant (RSG). The Housing and Planning Delivery Grant has also been abolished so, unless new housing is built, the Council will be receiving significantly less money from central government. Conversely, any local authorities that allocate significant land for housing through the LDF could receive much more than otherwise. The implications for the protection of the Green Belt are discussed in section 8(a) below. Other than assisting with growth around Harlow, the Council has not had much appetite for significant housing growth in the district, and it is therefore possible that the Council will lose out financially if the bonus scheme is introduced. The degree to which the Council would gain or lose out would be dependent on its rate of housing growth relative to other authorities. Members will need to give careful consideration to the effect of the NHB when potential housing targets are considered as part of the Issues and Options consultation on the Core Planning Strategy.
5. In the last 5 years an annual average of 158 new houses have been built in the district – the Council Tax banding of these is not known.
6. Officers believe that there are pluses and minuses to linking the level of grant to particular tax bands. On one hand a larger bonus should be received for larger properties, because they inevitably mean a lower density of development. But this approach to the calculation of the bonus could potentially raise some of the problems outlined in 8(b) below.

Comments from Panel

Will there be a maximum amount of bonus that can be paid to a Council in any one year?

Will the scheme be retrospective when it starts?

Officers were requested to prepare scenarios of different annual building numbers to give Members some feeling for the potential financial implications. (Appendix 1 to this

report uses information from the previous six years' Council Tax Base forms to calculate the Bonus. There are elements of simplification regarding the calculation – the year on year change in the number of dwellings on the Valuation List is assumed to be the net number of new houses built in that year, and the average Council Tax figure for a Band D property (from the consultation document) has been used to calculate the potential bonus). There was some discussion about whether this request could fetter the discretion of Members, but it was concluded that this was not the case.

Affordable housing enhancement

7. The document proposes an additional £350 for each of the six years for every new affordable unit. This is described as “about 25% of the current average Band D council tax”. The second question therefore asks:

- What do you think the enhancement should be?

Issues to consider

8. An annual average of 43 new affordable houses were built in the last 5 years.
9. Since this Council recognises the importance of, and need for, affordable housing, it is felt that an enhancement will be beneficial. Permission for 80-100% affordable housing on some Green Belt sites has been granted for very special reasons in recent years.

Comments from Panel

The enhancement should be a percentage rather than a flat fee.

Definition of affordable housing

10. The definition in Appendix B of PPS3 is proposed – ie to include social rented and intermediate housing. In addition, pitches on Gypsy and Traveller sites in public ownership (ie owned and managed by local authorities or registered social landlords) are considered to contribute to the supply of affordable homes. While this Council has made significant progress in increasing the number of authorised pitches in the last couple of years, these have all been on privately owned sites. Any further provision in the district is most likely to be on non-public land, so, with this definition of “affordable”, the Council would not gain any NHB enhancement from increased number of Gypsy and Traveller pitches.

11. The third question asks:

- Do you agree to use PPS3 and publicly owned G & T sites to define affordable homes?

Issues to consider

12. It is reasonable to use the PPS3 definitions for affordable housing. However, as part of the Comprehensive Spending Review, the Government announced its proposed introduction of “affordable rented” properties to replace the social rented tenure of new housing association homes. These will be at rents of up to 80% of private rents, with regular reviews to consider if the terms of the tenancy should continue (ie no longer tenancies/homes for life).

13. It is therefore strongly recommended that the definition of “affordable housing” for the NHB includes “affordable rented properties” – these are not currently covered by the PPS3 definition.

Comments from Panel

There was a lot of discussion about the reasoning behind the distinction between public and private G & T sites. The Panel concluded that it was appropriate for the Bonus to apply to each new pitch, but that the enhancement should not apply, as these sites were not considered to be affordable housing in the normal sense of the word. The Director of Planning advised the Panel that, with the recent decision by the Secretary of State not to call in the Holmesfield Nursery decision (the site is in the Lee Valley Regional Park), the total number of pitches granted planning permission since 2008 now stands at 34 – the target for 2011 set in the East of England Plan Single Issue Review.

The Panel agreed that the definition of “affordable housing” should include affordable rented housing as introduced in the recent Comprehensive Spending Review.

Empty homes

14. The document is not entirely specific about the details, merely saying that (the Government) “proposes to reward local authorities for bringing empty properties back into use through the NHB”. There are 2 questions associated with this:

- Do you agree with the proposal of reward;
- Are there any practical constraints?

Issues to consider

15. While any initiatives to incentivise and reward local authorities for bringing empty properties back into use would generally be welcomed, the consultation document is not sufficiently detailed to assess how the NHB would work – eg how long would a property have to be empty before it qualified; when and how would it be judged to be occupied such that the bonus would be paid; would it be when Council Tax was collected, or would it have to be assessed as reaching a certain standard (eg Decent Homes) first; how would Council Tax bases be used; is there a case for payment of enhancement in particular situations, for instance when a severely dilapidated property has been repaired so that it can again be occupied.

Comments from Panel

The Panel supported the principle of reward but agreed that there was insufficient information in the consultation document, and that the questions raised by officers needed a response from Government. The Panel assumed that the reward would also apply to house sub-divisions, but this again needs more clarity. The issue of Houses in Multiple Occupation was also discussed, but no firm conclusions were drawn.

Tier split of bonus

16. The document recognises that “for the incentive to be most powerful, it must be strongest where the planning decision sits”, ie with the district rather than the county council. It therefore proposes an 80:20 split “as a starting point for local negotiation”. There is also discussion of the pooling of funding with other local service providers, and with Local Enterprise Partnerships, but these cases will depend upon individual circumstances, and the Government states again that “local authorities are best placed to negotiate (the tier split) to meet the needs of local neighbourhoods and communities”. Two questions flow from this proposal:

- Do you agree to the 80:20 split between lower and higher tier authorities, as a starting point for local negotiation?;
- If not, what would the appropriate split be, and why?

Issues to consider

17. Local authorities will be free to spend the grant in line with community wishes – this is obviously in line with the localism agenda, and the consultation makes it clear that this is seen as a local and not a central government issue. But could this lead to disagreement between local communities – eg those which have new housing developments expecting all that particular bonus to be allocated to their locality, rather than to other district or district-wide schemes. (And the same would apply to the County Council where, if Members agree to the proposed 80:20 split, there is no guarantee that the County would apportion the “20” to this district). It is likely to be even harder for local communities to accept some pooling of funding at LEP level for, eg, a strategic infrastructure project, if there is little or no sign of direct benefit to those communities.
18. As RSG will be reduced to help fund the NHB, officers believe that RSGs to upper tier authorities should be similarly reduced. They also propose that, for the avoidance of doubt, the final guidance should make it clear that, if there are no infrastructure costs to upper tier authorities, the proportion of NHB should be nil.

Comments from Panel

The Panel asked who would be the arbiter if there was disagreement between the district and county councils about the split of the bonus.

Members felt that the split should be prescribed in legislation and should not be a matter of local negotiation. Some Members proposed that the split should be 90:10 in favour of the district council.

Members also suggested that there should be a Memorandum of Understanding with the County Council to ensure that the bonus is spent within the district.

Basis of calculation

19. This section discusses sources of data (including affordable housing and demolitions), minimising additional burdens on authorities and the timing of grant allocations and payments. Six questions are posed:
 - Do you agree to use data collected on the Council Tax Base form as at October to track net additions and empty homes?
 - Do you agree with one annual allocation, based on the previous year’s Council Tax Base form, and paid the following April?
 - Do you agree that allocations should be announced alongside the local government finance timetable?
 - Do you agree that local authorities should be rewarded for affordable homes using data reported through the official statistics on gross additional affordable supply?
 - How significant are demolitions?

- Is there a proportionate method of collecting demolitions data at local authority level?

Issues to consider

20. Officers agree with the first four questions with the proviso that the definition of affordable homes (question 4) should be expanded as described in section 3 above.
21. Demolitions are not considered to be significant in this district, and the information is already collected as part of the Annual Monitoring Report for the LDF. There may be a minor amount of work needed to cover the period from October to October, rather than the financial year.

Comments from Panel

The Panel asked that the issue of local authority boundary changes should be brought up in the response to the consultation.

Additional issues

22. This covers equalities impacts and “consultation stage impact assessment”. DCLG’s view is that the NHB is fair as all relevant local authorities are able to access the scheme funds. The bonus is not ringfenced, so authorities can spend the grant as they see fit – and they will be subject to equality legislation in making those decisions.
23. Two questions are asked:
 - Do you think the proposed scheme will impact any groups with protected characteristics?
 - Do you agree with the methodology used in the impact assessment?.

Issues to consider

24. The first question raises potentially controversial issues, and is addressed in 8(b) below.
25. In the time available to write this report, officers did not have the opportunity to assess the second issue (impact assessment) of this section.

Comments from Panel

The Panel asked that their concern about the shortness of the consultation period should form part of the response. It was also suggested that “transitional arrangements” were needed as enough was not known at this stage about the impact on local government financing.

Wider Views

26. The document asks for other comments, particularly where there are issues that have not been addressed. Officers wish to raise the following issues for Members’ consideration:
 - (a) The district is entirely within the Green Belt, with only the towns and larger villages being excluded by tightly drawn boundaries. How will “incentivisation” sit with the strategic aim of growth restraint, and with the Government committed to the continuing protection of the Green Belt? The localism agenda is bound to highlight the local community’s strong support for continued protection;

Comments from Panel

Members were sceptical about the following statement on “Rural Proofing” in the “Specific Impact Tests” section of Appendix E of the consultation document: “There could be concern that with a potential increase in development, there could be adverse impacts on development in rural areas and of Greenfield land. However, the risks are mitigated given that local authorities determine the quantity, type and location of housing development. Furthermore, Green Belt (PPG2) protection will remain and locally-led plans will provide a framework for where development should go following the abolition of regional spatial strategies (giving local communities greater control over where units are delivered). Therefore, it is not anticipated that there will be any adverse impacts on rural areas.”

- (b) It is unclear how the existence of the bonus should be treated in considering the planning merits of such schemes. There must be a concern that some residents or other observers will argue that some permissions have been “sold”, or that more expensive properties have been permitted to maximise the bonus, when dwellings of a smaller size would have been more appropriate for proven need. Whatever the facts of individual cases, there could be lingering problems of bad publicity and suspicion;

Comments from Panel

The Members were advised of the following from “The Planning System: General Principles” ODPM (2005) – para 23: “The use of planning obligations must be governed by the fundamental principle that planning permission may not be bought or sold. It is therefore not legitimate for unacceptable development to be permitted because of benefits or inducements offered by a developer which are not necessary to make the development acceptable in planning terms.” The introduction of the Bonus scheme will, at the very least, require modification to this advice, and the Government will have to explain what level of consideration needs to be given to the Bonus in reaching a planning decision about an application.

- (c) Similar problems could arise with permissions granted on appeal – will Inspectors have guidelines on how to assess planning merits in the era of the bonus. Officers would like confirmation that the bonus will still apply if a permission is granted contrary to the wishes of the Council;
- (d) The relationship between NHB, S106 Agreements, the Community Infrastructure Levy (CIL) and Tax Increment Financing is currently unclear. The Government will be reforming CIL and issued the following guidance on 18th November:
- The levy will be passed directly to local neighbourhoods, either by contributing to larger projects funded by the council, or funding smaller local projects like park improvements, playgrounds and cycle paths;
 - Levy rates will be set in consultation with local communities so developers will know upfront exactly how much they will be expected to pay towards infrastructure;
 - Independent examiners will monitor the levies, but councils will control the detail of what type of levy rate is charged, including what rates are set for specific areas and types of development;
 - All but the very smallest building projects will contribute to the levy, although affordable and social housing projects as well as charity developments will be exempt;
 - Section 106 Agreements will continue to fund affordable housing, and will remain scaled back so they directly relate to the proposed development.

Comments from Panel

One Member felt that the new system would be more transparent than the current procedures regarding Section 106 Agreements.

- (e) The Government intends that the scheme will become a permanent feature of local government funding – ie that it will therefore continue beyond the initial six-year cycle. What medium and long-term effects will this have on settlements such as Harlow which, within their current boundaries, have very little land left for new housing? Could this lead to increased pressure for boundary reviews and loss of Green Belt land within the district?
- (f) Similar issues would apply to any urban extensions to Harlow, most or all of which could be in this district. This could increase pressure for early boundary changes which could also mean this Council losing nomination rights for any affordable housing included in such schemes. Officers believe that the council which permits the housing should retain the NHB, irrespective of any subsequent boundary changes;

Comments from Panel

It is hoped that other authorities will pick up this point – the relationship between Harlow and its neighbouring rural councils is far from unique. The example of Church Langley was discussed where permission was granted when the land was within Epping Forest, but a boundary change means that all the housing is now in Harlow. The latter could argue that the NHB should rightly be paid to the authority which is picking up the service costs created by the households.

- (g) The consultation period has not permitted officers to gauge the public response to the principle of the bonus scheme, and it is proposed that an item is placed on the Council's website, coupled with an item for the local press. This will allow some feedback to be considered at Council on 14th December;
- (h) The Core Strategy will not be adopted until 2014, but it does not specifically identify sites. That is the function of further Development Plan Documents which may not be adopted until 2015 or 2016, so there will be a significant time lag in this district before new housing sites are identified through the planning process.
- (i) Developers will only build houses if there is a market for them.

Reason for decision:

The CLG consultation requires a response by 24th December 2010.

Options considered and rejected:

Not to respond to the consultation, but the proposed scheme has potentially fundamental implications for planning decisions and local government financing, so it is important that the Council makes its views known.

Consultation undertaken:

Management Board

Resource implications:

Budget provision: Potentially very significant but currently unclear.

Personnel:

Land: As with budget provision

Community Plan/BVPP reference:

Relevant statutory powers:

Background papers:

Appendix 1 to this report

Letter of 12th November from the Minister for Housing and Local Government:

<http://www.communities.gov.uk/documents/housing/pdf/1768303.pdf>

New Homes Bonus consultation November 2010:

<http://www.communities.gov.uk/publications/housing/newhomesbonusconsult>

CLG press item 18th November 2010 "Communities to share in the advantages of development"

<http://www.communities.gov.uk/news/planningandbuilding/1772640>

Environmental/Human Rights Act/Crime and Disorder Act Implications:

Key Decision reference: (if required)