

CABINET – 10 FEBRUARY 2016

GOVERNMENT CONSULTATION ON PROPOSED CHANGES TO THE NEW HOMES BONUS SCHEME

REPORT OF CHIEF FINANCE OFFICER

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RECENT REFERENCES:

CAB2756 - General Fund Budget Consultation Update – 13 January 2016

EXECUTIVE SUMMARY:

The Department for Communities and Local Government is currently consulting with local authorities on options on changes to the New Homes Bonus in order to better reflect authorities' delivery of new housing and are also seeking views on reducing the number of years in which current and future payments are made.

This report provides an overview of the consultation and provides the Council's proposed responses to the consultation.

RECOMMENDATIONS:

1. That Cabinet approves the responses to the proposed changes to New Homes Bonus as set out in the summary of consultation questions and recommended responses at Appendix A.
2. That Cabinet approves that the budget for the New Homes Bonus for 2016/17 and the medium term financial forecast is based on the level of new homes in the Local Plan, adjusted for key risks and the timing difference between the completion of a new home and the bonus payment (see paragraph 6.3).

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1. INTRODUCTION

1.1. Overview of what is being consulted on

1.1.1. The Department for Communities and Local Government (DCLG) issued a technical consultation paper in December 2015, entitled 'New Homes Bonus: Sharpening the Incentive'.

1.1.2. The consultation sets out a variety of options for increasing the focus of the New Homes Bonus ("the Bonus") on delivery of new homes and freeing up resources to be recycled within the local government settlement to support authorities with particular pressures, such as adult social care, following the outcome of the 2015 Spending Review.

1.1.3. The options on which views are sought are:

- withholding the Bonus from areas where an authority does not have a Local Plan in place;
- abating the Bonus in circumstances where planning permission for a new development has only been granted on appeal; and
- adjusting the Bonus to reflect estimates of deadweight.

1.1.4. The consultation also sets out proposals for reductions in the number of years for which the Bonus is paid from the current 6 years to 4 years.

1.1.5. The changes are proposed to take effect in 2017/18 and onwards.

1.1.6. The deadline for responses to the DCLG is 10 March 2016.

1.2. Background context

1.2.1. The New Homes Bonus was introduced by the Coalition Government in 2011/12. It was a policy tool by which Ministers hoped to encourage housing delivery by rewarding communities who accepted growth. The DCLG set aside funding of nearly £200m to fully fund the scheme in Year 1 and £250m per annum for the following three years, with any funding needed beyond those levels top-sliced from Revenue Support Grant (RSG). So, whilst it has served to offer some incentive to development, many councils (including Winchester) have come to rely

on it as an integral part of central revenue funding to support wider service provision.

- 1.2.2. The proposed changes will result in a direct cut in the resources councils have available to support growth. It is considered that these changes will reduce local ability to fund the infrastructure to support new homes and help shape sustainable communities. When set alongside changes to the Community Infrastructure Levy and s.106 regime for developer contributions, this is a further cut to local ability to invest in communities.
- 1.2.3. It is also observed that these proposals run directly counter to previous Ministerial commitments on localising council funding. When it was introduced, Ministers presented the New Homes Bonus as part of a wider shift in emphasis of the local government finance system, and a move away from needs-based grant to a system which encouraged authorities to generate income through positive policy decisions. The changes now proposed undermine that local ability to generate income through growth, and represent a regressive step in the funding of local government.

## 2. CONSIDERATION OF GOVERNMENT'S PROPOSED OPTIONS TO IMPROVE THE INCENTIVE

### 2.1. Withholding the Bonus from areas where an authority does not have a Local Plan in place.

- 2.1.1. Local Plans are the primary basis for identifying what development is needed in an area and deciding where it should go. Where a plan is not in place an area may be more vulnerable to unwanted or speculative development. Local authorities have had since 2004 to produce Local Plans, and most have done so.
- 2.1.2. The Government is considering the following options to come into effect in 2017/18 for local authorities who have not submitted a Local Plan:
  - A. No new allocations of the Bonus until a Local Plan has been submitted.
  - B. Allocate only a set percentage (50%) of the Bonus where an authority has published a Local Plan but has not yet submitted it to the Secretary of State for examination. This approach would recognise progress against the difference stages in the plan-making process.
  - C. Abatement based on a banded mechanism whereby authorities would lose a fixed percentage of the Bonus they would otherwise have received based on the date of their adopted Local Plan. However, while this would provide an incentive for authorities to

keep their plans up-to-date, this option would bring more complexity to the bonus calculation.

- 2.1.3. This council adopted its Local Plan Part 1 in 2013 and plans to submit its Local Plan Part 2 for examination in March 2016. The guidance from the Government on what they consider is required to 'produce a Local Plan' includes District-wide Core Strategies or Part 1 Plans, so the Council would meet those requirements and there would be no financial effect to the Council of these proposed changes.
  - 2.1.4. There is intrinsic value to local authorities having an adopted Local Plan, so although the Council does not agree with the principle of reducing the bonus payments, if the Government were to go ahead and introduce a mechanism for, reducing the Bonus allocation in the years where a Local Plan is not in place, local authorities who make progress towards remedying this should not have their Bonus reduced to the same extent as those making no progress. The Council therefore would prefer Option B, of paragraph 2.1.2, whereby local authorities are allocated only a set percentage (50%) of the Bonus where an authority has published a Local Plan but has not yet submitted it to the Secretary of State for examination.
- 2.2. Abating the Bonus in circumstances where planning permission for a new development has only been granted on appeal.
- 2.2.1. The Government is consulting on whether to reduce the Bonus payments by 50% or 100% where homes are allowed on appeal. They are also interested in views of other percentage reductions that could be applied. The reductions would be applied to all six years for which the Bonus would otherwise have been paid in full.
  - 2.2.2. The Government's reasoning for the proposed change is that currently, where a development is granted planning permission on appeal, overturning the original decision made by a local planning authority (or in place of a decision by the authority in the case of appeals against non-determination), councils receive the same reward as when development takes place that the local planning authority has permitted. Therefore, Bonus payments do not always reflect positive decisions to allow development, and nor do they reflect the additional costs and delays for applicants arising as a result of the appeal process.
  - 2.2.3. Not all refusals of permission, and subsequent appeals, result from authorities opposing the principle of development. Applications can be submitted and presented badly at the application stage, and sometimes leave a council no option but to refuse planning permission. Further information may subsequently be submitted to the Planning Inspectorate which overcomes those issues. In such circumstances it would be unfair for local authorities to have their

Bonus reduced for the poor submission of planning applications by applicants.

- 2.2.4. Some planning decisions are finely balanced, and can reflect the poor submission of information to support the application, and the timing of local plan allocations. If planning decisions by local authorities are unreasonable, and not adequately defended or have unreasonable reasons for refusal it would result in an award of cost by an Appeal Inspector. Most appeal decisions, even if subsequently allowed, do not result in an award of cost. This indicates that generally, the Local Authority has not acted unreasonably in refusing the application in the first place.
- 2.2.5. For the reasons outlined above, it would be unfair if the Council's Bonus were to be reduced for homes allowed on appeal. Also, the Council does not agree with the principle of reducing the Bonus payments.
- 2.2.6. If the Government were to go ahead and introduce a mechanism for reflecting homes only allowed on appeal, the Council would lose Bonus payments as follows:

<b>For every 20 homes</b>	<b>£000</b>
A. 100% reduction in Bonus	24
B. 50% reduction in Bonus	12

For example, Barton Farm was allowed on appeal and this represented 2,000 homes. Under the proposed changes, that would have lost the Council up to £2.4m of bonus payments in each year of the bonus payment periods, although such large appeal decisions are very rare.

- 2.2.7. At the time of an appeal decision the ultimate council tax banding of the homes being proposed is not known, as this will depend on their valuation once built. The calculation of what adjustment should be made will need to be based on a proxy value and the options for this are:
- A. National average New Homes Bonus figure for Band D properties, in line with the current approach of calculating the Bonus.
  - B. The use of the average council tax, for the existing housing stock in each authority was considered as an alternative proxy value, to avoid the risk of over-penalising authorities with high percentages of stock in lower council tax banding (and, conversely, of applying a reduced penalty in areas where high value properties dominate).
- 2.2.8. This Council is in an area of higher value properties with average council tax for the existing stock which is higher than the National average New Homes Bonus figure for Band D properties. Therefore,

the better option, financially, for the Council is Option A, using the national average New Homes Bonus figure for Band D properties for any adjustments that the Government might introduce.

- 2.2.9. The consultation paper is not clear whether any reductions would apply relating to planning permission that was granted on a successful appeal prior to 2017/18 but where the homes will still be in the process of being built during the years 2017/18 onwards. The Council is asking the Government for clarification, as part of its response to the consultation.

### 2.3. Adjusting the Bonus to reflect estimates of deadweight

- 2.3.1. The Bonus is currently paid on all new housing regardless of whether or not it would have been built without an incentive. The Government believes that by removing this deadweight from the calculation of the Bonus, it would allow payments to be more focussed on local authorities demonstrating a stronger than average commitment to growth.
- 2.3.2. Deadweight would be removed by setting a baseline and only making payments for housing growth above that baseline. The options for the baseline are:
- A. Single baseline for all areas at a possible level of 0.25%. This is lower than the national average housing growth over the years prior to the introduction to the Bonus.
  - B. Baseline set on the average growth rate of dwellings in each local authority area. However, potentially, this would have the impact of “rewarding” authorities who had only achieved low growth in the past and penalising those who had done well. In addition, it could result in large numbers of authorities not receiving a Bonus payment at all.
- 2.3.3. The Council does not agree with the principle of reducing the Bonus payments, but if the Government were to go ahead and introduce this incentive, the best option for the Council is Option A. The Council’s lowest housing growth rate in the last 5 years was 0.6%, and based on forecasts of future housing growth, it would be unlikely for the Council not to achieve a threshold of 0.25%.
- 2.3.4. The financial effect to the Council of the Government introducing a baseline of 0.25% to remove deadweight would be a reduction in the Bonus of £1.8m over the period of our current medium term financial strategy from 2016/17 to 2020/21.
- 2.3.5. The Government is also proposing to make adjustments to the baseline in order to reflect significant and unexpected housing growth in order to remain within their funding envelope for the Bonus. The

Council does not agree with the principle of reducing the Bonus payments.

### 3. OPTIONS FOR THE NUMBER OF YEARS FOR WHICH PAYMENTS ARE MADE

3.1. Based on the latest forecasts of new homes completions and under the current scheme, payments are made for 6 years and the projected payments to the Council are:

	2016/17	2017/18	2018/19	2019/20	2020/21	Total
	£m	£m	£m	£m	£m	£m
projected payments under current scheme	3.3	3.3	3.4	3.9	4.9	18.8

3.2. The Government's preferred option is to reduce the number of years for which the Bonus is paid for both existing and future allocations from the current 6 years to 4 years. There are two proposals for the transitional arrangements:

- a.) Transition with intermediate step from 6 years to 5 years of payments in 2017/18 and then to 4 years of payments in 2018/19.
- b.) Transition from 6 years to 4 years of payments in 2017/18 with no intermediate step.

3.3. The Government is also considering whether to reduce the payments to 3 years or 2 years.

3.4. One further option that the Government is considering is to introduce all of the three reforms to improve the incentives in the Government's preferred model, but to continue making payments for 6 years.

3.5. The Council does not agree with the principle of reducing the bonus payments.

3.6. The table below shows the financial effect on the Council if the Government were to introduce any of the above options:

#### effect of reducing payment period

	2016/17	2017/18	2018/19	2019/20	2020/21	Total effect
	£m	£m	£m	£m	£m	£m
A. from 6 to 4 years by 2018/19	---	- 0.6	- 1.0	- 1.2	- 1.2	- 4.0
B. from 6 to 4 years by 2017/18	---	- 1.1	- 1.0	- 1.2	- 1.2	- 4.5
C. from 6 to 3 years by 2017/18	---	- 1.6	- 1.7	- 1.7	- 1.7	- 6.7
D. from 6 to 2 years by 2017/18	---	- 2.3	- 2.1	- 2.2	- 2.4	- 9.1

#### effect of introducing all three incentives with no change to payment period

	2016/17	2017/18	2018/19	2019/20	2020/21	Total effect
	£m	£m	£m	£m	£m	£m
E. 6 years payment period & 3 incentives	---	- 0.1	- 0.3	- 0.4	- 1.0	- 1.8

3.7. The £1.8m reduction in Option E, represents only two of the incentives: the removal of deadweight and also the withholding of bonus where no local plan is in place (the incentive re: local plan has no financial effect on the Council). It is not possible to make an accurate prediction of future levels of successful appeals and there is a risk that the appeals incentive changes could cost in excess of the £2.2m difference between Option E and the next best option (Option A) over a 5 year period (see paragraph 2.2.6).

3.8. Although the Council does not agree with the principle of reducing the bonus payments, if the Government were to go ahead and reduce the payment period, of the options outlined in the report, the Council would want the minimal reduction in payment period of moving from 6 years of payments under the Bonus to 4 years, with an interim period for 5 year payments. The financial effect of this is shown in Option A in the above table and would be a £4.0m reduction in bonus payments over the 5 years of the medium term financial forecast.

#### 4. NATIONAL PARKS, DEVELOPMENT CORPORATIONS AND COUNTY COUNCILS

4.1. The Government are consulting on whether the same adjustments as elsewhere should apply in areas covered by National Parks, the Broads Authority and development corporations.

4.2. The Council is proposing no comment on this consultation question, as the Broads Authority is not relevant to the Council's area and there are no development corporations within the Council's area. South Downs National Park does not receive a share of the Bonus, so these incentives could not be applied in this Council's area.

4.3. The Government are also consulting on whether the same adjustments as elsewhere should apply to county councils.

4.4. County councils have an important role to play in delivering essential infrastructure. Arguably, this could impact on the ability of district councils to produce the Local Plan. If the Government goes ahead with the proposal to withhold or reduce the Bonus where Local Plans have not been adopted or been kept up to date, and if for some reason this Council was delayed in updating the Local Plan by the County Council, it would only be this Council that incurred a penalty.

4.5. The Head of Strategic Planning does not consider that any delays would be likely to occur in the Council's case, due to the limited input of Hampshire County Council to the Local Plan. Therefore, the Council is proposing no comment on this consultation question.



## 5. PROTECTING INDIVIDUAL AUTHORITIES

- 5.1. The Government are asking for views on whether there is merit in considering protection for those who may face an adverse impact from these proposals.
- 5.2. There is merit in considering protection for those council's that are particularly adversely affected by the proposed changes, where this is due to factors beyond their control as opposed to an unwillingness to support and encourage housing growth. The Council are asking the Government to clarify what factors would be taken into account.

## 6. BUDGET CONSIDERATIONS

- 6.1. There are several options for the basis of setting the 2016/17 budget and the medium term financial forecast for the Bonus, as follows:

- A. Based on the Provisional Settlement from the Government. This is calculated based on the actual growth in the Council's tax base, taken from the returns that were submitted to the DCLG in October, and then projected forward with an average growth rate, as determined by the Government. This does not take into account the level of new homes in the Local Plan.
- B. Based on the level of new homes in the Local Plan, adjusted for key risks and the timing difference between the completion of a new home and the Bonus payment.

- 6.2. The following financial forecasts are based on the Government's preferred option of introducing all three of the incentives and reducing the payment period from 6 years to 4 years by 2018/19 (with a transitional year in 2017/18). There will be no financial effect in 2016/17.

	2016/17	2017/18	2018/19	2019/20	2020/21	<b>Total</b>
	£m	£m	£m	£m	£m	£m
A. Provisional Settlement	3.3	3.3	2.1	2.0	2.0	<b>12.7</b>
B. Estimate based on adjusted Local Plan	3.3	2.6	2.1	2.3	3.2	<b>13.4</b>

- 6.3. It is recommended that Option B is used as the basis for setting the budget for 2016/17 and the medium term financial forecast. All of the financial effects illustrated in Section 2 and Section 3 are based on Option B.
- 6.4. The current financial strategy is that the forecast New Homes Bonus and affordable Homes Bonus used to support the baseline budget is capped at below 10% of expenditure. This strategy was put in place because of the uncertainty over what the Government would do with the New Homes Bonus Scheme. Once the Government have considered the responses from this consultation and have published the details of the new scheme, the Council will be in a position to consider what financial strategy would be appropriate for the 2017/18 budget setting process.

## OTHER CONSIDERATIONS:

### 7. COMMUNITY STRATEGY AND PORTFOLIO PLANS (RELEVANCE TO):

- 7.1. The Government's proposed changes to New Homes Bonus could affect the Council's Medium Term Financial Strategy and links to the priority outcome of Effective and Efficient Council within the Community Strategy. Medium term financial planning ensures effective use of available resources.
- 7.2. The Medium Term Financial Strategy is linked to the objectives in the Portfolio Plans.

### 8. RESOURCE IMPLICATIONS:

- 8.1. As set out in the report.

### 9. RISK MANAGEMENT ISSUES

- 9.1. The Council currently relies on the Bonus to support the baseline budget. Any changes to the amount of Bonus receivable will have a direct impact on the resources available to the Council to support the future delivery of services.
- 9.2. Any successful planning appeals for sites in the Local Plan from 2017/18 onwards would further reduce the Council's income from the Bonus if the Government introduces the incentive relating to appeals.

## BACKGROUND DOCUMENTS:

DCLG Technical Consultation – New Homes Bonus: Sharpening the incentive  
<https://www.gov.uk/government/consultations/new-homes-bonus-sharpening-the-incentive-technical-consultation>

## APPENDICES:

Appendix A Summary of consultation questions and proposed responses

## Appendix A

### Summary of questions and recommended responses

#### DCLG Technical Consultation – New Homes Bonus: Sharpening the incentive

##### Response from Winchester City Council

*The proposed changes are, firstly, a direct cut in the resources councils have available to support growth. These changes will reduce local ability to fund the infrastructure to support new homes and help shape sustainable communities. When set alongside changes to the CIL and s.106 regime for developer contributions, this is a further cut to local ability to invest in communities.*

*These proposals also run directly counter to previous Ministerial commitments on localising council funding. When it was introduced, Ministers presented the New Homes Bonus as part of a wider shift in emphasis of the local government finance system, and a move away from needs-based grant to a system which encouraged authorities to generate income through positive policy decisions. The changes now proposed undermine that local ability to generate income through growth, and represent a regressive step in the funding of local government.*

#### Question 1

What are your views on moving from 6 years of payments under the Bonus to 4 years, with an interim period for 5 year payments?

*The Council does not agree with the principle of reducing the payment period.*

*If the Government were to go ahead and reduce the payment period, of the options outlined in the report, the Council would want the minimal reduction in payment period of moving from 6 years of payments under the Bonus to 4 years, with an interim period for 5 year payments.*

#### Question 2

Should the number of years of payments under the Bonus be reduced further to 3 or 2 years?

*No. Councils are relying on the Bonus to support the delivery of services and this would directly impact in the form of cuts.*

#### Question 3

Should the Government continue to use the current approach to calculating bonus allocations even though this could result in some skewing of allocations in favour of areas with higher house prices? If not, what alternatives would work better?

Yes.

**Question 4**

Do you agree that local authorities should lose their Bonus allocation in the years during which their Local Plan has not been submitted? If not, what alternative arrangement should be in place?

*No. The Council does not agree with the principle of reducing the bonus payments.*

*If the Government were to go ahead and introduce a mechanism for, reducing the Bonus allocation in the years where a Local Plan is not in place, local authorities who make progress towards remedying this should not have their Bonus reduced to the same extent as those making no progress. The Council therefore would prefer the other option set out in paragraph 3.14 of the consultation whereby local authorities are allocated only a set percentage (50%) of the Bonus where an authority has published a Local Plan but has not yet submitted it to the Secretary of State for examination.*

**Question 5**

Is there merit in a mechanism for abatement which reflects the date of the adopted plan?

*No. The Council does not agree with the principle of reducing the bonus payments. Also, this would add complexity to administering the Bonus calculation.*

**Question 6**

Do you agree to this mechanism for reflecting homes only allowed on appeal in Bonus payments?

*No. The consultation paper at paragraph 3.24 clearly sets out that “Not all refusals of permission – and subsequent appeals – result from authorities opposing the principle of development....”.*

*Applications can be submitted and presented badly at the application stage, and sometimes leave the Council no option but to refuse planning permission. Further information may subsequently be submitted to the Planning Inspectorate which overcomes those issues. It would therefore be unfair for local authorities to have their Bonus reduced for the poor submission of planning applications by applicants.*

*Some planning decisions are finely balanced, and can reflect the poor submission of information to support the application, and the timing of local plan allocations. If planning decisions by local authorities are unreasonable, and not adequately defended or have unreasonable reasons for refusal it would result in an award of cost by an Appeal Inspector. Most appeal decisions, even if subsequently allowed, do not result in an award of cost. This indicates that the Local Authority has not acted unreasonably in refusing the application in the first place.*

*Additionally, the Council does not agree, on principle, with reductions in the bonus payments.*

*If the Government decides to go ahead with reducing Bonus payments for homes only allowed on appeal then the Council supports the Government's preferred approach of using existing data collected by the Planning Inspectorate as the basis for these adjustments.*

### **Question 7**

Do you agree that New Homes Bonus payments should be reduced by 50%, or 100%, where homes are allowed on appeal? If not, what other adjustment would you propose, and why?

*No. The New Homes Bonus should not be reduced for homes allowed on appeal for the reasons outlined in response to Question 6.*

*If the Government decides to go ahead with reducing Bonus payments for homes only allowed on appeal then the Council would prefer the minimum of reduction to reflect the concerns that were raised in our response to Question 6.*

*In paragraph 3.20 of the consultation it states that, 'The Government is proposing to reduce new in-year allocations payments to individual authorities where residential development is allowed on appeal.' It is not clear whether any reductions would apply relating to planning permission that was granted on a successful appeal prior to 2017/18 but where the homes will still be in the process of being built during the years 2017/18 onwards. This needs to be clarified.*

### **Question 8**

Do you agree that reductions should be based on the national average Band D council tax? If this were to change (see question 3) should the new model also be adopted for this purpose?

*Yes, the reductions should be based on the national average Band D council tax, which is consistent with the methodology for the calculation of the Bonus allocations in Question 3.*

### **Question 9**

Do you agree that setting a national baseline offers the best incentive effect for the Bonus?

*The Council does not agree with the principle of a baseline reduction to remove deadweight.*

### **Question 10**

Do you agree that the right level for the baseline is 0.25%?

*No. The Council does not agree with the principle of a baseline reduction to remove deadweight. If the Government decides to go ahead and introduce a baseline, then it should be set at the minimum level.*

**Question 11**

Do you agree that adjustments to the baseline should be used to reflect significant and unexpected housing growth? If not, what other mechanism could be used to ensure that the costs of the Bonus stay within the funding envelope and ensure that we have the necessary resources for adult social care?

*The Council does not agree with the principle of any adjustment to reflect significant and unexpected housing growth.*

**Question 12**

Do you agree that the same adjustments as elsewhere should apply in areas covered by National Parks, the Broads Authority and development corporations?

*No comment.*

**Question 13**

Do you agree that county councils should not be exempted from adjustments to the Bonus payments?

*No comment.*

**Question 14**

What are your views on whether there is merit in considering protection for those who may face an adverse impact from these proposals?

*Yes. There is merit in considering protection for those council's that are particularly adversely affected by the proposed changes, where this is due to factors beyond their control as opposed to an unwillingness to support and encourage housing growth.*

*The Government need to clarify what factors would be taken into account.*