

Affordable Housing Interim Statement adopted by Council 17 December 2014

Planning Contributions (Section 106 planning obligations) for smaller residential proposals

Introduction

In March 2014 the Government published a consultation on “Planning Performance and Planning Contributions”.

The consultation proposed that before any request for affordable housing contributions can be considered, authorities will have to have regard to national policy that such charges create a disproportionate burden for development falling within a combined 10-unit and 1,000 square metres gross floor space threshold. A maximum total floor space was proposed in combination with a unit threshold to avoid creating an unintended incentive to alter scheme construction densities.

Developers, development representative bodies, and some members of the public generally supported the proposed changes, arguing that excessive affordable housing contributions were often being applied.

Local Authority responses generally opposed both the principle of a national threshold for affordable housing contributions and the size of the proposed threshold. The consultation closed on 4 May 2014.

Response

On the 28th November 2014 the Government has published its conclusions with regard to the planning contributions element.

The conclusions read that the Government considers that affordable housing 106 charges can place a disproportionate burden on small scale developers, including those wishing to build their own homes, and prevent the delivery of much needed, small scale housing sites. The Government has aimed to strike an effective balance between providing the support and incentives which will drive up self-build, small scale and brownfield development without adversely impacting on local contributions to affordable homes and infrastructure.

The Government has made the following changes with regard to section 106 planning obligations:

- Due to the disproportionate burden of developer contributions on small scale developers, for sites of 10-units or less, and which have a maximum combined gross floor space of 1000 square metres, affordable housing and tariff style contributions should not be sought. This will also apply to all residential annexes and extensions.
- For designated rural areas under section 157 of the Housing Act 1985, which includes National Parks and Areas of Outstanding Natural Beauty, authorities may choose to implement a lower threshold of 5-units or less, beneath which affordable housing and tariff style contributions should not be sought. This will also apply to all residential annexes and extensions. Within these designated areas, if the 5-unit threshold is implemented then

payment of affordable housing and tariff style contributions on developments of between 6 to 10 units should also be sought as a cash payment only and be commuted until after completion of units within the development.

- These changes in national planning policy will not apply to Rural Exception Sites which, subject to the local area demonstrating sufficient need, remain available to support the delivery of affordable homes for local people. However, affordable housing and tariff style contributions should not be sought in relation to residential annexes and extensions.

The changes have been implemented in National Planning Policy Guidance (NPPG) which has been repeated below:

EXCERPT FROM NPPG

Are there any circumstances where infrastructure contributions through planning obligations should not be sought from developers?

There are specific circumstances where contributions for affordable housing and tariff style planning obligations (section 106 planning obligations) should not be sought from small scale and self-build development.

- contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1000sqm
- in designated rural areas, local planning authorities may choose to apply a lower threshold of 5-units or less. No affordable housing or tariff-style contributions should then be sought from these developments. In addition, in a rural area where the lower 5-unit or less threshold is applied, affordable housing and tariff style contributions should be sought from developments of between 6 and 10-units in the form of cash payments which are commuted until after completion of units within the development. This applies to rural areas described under section 157(1) of the Housing Act 1985, which includes National Parks and Areas of Outstanding Natural Beauty
- affordable housing and tariff-style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing home

Lancaster City Council Development Management Policy

Lancaster City Council has for a number of years been successful in securing contributions from smaller schemes in order to enable the delivery of affordable housing within the District. The implementation of Guidance Notes and latterly the Meeting Housing Needs SPD has facilitated the collecting of monies from all levels of residential development subject to viability assessment. This policy approach has been successful in delivering significant numbers of affordable houses even in times of significant economic difficulty.

Consequently the Council has over the past year sought to secure this policy approach in its forthcoming Local Plan. It has successfully progressed the Development Management DPD to the point of adoption including policies to this effect. The document has been subject to an independent Examination and has received a finding of soundness and an inspector's report with binding recommendations. The Document is to be reported to council on 17th December 2014 to seek a resolution to adopt as part of the Local Development Plan.

The DPD contains detailed policies intended to guide and promote sustainable development throughout the District and includes Policy DM41: New Residential Development

DM 41 requires that "other than in the most exceptional circumstances new housing development must contribute toward the provision of affordable housing."

It further details that proposal for new residential development falling into Use Class C3 will be assessed against the following table;

Excerpt from DM41: New Residential development

Affordable homes

Other than in the most exceptional circumstances new housing development must contribute toward the provision of affordable housing. The council will consider detailed proposals for new housing development that falls into Use Class C3 with reference to the following targets:

Reference Affordable Housing Target by Development Type (Average)			
Units	Location	Affordable Housing	Delivery Method
15 plus	Urban	30%*	On site
10 plus	Rural	30%*	On site
5 to 14	Urban	Up to 20%	On site
5 to 9	Rural	Up to 20%	On site
1 to 4	Urban & rural	Up to 10%	Financial contribution

** Up to 40% affordable housing will be sought from new housing proposed on greenfield sites.*

Financial contributions towards the provision of affordable housing will be calculated in accordance with the methods detailed in the Meeting Housing Needs SPD or successor documents.

Where compelling and detailed evidence demonstrates that the provision of affordable housing in accordance with the above targets would have a disproportionate and unwarranted negative impact on the viability of a proposed development, applicants may seek to provide fewer affordable dwellings than would be ordinarily acceptable.

The degree to which proposals deviate from the above requirements will be weighed against the benefits of any resulting scheme. Where proposals offer fewer dwellings than would ordinarily be acceptable, weight will be given to whether an alternative scheme, amended layout or other adjustment may result in a greater quantum of affordable dwellings being achieved.

The Policy further requires that financial contributions will be calculated in accordance with the Meeting Housing Needs SPD. The SPD provides a formula for calculating contributions and also reiterates the guidance in the DM DPD including the table above with minor amendments.

Accordingly the Council is aware that the Development management DPD conflicts with the newly stated elements of National Planning Policy Guidance.

17 December 2014 Interim Development Management Approach to Negotiating Affordable Housing

In light of the CLG's update to the NPPG on 28th November 2014, following the adoption of the Development Management DPD on 17th December, the council will apply the following approach when assessing proposals for residential development.

Notwithstanding the percentage targets detailed within the Development Management DPD Policy DM41: New Residential Development, the following criteria will apply:

Outside of the district's AONB's (and potentially National Park);

- Planning Proposals which result in a net increase of 10 or fewer dwellings will not be subject to a request for affordable housing contributions.
- Where proposals are made for 11 or more dwellings Development Management DPD Policy DM41: New Residential Development will apply in full.

Within the districts AONB's (and potentially National Park);

Planning proposals which result in a net increase of 5 or fewer dwellings will not be subject to requests for affordable housing contributions.

- Where proposals are made for 6 -10 dwellings a financial contribution will be sought with reference to the targets set out in Development Management DPD Policy DM41: New Residential Development.
- Where 11 or more dwellings are proposed Development Management DPD Policy DM41: New Residential Development will apply in full.

All other development Management policies remain wholly in force and are accorded due weight.

Future Review of the Development Management DPD

The adoption of the Development Management DPD does not preclude continuing policy development. It is of course the Council's intention to revisit elements of the Development Management DPD in response to changing evidence, evolving planning practise, case law, and revised national guidance. It is fully understood that revisions to the DM DPD may well be required to ensure that, in addition to being kept up to date, the DM Document is consistent with the forthcoming Land Allocations DPD.

The Council has committed to undertaking an Affordable Housing Viability Study (AHVA) prior to the adoption of the Land Allocation DPD and is also revisiting its strategic approach to housing delivery in order to meet very substantial needs over the forthcoming plan period. It is anticipated that a review the Development Management DPD alongside progression of the Land Allocations DPD will provide the opportunity to incorporate new evidence and to ensure that the policy DM41 is amended to incorporate the extant national policy position and national planning practice guidance position.

In addition to the immediate application on this interim approach the council is therefore also committed to;

- **Preparing an NPPG-compliant interim policy through an imminent revision of the Supplementary Planning Document (SPD) on Meeting Housing Needs, and,**
- **Formally revising the Policy DM 41 through a review of the Development Management DPD following a refresh of evidence on development viability which will accompany the preparation of the forthcoming Land Allocations Document.**

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Lancaster City Council