

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO PLANNING & DEVELOPMENT COMMITTEE

Agenda Item No. 10

meeting date: 12 FEBRUARY 2015
 title: NEW GOVERNMENT POLICY / SECTION 106 AGREEMENTS
 submitted by: DIRECTOR OF COMMUNITY SERVICES
 principal author: JOHN MACHOLC

1 PURPOSE

1.1 To inform Members of the change in government policy in respect to Section 106 contributions for small scale developments which became effective on 28 November 2014.

1.2 To advise Members of the possible impact of this change on the implementation of the appropriate policies within the adopted Core Strategy.

1.2 Relevance to the Council's ambitions and priorities

- Community Objectives - } To be a well managed Council providing efficient services and this would include delivery of affordable housing and infrastructure improvements utilising funds where appropriate.
- Corporate Priorities - }
- Other Considerations - }

2 BACKGROUND

2.1 Section 106 Contributions

On 28 November 2014 Brandon Lewis, the Minister of State for Communities and Local Government, announced changes to government policy in respect of planning applications (Section 106 Agreements or Unilateral Undertakings). The Ministerial Statement is established as national guidance and is a significant material consideration in decision making. Following the statement, it has resulted in amendments to the National Planning Practice Guidance (NPPG) as follows.

- Contributions for affordable housing and tariff style planning applications should not be sought for development of 10 units or less and which have a maximum to combined gross floor space of no more than 1000m².
- Tariff style contributions are defined as planning obligations contributing to pooled funding pots intended to provide common types of infrastructure such as open space, recreation facilities, education facilities.
- Local planning authorities may choose to apply a lower threshold of 5 units or less to developments in designated rural areas being areas as defined under Section 157 of the Housing Act 1985 and also includes National Parks and Areas of Outstanding Natural Beauty. No affordable housing or tariff style contribution should then be sought from these developments. Only in cases of the lower threshold Councils should only seek contributions from developments of between 6-10 units as a

financial contribution and not on site. Any payments made should also be commuted until after completion of units within developments.

- Authorities can still seek obligations for site specific infrastructure such as improvements to road access or a specific project.
- 2.2 It is made clear that the Government announcement on 28 November 2014 equates to the introduction of government policy and this has now been placed in Planning Practice Guidance which accompanies the NPPF. It is therefore the government's intention that this policy can, and should be given the same weight as the NPPF when making planning decisions. It is vital to give weight to the policy and assess whether or not the Core Strategy is in accordance with the policy.
- 2.3 In relation to the threshold the Council has adopted a lower threshold of 5 Units for the purpose of the Core Strategy.
- 2.4 The list of rural areas for Ribble Valley would include the parishes of Bolton-by-Bowland, Bashall Eaves, Chatburn, Clayton-le-Dale, Dinckley, Dutton, Gisburn, Great Mitton, Horton, Hothersall, Little Mitton, Mearley, Middop, Newsholme, Osbaldeston, Paythorne, Ramsgreave, Read, Ribchester, Rimington, Salesbury, Simonstone, Waddington, West Bradford, Wiswell and Worston. The borough is also subject to an Area of Outstanding Natural Beauty which would therefore include numerous other parishes such as Chipping, Slaidburn and other rural areas. These would all then form part of the lower threshold criteria should the Council continue to apply such a policy.
- 2.5 It should be noted that some of the parishes that are excluded from this designation, would include amongst others, Wilpshire, Langho, Billington, Mellor and Mellor Brook and the main settlements of Clitheroe, Longridge and Whalley.
- 2.6 In relation to the lower threshold designation of 5 units or less it is important to note that the Council could not seek Affordable Housing contribution or a tariff style contributions. The consequence is that if an appropriate scheme came forward and was compliant with policies in the Core Strategy these sites would market houses.
- 2.7 It is evident that some current planning applications that in the past the Council could have required an element of affordable housing, is no longer being offered by the developers, which confirms that it will make it more difficult for the Council to meet its affordable housing requirements throughout the borough.

3 ISSUES

- 3.1 It is clear that this change in guidance and also the forthcoming restriction on the number of pooled Section 106 Agreements, which will come into force from April 2015, would have an impact on the ability to resource affordable housing within the borough. It would also potentially have significant financial implications, and on the assessments on the planning balance of any planning application if it is no longer possible to insist on an element of affordable housing within a development proposal nor request contributions for infrastructure schemes such as education and recreation improvements.
- 3.2 The pooled contributions will be restricted to up to five developments where infrastructure is not funded by CIL (Community Infrastructure Levy). This comes into

force in April this year and so as the Council has not yet an adopted CIL in place, this could seriously impact on the amount of contributions that could be sought.

- 3.3 Guidance within the PPG received on 28 November 2014 also states that where the lower threshold is applied, Local Planning Authorities should only seek affordable housing contributions from developments of between 6-10 units as financial contributions and not affordable housing units on site. Although the policy within the Core Strategy (Key Statement H3: Affordable Housing) allows for consideration of a financial contribution in certain circumstances, the guidance would only permit contributions rather than new build units on site.
- 3.4 This change to guidance is recent and it is clear that many L.P.A.'s are concerned about the impact of the changes. Recently two Berkshire Councils (Reading and West Berkshire) have applied for a judicial review over the new planning guidance that removes housing obligations from small scale residential developments. The Councils are concerned that the changes would miss out on contributions for community improvements including highways, education and the provision of affordable housing.

4 **CONCLUSION**

- 4.1 Committee note this report and the changes in legislation and be aware of the changes to the provision of affordable housing and specifically the limit for only five developments where infrastructure is not funded by CIL (Community Infrastructure Levy). Furthermore they should be aware of the likely inability to secure contributions for community and infrastructure improvements such as education and sports provision.

JOHN MACHOLC
HEAD OF PLANNING SERVICES

JOHN HEAP
DIRECTOR OF COMMUNITY SERVICES

BACKGROUND PAPERS

Ministerial Statement from Brandon Lewis dated 28 November 2014.

Revisions to Planning Practice Guidance – 28 November 2014.

For further information please ask for John Macholc, extension 4502.

REF: JM/EL/120215/P&D