

RIBBLE VALLEY BOROUGH COUNCIL

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Dear Councillor

The next meeting of the **PLANNING AND DEVELOPMENT COMMITTEE** is at **6.30pm** on **THURSDAY, 30 JUNE 2016** at the **TOWN HALL, CHURCH STREET, CLITHEROE.**

I do hope you can be there.

Yours sincerely

CHIEF EXECUTIVE

To: Committee Members (copy for information to all other members of the Council)
Directors
Press
Parish Councils (copy for information)

AGENDA

Part I – items of business to be discussed in public

1. Apologies for absence.
- ✓ 2. To approve the minutes of the last meeting held on 19 May 2016 – copy enclosed.
3. Declarations of Pecuniary and Non-Pecuniary Interests (if any).
4. Public Participation (if any).

DECISION ITEMS

- ✓ 5. Planning Applications – report of Director of Community Services – copy enclosed.

INFORMATION ITEMS

- ✓ 6. Housing Land Availability – report of Chief Executive – copy enclosed.

- ✓ 7. New Government Policy – Section 106 Agreements – report of Director of Community Services – copy enclosed.
- ✓ 8. Appeals:
 - a) 3/2015/0571/P – extension to existing building to create cattery and stables, construction of a ménage, a midden and access arrangements at Four Acres, Pendleton Road, Wiswell – appeal allowed with conditions.
- 9. Reports from Representatives on Outside Bodies (if any).

Part II - items of business **not** to be discussed in public

None

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO PLANNING & DEVELOPMENT COMMITTEE

Agenda Item No. 6

meeting date: THURSDAY, 30 JUNE 2016
title: HOUSING LAND AVAILABILITY
submitted by: CHIEF EXECUTIVE
principal author: JOANNE MACHOLC, SENIOR PLANNING OFFICER

1 PURPOSE

- 1.1 To provide Members with key information on the results of the most recent Housing Land Availability Survey April 2016, which has a base date of 31 March 2016.
- 1.2 Relevance to the Council's ambitions and priorities:
- Community Objectives - The information in this report relates to the delivery of housing which is a key theme of the adopted Core Strategy.
 - Corporate Priorities - This information is relevant to the adopted Core Strategy which is a spatial expression of corporate priorities.
 - Other Considerations - Councils have a duty to update housing supply annually.

2 INFORMATION

- 2.1 The Council has a duty to ensure a 5 year supply of deliverable housing land (NPPF paragraph 47). The issue of five year supply continues to be a key matter in the determination of planning applications and appeals.
- 2.2 Housing land surveys are conducted on a six monthly basis. The latest survey was undertaken at 31 March 2016. The resulting full *Housing Land Availability Schedule April 2016 (HLAS)* can be viewed on the Council's website¹ and a copy has been placed in the Members' Room for reference. Interim updates may be produced to inform major appeals. It is noted that NPPF envisages annual updates.
- 2.3 The HLAS provides information on: dwelling completions; and sites with planning permission and their development status. It enables the Council to create a picture of construction trends and activity rates together with base line evidence on the amount of land that is available to be brought forward from which the latest supply position in relation to the current strategic requirement is calculated.
- 2.4 The relevant strategic housing requirement is set out in H1 of the adopted Core Strategy. This requires 5600 dwellings for the plan period 2008 to 2028, equivalent to an annual average completion target of at least 280 per year. The figure of 280 is used for monitoring purposes.
- 2.5 Outputs from the survey show that 1380 dwellings have been constructed since April 2008 (i.e. an 8 year period). In the monitoring year 2015-2016, 300 dwellings were built, exceeding the Core Strategy annualised requirement of 280 dwellings per year.
- 2.6 The supply position at 31 March 2016 can be summarised as:

https://www.ribblevalley.gov.uk/downloads/download/7171/housing_land_availability_surveys_and_reports

	<u>No. dwellings</u>
• Units with full planning permission – not started	376
• Units with outline planning permission – not started	1946
• Sites commenced, units remaining but not started	573
• Units under construction	370
• Conversions - not started	70
• Conversions – under construction	55
• Affordable Housing Sites (not started)	885
TOTAL	4275

(note: planning permissions granted since 31st March 2016 are not included)

2.7 In addition, at 31 March, 33 dwellings were the subject of planning applications awaiting the completion of Section 106 Agreements. They are not included in the table above as the sites do not yet have planning permission. However given that development of these sites has been agreed in principle they are generally included in the supply. The Council has put in place measures to monitor progress on the completion of Agreements and their inclusion in the supply is regularly reviewed.

2.8 Sites with planning permission are normally considered deliverable in terms of the NPPF and therefore are included in the five year supply. Adjustments are made to the calculation of the five year supply relating to: sites which are not considered deliverable in the five year period; the contribution specific large sites may make in the five year period; and the sites which have commenced but where there is no current activity. Details of these are set out in the HLAS. Such sites are kept under review in successive surveys. A 10% allowance for slippage is also included in relation to sites which have not started.

2.9 The calculation of five year supply also includes a windfall allowance based on definitions and advice in NPPF, as endorsed by Planning and Development Committee on 12 February 2015 (Minute 600).

2.10 The HLAS sets out the five year supply position using an annualised requirement of 280 dwellings. The summary at Appendix 1 shows a five year requirement for 2540 dwellings (equivalent to 508 per year). The identified five year supply is 2723 dwellings. On this basis the Council can demonstrate a 5.36 year supply. Full details are included in the HLAS. It should be noted that this represents a position a specific point in time; the situation changes constantly as permissions are implemented, new permissions are granted and schemes amended.

3 CONCLUSION

3.1 The Council will continue to monitor the housing land situation. The next survey is scheduled to take place at the end of September 2016.

JOANNE MACHOLC
SENIOR PLANNING OFFICER

MARSHAL SCOTT
CHIEF EXECUTIVE

BACKGROUND PAPERS

Housing Land Availability Schedule April 2016 (available on the Council's website)
NPPF

For further information please ask for Joanne Macholc, extension 3200.

APPENDIX 1

Summary of Housing Land Position at 31 March 2016

For full details, see Housing Land Availability Schedule April 2016

Annualised requirement

H1 of the Core Strategy Policy H1 sets an overall requirement of 5600 dwellings for the plan period 2008–2028 which equates to 280 dwellings per year. The 5 year requirement is:

A	Planned provision 2008 - 2028	5600
B	Annual equivalent	280
C	Five year requirement (Bx5)	1400
D	Plus 20% buffer - NPPF para 47 (B+C)	1680
E	Completions since 1/4/2008 to 31/3/16 (8 years)	1380
F	Shortfall to date ([8x280]-E)	860
G	Total five year requirement (D+F)	2540
H	Annual requirement (G+5)	508

Identified supply at 31 March 2016

Types of sites with permission	No. dwellings	
Sites subject to Section 106 Agreements	33	
Sites not started:		
Sites with full permission (market units only)	376	
Sites with outline permission (market units only)	1946	
Conversions not started (market units only)	70	
Affordable Units	885	
<i>Sub total:</i>	3310	
Less dwellings on sites not deliverable	0	
Less dwellings on large sites deliverable beyond 5 years	1447	
<i>Sub total:</i>	1863	
Less 10% slippage	186	
<i>Sub total:</i>	1677	A
Sites under construction:		
Dwellings not started	573	
Dwellings under construction	370	
Conversions	55	
<i>Sub total</i>	998	
Less sites not currently active	32	
Less dwellings on large sites deliverable beyond 5 years	35	
<i>Sub total</i>	931	B
Plus windfall allowance (5x23)	115	C
TOTAL SUPPLY (A+B+C)	2723	

Five year supply position

=	Identified supply ÷ annualised requirement
=	2723÷508
=	5.36 years

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO PLANNING & DEVELOPMENT COMMITTEE

Agenda Item No.

meeting date: 30 JUNE 2016
 title: NEW GOVERNMENT POLICY / SECTION 106 AGREEMENTS
 submitted by: DIRECTOR OF COMMUNITY SERVICES
 principal author: ROBERT MAJOR

1 PURPOSE

1.1 To update Members of the impact of the recent High Court Challenge in relation to affordable housing contributions in respect to Section 106 contributions for small scale developments, which follows the order of the Court of Appeal dated 13 May 2016, which gave legal effect to the policy set out in the Written Ministerial Statement of 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
- Corporate Priorities - } housing and infrastructure improvements utilising
- Other Considerations - } funds where appropriate.

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 obligations (Section 106 Agreements or Unilateral Undertakings). The Ministerial Statement was established as national guidance and was a significant material consideration in decision making. Following this statement, the National Planning Practice Guidance (NPPG) was amended 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 In January 2015 Reading and West Berkshire Councils challenged this legislation on the grounds that this change in policy would severely impact their delivery of affordable housing. In August 2015 their legal challenge was successful in the High Court and resultantly the above Ministerial Statement was removed from the National Planning Policy Guidance and authorities were free to seek tariff style contributions in accordance with their own Local Policies.

2.3 The Department for Government and Local Communities challenged the decision of the High Court and in May 2016 the Court of Appeal overturned the High Court's decision. As a result of this the NPPG was updated on 19 May 2016 with Paragraph 31 of the "Planning Obligations" section of the NPPG now reading as follows:

"As set out in the Starter Homes Written Ministerial Statement of 2 March 2015, starter homes exception sites should not be required to make affordable housing or tariff-style section 106 contributions. 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. This follows the order of the Court of Appeal dated 13 May 2016, which give legal effect to the policy set out in the Written Ministerial Statement of 28 November 2014 and should be taken into account. These circumstances are that:

- *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"*

2.4 This change in the NPPG equates to the introduction of government policy and this change supersedes local policies within the Ribble Valley Core Strategy. It is therefore vital that weight is given to this change in policy when making planning decisions,

- regardless of whether or not the Core Strategy is in accordance with this new national policy.
- 2.5 At present Key Statement H3 (Affordable Housing) of the Ribble Valley Core Strategy states *“On developments of 5 or more dwellings (or sites of 0.2 hectares or more irrespective of the number of dwellings) the Council will require 30% affordable units on site.”*
- 2.6 The new national policy states that affordable housing, or other tariff style contributions, are not required for any development which seeks consent for five or less houses, and this therefore supersedes the section of Key Statement H3 which requires sites of 0.2 hectares or more to provide affordable housing. As such the Council can no longer seek affordable housing contributions for any development for five or less houses, regardless of the size of the site.
- 2.7 A recent example of the impact of this change in policy is highlighted within application 15/2015/0313/P – Whalley Road, Mellor Brook. This application sought consent for four dwellings, and as the site area measured more than 0.2 hectares the Council had successfully negotiated that one of these dwellings would be an affordable unit in accordance with Key Statement H3 of the Core Strategy. During the course of this application the change in policy came into effect and as the development was for less than six dwellings the Council could no longer seek an affordable unit on site, or an off-site financial contribution, as part of this scheme. The application has therefore been approved with no affordable unit on site because of the recent legislation change.
- 2.8 The new national policy also states that developments for between 6 – 10 dwellings can only seek affordable housing contributions where the site is within a rural location. This differs from Key Statement H3 which requires all developments for five or more dwellings, regardless of whether they are within a rural location or not, to provide affordable housing, either on site or via an off-site contribution. Consequently the Council can now only require affordable housing be provided for developments of between 6 – 10 houses if the site is located within a designated rural location. It is the author’s opinion that these financial contributions do not have the same benefits as the provision of an affordable unit on site, as a number of contributions would need to be pooled together to have sufficient finances for an affordable development scheme. Additionally, in rural locations the availability of sites that can be developed for affordable housing is severely restricted, and therefore whilst the Council can still seek financial contributions for developments of between 6 – 10 dwellings in rural locations, the practicality of delivering affordable housing units in these locations has been significantly impacted by this change in policy.
- 2.9 The list of rural locations for Ribble Valley includes 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 include numerous other parishes such as Chipping, Slaidburn and other rural areas. Therefore, within these rural areas affordable housing can still be required for developments of between 6 – 10 dwellings.
- 2.10 It should be noted that some of the parishes that are excluded from the rural location designation include amongst others, Wilpshire, Langho, Billington, Mellor and Mellor Brook and the main settlements of Clitheroe, Longridge and Whalley.

- 2.11 In relation to applications for 11 or more dwellings, affordable housing will be required regardless of the location, and the requirements of Key Statement H3 will therefore be applied.
- 2.12 It is evident that current and future planning applications that the Council would have in the past sought an element of affordable housing, will no longer have to do so, and this change in policy will undoubtedly 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 the previous restriction on the number of pooled Section 106 Agreements (which came into force from April 2015) will have an impact on the ability to resource affordable housing within the borough. It will potentially have significant financial implications and also impact upon the assessment of 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 or request contributions for infrastructure schemes such as education and recreation improvements.
- 3.2 The updated Guidance within the NPPG also states that where a contribution is required for developments of between 6 – 10 units (in rural locations), Local Planning Authorities should only seek affordable housing contributions as financial contributions and not affordable housing units on site. Whilst Key Statement H3 of the Core Strategy does allow for consideration of a financial contribution in certain circumstances, the new guidance only permit contributions rather than new build units on site.
- 3.3 It is clear that many LPA's are concerned about the impact of the new legislation, particularly that the changes will result in Authorities missing out on contributions for community improvements including highways, education and the provision of affordable housing. These concerns resulted in the judicial review undertaken by Reading and West Berkshire Council's which delayed the implementation of this legislation by over 18 months. However the recent High Court decision has overturned the judicial review and the legislation change is now in effect (as of 19 May 2016) and supersedes local policies within the Core Strategy. It is therefore a material consideration when determining planning applications.

4 CONCLUSION

- 4.1 Committee note this report and the impact of the High Court decision in relation to the impact this would have on the deliverability of affordable housing.

ROBERT MAJOR
PRINCIPAL PLANNING OFFICER

JOHN HEAP
DIRECTOR OF COMMUNITY SERVICES

BACKGROUND PAPERS

Ministerial Statement from Brandon Lewis dated 28 November 2014.

Revisions to National Planning Practice Guidance – 28 November 2014.

Revisions to National Planning Practice Guidance – 14 August 2015.

New Government Policy Section 106 Agreements – report of Director of Community Services sent to Planning and Development Committee 12 February 2015.

Revisions to National Planning Practice Guidance – 19 May 2016.

For further information please ask for Robert Major, extension 4516.