

CABINET

14 January 2015

CHANGES TO GOVERNMENT GUIDANCE ON PLANNING OBLIGATIONS –  
IMPACT ON AFFORDABLE HOUSING PROVISION

REPORT OF ASSISTANT DIRECTOR (CHIEF HOUSING OFFICER)

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RECENT REFERENCES:

None.

EXECUTIVE SUMMARY:

Recent changes to national Planning Practice Guidance have removed the obligation to make provision for affordable housing in developments of 10 dwellings or less, and which have a maximum combined gross floor area 1000 square metres. This in effect introduces a 10 unit threshold for the purposes of the application of Local Plan 1 Policy CP3. Authorities can opt to require financial contributions on developments of 5 or more units in rural areas designated under the Housing Act 1985 but there are no such areas designated in the Winchester District (other than the South Downs National Park, but the City Council is not the local planning authority for this part of the District).

Whilst the changes are expected to impact positively on market housing supply, it will have a detrimental effect on the future provision of affordable housing and it is estimated that this could mean fewer affordable dwellings over the Local Plan period.

This report highlights the impact of the changes and considers options to address the impact on future provision of affordable housing in the District.

**RECOMMENDATIONS:**

That Cabinet notes the potential impact of the changes to Government Planning Guidance and confirms that officers should review the potential for increasing the supply of affordable housing delivered by 'exception' housing sites.

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#### DETAIL:

##### 1 Introduction

- 1.1 On 28 November 2014 the Coalition Government announced changes to Planning Practice Guidance (PPG) relating to planning obligations (S106 obligations). It is now national planning guidance that these should not be sought 'for affordable housing and tariff style planning obligations' from developments of 10 units or fewer and which have a combined gross floorspace of no more than 1000 square metres. In rural areas, designated under S157(1) of the Housing Act 1985, authorities may choose to seek contributions from developments over 5 units, but only by way of financial contributions for schemes between 6 and 10 units, rather than by physical provision of affordable housing. Contributions should not be sought from residential annex developments or extensions.
- 1.2 Along with many other local authorities, the City Council had previously responded to the Government's consultation on this policy, objecting to proposed changes. There is no local evidence that the measure is needed in order to increase market housing supply and its potentially detrimental effects are obvious. Existing planning guidance means that all planning obligations are subject to testing of viability, and contributions are not sought unless they can be sustained. Nevertheless, the Coalition Government has made the change in the belief that a significant number of small market housing schemes are not brought forward because of the requirement for affordable housing contributions.
- 1.3 Planning authorities can continue to seek contributions for site-specific infrastructure necessary to make a development acceptable in planning terms, and for measures to meet regulatory or EU Directive requirements.
- 1.4 The implications of this new guidance are mainly for affordable housing but it will also affect other contributions, although not CIL (which remains mandatory).

##### 2 Impact on Affordable Housing Provision

- 2.1 Under the Council's current Local Plan Policy, affordable housing provision must be considered for all developments regardless of their size (the previous policy included thresholds of 15 or more dwellings in built up areas and 5 or

more in the countryside). The new guidance effectively re-introduces site size thresholds for affordable housing provision of 10+ units in the District. This means that, despite having demonstrated the need for and soundness of Core Strategy policy CP3, which expects affordable housing provision on or off-site for all new housing sites where it is viable, it will not now be possible to apply this policy on sites exempted by the new guidance. This will apply not only to current and future planning applications, but also to existing unimplemented planning consents that require affordable housing provision / contributions. In these cases, developers may seek to relief from this requirement on the basis that, if the development has not commenced, they could now re-apply for the same scheme without an affordable housing requirement. Similarly, in instances where developers opted to make up-front payments prior to planning permission being issued, applicants may seek repayment of their contributions.

- 2.2 Members have been advised in response to Council questions about the contributions that have been achieved under the new guidance, which have resulted in financial contributions being negotiated of £2.47m since March 2013. To give an idea of the potential impact of the change, some 40% of these contributions (equating to approximately £920,000) could not have been sought under the changed guidance. As noted above, some of the existing contributions that make up this amount may in fact not be paid or will be refunded, if developers seek relief in the light of the policy change. The smaller sites which will be exempted from contributions by the new guidance have tended to make financial contributions (rather than on-site provision), so the main impact of the change is expected to be on the receipt of financial contributions rather than on site provision, though this will still impact indirectly on overall affordable housing supply.
- 2.3 A further potential consequence is expected to be an increase in sites coming forward which are deliberately designed to produce 10 or fewer units, even though a site would be capable of more. This will have a further negative impact on affordable housing numbers, and may, in fact, limit total housing numbers slightly as a result – the complete opposite of the Coalition Government's policy intention. The Council has Local Plan policies in place which seek to ensure the efficient use of land and these, along with the floorspace threshold in the new guidance, may help limit the scope for the underuse of sites.
- 2.4 The Government's aim in making the change of policy is to relieve what it sees as the disproportionate burden of developer contributions on small-scale developers and custom/self-builders so as to promote housing development. In terms of meeting the Council's overall housing requirements, as set out in the Core Strategy, the changes are likely to have little impact on the total amount of housing provided, but reduce the levels of affordable housing achieved. The Government seems to have taken the view that promoting housing development as a whole is more important, but in a Winchester context this is likely to be to the detriment of affordable housing.

- 2.5 The changes do not require the Council to reconsider the policies in the Core Strategy, including those on the level of housing proposed and maximising affordable housing provision. They do, however, mean that it is likely that less affordable housing will be achieved in association with market housing development, so there may be other measures that Members would wish to explore to seek to maintain affordable housing provision.
- 2.6 Some assessment work was undertaken during the process of consideration of the draft Local Plan Part 2 by Cabinet and the Town Forum to quantify the various likely sources of housing supply in Winchester Town, including the expected sources of affordable housing provision. The category of provision which would include the largest element of sites of 10 or fewer is the windfall allowance, although the study of windfall trends on which this is based highlighted the significance of larger windfall sites in Winchester. As windfall sites are, by definition, not identified, it is not possible to identify exactly the number of affordable units that would be lost as a result of the new thresholds but, if Members wish to pursue this avenue, further work to quantify this could be undertaken.
- 2.7 As noted in 1.1 above, local planning authorities can opt to require financial contributions on developments of 5 or more units in National Parks or rural areas designated under the Housing Act 1985. The South Downs National Park Authority (SDNPA) will be responsible for deciding whether or not to introduce a lower threshold in the National Park, as it is the local planning authority for the Park. In respect of the remainder of the District, there are no areas designated under Section 157 of the Housing Act 1985, so it is not open to the Council to impose a lower threshold. Paragraph 4.2 below considers the possibility of rural exception sites which may offer ways to offset the impact of the new threshold in rural areas. The SDNPA has told the Council that it intends to implement this lower threshold of 5 units at the full National Park Authority meeting on 3 February 2015 following support for the principle of this from its Policy & Programme Committee on 16 December 2014.

### 3 Addressing Housing Need

- 3.1 There are currently in excess of 2,000 applicants on the Council's Housing waiting list who have been assessed as being in "high" or "urgent" housing need.
- 3.2 Average wait times will vary over time although the table below provides data for the 2014 calendar year.

	<b>Band 2</b>	<b>Band 3</b>
<b>1 bed</b>	2 years	5 years 1 month
<b>2 bed flat</b>	1 year 5 months	2 years 7 months
<b>2 bed house</b>	1 year 9 months	4 years 4 months
<b>3 bed</b>	1 year 5 months	3 years 8 months
<b>4+ bed</b>	N/A	1 year 2 months

3.3 In addition to the need for more general needs affordable housing, there is also a demonstrable need for one-bed supported accommodation. Much of the anticipated contributions that will no longer be achievable could have been used to assist partner housing providers to provide supported housing units.

#### 4 Options for Increasing the Supply of Affordable Housing

4.1 Local Plan policies seek to maximise the delivery of affordable housing and these are already supplemented by the Council's own ambitious new build programme funded through the Housing Revenue Account (HRA). This programme has already increased as a result of additional borrowing permissions granted to the Council and plans to deliver 230 new homes over the next five years (averaging 46 per annum compared to original plans for 30 per annum).

4.2 In terms of looking at other ways to try to boost the delivery of affordable housing, one possible measure which could be implemented within current planning policies is a greater promotion of affordable housing 'exception' sites - developments generally outside settlement boundaries which are entirely or predominantly comprised of affordable housing units. There is already a programme of these in the rural area and this is likely to be adequate to offset the effects of the changes there. In the smaller villages, the levels of market housing, and consequently affordable housing contributions, were already very modest and the housing targets for the larger villages will generally be met by allocating larger housing sites (which will still be required to provide affordable housing). In Winchester itself, large sites also make up a substantial proportion of the expected housing provision but there is some reliance on smaller sites, some of which will be below the new threshold. Some Members had previously expressed concern about the ability to achieve sufficient affordable housing provision in Winchester to meet local need, although the evidence had suggested that a large number would be achieved over the life of the Local Plan.

4.3 Therefore, while there is no planning policy requirement to identify more land for housing, whether affordable or market, Members could choose for reasons of housing policy to take a more proactive approach to developing 'exception' sites, particularly in Winchester, just as is being proposed by Draft Local Plan 2 Policy WIN 9 for Abbots Barton. If so, the scale and scope of any site search would need to be carefully defined given the number and scale of sites around the Town which are being promoted for development through the SHLAA and Local Plan Part 2. Local Plan Policy CP4 allows for "exceptions" affordable housing sites to be allocated in order to maximise affordable housing provision. Such housing would be considered to be additional to "general" housing supply for the purposes calculating delivery of the District's overall housing targets. Such an approach has the potential to compensate for affordable housing foregone as a consequence of changes to national planning guidance. It also provides the opportunity to accelerate the rate of

delivery (and increase overall supply) in order to meet housing needs more quickly, efficiently and effectively.

- 4.4 CAB2616(HSG) dated 1 October 2014 considered the option and opportunities that may be achieved through establishing a wholly owned housing company to finance affordable housing delivery outside of the HRA. The Government has also highlighted this option as an appropriate alternative to increasing the HRA debt caps to fund affordable housing provision. An increasing number of councils are taking advantage of this option and officers are currently reviewing the legal and financial implications of the approach. Such an approach would help address the constraints on council home development imposed by the HRA Debt Cap and lead to increased delivery.

#### OTHER CONSIDERATIONS:

##### 5 COMMUNITY STRATEGY AND PORTFOLIO PLANS (RELEVANCE TO):

- 5.1 The Council's existing planning policies seek to ensure the proper planning of the area in the interests of the community and housing supply. However, this change to national guidance will have a direct impact on plans in relation to Active Communities and the development of affordable housing.

##### 6 RESOURCE IMPLICATIONS:

- 6.1 The changes will result in a reduction of financial contributions being received that could support the provision of affordable housing and may result in refunding some affordable housing contributions already paid "up-front" (prior planning permission being given) where development has not yet begun on site. As well as eliminating the scope to negotiate future contributions in some cases, the changes may also impact on contributions already negotiated, as developers seek to have their planning permissions reviewed. As firm plans on how to commit such contributions are not determined until they are received, this should not impact on existing projects and plans. For example, whilst some limited provision for "assumed receipts" has been included in the financing of the Council's New Build programme, officers are confident that future receipts will still be more than sufficient to cover these assumptions.

##### 7 RISK MANAGEMENT ISSUES

- 7.1 The principle risk management issue relates to the impact on the Council's ability to address affordable housing needs. Alternative options to address this risk are referred to in this report and will continue to be evaluated.

#### BACKGROUND DOCUMENTS:

None