

## PLANNING DEVELOPMENT CONTROL COMMITTEE – 9 NOVEMBER 2016

### AMENDMENT OF THE COUNCIL'S DELEGATION SCHEME REGARDING AFFORDABLE HOUSING PROVISION ON SMALL SCALE DEVELOPMENT SITES.

#### 1. INTRODUCTION

- 1.1 The Council's scheme of delegation does not allow officers to take decisions under delegated powers on planning and related applications in certain specified circumstances. One of these is that any decision "*must accord with the provisions of the appropriate development plan documents, other adopted policy guidance or development brief standards.*"
- 1.2 This is currently causing problems in terms of the processing of applications for residential development on sites for ten dwellings or fewer with a maximum combined gross floorspace of no more than 1,000 sqm. This is because recently confirmed Government guidance states that social housing contributions can no longer be required in respect of such developments . The Government's guidance is in direct conflict with current Council policy, which it post-dates, but the guidance takes precedence.
- 1.3 This means that a meaningful number of applications are being presented to the Planning Development Control Committee every month solely because of the wording of the scheme of delegation and how it currently applies to an issue the Council cannot do anything about. This adds significant extra costs to the democratic process on a point from which no benefits can result.
- 1.3 In order to avoid these unnecessary costs this report considers whether this problem should be addressed by changing the scheme of delegation.

#### 2. AFFORDABLE HOUSING POLICY AND ADVICE

- 2.1 On 28<sup>th</sup> November 2014 the Government issued planning guidance setting out the specific circumstances in which contributions for affordable housing and tariff style planning obligations (section 106 agreements) should not be sought from small scale development. This guidance was reissued earlier this year following the order of the Court of Appeal dated 13<sup>th</sup> May 2016 (*West Berkshire District Council and Another v The Secretary of State for Communities and Local Government*).
- 2.2 The guidance specifies the circumstances in which contributions should not be sought as follows:

*"Contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1,000 sqm;*

*In designated rural areas, local planning authorities may choose to apply a lower threshold of 5 units or less...;*

*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 house”*

N:B No designated rural areas lie within the Council’s planning area.

2.3 Policy CS15 of the Council’s Core Strategy requires affordable housing provision to be made for all housing developments except:

- *a single replacement dwelling*
- *an agricultural/ forestry workers dwelling or commoners’ dwelling (but the removal of an occupancy condition will require an affordable housing contribution)*
- *the conversion or subdivision (without significant extension) of an existing dwelling*
- *a residential redevelopment scheme for 4 or less dwellings, involving the demolition of at least 1 dwelling, and where the site size is smaller than 0.1 hectare*

# (A copy of the Policy and the supporting text is attached as Appendix One.)

2.4 There is a direct conflict between the local policy and Government guidance. In such circumstances, while the normal presumption in favour of the development plan and the locally adopted policies remains, the new guidance is a material consideration. It is for the Council to decide which should prevail in the determination of a planning application. However, the Secretary of State, through his Inspectors can be anticipated to give greater weight to the Government’s national guidance unless there are reasons to make an exception.

2.5 From a review of recent appeal decisions within this District and elsewhere it is clear that this is normally the case. Consequently the Council has no realistic ability to seek to impose its policy requirements and there is therefore no point in reporting any planning or related applications to the Committee for a decision in respect of this issue alone.

### **3. ENVIRONMENTAL, CRIME AND DISORDER, EQUALITY AND DIVERSITY IMPLICATIONS**

3.1 Given the circumstances that apply the proposed change to the delegation scheme with regard to affordable housing provision on small sites will not raise any environmental, crime and disorder, equality or diversity issues.

### **4. CONCLUSION**

4.1 While the need for affordable housing in this District is pressing this, in itself, is highly unlikely to be considered by the Secretary of State as sufficient reason for the Council to apply its own development plan policy rather than national policy. Therefore it is recommended the delegation scheme is amended to allow officers to make decisions that do not accord with the provisions of the Development Plan solely with respect to Policy CS15 of the Core Strategy in respect of developments of 10 or fewer dwellings.

### **5. RECOMMENDATION**

5.1 That the Scheme of Delegation of Powers to Officers be amended to allow decisions to be made that do not accord with the provisions of the Development Plan solely with

respect to the requirement for the provision of affordable housing in accordance with policy CS15 where the development is of 10 units or less and which have a maximum combined gross floorspace of no more than 1,000 sqm under Policy CS15 of the Core Strategy.

**For further information contact:**

David Groom  
Service Manager Planning and  
Building Control  
e-mail: [david.groom@nfdc.gov.uk](mailto:david.groom@nfdc.gov.uk)  
Tel: 023 8028 5345

**Background Papers:**

New Forest District Council Scheme of  
Delegation, National Planning Policy  
Guidance and the New Forest District  
Council Core Strategy outside of the  
National Park

## APPENDIX 1

### **Policy CS15 of the Council's Core Strategy outside of the National Park and the supporting text.**

#### **Policy CS15 Affordable housing contribution requirements from Developments**

Private developments creating new dwellings will be required to contribute towards the provision of affordable housing by making provision as set out below, under one of requirements (a) to (d). Affordable housing provision will not be required where the development is:

- a single replacement dwelling
  - an agricultural/ forestry workers dwelling or commoners' dwelling (but the removal of an occupancy condition will require an affordable housing contribution)
  - the conversion or subdivision (without significant extension) of an existing dwelling
  - a residential redevelopment scheme for 4 or less dwellings, involving the demolition of at least 1 dwelling, and where the site size is smaller than 0.1 hectare.
- (a) On greenfield housing site allocations (except for those covered by (b) below) the target is 50% affordable housing, of which 35% of the total dwellings will be social rented housing and 15% of the total dwellings will be intermediate housing. At least 50% of the affordable dwellings provided should be family housing.
- (b) On greenfield housing sites released specifically to meet an identified local need for affordable housing which will not otherwise be met (under Policy CS12), the target will be a minimum of 70% affordable housing. The development should provide a minimum of 40% social rented housing and 30% intermediate affordable housing. The remainder of the site should be developed for low-cost market housing which could include starter homes, self-build units and extra-care housing. At least 50% of the affordable dwellings provided should be family housing.
- (c) Within the defined settlements of Lymington, Everton, Hordle and Milford-on-Sea and Bransgore, the target is for 50% of all new dwellings on the site to be affordable housing, of which 35% of the total dwellings will be social rented housing and 15% of the total dwellings will be intermediate housing.
- (d) Within the other defined towns and villages<sup>3</sup>, the target is for 40% of all new dwellings to be affordable housing, of which 25% of the total dwellings will be social rented housing and 15% of the total dwellings will be intermediate housing.

Provision will normally be made on site. The affordable housing should reflect the type and size of the development as a whole, and should include family housing if that is provided as part or all of the market provision.

Where it can be demonstrated that provision of the target level of social rented and/or intermediate affordable housing is not economically viable the Council will: First, seek to maximise the potential for affordable housing contributions from that development by allowing a higher proportion of intermediate housing to be provided to meet the overall housing target; Second, seek to negotiate a percentage of affordable housing as close as

possible to the target level set in this policy, having regard to a site specific economic viability assessment.

In the following circumstances the affordable housing contribution may be made by payment of a fixed affordable housing contribution/ tariff rather than on site provision.

This will be additional to any other planning charges or tariffs (including Community Infrastructure Levy) required by the development.

- On developments of 4 or less dwellings in the defined built-up areas of Totton, Hythe, Lymington, New Milton and Ringwood;
- On developments of 1 or 2 dwellings in all other defined settlements.

The contributions will be used to enable additional affordable housing provision on alternative sites, or to subsidise the provision of social rented housing on sites where social rented housing cannot be achieved without public subsidy. In settlements where the site size threshold for affordable housing provision had previously been set at 15 or more dwellings<sup>4</sup>, on developments of 14 or fewer dwellings, the above affordable housing contributions will be applied subject to a 50% discount in the affordable housing provision required until 31 December 2010.

7.3.20 Sheltered housing and extra care housing<sup>5</sup> all come within the scope of this policy.

7.3.21 A Supplementary Planning Document on Affordable Housing requirements and mechanisms will be produced to give detailed guidance on the implementation of this policy.