

Report title:	Changes to Government policy on affordable housing
<p>Reason for Referral to Planning Committee – To update Members on the recent changes to the Government’s national policy on affordable housing, and to seek amendments to previous resolutions for affordable housing on smaller sites, so that they can be brought into line with the reinstated national policy.</p> <p>Summary</p> <p>This report updates the Planning Committee on the recent changes to national policy on affordable housing, as a result of the Government’s successful legal challenge to a previous High Court decision; this has led to a reinstatement of that affordable housing policy in the national Planning Practice Guidance (PPG). It also seeks delegated authority from the Committee to allow those applications that have a resolution to approve subject to a S.106 agreement to be amended in line with the Government’s reinstated policy.</p> <p>RECOMMENDATION</p> <p>1) That Members of the Planning Committee note the result of the recent Court of Appeal case, and the reinstated Government policy on affordable housing.</p> <p>2) That delegated authority be granted to the Executive Director – Environment & Planning/Assistant Director – Environment & Planning, to ensure the S.106 agreements currently being progressed are altered in line with the Government’s reinstated policy on affordable housing.</p>	

1.0 Background

- 1.1 Members may recall that in November 2014, the Government introduced changes to its planning policy guidance on the issue of affordable housing. Essentially this introduced a new national 10 unit threshold for S.106 affordable housing contributions, to help reduce costs to builders of smaller sites. There was also a 1000 square metres threshold introduced where above this Local Authorities could ask for an affordable housing contribution. The new policy did give Councils in certain designated rural areas the chance to apply a requirement for a commuted sum on sites of between 6 – 10 units. Within the Borough this meant all settlements/parishes except King’s Lynn, Downham Market, Hunstanton, Dersingham, Heacham, South Wootton and Terrington St Clement (where the higher threshold of 11 or above applied, except for those small areas of these areas falling within the AONB). At the time this Council chose to apply this requirement (agreed at Full Council in January 2015), and as such issued a guidance note explaining the policy and how it would operate alongside our policy.
- 1.2 However, West Berkshire and Reading Councils launched a judicial review of the Government’s new policy, and the High Court came down in their favour in XXXX. As

a result of the successful challenge, the Government's policy was retracted, and nationally Council's reverted back to their own Development Plan policies on affordable housing. The Borough Council has been utilising its own development plan policies since this time.

- 1.3 The Government decided to challenge the High Court decision, and the case was heard in the Court of Appeal. The Court of Appeal came down in favour of the Government and overturned the High Court's decision. As such on 20 May 2016 the Government reinstated its planning policy guidance on affordable housing.

2.0 Impact of the Government's policy on the Borough Council's affordable housing policy

- 2.1 Affordable housing linked to development is required through policy CS09 of the adopted Core Strategy. This operates a two tier approach, in that in the towns of King's Lynn, Downham and Hunstanton, a threshold of 10 units (or 0.33ha) applies before affordable housing is sought. In the remaining rural area the threshold is 5 units (or 0.165ha) before affordable housing is sought. When affordable housing is triggered, 20% affordable housing provision is required in all areas except King's Lynn. Within King's Lynn the figure is 15%. If developers do not believe a site is viable with the required affordable housing, they can provide financial viability evidence which will be tested, to see if affordable housing is required.
- 2.2 The impact of the Government's policy in the Borough is that for sites of 5 dwellings or below, they will no longer be required to make any contribution to affordable housing, subject to them not exceeding the 1000 square metres floor space threshold. For sites of 6-10 dwellings in the rural areas and in an AONB, other than in the settlements/parishes mentioned in 1.1, the Council will require a commuted sum towards the provision of affordable housing. For sites of 11 and above, the normal affordable housing requirements will remain.
- 2.3 There is a 1000 square metre floor space threshold that is also in place, over which affordable housing in accordance with CS09 would be required.
- 2.4 The Government's policy also introduces the concept of the vacant building credit, which applies a discount to affordable housing requirements based on existing vacant buildings on a development site.
- 2.5 A revised guidance note is attached to this report for information, which explains fully the various aspects of the Government's policy.

3.0 Impact on decisions not yet determined

- 3.1 Going forward we will be implementing the Government's policy on affordable housing on all applications where a resolution has not yet been made.
- 3.2 However Members will be aware that there are a large number of applications which through a resolution of the Planning Committee (or indeed a delegated resolution), are required to provide affordable housing under policy CS09. These applications have been resolved to approve subject to a S.106 agreement in the normal way, to deal with the issue of affordable housing. However a number of these (we estimate approximately 37 S.106 agreements) currently being progressed but not yet signed, will be affected by the change in one way or another.

- 3.3 Rather than bring each application back to Committee on an individual basis to amend the resolution in line with the Government's policy on affordable housing, it is proposed that delegated authority be granted to the Executive Director –Environment & Planning/Assistant Director – Environment & Planning, to amend the S.106 agreements as necessary in line with the Government's policy on affordable housing, as previously implemented by the Borough Council.

4.0 RECOMMENDATION:

- 1) That Members of the Planning Committee note the result of the recent Court of Appeal case, and the reinstated Government policy on affordable housing.**
- 2) That delegated authority be granted to the Executive Director – Environment & Planning/ Assistant Director – Environment & Planning, to ensure the S.106 agreements currently being progressed are altered in line with the Government's reinstated policy on affordable housing.**

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