



PART B: RECOMMENDATIONS TO COUNCIL

REPORT TO: PLANNING COMMITTEE

DATE: 10 FEBRUARY 2015

**REPORT OF THE: HEAD OF PLANNING AND HOUSING
GARY HOUSDEN**

TITLE OF REPORT: DEVELOPER CONTRIBUTIONS FROM SMALL SITES

WARDS AFFECTED: ALL

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

1.1 For Members to consider the implications of a recent Ministerial Statement to Parliament and changes to the national Planning Practice Guidance (PPG) and to subsequently agree this Council's position.

2.0 RECOMMENDATION(S)

2.1 That Council resolves:

- (i) Not to seek financial contributions from small residential sites through the planning process towards affordable housing on sites of five dwellings or less under Policy SP3 of the Ryedale Plan
- (ii) To continue to negotiate the on-site provision of affordable housing in line with Policy SP3 of the Ryedale Plan with the exception that affordable housing contributions will not be sought from sites of 10 dwellings or less and which have a maximum combined gross floorspace of no more than 1,000square metres in Malton, Norton and Pickering
- (iii) To continue to negotiate the on-site provision of affordable housing in line with SP3 of the Ryedale Plan with the exception that on sites of between six and ten dwellings, in parishes outside of Malton, Norton and Pickering, financial contributions will be sought in lieu of the existing on-site policy requirement and that financial contributions of an equivalent of 40% of provision will be sought on such sites in west and south west Ryedale
- (vi) Not to seek financial contributions towards open space provision from sites of ten dwellings or less

- (vii) To authorise the Head of Planning and Housing to approve the planning applications listed in Paragraph 6.13 without the completion of the Section 106 agreements specified and not to seek affordable and open space contributions from any further applications on relevant small sites which are due to be determined in the interim.

3.0 REASON FOR RECOMMENDATIONS

- 3.1 The Ministerial Statement presents a significant clarification of national planning policy in respect of pooled financial developer contributions from small sites. This Council has Development Plan policies which seek to secure financial contributions from small sites towards affordable housing and open space. It is important that members are aware of the implications of the recent change and that consequently, the Council clarifies its position in relation to the implementation of these policies.

4.0 SIGNIFICANT RISKS

- 4.1 The ministerial statement and change to the PPG are a significant material planning consideration. It is considered that significant weight needs to be given to this in the decision making process. Failure to do so would lead to an increase in planning appeals and increase the risk of costs being awarded against the authority in any appeal situation.

5.0 POLICY CONTEXT AND CONSULTATION

- 5.1 This report specifically relates to Policies SP3 (Affordable Housing) and SP11 (Community Facilities and Services) of the Ryedale Plan. Although Policy SP22 of the Ryedale Plan covers Planning Obligations, Developer Contributions and the Community Infrastructure Levy, it is generic and covers key principles. It is not specific to contributions from small sites.

6.0 REPORT DETAILS

Background

- 6.1 The coalition government is committed to freeing up the planning system, supporting growth and increasing housing supply. The recent ministerial statement and changes to the PPG are aimed at supporting small-scale developers and helping people to get the home they want by reducing what the government describes as 'disproportionate burdens' on developer contributions. Following a government consultation in March 2014, the ministerial statement confirms that:
- For sites of 10 units or less and which have a maximum combined gross floorspace of 1,000 square metres, affordable housing and tariff style contributions should not be sought
 - In designated rural areas (under Section 157 of the Housing Act 1985), authorities may choose to implement a lower threshold of five units or less, beneath which affordable housing and tariff style contributions should not be sought. If this threshold is implemented then affordable housing and tariff contributions on developments of between 6-10 units should be sought as a financial payment only and only be commuted until after the completion of units within the development

- Affordable housing and tariff style contributions should not be sought in relation to residential annexes and extensions
- 6.2 Members are aware that the recently adopted Ryedale Plan- Local Plan Strategy (adopted on the 5th September 2013) specifically seeks to secure the following contributions from residential development sites:

SP3: In the Market Towns and Service Villages

- Pro-rated financial contributions from all residential development below the threshold of 5 dwellings/ 0.2ha
- 35% of dwellings on-site to be affordable on sites of 5 dwellings/ 0.2ha (with a financial contribution equivalent to a further 5% of provision in west and south west Ryedale)

SP11: Financial contributions towards open space provision

- 6.3 Members are aware that outside of the Market Towns and Service Villages, where a Local Needs Occupancy condition is applied to new dwellings, affordable housing contributions are not sought under SP3.

Implications for the implementation of the Ryedale Plan and the decision making process

- 6.4 Policies SP3 and SP11 form part of the adopted development plan. Members are aware that Local Planning Authorities are required to make decisions in accordance with the development plan unless material considerations indicate otherwise. Officers consider this recent clarification/change in national policy to be a significant material consideration which in effect, outweighs the provisions of the development plan in respect of those policies that seek to secure financial contributions from smaller residential development sites.
- 6.5 The changes have met with some consternation from a number of Authorities, particularly rural authorities with acute affordable housing need. There is a possibility that Authorities may seek to challenge the Government on this issue and the consultation undertaken to justify the policy change. Additionally, some have expressed the view that as the Government has made these changes to the practice guidance rather than the National Planning Policy Framework itself that it is questionable about whether there has been a change in national policy. It is considered that the PPG is designed to be used to in conjunction with the NPPF and has the effect of clarifying the intent of national policy and the position in terms of interpreting and implementing national policy. For this reason, together with the fact that they have been introduced through a Ministerial Statement, Officers are confident that for all intents and purposes these changes have the effect of clarifying national planning policy. Consequently, elements of SP3 and SP11 are now inconsistent with national policy.
- 6.6 Ryedale receives a steady stream of applications to which this national policy change would apply. For this reason, it is considered important that the Council clarifies its position in relation to this matter. In essence, the Council has two options. It could selectively review the development plan and bring policies in line with national policy or, alternatively it can recognise the implications of national policy and formally agree a position to be applied through the decision making process.

- 6.7 It is emphasised that officers do not consider a 'do nothing' scenario to be realistic or appropriate. It is considered that the primacy which is afforded to the development plan can only remain intact for as long as its policies reflect current national policy. A good test to apply in such circumstances would be to consider whether current development plan policies would be found to be sound if examined against current national policy.
- 6.8 It is inevitable that national policy changes will occur over the life of a development plan. Given the complexity, cost and length of time involved in the plan making process, any decision to review a plan requires careful consideration. It is considered that in this instance, the national policy changes do not warrant a review of the plan. They are limited in the extent to which they affect the Plan as a whole. Additionally, this may be an area of national policy which may be subject to further change or revision in the future.
- 6.9 As an alternative, it is considered that Council could formally resolve to acknowledge the implications of these national policy changes and to agree a position in terms of the implementation of Policies SP3 and SP11. These policies would not be formally changed but Council would resolve to implement them in a different way, having regard to national policy.
- 6.10 The impact of the national changes on Policy SP11 is relatively limited. Although financial contributions towards open space from all residential development, the policy is designed to operate in conjunction with the Community Infrastructure Levy. Once CIL is in place, it would be the mechanism by which developers contribute to off-site open space provision.
- 6.11 Most of Ryedale (with the exception of Malton, Norton and Pickering) is a designated rural area under the Housing Act 1985 and as such, the national policy changes would support the authority seeking to secure financial contributions for sites of between 6-10 dwellings (as oppose to the current position where on-site provision is sought on sites of 5 or more). The authority would no longer be able to secure affordable housing contributions from sites of 5 dwellings or less. The provisions of SP3 to seek on-site affordable housing provision on larger sites would continue to apply.
- 6.12 A less straightforward element of SP3 relates to the differential policy target which applies across the District. Policy SP3, in effect seeks a 40% affordable housing contribution in west and south west Ryedale which is split in terms of on-site provision and a financial contribution. It is considered that this should be applied as a 40% financial contribution from sites of between 6-10 houses in order to reflect national policy.
- 6.13 There is some risk that the Council will be accused of amending its affordable housing policy out with the plan making process. However the suggested way forward is less onerous on developers and landowners than current local policy which itself has been recently justified in terms of housing need and development viability. Additional, the approach would only bring the implementation of the existing development plan policy in line with national policy. For this reason, this risk is considered to be relatively low.

Implications for planning applications pending Section 106 agreements

- 6.14 Members should be aware that there are a number of planning applications relating to small residential sites which are awaiting the completion of Section 106 agreements. These include a combination of applications which have been considered by the Planning Committee and those which fall under the scheme of delegation. They are as follows:

Application	Section 106 Contribution
14/00983/FUL. Land east of Ivy Cottage, Main Street, Whitwell-on-the Hill	Open Space
14/00501/FUL. 47-49 St. Hildas Street, Sherburn	Open Space Affordable Housing
14/00822/FUL. Norton Lodge, 109 Beverley Road, Norton	Open Space
14/00814/FUL. Aucklands Garage, Main Street, Staxton	Open Space Affordable Housing
14/00703/FUL. Land Adj Rose Cottage, Main Street, Acklam	Open Space
14/00392/FUL. West Nook Cottage, 98 Scarborough Road, Norton	Open Space Affordable Housing
13/01087/FUL. Woodyard Barns, Ruffin Lane, Eddlethorpe	Open Space
14/00051/FUL. Barns to rear of Ford View, Brookside, Hovingham	Open Space Affordable Housing
14/00609/FUL. Land Adj to the Meadows, Back Lane South, Middleton	Open Space
13/00728/FUL. The Croft, Main Street, Welburn	Open Space
13/01425/FUL. Land to rear of 43 Scarborough Road, Rillington	Open Space Affordable Housing
13/00650/FUL. Land to rear of 44 Scarborough Road, Rillington	Affordable Housing
14/00584/FUL. Shotton Hall, Oliver Lane, Great Habton	Open Space
14/00585/FUL. Shotton Hall, Oliver Lane, Great Habton	Open Space
14/00983/FUL. Land East of Ivy Cottage, Main Street, Whitwell on the Hill	Open Space
14/00522/FUL. Land at Middlecave Lodge, Middlecave Road, Malton	Open Space Affordable Housing

- 6.15 This report seeks the authority to determine/issue the decision notices for these applications without the section 106 contributions.

7.0 IMPLICATIONS

- 7.1 The following implications have been identified:

a) Financial

The national policy change has undoubted implications for Policies SP3 and SP11 of the Ryedale Plan and if appropriate weight is not given to this, this will give rise to additional planning appeals and potential costs on appeal.

- b) Legal
The national policy change is a significant material consideration which has implications for the weight which can be afforded to relevant development plan policies.
- c) Other (Equalities, Staffing, Planning, Health & Safety, Environmental, Crime & Disorder)
Under the approach less financial contributions will be sought towards affordable housing provision. However, Members are reminded that the Ryedale Plan does not rely on small residential sites to deliver significant contributions to affordable housing or to make significant contributions to housing land supply.

8.0 NEXT STEPS

- 8.1 Officers will prepare some text to clarify the Council's response to the Government's changes and to clarify the implementation of Policies SP3 and SP11, which will be place on the Ryedale Plan pages of the web-site.

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Background Papers:

Written ministerial statement to Parliament by Brandon Lewis MP on support for small-scale developers, custom and self-builders. Delivered on 28 November 2014. First published 1 December 2014. (DCLG)

Planning Practice Guidance. Planning Obligations. Paragraph 012

Background Papers are available for inspection at:

<https://www.gov.uk/government/speeches/small-scale-developers>

<http://planningguidance.planningportal.gov.uk/revisions/23b/012>

Paper copy available in RDC Members Room