

Committee: Cabinet

Agenda Item

Date: 15 January 2015

11

Title: Developer Contributions Guidance

Portfolio Holder: Cllr Barker

Key decision: **No**

Summary

1. At its meeting in December 2014 Cabinet adopted a revised Developer Contributions Guide.
2. Unfortunately the report was based on incorrect legal advice to the Planning Department. This report seeks to update Cabinet and correct this mistake.

Recommendations

3. To adopt a revised Developer Contributions Guidance, which is in accordance with the updated National Planning Practice Guidance, as a material planning consideration.

Financial Implications

4. The charges will give rise to a reduced income stream that will be used to fund new affordable housing within the district.

Background Papers

5. None

Impact

- 6.

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|---------------------------------|---|
| Communication/Consultation | The adopted document will be placed on the website. The Government consulted on the change to National Planning Practice Guidance. |
| Community Safety | No impact. |
| Equalities | The requirement will affect all equally. |
| Health and Safety | No impact. |
| Human Rights/Legal Implications | No impact. |

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| Sustainability | No impact. |
| Ward-specific impacts | Affects all wards |
| Workforce/Workplace | To consider as part of planning application process. |

Situation

7. At its meeting in December 2014 Cabinet adopted a Developer Contributions Guide.
8. On Friday 28 November 2014 the Government amended the National Planning Practice Guidance. This alters the circumstances in which affordable housing contributions can be requested. Based on legal advice officers brought forward a revised Developer Contributions Guide incorporating a clause relating to 'rural areas'. Following queries from developers it has become clear that the legal advice to the Planning Department upon which the previous report was based was incorrect.
9. This new guidance overrides the Council's adopted Developer Contributions Guidance. In light of the new guidance it is imperative that the Council reviews and alters its current stance.
10. The National Planning Practice Guidance says:
 - 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
11. The district has no parishes which are defined as 'rural' under section 157 of the Housing Act.
12. Therefore the Council cannot collect financial contributions on schemes of 10-units or less, unless the size threshold is relevant. This means the new policy is:

Affordable housing provision (rounded up to the nearest whole number)

- 40% on sites of 15 or more dwellings or sites of 0.5ha or more;
- 20% on sites of 11 - 14 dwellings or sites between 0.30ha and 0.49ha or an equivalent financial contribution as advised by the District Council; and
- A Financial contribution on sites of less than 10 dwellings but with a combined gross floorspace of more than 1000sqm.

Conclusion

13. It is recommended that the Developer Contributions Guidance be updated in accordance with the National Planning Practice Guidance.

14. The Council has considered the need for clear guidance for developers and has produced a document which will be made publically available.

Risk Analysis

15.

| Risk | Likelihood | Impact | Mitigating actions |
|---|--|---|---|
| Not all required contributions listed. | 1 – The document states that it is not exclusive. Those listed are the main requirements. | 1 – Additional requirements from sites can be included. | Carefully considered what is included within document. |
| Developer does not comply with adopted Guidance. | 2 – Developers may challenge the requirements. Clear planning justification lies behind the requirements which will be set out in these instances. | 2 – Refusal to comply may result in refusing the application leading to appeal or resubmission. | Publish document so that requirement is clearly set out. Raise through pre-application meetings. |
| Contributions collected insufficient to cover associated costs. | 2 – Historically the contributions collected have not covered the associated costs for the predicted period. | 2 – funding therefore needs to be provided from other Council sources to make up difference. | Clearly set out requirements and calculate the contributions required in detail. Refuse to accept transfer of land where contributions proposed are |

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| Advice from the Legal Team is incorrect. | 2 – Previous advice given was incorrect. Further checks have now been undertaken. | 2 – Extra work would be involved to update applicants and amend decisions. | deemed to be insufficient. A proper assessment being carried out by the Legal Team. |
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1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.