

# Briefing Note

Date 30 November 2014

## The new 10-unit affordable housing threshold



**On 28 November 2014 the Government quietly announced the introduction of a national 10-unit affordable housing threshold – effectively preventing Councils seeking any affordable housing contribution from schemes of 10 units or fewer except in some designated areas.**

### So what has been announced?

What the Government has done is introduce a few new paragraphs of policy into its [Planning Practice Guidance](#) (usually referred to in planning as the NPPG), its online set of planning guidance notes which supplements the National Planning Policy Framework. The updated section is that entitled "Planning Obligations". The headline change is that, except in "designated rural areas", affordable housing and tariff-style contributions should not be sought from developments of **10-units or fewer** and which have a combined gross floorspace of **no more than 1000 sqm**.

### What is a designated rural area? What happens there?

Any area described under Section 157(1) of the Housing Act 1985 which is all **National Parks** and **Areas of Outstanding Natural Beauty** plus any additional rural areas designated by Secretary of State order (actually for the original purpose of applying special "Right to Buy" rules under the Housing Act). These areas are scattered across the country but there aren't many of these in our local area – just a few bits of Purbeck and West Dorset Districts which are not already AONB.

In designated rural areas Councils can choose to use a lower threshold of 5-units or fewer (no floorspace limitation). However if they do, then on developments of between 6 and 10-units affordable housing can only be in the form of cash payments (i.e. not "on-site"). Such affordable housing contributions and other tariff-style contributions are only to be paid after the completion of the units.

### What are tariff-style contributions?

These are standardised contributions collected through Section 106 agreements (or undertakings) and which are pooled into a pot to be spent on general infrastructure. Note that Dorset Heathlands contributions will still apply because contributions which are necessary to overcome regulatory or EU Directive requirements will still be allowed. Also remember the days of tariff-style contributions are

**Pure Town Planning Limited** info@puretownplanning.co.uk puretownplanning.co.uk

**Dorset Office** Suite 8 Pine Court | 36 Gervis Road | Bournemouth | BH1 3DH 01202 585524

**Hampshire Office** 1 Hill Rise | Twyford | Winchester | SO21 1QH 01962 710317

Pure Town Planning Limited is a limited company registered in England and Wales Registered No 7863004

Registered Office Suite 8 Pine Court, 36 Gervis Road, Bournemouth, BH1 3DH

numbered anyway – the CIL Regulations mean they cannot be applied on or after 06 April 2015.

### **Does this affect the Community Infrastructure Levy?**

**No**, the Community Infrastructure Levy (CIL) will still be applicable wherever adopted.

### **Is the new threshold gross or net units?**

Good question. Sometimes these things are measured in net terms (that is the proposed number of units minus any which are being demolished on site) however in the absence of the term net it must be taken as 10 units **gross**. So if you knock down one house and build 11 then the exemption would not apply.

### **Is 1000 sqm floorspace gross internal or external area?**

Very good question. The guidance doesn't specify. There is an unwritten presumption in planning that unless specified otherwise it is gross external area (CIL regulations for example clearly specify gross internal). We consider that **gross external area** must be assumed. This threshold is very significant as many sub-10 unit schemes exceed 1000 sqm floorspace.

### **I've got a planning application in at the moment; will this new policy apply to it?**

**Yes**, Councils should apply this policy with immediate effect. It'll be frustrating for some people who have been working hard on agreeing reduced contributions through viability negotiations. Applicants should not sign any Section 106 agreements until they are sure relevant planning obligations have been removed.

### **I've got an extant planning permission not yet started; do I still have to pay the Section 106 contributions?**

**Yes**, you must comply with the terms of any legal agreement. But you could try asking the Council to agree a variation to the terms of the Section 106 agreement in light of this policy however it is an informal process with no right of appeal if they refuse. I rather suspect some Councils will treat such a request pragmatically whereas others will not. If that route fails you can simply apply for a further identical planning consent which the Council would have to grant without the relevant obligations. It'd mean extra cost and delay, but it might be worthwhile in many cases.

### **Any more questions?**

I'm sure you do. Call **Dan Wilden** on 07984 804109 or [dan@puretownplanning.co.uk](mailto:dan@puretownplanning.co.uk) and he'll do his best to answer them for you.

Did you find this Briefing Note helpful? We welcome all feedback – let us know your thoughts at [info@puretownplanning.co.uk](mailto:info@puretownplanning.co.uk).

This Briefing Note provides a general guide to the revisions to national Planning Policy Guidance in England on 28 11 2014 and is not a substitute for professional town planning advice. No liability can be accepted for reliance on this Briefing Note alone.