

North York Moors National Park Authority Planning Committee

17 April 2014

Consultation on Performance and S106 Contributions to Affordable Housing

1. Purpose of the Report

- 1.1 To inform Members of DCLG's consultation on Planning Performance and Planning Contributions to affordable housing and to agree the Authority's response.

2. Introduction

- 2.1 Over the last few years the Government has introduced several changes to planning in an attempt to simplify it and make it more locally driven. This has included the introduction of the National Planning Policy Framework, web based National Planning Policy Guidance, the Growth and Infrastructure Act and a greater use of and extension to permitted development rights. The Autumn Statement 2013 included a commitment to consult on a new threshold for designating local planning authorities as underperforming and on a proposed new 10-unit threshold for section 106 affordable housing contributions. On 24 March the Department for Communities and Local Government published a consultation paper titled "Planning Performance and Planning Contributions", which set out further details of these proposed changes. The consultation runs for 6 weeks until 4 May and can be found at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/295035/140320_Planning_Performance_and_Planning_Contributions_-_consultation.pdf

3. Planning Performance

- 3.1 The Growth and Infrastructure Act 2013 gave the Secretary of State the power to designate county or local planning authorities for poor performance, if he considers that their performance in handling planning applications has fallen below an acceptable standard. Where this happens the Act gives applicants for major development the option of applying directly to the Secretary of State for planning permission for major development bypassing the Local Planning Authority (although they may if they wish apply to the local planning authority in the usual way). In addition, support is made available to designated authorities to help them improve as quickly as possible.
- 3.2 Any designation of local planning authorities must be made by reference to criteria published by the Secretary of State. The current criteria, published in June 2013, says that Local Planning Authorities will be assessed in two ways;
- i. On the basis of the speed with which applications for major development are dealt with; and
 - ii. The extent to which such decisions are overturned at appeal.
- 3.3 The assessment period is over a period of 2 years and Local Planning Authorities will be designated where;
- 30% or fewer of an authority's decisions for major development are made within the statutory determination period or such extended period as has been agreed in writing with the applicant; or

- 20% or more of an authority's decisions on applications for major development are overturned at appeal

3.4 Where local planning authorities deal with ten or fewer applications for major development they will be exempt from this measure. Performance when dealing with "district matters" will be dealt with separately to "county matters".

Current Proposal

3.5 The proposals set out in the consultation paper are to lower the figure where local planning authorities will be exempt from this measure from 10 applications to 2 applications over the course of the 2 year assessment period, while increasing the performance threshold to 40% of major applications being determined on time.

Impact on the National Park

3.6 This Authority typically deals with ten major applications per year and as such will now automatically fall to be considered as a potential 'special measures' Authority with its major application performance and major appeals figures assessed against the targets.

3.7 The Authority's business plan and planning performance targets are focussed on delivering a Development Management service which is the opposite of a standards authority and retaining the ability to determine major applications in-house which is considered essential to maximise the way private developments can contribute towards meeting Park purposes.

4. Amending Section 106 Planning Obligations

4.1 The consultation paper says that the Government considers that contributions for small scale sites, including for those wishing to build their own home can make a scheme undeliverable. For this reason the consultation paper proposes to introduce a new 10-unit or 1,000 square metres threshold for section 106 affordable housing contributions. The consultation paper also suggests that as the Community Infrastructure Levy regulations exempt self-build, that this should also apply where section 106 obligations are sought.

4.2 In addition the consultation paper also proposes to exclude buildings which are being brought back into use (provided they have not been abandoned and have been in use for at least six months in the last three years) from section 106 affordable housing contributions.

Impact on the National Park

4.3 The North York Moors National Park Authority's Core Strategy and Development Policies Document was adopted in November 2008 and Core Policy J introduced the requirement to provide affordable housing where 2 or more units are proposed in the Park's larger more sustainable settlements. The original target of a minimum of 50% affordable housing was given interim status of 3 years by the Planning Inspector pending the completion of a general affordable housing viability assessment. This requirement has now lapsed and each case is determined in accordance with an independent viability assessment.

4.4 In 2009 the Authority commissioned the District Valuer to carry out a viability assessment to meet the Inspector's requirements. As this was carried out during the downturn of the economy a further assessment was carried out in Autumn 2010.

Although the Viability Assessment did not assume any other S106 obligations, the main conclusion was that economic and market conditions had not yet improved sufficiently for any of the selected schemes to deliver 50% affordable housing. DVS also looked at how financial viability would change with an increase in property values. If market values were to increase by 10%, which DVS suggested might happen within a three to four year timescale, seven of the schemes would deliver at least 40% affordable housing. However, a 20% increase in market values would be needed to give viable schemes that would deliver the existing Core Policy J requirement of 50% or more affordable housing.

- 4.5 Since November 2008 only 3 applications have been received which trigger the requirement for affordable housing under Core Policy J. The first two applications were for conversion schemes and the District Valuer concluded that in both cases the provision of affordable housing was not viable. In late 2013 a further application was considered for a 5 unit scheme where an off-site contribution was assessed as viable. Although there have been very few applications received this is largely due to the timing of the Core Strategy, which coincided with the downturn in the economy and restrictions in lending.
- 4.6 The Government's proposals will mean that it will only be possible to negotiate affordable housing provision on proposals with more than 10 dwellings. The current approach of the National Park Authority is considered to be flexible and does not overburden small scale developers as contributions are only sought where it can be demonstrated that developer's profit would exceed the industry standard of 20%. Although the National Park Authority has a good record in the delivery of affordable housing through exception sites, grant funding is being reduced and rural schemes are becoming increasingly expensive for Registered Providers to develop. It is therefore essential that other mechanisms for the delivery of affordable housing are available to the Authority such as 'cross subsidy' schemes so that it can continue to deliver local housing requirements.
- 4.7 The entire justification for supporting open market housing in the Local Service Villages was to utilise it as a mechanism for delivering much needed affordable housing for local people. The Government's proposals will result in the provision of only open market dwellings in the larger villages which will not be subject to any local occupancy requirements, which means they can be used as second homes and are unlikely to be affordable for local people. The proposals will significantly undermine the National Park's housing policies, which seek to provide housing to meet local housing needs and contradict the English National Parks and the Broads Circular which stipulates that the expectation is that new housing in National Parks will be focused on meeting affordable housing requirements.
- 4.8 The proposal is also at odds with recent Government announcements relating to affordable housing in National Parks with the Planning Minister clearly stating that the government expects National Park Authorities to take a positive and proactive approach to helping young people and families gain access to affordable housing (DCLG Report on responses to consultation on Greater Flexibilities for Change of Use March 2014).
- 4.9 Sustainability Appraisal formed an integral part of developing the housing policies in the Authority's adopted Core Strategy and Development Policies. The Sustainability Appraisal identified a lack of affordable housing as one of the key sustainability issues for the National Park and led to the selection of a strategic option for the Core Strategy which would help to deliver a mix of housing.

The proposals presented within the consultation would therefore potentially undermine the statutory Sustainability Appraisal process which has informed the policy requirement for affordable housing to be provided as part of new open market housing development in the Park's larger settlements.

5. Suggested Response

- 5.1 The consequence of the Government's proposed changes would mean that in Helmsley and the 7 Service Villages the development of sites of 10 dwellings or less would be for 100% open market with no contribution to meeting the need for affordable housing. The DCLG consultation asks a number of questions and it is suggested to respond to these as set out in **Appendix 1** as an official response to the consultation.

6. Financial and Staffing Implications

- 6.1 The proposals will have significant implications on the Authority's proposals to introduce a Community Infrastructure Levy.

7. Contribution to National Park Management Plan

- 7.1 The Government's proposals will undermine the Management Plan's aim to provide more affordable homes to meet local needs.

8. Legal Implications

- 8.1 None.

9. Recommendation

- 9.1 That Members approve the response as suggested in paragraph 5.1 of the report as the Authority's response to the consultation paper.

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Background documents to this report

File ref

None

Question 1: Do you agree that the threshold for designating authorities as under-performing, based on speed, should increase to 40% or fewer of decisions made on time?

Yes for small scale majors but no for large scale majors. It is likely to be within the remit of the Authority and how it conducts its business to manage small scale majors in a manner to meet the 40% target. With large scale majors, there are likely to be issues which require additional assessment/information requirements which invariably will lead to applications being refused early or problems resolved albeit taking longer than the target. As such a target of 30-33% would be more 'fit for purpose'.

Question 2: Do you think there is scope to raise the threshold for under-performance above 40% (for example to 45% or 50%; and, if so, by when?

No, see above and 40% probably represents the ceiling where a balance needs to be taken between applications being refused early to meet targets and allowing problem solving to take place and avoid burdens on applicants having to use the planning appeal system and securing permission or otherwise under the Government one year guarantee.

Question 3: Do you agree that authorities that have dealt with no more than two applications for major development, over the two year assessment period, should be exempt from designation based on their speed of decisions?

No, there inevitably needs to be a cut-off point but this level brings in Authorities which have dealt with three major applications. Such a low number is statistically unsound to base important decisions upon with significant resource implications. The figure should remain at ten so that any such important decision has a statistically sound baseline.

Question 4: Do you agree that the tests set out at paragraph 21 of this consultation are appropriate for taking exceptional circumstances into account, prior to designations being confirmed?

Yes on the grounds that figures below ten are statistically unsound to base important decisions on.

Question 5: Is the Government's objective of aiding the delivery of small scale housing sites and expanding the self build housing market supported by:

- **The introduction of a 10-unit and 1000 square metres gross floor space threshold for section 106 affordable housing contributions; and**
- **The exclusion of domestic extensions and annexes from section 106 affordable housing contributions?**

Although the North York Moors National Park Authority supports the fact that Rural Exception sites are outside the scope of the proposed threshold the Authority has serious concerns in relation to the proposals set out in the consultation paper and the impact they will have on rural communities.

Paragraphs 78 and 79 of the English National Parks and the Broads UK Government Vision and Circular explain the principles behind the use of Section 106 agreements to secure the long term affordability of new build dwellings permitted exceptionally in these nationally significant areas:

'The Authorities have an important role to play as planning authorities in the delivery of affordable housing. Through their Local Development Frameworks they should include policies that pro-actively respond to local housing needs. The Government recognises that the Parks are not suitable locations for unrestricted housing and does not therefore provide general housing targets for them. The expectation is that new housing will be focused on meeting affordable housing requirements, supporting local employment opportunities and key services.

The Government expects the Authorities to maintain a focus on affordable housing and to work with local authorities and other agencies to ensure that the needs of local communities in the Parks are met and that affordable housing remains so in the longer term'

The North York Moors National Park Authority restricts the majority of new housing through the use of local occupancy conditions to ensure that the limited opportunities for new development meet local needs rather than external demand. Since the adoption of the Core Strategy and Development Policies Document in 2008 the National Park Authority has supported the development of unrestricted open market housing in its larger more sustainable settlements, however where more than 2 units are proposed developers are required to provide affordable housing subject to viability. Unfortunately as a result of the economic downturn no affordable units have been delivered through this mechanism as none of the schemes proposed have proven viable. However given the anticipated improvement to the housing market it is highly likely that the proposals set out in the consultation paper will mean that opportunities to provide affordable housing in the future will be lost. It should be noted that across 7 of the English National Parks if the 10 unit threshold had applied since 2005 **126 affordable units would have been lost** (58% of the total delivered through quota sites). A Viability Assessment on affordable housing provision in the North York Moors National Park carried out by the District Valuer Services suggests that 40% housing provision is likely to be appropriate. However all proposals are subject to independent viability assessment and affordable housing is only sought where the scheme is viable with the required obligations.

The delivery of affordable housing in National Parks and other rural areas plays a significant role in ensuring that local communities remain sustainable. Although development is on a much smaller scale the provision of half a dozen affordable houses can ensure that local people can remain in the communities they grew up in, ensuring the viability of local facilities. The provision of affordable housing ensures that employers have access to a workforce and therefore helps to support the growth of the local economy. The Government's proposals will undermine the approach of the North York Moors National Park Authority and will result in the delivery of unrestricted open market housing which will be very expensive, available as second homes and will simply exacerbate the high level of affordable housing needs in the area.

Sustainability Appraisal formed an integral part of developing the housing policies in the Authority's adopted Core Strategy and Development Policies. The Sustainability Appraisal identified a lack of affordable housing as one of the key sustainability issues for the National Park and led to the selection of a strategic option for the Core Strategy which would help to deliver a mix of housing. The proposals presented within the consultation would therefore potentially undermine the statutory Sustainability Appraisal process which has informed the policy requirement for affordable housing to be provided as part of new open market housing development in the Park's larger settlements.

Question 6: Should the proposed exemption apply beyond affordable housing to other tariff style contributions based on standard formulae?

The nature of development in rural areas like the North York Moors National Park means that development is of a very small scale and generally fall below the 10 unit threshold. This will mean that it is highly unlikely that it will be feasible to introduce a CIL charge. This will undermine the Authority's ability to provide resources for local infrastructure resulting from small scale development.

Question 7: We would like your views on the impact on the government's policy objectives to incentivise brownfield development through proposed national policy change. This would reduce the financial burden on developers by requiring that affordable housing contributions should not be sought where buildings are brought back into any use – other than proportionately for any increase in floor space.

As schemes are assessed in terms of their viability, the higher costs of developing a brownfield site compared to a greenfield site will be factored within this appraisal.