

Report of	Meeting	Date
Executive Leader Presented by the Executive Member for Public Protection	Development Control Committee	20 January 2015

## COUNCIL MOTION 13 JANUARY 2015

### PURPOSE OF REPORT

- To inform members of the Development Control Committee of a decision of Council to approve a motion authorising the investigation of a Judicial Review of the issuing of the Ministerial Statement 28 November 2014 amending National Planning Policy Guidance.

### RECOMMENDATION(S)

- That Members note the report.

### EXECUTIVE SUMMARY OF REPORT

- On 28 November 2014, the Ministry for Department for Communities and Local Government issued a Statement (the "Statement") the effect of which was to amend National Planning Policy Guidance. The amendment effected small site of 10 or less units whose combined area was less than 1000 sq m. Such sites would be exempted from tariff based payments and the provision of affordable housing.
- Full Council approved with cross party support a Motion at the meeting on 13 January 2015. The motion directed the Authority to contact other Councils and the Local Government Association with a view to investigating to the potential of challenging by the Statement Judicial Review.
- Part of the motion required this decision to be formally confirmed to the Development Control Committee.

<b>Confidential report</b> Please bold as appropriate	Yes	No
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### CORPORATE PRIORITIES

- This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		A strong local economy	<b>X</b>
Clean, safe and healthy communities		An ambitious council that does more to meet the needs of residents and the local area	

### BACKGROUND

- On 28 November 2014, Brandon Lewis MP on behalf of the Department for Communities and Local Government delivered as statement to Parliament. The purpose of the statement was to support small-scale developers, custom and self-builder. The Statement had been

prepared following a consultation exercise which took place in March 2014. The consultation sought views on measures to tackle what were described as disproportionate burdens of developer contributions on small- scale developers, custom and self-builders.

8. The Statement amended National Planning Policy Guidance by introducing a threshold below which tariff based contributions and affordable housing contributions should not be sought. This threshold was set at 10 properties or less and a gross combined floor space of no more than 1000 sq. m. There is a lower threshold of 5 properties for rural areas as designated under section 157 of the Housing Act 1985. No areas are designated as rural within Chorley.
9. Chorley Council as a local planning authority are obliged to comply with National Guidance.

## **THE POSITION IN CHORLEY**

10. Chorley has no deficit in house building. Indeed there is a 7 year housing supply of granted permissions awaiting implementation. It is difficult to see how the purpose or rationale behind the Statement, to support small scale developers, applies in Chorley. House building remains at a high level on a wide variety of sites.
11. The amendment to the NPPG has a financial impact in relation to the council's provision of public open space. The council have a policy which requires the payment of a maximum tariff of £2445.00 towards the provision of different types of public open space in relation to each property. The Council will no longer be able to seek these contributions in relation to applications exempted by the NPPG amendment.
12. The amendment also impacts on the provision of affordable housing within the borough. It is difficult to assess but this is likely to impact on the delivery of the Council's affordable housing need.

## **MOTION TO COUNCIL – 13 JANUARY 2015**

13. On 13 January 2015 the Leader of the Council presented a Motion for consideration as follows:-

*"The Council believes that some of the changes to the National Planning Policy Guidance (NPPG) announced in a Ministerial Statement on 28 November 2014 are unreasonable in that they fail to take account of local variations in housing supply.*

*The amendments purport to encourage house building where it is inadequate yet Chorley has a seven year supply which does not suggest an undue financial burden on developers.*

*The Council supports discussions with other local authorities and/or the Local Government Association about launching a challenge by way of judicial review against the Ministerial Statement, in particular the amendment of NPPG against affordable housing and tariff style obligations when the development not in designated rural areas is for 10 units or less and the maximum combined gross floor space is no more than 1000 square metres. The Council would support a suitable agreement to share the legal and other costs of mounting such a challenge with other local authorities.*

*The Council requests that this motion to explore a judicial review challenge is formally brought to the attention of Development Control Committee. The Council further supports attempts by Chorley Council or in concert with other authorities to persuade Central Government to make the amendments to NPPG more flexible, to resolve this issue."*

14. Following a debate the Motion was approved with cross party support.
15. Members of Development Control Committee are therefore advised as to the content of the Motion. Members are advised that Chorley Council will be investigating possibility of legally challenging the Ministerial Statement by Judicial Review either singly or jointly with other local authorities.

16. Members of this Committee are advised that the proposed challenge to the Ministerial Statement is not in itself a material planning consideration.
17. The recommendations in the reports before the committee tonight, which are impacted by this amendment to the NPPG, have been prepared in accordance with the requirements of the national guidance.

#### **IMPLICATIONS OF REPORT**

18. This report has implications in the following areas and the relevant Directors' comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal	X	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

#### **COMMENTS OF THE STATUTORY FINANCE OFFICER**

19. The financial impact of the change in National Guidance is unclear as it will be dependent on the sites that come forward for development. In considering previous years it is likely that the cost to the Council in lost public open space contributions will be in the order of £250,000.00 per annum. The financial impact in relation to affordable housing is harder to assess but the changes are likely to affect 2 or 3 schemes each year.

#### **COMMENTS OF THE MONITORING OFFICER**

20. The comments are set out in the body of the report. The National Planning Policy Guidance is guidance and does not have the effect of legislation. However, in order to disregard or go behind the guidance there would need to be overwhelming evidence to support this decision. Each decision to depart from the guidance should be made specifically to the application being considered and not simply be a decision to depart from the guidance generally.

Councillor Alistair Bradley  
Leader of the Council

<b>Background Papers</b>			
<b>Document</b>	<b>Date</b>	<b>File</b>	<b>Place of Inspection</b>
Ministerial Statement	28 November 2014		<a href="https://www.gov.uk/government/speeches/small-scale-developers">https://www.gov.uk/government/speeches/small-scale-developers</a>

<b>Report Author</b>	<b>Ext</b>	<b>Date</b>	<b>Doc ID</b>
Chris Moister	5160	15 January 2015	