

Report of	Meeting	Date
Monitoring Officer	Development Control Committee	27 October 2015

## IMPACT OF QUASHING OF MINISTERIAL STATEMENT

### PURPOSE OF REPORT

- To advise members of the Committee of the recent successful Judicial Review challenge to the Ministerial Statement of 28 November 2014 and to seek approval to the amended treatment of section 106 agreements that have yet to be signed as a result of this challenge.

### RECOMMENDATION(S)

- That Members note the report.
- That any resolution to approve an application where the decision has yet to be issued should be amended to include by way of a section 106 agreement any tariff based payments in accordance with local policies.

### EXECUTIVE SUMMARY OF REPORT

- On 28 November 2014, a Ministerial Statement was issued that prevented Local Planning Authorities from seeking tariff based contributions (for public open space) from developers where the development was 10 properties or less and had a maximum combined gross floor space of 1000 square metres.
- This was challenged by Judicial Review and has been quashed.
- The Council treated applications in accordance with the Ministerial Statement. The quashing of it however means we should act as if it never existed. There are a number of applications where the committee resolved to approve contrary to the statement but the decision has yet to be issued. Where this is the case, this report proposes that, where relevant, the resolution be changed to require the approval to be subject to a section 106 agreement with payments for public open space and/ or affordable housing delivery to be calculated in accordance with current local policies (for example include for deficit and new provision).

Confidential report Please bold as appropriate	Yes	No

### 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	
Clean, safe and healthy communities		An ambitious council that does more to meet the needs of residents and the local area	

## BACKGROUND

8. On 28 November (published 1 December) 2014 Brandan Lewis issued on behalf of the DCLG a statement amending the NPPG. The amendment stated  
“for sites of 10-units or less, and which have a maximum combined gross floor space of 1,000 square metres, affordable housing and tariff style contributions should not be sought”
9. There was a further amendment reducing the threshold in relation to defined rural areas to 5 units or less. There are no areas in Chorley which fall within the rural definition for the purposes of this statement.
10. The rationale for the Ministerial Statement was to assist smaller developers and promote house building. This is a national piece of guidance and applies to the whole of England.
11. Although this was guidance and did not have statutory effect it would be followed by the planning inspectorate in any appeals and there is a legitimate expectation on the part of developers that Planning Authorities will follow the guidance.
12. Subsequently, the Ministerial Statement was challenged by a Judicial Review. This was successful and the Statement was quashed. The effect of this is that the Statement is treated as if it never existed.
13. There are a number of applications which have been approved by resolution of the Committee but where the decision notice has yet to be issued. In these cases the Council are entitled to revisit the decision to approve and change the resolution to reflect the current situation and policy position. In this instance it is to allow full compliance with the local policies concerning affordable housing and public open space.
14. Members are asked therefore to agree a general resolution which would allow decisions taken in accordance with the Ministerial Statement to be remade in accordance with local policy with any consequential amendments to the requirements of a section 106 agreement being approved.

## IMPLICATIONS OF REPORT

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

Finance	X	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

16. The effect of this will be to increase expected section 106 income.

## COMMENTS OF THE MONITORING OFFICER

17. Set out in the body of the report.

CHRIS MOISTER  
MONITORING OFFICER

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Chris Moister	5160	20 October 2015	