

To The CIL Examiner

17th May 2016

There has been a request for the Councils to consider the implications of the judgement in the case of Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council (reference C1/2015/2559: [2016] EWCA Civ 441), and the reinstatement of the Written Ministerial Statement of 28th November 2014, on the approach to the setting of charging rates for CIL.

The main policy changes included in the statement were that:

- We should no longer seek S106 planning contributions towards affordable housing (either on-site provision or commuted sum financial payments in lieu towards off-site provision) or tariff-style charges from small-scale and custom/self-build developments of 10 dwellings or less, or which have a maximum combined gross floorspace of 1,000sqm (which also applies to all residential annexes and extensions).
- For designated rural areas under Section 157 of the Housing Act 1985 authorities may choose to implement a lower threshold of 5 units or less, beneath which affordable housing or tariff style contributions should not be sought (where the threshold is introduced the payment of such contributions on developments of between 6 to 10 units should be sought as a cash payment only and be commuted until after completion of the units).
- Re-Use and Demolition of Vacant Buildings - a 'financial credit', equivalent to the existing floorspace of any vacant buildings brought back into any lawful use or demolished for redevelopment, should be deducted from the calculation of any (on-site or off-site) affordable housing contributions sought from relevant development schemes. This does not, however, apply to vacant buildings that have been abandoned.

Response:

The approach to affordable housing in Gateshead and Newcastle is set out in the Core Strategy and Urban Core Plan (March 2015) which requires 15% affordable homes on developments of 15 or more dwellings (document P07, Policy CS11, page 79). Therefore, the local affordable housing policy threshold already exceeds that referred to in the ministerial statement as it excludes sites of 14 dwellings or less.

Newcastle City Council has replaced former developer contribution models with a CIL compliant Planning Obligations SPD, whilst Gateshead Council will have replaced their developer contribution models with a CIL compliant Planning Obligations SPD before or by the time CIL takes effect.

Gateshead has one Designated Rural Area at Kibblesworth, as covered by the 1985 Housing Act. However, on application of Core Strategy Policy (CS11) referred to above, the local

threshold for sites to be excluded from affordable housing contributions for designated rural areas is already at a higher level than the 5 unit threshold set out in the Ministerial Statement.

The vacant buildings credit is likely to apply only infrequently, and would serve to reduce the financial burden on a developer, therefore improving viability.

The Councils are therefore of the view that this recent judgement has no implications for the setting of the proposed CIL charging rates in either area.

Yours faithfully,



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