

Great Somerford Neighbourhood Plan

National Planning Policy on Affordable Housing Contributions

Options Paper

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1 Introduction

1.1 On 13 May 2016 the Court of Appeal ruled that the Government's changes to the national policy regarding planning obligations for affordable housing were lawful. The Government consequently amended National Planning Policy Guidance (NPPG) as follows:

Paragraph: 031 Reference ID: 23b-031-20160519

As set out in the [Starter Homes Written Ministerial Statement](#) of 2 March 2015, starter homes exception sites should not be required to make affordable housing or tariff-style section 106 contributions.

There are specific circumstances where contributions for affordable housing and tariff style planning obligations (section 106 planning obligations) should not be sought from small scale and self-build development. This follows the order of the Court of Appeal dated 13 May 2016, which give legal effect to the policy set out in the [Written Ministerial Statement of 28 November 2014](#) and should be taken into account.

These circumstances are that;

- contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1000sqm
- in designated rural areas, local planning authorities may choose to apply a lower threshold of 5-units or less. No affordable housing or tariff-style contributions should then be sought from these developments. In addition, in a rural area where the lower 5-unit or less threshold is applied, affordable housing and tariff style contributions should be sought from developments of between 6 and 10-units in the form of cash payments which are commuted until after completion of units within the development. This applies to rural areas described under [section 157\(1\) of the Housing Act 1985](#), which includes National Parks and Areas of Outstanding Natural Beauty
- affordable housing and tariff-style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing home

2 Is Great Somerford Parish located in an area which is exempt from the new threshold?

- 2.1 'Designated rural area' as per Section 157 (1) of the Housing Act 1985 are exempt from the threshold. The following Wiltshire parishes are *Designated Rural Areas* as set out in the Housing (Right to Buy) (Designated Rural Areas and Designated Region) (England) Order 2003¹ - Schedule 1:

Bishop Cannings, Bromham, Charlton, Cheverall Magna, Cheverall Parva, Chirton, Collingbourne Ducis, Collingbourne Kingston, Easterton, Enford, Erlestoke, Etchilhampton, Everleigh, Fittleton, Marden, Market Lavington, Marston, Netheravon, Potterne, Poulshot, Roundway, Rowde, Rushall, Seend, Stert, Upavon, Urchfont, West Lavington, Wilsford, Worton.

- 2.2 Areas which fall into the Areas of Outstanding Natural Beauty that fall within the planning jurisdiction of Wiltshire Council are also exempt:

Cranborne Chase and West Wiltshire Downs AONB, North Wessex Downs AONB, the Cotswolds AONB

- 2.3 The parish of Great Somerford is not covered by the AONBs above nor is it located in a Designated Rural Area. Therefore the new national threshold applies.

3 Thresholds

- 3.1 There are two thresholds included in the new policy. A threshold of '10 dwellings or less', and a threshold of 'no more than 1,000m²'. In either case no contribution would be required. Consequently where a proposal is submitted for more than 10 dwellings or where the total floor space exceeds 1,000m² a contribution would be required. Also, theoretically, a proposal² of less than 10 dwellings which results in a gross residential floor space of more than 1,000m² would require a contribution.

- 3.2 National policy such as this is a material consideration in determining planning applications as per Section 38 (6) of the Planning & Compulsory Purchase Act and Section 70 (20) of the 1990 Town and Country Planning Act.

¹ http://www.legislation.gov.uk/ukxi/2003/1105/pdfs/ukxi_20031105_en.pdf

² APP/P1133/W/15/3141597: Highfield, Picket Head Hill, Torquay Road, Shaldon, Devon TQ14 0BB

- 3.3 The Court of Appeal judgment sets out the arguments on behalf of the Secretary of State which the Court agreed with [**my emphasis**]:

"(i) As a matter of law the new national policy **is only one of the matters** which has to be considered under section 70(2) of TCPA 1990 and section 38(6) of PCPA 2004 when determining planning applications or formulating local plan policies (section 19(2) of PCPA 2004), albeit it is a matter to which the Secretary of State considers 'very considerable weight should be attached';

...

(iii) In the determination of planning applications the effect of the new national policy is that although it would **normally** be inappropriate to require any affordable housing or social infrastructure contributions on sites below the thresholds stated, **local circumstances may justify lower (or no) thresholds as an exception to the national policy**. It would then be a matter for the decision-maker to decide how much weight to give to lower thresholds justified by local circumstances as compared with the new national policy;

(iv) Likewise if in future **an LPA submits for examination local plan policies with thresholds below those in the national policy, the Inspector will consider whether the LPA's evidence base and local circumstances justify the LPA's proposed thresholds**. If he concludes that they do and the local plan policy is adopted, then more weight will be given to it than to the new national policy in subsequent decisions on planning applications."

4 Options for Great Somerford Neighbourhood Plan

- 4.1 The Neighbourhood Plan (NP) has advanced to a point in the plan-making process where the qualifying body could decide to submit the NP to Wiltshire Council under Regulation 15 of the Neighbourhood Planning (England) Regulations 2012 (as amended).
- 4.2 The Rural Housing Needs Survey (Wiltshire Council, 2014) demonstrates that there is a very low affordable housing 'stock' at Great Somerford (8 per cent compared to 14 per cent in Wiltshire overall). Affordable housing delivery is therefore a core aim of the NP. The overall amount of 35 homes planned for through site allocations NP1-NP5 was derived based on the 40 per cent affordable housing contribution requirement for sites of 5 homes or above set out in the Wiltshire Core Strategy at Core Policy 43; and the results of the Rural Housing Needs Survey 2014. Overall 12 affordable homes would be sought to be delivered indicatively on 5 allocated housing sites as per draft Policy GNSP1. Policy GNSP2 also further specifies the affordable housing requirements again linked with Core Policy 43.

- 4.3 If the new threshold of 10 dwellings was applied, only Site NP1 would yield affordable housing (5 units). Sites NP2, NP4 and NP5 would yield no affordable housing. NP3 was allocated for 2 market housing units in the plan anyway.
- 4.4 Taking into account the Court of Appeal judgement para. 26 i-iv, three options are, from an officer perspective, available to the qualifying body at this stage. All three options come with a set of pros and cons – see overleaf.

Table 1: Options for Great Somerford Neighbourhood Plan

	Description	Pros	Cons
Option 1	<p>Maintain site allocations as proposed. Amend Policy GNSP1 and GNSP2 and supporting text and refer to the NPPG threshold. Don't require affordable housing contributions for proposals of 10 dwellings or less/ or less than 1,000m2. Update the plan to tone down the sections which currently emphasise the need for affordable housing otherwise this would be inconsistent with new policies in the plan.</p>	<p>Plan policies unlikely to fail at examination purely in terms of consistency with national policy on affordable housing thresholds.</p>	<p>May prove difficult to 'sell' amended plan to parish council prior to submission to Wiltshire Council as the plan will certainly fail to deliver affordable housing as originally proposed. Only Site NP1 could deliver affordable housing (5 units). Significant change to version that was supported through local Reg14 consultation. Likely requires further consultation before submission. Potential that amended plan is not supported by parishioners – further delay.</p> <p>Wiltshire Council may consider Great Somerford in its consultation on the draft Housing Sites Allocations DPD which is scheduled for this autumn.</p>
Option 2	<p>Establish potential for intensification on selected sites to push capacity over the 10 dwelling threshold where appropriate to reach total of 12 AH units. Amend Policy GNSP1 and GNSP2 and supporting text and refer to the NPPG threshold. Don't require affordable housing contributions for proposals of 10 dwellings or less/ or less than 1,000m2.</p>	<p>Plan policies unlikely to fail at examination purely in terms of consistency with national policy on affordable housing thresholds.</p>	<p>May prove difficult to 'sell' amended plan to parish council prior to submission to Wiltshire Council given the significant changes. Denser developments may not be feasible on selected sites and/or in keeping with the local environment as per Core Policy 57. Potential effects on heritage assets. May require new consultation on SEA Screening Decision given change of strategy, and potentially full SEA (costs). Significant change to version that was supported through local Reg14 consultation so new consultation required. Potential for amended plan not to be supported by parishioners</p>

			<p>at local consultation stage.</p> <p>Wiltshire Council may consider Great Somerford in its consultation on the draft Housing Sites Allocations DPD which is scheduled for this autumn.</p>
Option 3	<p>Maintain site allocations and plan policies as proposed. Add further evidence on the need for affordable housing through interrogation of latest Housing Register data (link officer to assist); emphasise the low number of AH units locally. Stress the importance of low density development and small sites in the local context; with emphasis on heritage assets, and impact on the built environment and village 'feel'. Potentially seek further endorsements from landowners in terms of delivery.</p>	<p>Plan would be submitted with minor additions/amendments subject to parish approval. No new local consultation/SEA Screening Decision consultation required.</p>	<p>Examiner to consider if local circumstances described in the plan justify departure from national policy as outlined in para. 26 i-iv of the Court of Appeal judgement. Certain landowners may object to the plan or suggest their (excluded) site as an alternative e.g. Broadfield Farm – 40 dwellings. Risk remains that even with an adopted NP applicants could challenge the affordable housing requirement at application stage on a case by case basis.</p>

5 Conclusion

- 5.1 The new threshold(s) for affordable housing contributions in the NPPG apply in developing the Great Somerford Neighbourhood Plan. The Court of Appeal ruled that the new policy is not a general override of the statutory development plan. If robust evidence that underpins emerging development plans supports the case for lower thresholds, an examiner will need to consider if departure from national policy can be justified. The more robust the evidence is the better.
- 5.2 The Steering Group should endeavour to agree next steps in the plan preparation process in due course. Any further changes to the plan should be made in agreement with or under delegated authority from the Parish Council as qualifying body.