

Chichester District Council's answer to Examiner's post hearing letter of 13 August 2015

Question

Does the change to the Planning Practice Guidance, following on from the judgement in West Berkshire District Council and Reading Borough Council v SSCLG have any implications for the setting of residential and commercial rates for the Chichester CIL?

This judgement does not have any implications for the setting of residential and commercial rates for the Chichester CIL. This is because:

1. The Council's Local Plan, which was adopted on 14 July 2015 contains policy 34 Affordable Housing, which was drafted to conform with the (now quashed) change to the Planning Practice Guidance (PPG) introduced in November 2014.

The Council cannot change policy 34 without reviewing the Local Plan, and in any event the Council would await the outcome of any government challenge to the High Court judgment.

2. Unlike some authorities, the Council had not sought to increase the CIL charging rate for small sites as a result of the (now quashed) change to the PPG.
3. The Viability Assessment undertaken to inform the CIL charging schedule shows that smaller residential schemes in the Chichester Local Plan area are viable and can bear the charge.

The adopted Local Plan Policy reads as follows:

Policy 34 Affordable Housing

A 30% affordable housing contribution will be sought as part of residential development where there is a net increase of dwellings.

1. On all sites of 11 dwellings or more, affordable dwellings should be provided on site. Commuted sums will only be accepted in exceptional circumstances. If it can be demonstrated that affordable housing may not be appropriate, development of affordable dwellings on another site may be considered. If this is not achievable, as a last resort and in exceptional circumstances only, the Council will seek a financial contribution to enable provision of affordable homes elsewhere within the district;
2. On sites of 6 to 10 dwellings in areas designated as rural areas under section 157 (10 of the housing Act 1985 the Council will seek a financial contribution for the provision of affordable dwellings as a commuted sum unless the developer makes onsite provision.

3. Where the affordable housing calculation results in fractions of homes, the fraction will be sought as a commuted sum;
4. Where developers are unable to meet the requirements for the delivery of affordable housing set out in the policy, the Council will expect this to be demonstrated through an 'open book' process. An independent valuer appointed by the Council, at the developer's cost, will provide an independent viability assessment. In the first instance an alternative approach will be developed through negotiation. This is likely to involve amending the tenure mix. If this is still demonstrated to be unviable, the affordable housing requirement may be reduced; and
5. Where a commuted sum is accepted, the payment should reflect the cost of providing the number, type and size of affordable dwellings which would have been provided on-site.

The affordable housing to be provided on site will be required to be affordable tenures, as defined in the National Planning Policy Framework.

The policy will be monitored and updated to reflect up-to-date viability studies, the Coastal West Sussex Strategic Housing Market Assessment, and other relevant evidence.