



Affordable Housing SPD - Clarification Note

Version ~~21~~: ~~March 2015~~ July 2016

Background:

Dacorum Borough Council adopted its Affordable Housing SPD in September 2013, alongside its Core Strategy. The role of the SPD is to provide additional advice and guidance regarding how the Council will implement Policy CS19: Affordable Housing and other relevant policies in its adopted Core Strategy and calculate appropriate commuted sums where these are deemed appropriate in lieu of on-site provision.

The Affordable Housing SPD has been very successful in providing clear advice to both developers and Officers alike regarding the Council's requirements.

However, the Council originally issued a clarification note (Version 1: March 2015) to explain how the policy was to be applied in response to the Ministerial Statement of 28 November 2014 (House of Commons Written Statement – reference HCWSS50), and the associated changes to the national Planning Practice Guidance (PPG). These set out a new national policy approach to affordable housing for smaller sites. The note was then withdrawn following a successful High Court appeal to these policy changes in July 2015^[1]. The national policy has now been reinstated as a result of a decision by the Court of Appeal^[2] resulting in the need for the clarification note to be re-issued to reflect this position.

~~The Affordable Housing SPD has now been in operation for over a year and has been very successful in providing clear advice to both developers and Officers alike regarding the Council's requirements.~~

~~However, the Council considers that the Ministerial Statement of 28 November 2014 (House of Commons Written Statement – reference HCWSS50), combined with the associated changes to the national Planning Practice Guidance (PPG) warrant a change in how this policy approach is applied.~~

There are also a few areas of the Affordable Housing SPD which the Council feels would benefit from further clarification. This note provides this clarification.

The Council's approach will be kept under review and this Clarification Note amended as necessary in the light of any further guidance or clarification received either direct from Government or as a result of decisions issued by the Planning Inspectorate or High Court.

General Approach:

^[1] High Court Judgement (reference CO/76/2015) re West Berkshire District Council and Reading Borough Council vs Department for Communities and Local Government (31 July 2015)

^[2] Appeal Court Judgement (reference C1/2015/255) re West Berkshire District Council & Anr v The Secretary of State for Communities and Local Government (11 May 2016).

The general approach to determining where affordable housing is required within Dacorum remains unchanged i.e.

- STEP 1** Check if the scheme triggers the need for affordable housing under Policies CS6, CS19 or CS20;
- STEP 2** Check whether a waiver applies to contributions. This waiver is set by the Affordable Housing SPD as amended by the PPG.

The main effect of the recent Government announcements is to introduce a new 'national waiver' approach on smaller sites that, in some instances, supersedes the waiver set out in the Council's Affordable Housing SPD. This new waiver applies to developments of 10 units and below with a combined gross internal floorspace of no more than 1,000 sqm which are located outside of the defined 'rural area' (see Figure 1). A lower waiver (5 units) applies in the defined 'rural area' (see below). No minimum gross internal floorspace applies here.

The main effect of the changes is to reduce the number of developments which will be expected to make an affordable housing contribution – whether on-site or via commuted payments.

1) Application of threshold

The 1,000 sq m metre figure referred to in the PPG, relates to 'maximum combined gross floorspace'. This floorspace figure will be calculated in accordance with the RICS measuring guide. This includes garages but excludes stores etc and is based on internal floorspace. This is the same measuring guide as used to calculate CIL contributions.

The Government waiver is assumed to apply to gross dwelling figures e.g. if 2 units are demolished and 10 new units are built, this creates 10 units gross. In other words, existing buildings on-site are not relevant to the calculations, except where they relate to calculations under the vacant building credit (see (3) below).

2) Calculating contributions

The flow diagram in Figure 2 sets out a number of questions which will determine how the new approach will be applied. It determines:

- i. If affordable housing contributions are required; and
- ii. If so, whether these are in the form of commuted sums or on-site provision.

The requirements for contributions, the amounts required and the thresholds that apply will vary depending on the geographical location, numbers of units, total gross internal floorspace, type of development and whether this relates to the re-use or demolition of vacant buildings.

(a) Number of units and geographical location:

The PPG states that contributions should not be sought from developments of 10 units or less. However, in designated 'rural areas' (as described under section 157(1) of the Housing Act 1985), '*local planning authorities may choose to apply a lower threshold of 5 units or less.*' This approach of having a lower threshold in rural areas is consistent with the adopted Affordable Housing SPD. The PPG specifies that contributions from developments of 6-10 units within designated rural areas should be in the form of commuted sums, payable on completion of the development. The Council's previous approach has been to seek on-site provision in these locations.

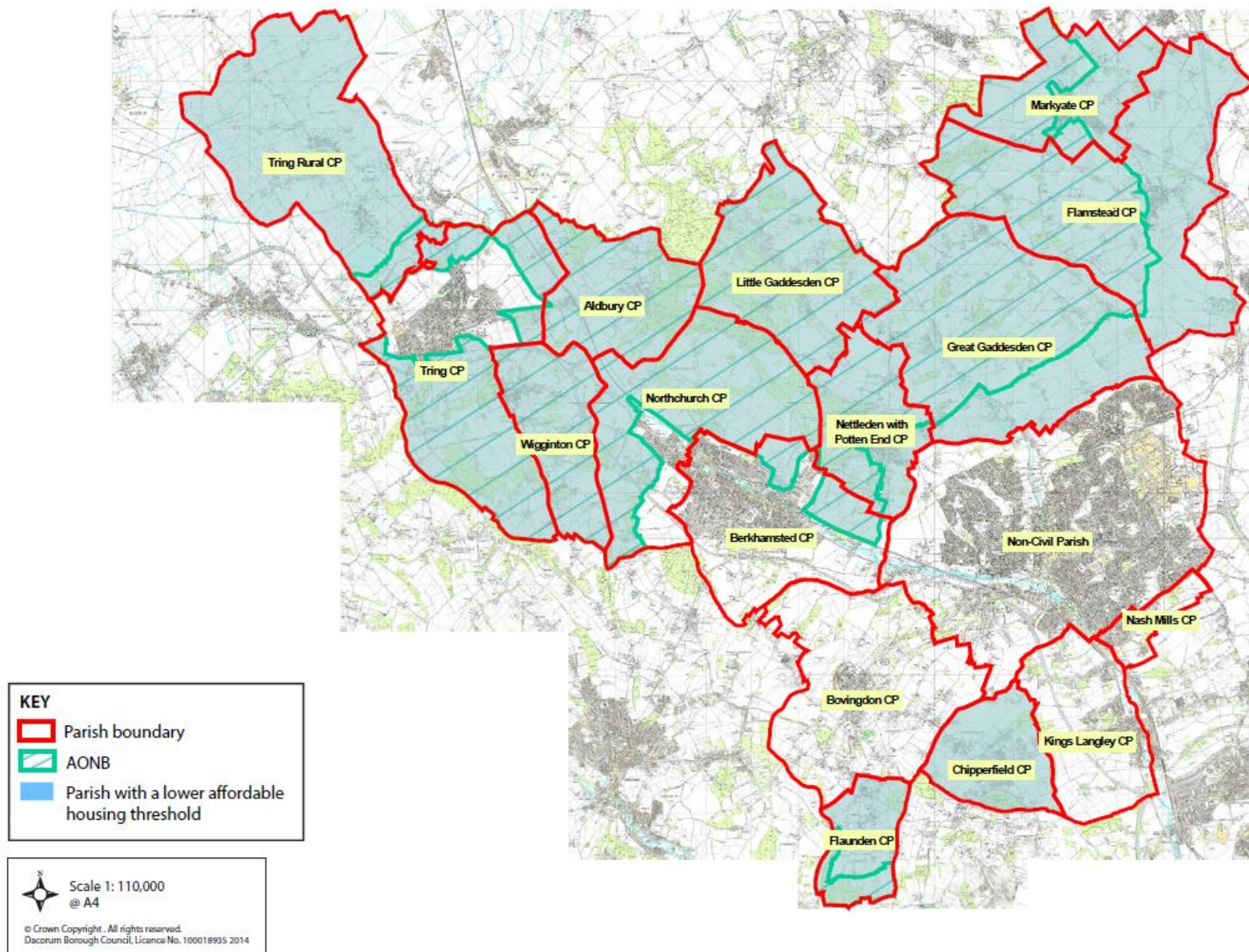
For Dacorum the 'rural area' covers all land within the Chilterns AONB plus the following parishes:

- Chipperfield
- Flamstead
- Flaunden
- Great Gaddesden
- Little Gaddesden
- Markyate
- Nettelden with Potten End
- Tring Rural
- Wigginton

This 'rural area' is illustrated in blue in Figure 1.

Figure 1

Defined 'Rural Areas' for the application of affordable housing waivers



(b) Development type:

The recent Government announcements also impact upon how we apply our adopted policies for different types of development in different ways:

Infilling:

Within the villages of Chipperfield, Flamstead, Potten End and Wigginton, Policy CS6: Selected Small Villages in the Green Belt allows for limited infilling, provided that this is for affordable housing for local people.

However, as all of the above areas fall within the 'rural area' designated in the PPG, new dwellings will only need to be affordable where the scheme creates 6 or more units. As infilling is defined as schemes of 2 units or less (see paragraph 8.34 of the Core Strategy), this means that the requirement for infill development to comprise affordable units set out in clause (B) of Policy CS6 will no longer apply. Such development can now be offered for open market occupation. Development schemes that do not meet the definition of 'infill' development are not normally acceptable under Policy CS6: Selected Small Villages in the Green Belt.

Larger schemes will usually be treated as 'rural exception sites' where Policy CS20: Rural Sites for Affordable Homes applies (see below). Rural exceptions sites are still liable to provide full affordable housing contributions in accordance with the Council's adopted policy, as the Ministerial Statement that accompanied the changes to the PPG makes it clear that the amended approach does not apply to such schemes.

Conversions:

Where applications are received for conversions (whether of large houses or other types of buildings to houses or flats), Policy CS19: Affordable Housing applies, as amended by the PPG i.e. the approach is the same as for new-build residential schemes that generate similar numbers of new units.

Other small scale housing schemes:

For other small scale housing schemes that do not relate to conversions of existing buildings, and for rural exception sites, Policy CS20: Rural Sites for Affordable Homes will apply. Policy CS19: Affordable Housing states that '*On rural housing sites 100% of all new homes will normally be affordable*'. No waiver will be applied and all provision should be on-site. This policy approach continues and is not affected by changes to the PPG.

Please refer to Figure 2 for further information.

(c) Site area

Both Policy CS19 and the Affordable Housing SPD refer to site size thresholds of 0.3ha for Hemel Hempstead and 0.16ha elsewhere. These thresholds relate to where affordable housing contributions should be provided on-site. These thresholds will no longer be applied.

Instead the 1,000sqm figure in the PPG will be applied to development of 10 units or under *outside* of the defined Rural Area.

No site size threshold will be applied to sites *within* the defined Rural Areas. This is to ensure the policy approach reflects the spirit of the PPG, which is primarily based on decisions being made on the basis of the number of units, not site area. To apply the 1,000sqm figure would also potentially result in a more onerous approach than set out in the Core Strategy.

3) Vacant Building Credit

The revisions to the NPPG include introduction of reference to a new 'vacant building credit.' This states that:

'Where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. Affordable housing contributions would be required for any increase in floorspace.'

It goes on to say that:

'Where there is an overall increase in floorspace in the proposed development, the Local Planning Authority should calculate the amount of affordable housing contributions required from the development as set out in their Local Plan. A 'credit' should then be applied which is the equivalent of the gross floorspace of any relevant vacant buildings being brought back into use or demolished as part of the scheme and deducted from the overall affordable housing contribution.'

This approach applies to all residential schemes, irrespective of their size and location. The Ministerial Statement does however make it clear that this credit will not apply to vacant buildings which have been abandoned.

There is currently no statutory definition of a "vacant building" and as such it will be for Officers to determine whether the credit should be applied on a case by case basis, or until clarification is provided through either case law or further guidance. Gross internal floorspace should be calculated in accordance with the RICs Code of Measuring Practice. Such information will normally be reflected within the CIL Additional Information form.

There is no nationally prescribed format for the calculation of the Vacant Building Credit. The Council will use the following methodology which has been subject to discussion by the Planning Officer Society CIL Implementation Group, unless a different approach is formally endorsed by Government:

- Step 1 -** Calculate the number of dwellings that should be the affordable housing contribution on a given site – i.e. 35% of the total number of dwellings proposed.
- Step 2 -** Calculate, as a proportion, the extent of existing floorspace compared against the proposed floorspace. Such calculations should be based on the Gross Internal Area as set out within the CIL Regulations 2010 (as amended)
- Step 3 -** Make a deduction to the number of affordable dwellings to be provided based on the proportion identified at step 2

This will be calculated as follows:

$$RAH = AH - (AH \times E / P)$$

RAH = Revised number of affordable housing units to be provided.

AH = Expected number of affordable housing units to be provided prior to application of credit (i.e. 35% of total number of dwellings proposed).

E = Existing floorspace to be demolished.

P = Proposed floorspace to be created.

For example - A development of 50 dwellings on a site that has a building of 1,000 square metres which would be demolished. Assume a floorspace of 100 square metres for each new dwelling - ie 5,000 square metres new floorspace in total.

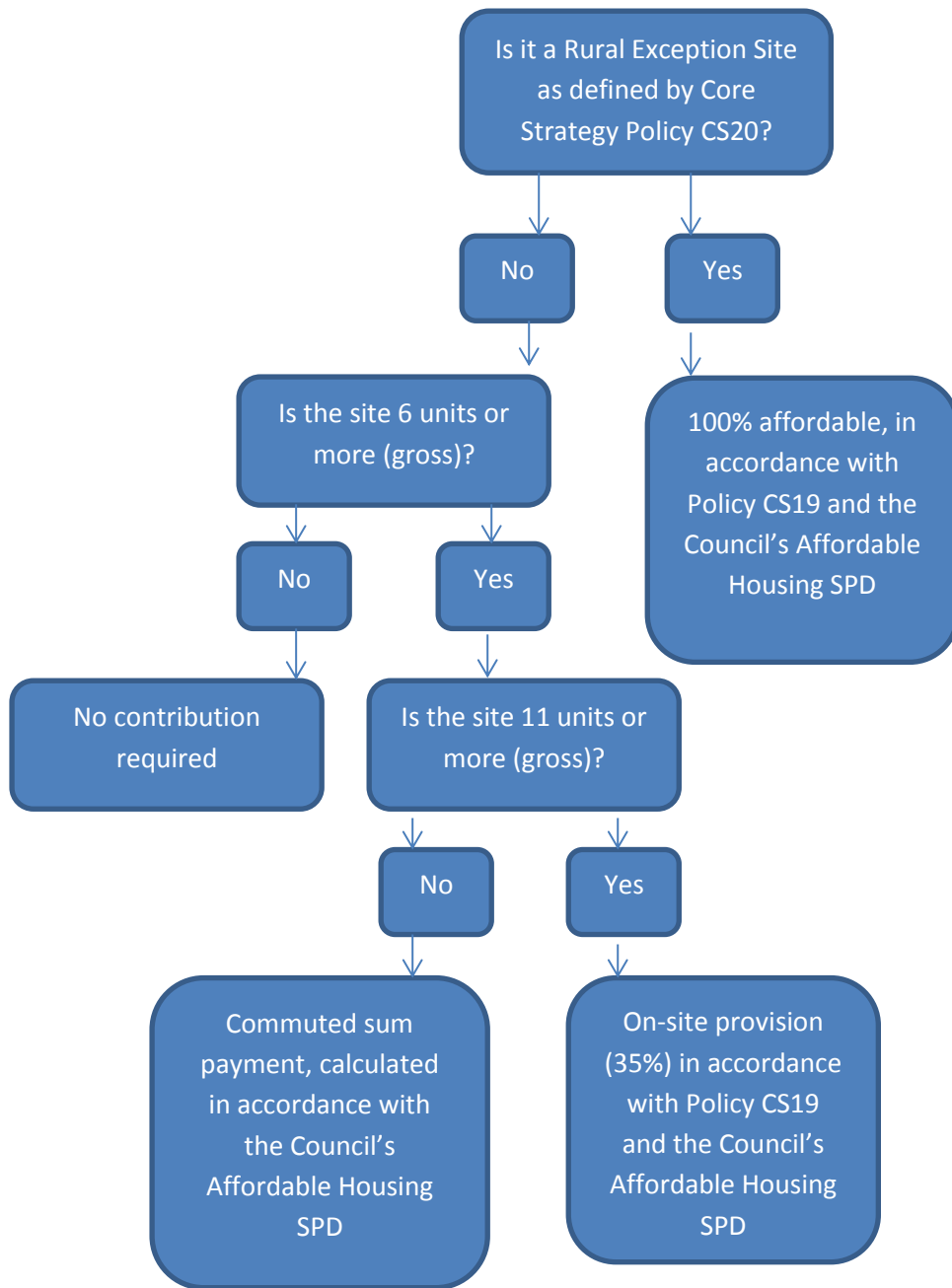
The normal affordable housing contribution would be 18 units (35% of 50)

So the revised contribution would be $18 - (18 \times 1,000 / 5,000) = 18 - 4 = 14$

If the total floorspace of existing buildings to be demolished is equal to or exceeds the total floorspace created, then no affordable housing would be provided.

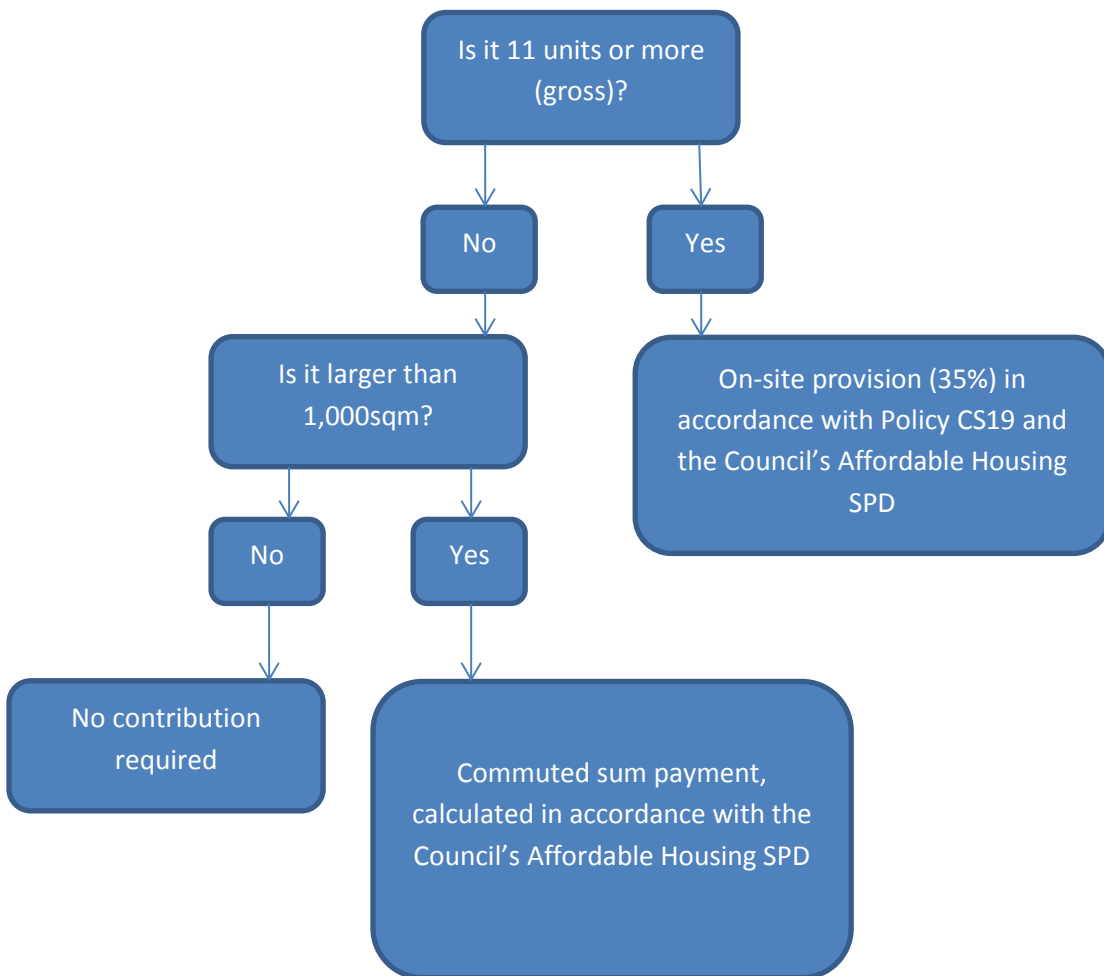
If affordable housing provision is in the form of commuted sums, the revised affordable housing unit figure will be translated into a financial contribution, as advised by the Council's Strategic Housing Team.

(a) Developments in defined 'Rural Areas' – as per Figure 1



Note: Contributions listed do not include any reduction required as a result of vacant building credit.

(b) Development outside defined 'Rural Area'



Note: Contributions listed do not include any reduction required as a result of vacant building credit.