

## STATEMENT

### Dacorum's approach to calculating affordable housing contributions

1<sup>st</sup> June 2016

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In March 2015 Dacorum's Cabinet agreed a clarification note to accompany the Affordable Housing SPD. This clarification note was required to set out how the Council would reflect changes to Government policy relating to affordable housing, including the introduction of 'Vacant Building Credit.' These changes in policy were set out in a Ministerial Statement (reference HCWSS50) and reinforced by changes to the Planning Practice Guidance (PPG).

West Berkshire District Council and Reading Borough Council lodged a challenge to these policy changes in the High Court. This challenge was heard in April and the Judgment issued on 31 July. The Judgment found in favour of the appellants and as a result the court declared that the Ministerial Statement must not be treated as a material planning consideration in either development management or development plan procedures. Relevant paragraphs introduced to the PPG were also deleted with immediate effect.

As a consequence of this judgment, Dacorum Borough Council withdrew the Affordable Housing Clarification Note issued in March 2015. The policy position regarding the provision of affordable housing from the date of the judgment (i.e. 31 July 2015) therefore reverted to the position prior to this date. This meant that decisions were made in accordance with Core Strategy Policy CS19: Affordable Housing of the Core Strategy and associated Affordable Housing Supplementary Planning Document (both adopted September 2013).

On 11<sup>th</sup> May 2016 the Court of Appeal judgment relating to the appeal lodged by the Government to the West Berkshire decision was issued (*R (West Berkshire District Council and Reading Borough Council) v. Secretary of State for Communities and Local Government* [2016] EWCA Civ 441.). This decision upheld all four appeal grounds brought by the Government, and reversed the earlier decision to quash the policy. The PPG has also been amended to reinstate the relevant paragraphs previously deleted.

In the light of the Court of Appeal decision, the Council has reinstated its Affordable Housing Clarification Note. The content of this note remains unchanged from the March 2015 version, with the exception of a few minor changes to update the background content. The reinstatement of this Advice Note will be subject to

Cabinet ratification in July 2016. However, due to the Court of Appeal judgment being a material planning consideration, the content of the Advice Note will be reflected in all planning decisions made on or after 11<sup>th</sup> May (i.e. since the date the judgment was issued).

Please note that this policy position may change again in the future, should West Berkshire District Council and Reading Borough Council choose to challenge the latest decision in the Supreme Court.

If you would like further advice regarding how this most recent judgement may affect consideration of current applications, please contact your allocated Case Officer.