

Lambeth Local Plan Small Sites Affordable Housing Policy: considerations for planning decision makers

October 2017

1. Introduction

1.1 This note addresses the current Local Plan policy of seeking financial contributions towards the delivery of affordable housing from sites providing fewer than 10 units (referred to in this note as 'small sites'; the position in relation to sites involving 10 units is also covered). It summarises the original justification and evidence base for the policy and then assesses the significance of delivery of housing on small sites, and on sites involving exactly 10 units, both in terms of meeting housing supply generally and through the generation of affordable housing contributions.

2. The London Plan context

2.1 The London Plan 2016 (consolidated with alterations since 2011) requires boroughs to maximise delivery of affordable housing (policy 3.12) and encourages boroughs to seek a lower than 10-unit threshold for affordable housing where this can be justified (policy 3.13).

2.2 In August 2017 the Mayor of London published his Affordable Housing and Viability supplementary planning guidance to the London Plan. This states that the Mayor "...supports LPAs that wish to apply requirements for affordable housing contributions on sites providing fewer than 10 homes where the LPA can demonstrate the role that these sites can play in supporting affordable housing delivery, and that sites would remain viable" (para. 2.79).

3. Lambeth Local Plan 2015 Policy H2(a)(ii)

3.1 Lambeth Local Plan 2015 Policy H2(a)(ii) requires a financial contribution towards the delivery of off-site affordable housing on all sites where the development is providing between 1 and 9 residential units. Under the Lambeth Local Plan, schemes proposing exactly 10 residential units are subject to Policy H2(a)(i) and affordable housing requirements fall to be considered in the same way they would for larger schemes. However, as explained further below, central government defines 'small sites' as meaning 10 units or less, rather than 9 units or less.

3.2 The formula for calculating the contribution required for small sites is set out in Annex 10 of the Plan. It is $A-B=C$, where A is the value of the development if there were to be 100% market housing and B is the value of the development that would otherwise be achieved if it included affordable housing in line with the Council's 40% policy target. C is the level of payment in lieu.

3.3 The amount of contribution payable is subject to viability. If it is demonstrated to the satisfaction of the Council that the payment required for a policy-compliant level of affordable housing would render the scheme unviable, then a lower level payment is required.

3.4 Calculations are carried out using a 'toolkit', which is based on a model devised for the Council by BNP Paribas Real Estate.

Original justification and evidence supporting the introduction of Policy H2(a)(ii)

- 3.5 The Council's justification for the above policy approach was set out in a topic paper published alongside the draft Local Plan (Topic Paper 1 Housing November 2013). In summary, the justification was four-fold:
1. The London Plan requires boroughs to maximise delivery of affordable housing (policy 3.12) and encourages boroughs to seek a lower than 10-unit threshold for affordable housing where this can be justified (policy 3.13).
 2. The level of need for affordable housing in the borough is very significant, as set out in the local Housing Needs Assessment.
 3. Sites with fewer than 10 units make a significant contribution to the overall supply of housing in the borough and their potential contribution to affordable housing delivery is not currently being captured.
 4. Analysis of viability has demonstrated that contributions to affordable housing from sites with fewer than 10 units are viable in principle alongside the Community Infrastructure Levy (CIL) rates set out in, what was at that time, Lambeth's CIL Preliminary Draft Charging Schedule, and Mayoral CIL.

Examination and adoption of the Lambeth Local Plan 2015

- 3.6 The Local Plan was submitted for examination on 28 March 2014 and the examination hearings were conducted between 8 and 22 July 2014. The Inspector's report, dated 11 August 2015, found the Local Plan, including Policy H2, sound and it was adopted on 23 September 2015.

The issuing of the Written Ministerial Statement and Planning Practice Guidance and the implications for Local Plan Policy H2(a)(ii)

- 3.7 A Written Ministerial Statement (WMS) issued by the Secretary of State for Communities and Local Government in November 2014 introduced an exemption from affordable housing and tariff style contributions for sites of 10 units or less, and with a maximum combined gross floor space of 1,000 square metres. National Planning Practice Guidance (PPG) was published to reflect this.
- 3.8 The issuing of the WMS and PPG was successfully challenged through judicial review in the High Court (*West Berkshire District Council v Department for Communities and Local Government* [2015] EWHC 2222). The High Court handed down judgment in *West Berkshire* on 31 July 2015, quashing the relevant parts of the PPG and the decision to introduce the policy in the ministerial statement. However, on 11 May 2016 the Court of Appeal reversed that decision, holding that the Secretary of State was entitled to rely on the WMS. The PPG was amended accordingly.
- 3.9 During May and June 2016 planning inspectors ruled against Lambeth's application of Local Plan Policy H2(a)(ii) in 5 separate appeals, concluding that government policy in the WMS and the associated guidance in PPG relating to planning obligations outweighed the requirements of Policy H2.
- 3.10 The relative weighting given to the WMS and the requirements of development plan policy was addressed in the determination of individual planning applications.

- 3.11 In March 2017 the Planning Inspectorate responded to a letter of complaint by LB Richmond regarding inconsistency in the relative weight inspectors were giving the WMS and PPG in appeal decisions. The Inspectorate's letter acknowledged that the effect of the WMS was not to reduce the weight that should be given to the statutory development plan, or automatically to outweigh relevant development plan policies. The letter went on to note that the WMS comes into play as a material consideration which may post-date the authority's own development plan, and which has to be balanced against the plan and the evidence base supporting the local planning authority's application of the policy.

4. Affordable housing need in Lambeth

- 4.1 There is already an acute shortage of affordable housing across London and evidence suggests the demand for affordable housing in Lambeth will remain very high over the next 10-15 years. Lambeth's Strategic Housing Market Assessment 2017 indicates that between 1,047 and 1,573 affordable homes would be required annually to meet affordable housing need over the plan period.
- 4.2 The potential contribution of small sites towards meeting the need for affordable housing is addressed further below.

5. Delivery analysis

- 5.1 The following sections of this note look at the contribution of small sites to housing supply generally and the delivery of affordable housing in Lambeth on sites with fewer than 10 units, covering the period April 2009 to March 2017. Prior to the introduction of Local Plan Policy H2(a)(ii) in September 2015, the Core Strategy (January 2011, Policy S2(c)) and before that the Unitary Development Plan (August 2007, Policy 16(a)) both sought affordable housing only from sites of 10 units or more, or at least 0.1ha in size.
- 5.2 The data relating to the contribution of small sites to delivery of affordable housing in Lambeth will reflect the fact that Local Plan Policy H2(a)(ii) has been in place only for some 2 years, and the fact that national policy and planning practice guidance can both be said to have been in a state of flux during that time, as noted above, which will have fed through into the consideration of individual applications.
- 5.3 The WMS and revised PPG refer to 'small sites' as being sites of 10 or fewer units, whilst Policy H2(a)(ii) (in common with the London Plan) refers to 'small sites' as being sites of fewer than 10 units. Because of this discrepancy, sites of 10 units are analysed separately from sites with 1-9 units in this note.

Approvals and completions on small sites and 10 unit sites

- 5.4 Small sites make a significant contribution to Lambeth's housing supply, in both the number of schemes approved and completed. Table 1 below shows the number of net additional dwellings¹ approved between April 2009 and March 2017. During this eight-year period, on average 18.9% of units approved were on schemes with 1-9 proposed units – accounting for a total of 2,390 net additional units. Only three schemes that proposed exactly 10 units were approved, providing 19 net additional units in total. In some years the proportion of total units approved that came from small sites was as high as 30%. It fell to 12.5% in

¹ 'Net' refers to the number of new housing units created minus any existing units lost, for example through demolition or change of use. 'Gross' is the total number of new units.

2014/15, but started to increase again from 2015/16, during which time the Lambeth Local Plan had been adopted. This suggests that the introduction of Policy H2(a)(ii) did not have a negative impact on the number of small sites coming forward for housing development.

Table 1 – Net Approvals by Scheme Size, 2009-2017

| Scheme Size (Proposed Units) | Fewer than 10 units | | 10 Units | | More than 10 Units | | TOTAL |
|------------------------------|---------------------|------------------|-----------------|------------------|--------------------|------------------|---------------|
| | Number of units | % of total units | Number of units | % of total units | Number of units | % of total units | |
| 2009/10 | 222 | 29.5% | 0 | 0.0% | 530 | 70.5% | 752 |
| 2010/11 | 307 | 16.3% | 0 | 0.0% | 1,574 | 83.7% | 1,881 |
| 2011/12 | 335 | 23.4% | 0 | 0.0% | 1,095 | 76.6% | 1,430 |
| 2012/13 | 329 | 30.3% | 0 | 0.0% | 758 | 69.7% | 1,087 |
| 2013/14 | 381 | 17.0% | 10 | 0.4% | 1,848 | 82.5% | 2,239 |
| 2014/15 | 372 | 12.5% | 6 | 0.2% | 2,587 | 87.3% | 2,965 |
| 2015/16 | 206 | 18.8% | 0 | 0.0% | 891 | 81.2% | 1,097 |
| 2016/17 | 238 | 20.0% | 3 | 0.3% | 951 | 79.8% | 1,192 |
| Total | 2,390 | 18.9% | 19 | 0.2% | 10,234 | 80.9% | 12,643 |

5.5 The proportion of completed units that come from small sites is higher than the proportion of units approved on small sites. Table 2 below shows that between April 2009 and March 2017, 24.3% of net additional completed units were on sites of fewer than 10 units, compared to 18.9% of approved units. In some years, more than a third of all completed units were on small sites.

Table 2 – Net Completions by Scheme Size, 2009-2017

| Completed Financial Year | Fewer than 10 Units | | 10 Units | | More than 10 Units | | Total |
|--------------------------|---------------------|----------------|-----------------|----------------|--------------------|----------------|--------------|
| | Number of Units | % of all units | Number of Units | % of all units | Number of Units | % of all units | |
| 2009/10 | 415 | 37.0% | 18 | 1.6% | 690 | 61.4% | 1,123 |
| 2010/11 | 88 | 6.8% | 0 | 0.0% | 1,206 | 93.2% | 1,294 |
| 2011/12 | 304 | 34.4% | 10 | 1.1% | 571 | 64.5% | 885 |
| 2012/13 | 149 | 25.6% | 0 | 0.0% | 434 | 74.4% | 583 |
| 2013/14 | 239 | 22.3% | 8 | 0.7% | 825 | 77.0% | 1,072 |
| 2014/15 | 241 | 19.0% | 0 | 0.0% | 1,027 | 81.0% | 1,268 |
| 2015/16 | 318 | 33.7% | 0 | 0.0% | 626 | 66.3% | 944 |
| 2016/17 | 268 | 23.5% | 0 | 0.0% | 872 | 76.5% | 1,140 |
| Total | 2,022 | 24.3% | 36 | 0.0% | 6,251 | 75.2% | 8,309 |

Implementation of permissions on small sites and 10 unit sites

5.6 Over the last seven years, an average of 19.1% of all units approved were on schemes of 10 units or fewer². The proportion of all completed units that are on sites with 10 units or fewer

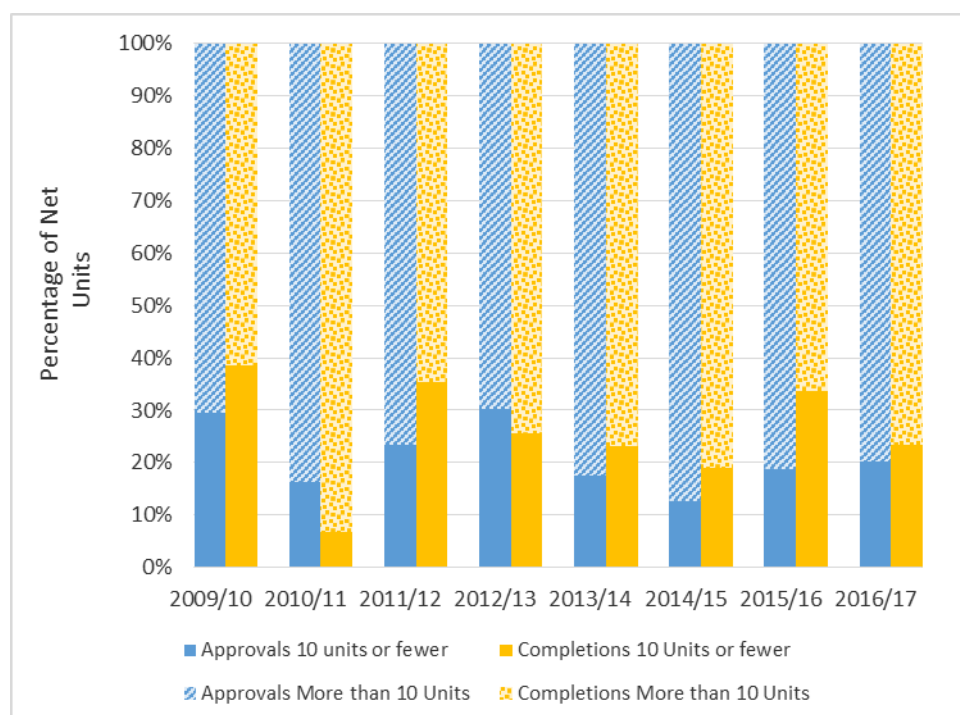
² Sites of 10 units are included along with small sites (1-9 units) throughout this section (Table 3 and Charts 1 and 2). The low number means it would be difficult to analyse 10-unit schemes separately.

is 24.8%, as set out in table 3 below. In most years, the proportion of units completed on site with 1-10 units is higher than the proportion of units approved on sites with 1-20 units (see chart 1 below). This suggests that small schemes are more likely to be implemented than larger housing developments. A total of 2,409 units were approved on sites of 10 units or fewer, and 2,058 were completed – a crude ‘implementation rate’ of 85%. For schemes larger than 10 units, 10,234 units were approved and 6,251 were completed - an implementation rate of 61%.

Table 3 - Net Approvals and Completions on Sites of 10 Units or fewer

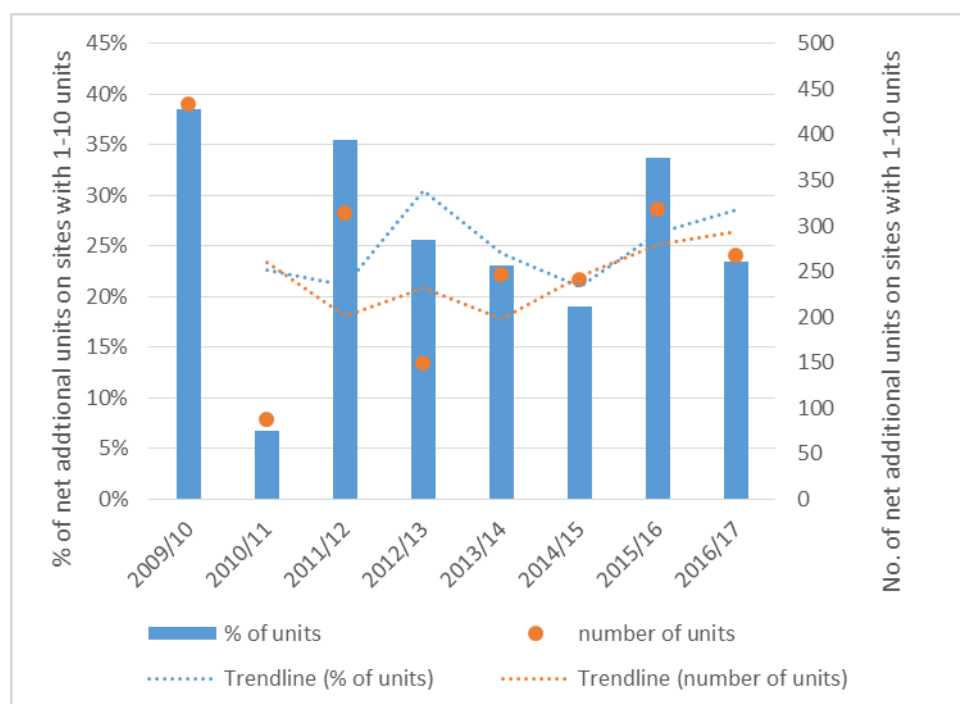
| Financial Year | Units approved on sites of 10 units or fewer | % of total units approved | Units completed on sites of 10 units or fewer | % of total units completed |
|----------------|--|---------------------------|---|----------------------------|
| 2009/10 | 222 | 29.5% | 433 | 38.6% |
| 2010/11 | 307 | 16.3% | 88 | 6.8% |
| 2011/12 | 335 | 23.4% | 314 | 35.5% |
| 2012/13 | 329 | 30.3% | 149 | 25.6% |
| 2013/14 | 391 | 17.5% | 247 | 23.0% |
| 2014/15 | 378 | 12.7% | 241 | 19.0% |
| 2015/16 | 206 | 18.8% | 318 | 33.7% |
| 2016/17 | 241 | 20.2% | 268 | 23.5% |
| Total | 2,409 | 19.1% | 2,058 | 24.8% |

Chart 1 - Net Approvals and Completions 2009-2017



5.7 Chart 2 below shows units completed on sites of 10 units or fewer over the period 2009-2017, both as a number and as a percentage of all (net) units completed in each year. The dotted lines show a two-year moving average. This shows that for both the number and percentage of units on small sites, the trend has fluctuated over the years but has been increasing since 2014/15.

Chart 2 – Net Completions on Sites with 1-10 units



5.8 Table 4 below shows the number of schemes of different sizes completed during the period April 2009 to March 2017. The vast majority (90.8%) of schemes completed in Lambeth are on sites with 10 or fewer units. The figures below also illustrate the impact of an affordable housing threshold of 10 – there are 10 times the number of schemes with 9 units as there are with 10 units.

Table 4 – Completions by Scheme Size (Gross) 2009 to 2016

| Scheme Size (proposed number of units) | Number of Schemes | Number of Units (proposed) | Number of Units (net additional dwellings) | % of all schemes | Cumulative percentage of all schemes |
|--|-------------------|----------------------------|--|------------------|--------------------------------------|
| 1 | 258 | 258 | 47 | 24.9% | 24.9% |
| 2 | 250 | 500 | 317 | 24.1% | 49.0% |
| 3 | 185 | 555 | 358 | 17.8% | 66.8% |
| 4 | 78 | 312 | 240 | 7.5% | 74.3% |
| 5 | 34 | 170 | 144 | 3.3% | 77.6% |
| 6 | 33 | 198 | 157 | 3.2% | 80.8% |
| 7 | 19 | 133 | 124 | 1.8% | 82.6% |
| 8 | 28 | 224 | 201 | 2.7% | 85.3% |
| 9 | 53 | 477 | 434 | 5.1% | 90.5% |
| 10 | 4 | 40 | 36 | 0.4% | 90.8% |
| | 942 | 2,867 | 2,058 | 90.8% | |

6. Affordable Housing Contributions secured through Policy H2(a)(ii)

6.1 Forty-seven schemes of 10 or fewer units were approved between September 2015, when the Lambeth Local Plan was adopted, and July 2016, totalling 145 units. Thirteen of these schemes (28%) are currently under construction and a further 5 (11%) have been completed.

6.2 Five of these schemes were able to provide a contribution to affordable housing, totalling just over £145,000. However, in one case the obligation was subsequently removed through a variation to the S106 agreement following the outcome of the WMS litigation. This left a total of just over £108,000. To date, £102,000 of this has been paid to the Council.

6.3 The viability of schemes is taken into account when assessing the potential for an affordable housing contribution. Schemes which have been shown not to be viable if an affordable housing contribution were to be made have not been required to make that contribution.

How financial contributions are used to deliver additional affordable housing in Lambeth

6.4 Since 2009 the Council has allocated £2.7m of funds obtained as cash in lieu payments to assist Registered Providers in delivering affordable housing. As Lambeth has embarked on a large estate regeneration and new build programme, payments have most recently been used to assist in delivery of affordable housing through mechanisms associated with this programme.

6.5 A potential fund of approximately £21m has been secured through signed S106 agreements. These financial contributions and cash in lieu payments will be received from private developments if and when they are undertaken in the future, and will be applied to affordable housing provision in accordance with the terms of the relevant agreements. Modes of delivery could include via the Council's own development programme or via assistance to Registered Providers. Financial contributions collected in relation to small sites can be expected to be applied in the same ways.