



# PINS NOTE 35/2015

To: All Inspectors (England)

Relevancy: Planning appeals, section 106 planning obligation appeals and Secretary of State Casework

Date of Issue: 24 December 2015

Currency: review on 24 June 2016

## **Ministerial letter of 9 November 2015 to English LPAs: social housing rent changes and renegotiation of section 106 planning obligations**

### **Action**

1. Inspectors should be aware that the Minister for Housing and Planning wrote to Local Authority Leaders, Chief Planning Officers and local planning authorities in England on 9 November 2015, regarding the approach to be taken to requests for renegotiation of section 106 agreements, following [the changes in level of social rent announced in the Summer Budget on 8 July 2015](#).
2. The Minister's letter urges planning authorities to respond constructively, rapidly and positively to requests for such renegotiations and to take a pragmatic and proportionate approach to viability:
  - Where it is simply proposed that the tenure mix is adjusted, with the overall affordable housing contribution remaining the same, it is the Government's view that this is unlikely to justify reopening viability by either side;
  - The Government asks local authorities to expedite such renegotiations so they can be dealt with in a timely manner, and avoid action which might result in unnecessary delay (for example, it would probably not be necessary in all circumstances to take a revised obligation back to planning committee for approval);

- Should there be a need to reduce the overall amount of affordable housing, the Government strongly encourages local authorities to seek the minimum amount of viability information necessary, for example only that information which compares the financial position immediately prior to the Budget to the current position to justify the requested change.
3. Inspectors determining current and emerging English planning casework involving section 106 agreements with affordable housing contributions, and especially appeals under section 106BC regarding proposals to revise affordable housing requirements in existing agreements, are likely to encounter this letter and arguments based upon the Government's suggested approach being raised in the parties' arguments.
  4. Inspectors will need to consider on a case-by-case basis whether the contents of the letter are likely to have a significant effect on the outcome of their decision, and whether in the interests of natural justice they should provide the parties with the opportunity to comment on the letter, before issuing their decision.

## **Background**

5. In the [Summer Budget 2015](#), the Government announced that to achieve savings and bring rent increases within the social sector back into line with the private rented sector it would reduce rents in social housing in England by 1% a year for four years from 2016. Under the previous formula set in the 2013 Spending Round, social housing rents could increase by 1% more than inflation. While that formula was intended to last for a 10-year period, the Government has sought to address continuing rent increases in the social sector. Paragraph 1.140 of the Budget indicates that this policy will mean a 12% reduction in average rents by 2020-21 compared to current forecasts.
6. In the context of this policy change, the Minister's letter of 9 November 2015 encourages local planning authorities to be flexible when approached by housing associations and developers seeking to renegotiate their section 106 affordable housing obligations owing to the change in level of social rent.
7. Please contact XXXX if you have any queries on this Note.