



Planning Policy
East Dorset District Council
Furzehill
Wimbourne
Dorset
BH21 4HN

Date: 18 June 2014
Our Ref: FT M5/0103-12
M4/0514-14
Your Ref:

By email only: planningpolicy@christchurchandeastdorset.gov.uk

Dear Sir or Madam

RE: COMMUNITY INFRASTRUCTURE LEVY – DRAFT CHARGING SCHEDULE, JUNE 2014

We represent the **South West HARP Planning Consortium** which includes all of the leading Housing Association Registered Providers in the South West. Our clients' principal concerns are to optimise the provision of social/affordable housing and to ensure the evolution and preparation of consistent policies throughout the region.

It is not clear from the Viability Report (2013) what the implications of CIL will be to the delivery of the adopted Core Strategy. There is no assessment which allows the reader to gain a comprehensive understanding of the viability context; with no single consideration of the correct residual land value, s106 planning obligations, the landowner uplift, the surplus and the appropriate viability margin. Table 6.3 shows generic values based upon per ha calculations; in our view "rounding up" limits the degree of accuracy in assessing the viability of different dwelling number scenarios. Appendix 1 contains more detailed viability appraisals; however this does not include any s106 calculations or affordable housing contributions.

Without this clearly illustrated, it is impossible to ascertain the robustness of the Councils' evidence base, or consider the balance which the Councils has struck in deciding upon the most appropriate CIL charge.

Affordable Housing

The CIL Regulations and Guidance clearly state that the "charging authority should take development costs into account when setting its levy rate..... development costs include costs arising from existing regulatory requirements, and any policies on planning obligations in the relevant Plan, such as policies on affordable housing and identified site-specific requirements for strategic sites" (paragraph 2:2:2:5).

This approach was reaffirmed by the Inspector's Report to the Local Plan (March 2014), which stated that "in proposing a levy rate charging authorities should take into account other development cost, including taking account of planning obligations in the relevant Plan, in particular those for affordable housing. This makes it clear that it is not appropriate to undertake a balancing act between CIL and affordable housing, as appears to have taken place in the Whiteleaf Study, and that the CIL should be assessed on the basis of the level of affordable housing in the local plan" (paragraph 87).

It is evident upon reading the Core Strategy that the affordable housing targets are 50% on greenfield and 40% elsewhere (unless a site-specific policy indicates otherwise), in accordance with LN3. Whilst 35% is identified as an aim for the total number of new homes to be delivered, it is evident from its reference in the Core Strategy, and the fact that it is not itself referenced in the Core Strategy's affordable housing policy (LN3), that this does not demonstrate the affordable housing target. It would be perverse to not apply the targets identified in the Core Strategy policy. This is evident in the Inspector's Report on the Local Plan.

As such, the Viability Assessment's "*viability tested housing assuming 30% affordable, given current markets*" (p22) is entirely inappropriate and contrary to the CIL guidance.

It is vital that all local authorities make delivering the affordable housing target/targets in the development plan their starting point to developing CIL and they must ensure that the charges do not "*threaten delivery of the relevant Plan*". As outlined by the Inspector in the examination of Mid- Devon District Council's CIL in November 2012:

"The Council should have taken all its policy requirements, including affordable housing, into account then setting the CIL rate and on this basis it can be concluded that the viability evidence, on which the proposed charge of £90per/m², is not robust".

It is noted, that Exeter's CIL Examination clearly reaffirms this position, stating that "*CIL rates should be consistent with Policy CP7 (affordable housing policy) to accord with legal requirements, national planning policy and paragraph 28 of the 2010 statutory CIL guidance*" (paragraph 34). Exeter's CIL Examination also clearly demonstrates that the Councils' approach of applying a lower affordable housing target than the adopted Local Plan affordable housing target, based upon a current lower viable market, is entirely inappropriate.

It is clear from the evidence base that the Councils' current evidence base is not sufficient to bring forward the Draft Charging Schedule.

Affordable Housing Costs

The Viability Report uses a blended rate "*based on current policy*". No detail is given in respect to this rate, aside from the comment that it is taken from HCA policy. We would question where this blended rate is from, what date this costing is based upon and confirmation of the assumptions used within the estimate. There are numerous affordable housing tenure types, and we find it questionable how a blended rate can take full account of the range of affordable housing tenures.

Local Benchmark Values

It has become well established that hypothetical development scenarios are not appropriate. It is now evident that the Council should assess a number of identified sites as local benchmarks to ensure the reliability of the analysis and assumptions. This principle was first established in the Purbeck CIL Examination, where the Inspector suspended the Examination:

"the evidence base is primarily based upon notional data, i.e: modelling of typical development sites in the various zones throughout the District. I raised this concern regarding the need for locally worked examples in my initial questions, and again in my further questions. The DCLG CIL Guidance (April 2013) states (paragraph 27) that a charging authority should sample directly an appropriate range of types of sites across its area in order to supplement existing data. I am postponing the Examination until the information that I need is forthcoming" (Comments to the Council at the close of the Hearing, 11/10/2013).

The more recent DCLG CIL Guidance (2014) affirms this approach at 2:2:2:4.

The only local benchmark used is in relation to the proposed Christchurch Urban Extension within the Whiteleaf Study, delivering some 950 of the 8,490 units required; only 11% of the total housing requirement. It is further noted below that the hypothetical scenarios chosen do not in themselves reflect the development context of the plan area.

Sites over 100 units

Noting the above, the hypothetical scenarios do not consider sites above 100 units. The Christchurch Urban Extension of some 950 units is considered separately, however no other identified sites are. It

is clear from the adopted Core Strategy that there are a number of larger sites; 220 (WMC5), 600 (WMC7), 350 (WMC8), 250 (CM1), 150 (FWP3), 320 (FWP6), 150 (FWP7) and 230 (VTSW4). The Viability Assessment states that the larger growth areas are “*likely to be delivered in sub-schemes of roughly this (50-100 units) size*” (paragraph 6.44).

However, it would seem probable that the Councils would be seeking to address site-wide infrastructure requirements, including on site provision of education and nursery facilities on the larger of these sites, in addition to recreation facilities, open space and highway infrastructure. We would presume in the interests of proactive and positive planning that the Council would be seeking development briefs (as required by the Councils’ Core Strategy policies) and/or overriding outline consents. Whilst this would still result in the developments coming forward in phases, it is evident that these larger sites will be subject to additional onsite infrastructure requirements beyond the £1,000 per unit (plus affordable housing) assumed in the CIL study.

We would also draw the Councils’ attention to an application being progressed by a member of the consortium, which is seeking full permission for 205 units from the outset, thus dismissing the comment made in the Viability Assessment that schemes will be brought forward in phases, with phased CIL not possible when permission is secured in full at the outset.

The failure to consider the impact of the proposed CIL levels on the development of these sites, totally some 2,270 units (26% of total housing requirement), entirely compromises the delivery of the development plan.

Whiteleaf Viability Study

The Councils rely on the Whiteleaf Viability Study as an appropriate assessment of the deliverability of the proposed urban extension to the North East of Christchurch (policy CN1). However, as clearly stated in the Inspector’s Report to the Core Strategy Examination (March 2014), the assessment indicates that it is seeking to take a balance between CIL and affordable housing, which is not appropriate. The Whiteleaf Study is also not transparent, in that no breakdown of costs, including expected planning obligations, is given.

The pba Viability Appraisal (June 2013) makes reference to this site, and indicates that Appendix 1 contains analysis of viability of the site. However, Appendix 1 references no sites above 100 units and therefore evidently does not pertain to this urban extension.

Without a detailed understanding of what planning obligations were accounted for in the assessment of costs in the Whiteleaf study, it is impossible to ascertain which of these will still be required, in addition to CIL, and as such it is not possible to make an assessment of the viability of development post-CIL.

Discretionary Relief

We are disappointed with the Councils’ decision to not allow discretionary relief, in particular the discretionary social housing relief prescribed by Regulation 49A of the 2014 Amendments. Paragraph 2.13’s justification for not offering this relief is not appropriate.

Firstly, whilst this type of housing would represent a small part of overall development, it is a sector of affordable housing which is growing exponentially, as its ability to provide affordable housing with nil-grant and outside of the scope of s106 provision means that the model is being embraced and encouraged across the South West. It is also providing a model for development whereby 100% affordable schemes consisting of just low cost homes for sale can come forward, both through a Registered Provider but also through private sector or third sector developments. The Council’s should be encouraging this delivery model, and as such allowing for discretionary relief.

The Councils make the second point that this type of intermediate housing has informed part of the CIL viability testing in line with the Core Strategy policy requirements. It is not clear from the Viability

Study that this has occurred. The Study uses a 'blended' transfer value of £1,700/m² for flats and £1,550/m² for houses. It indicates that this is from HCA policy, and uses the 30% intermediate housing target (see page 21-22). It is evident therefore that the Councils' evidence base does not consider the potential for 100% affordable housing sites of this tenure. It is also noted that there are varying degrees of viability associated with the varying models of intermediate housing alone, for example with shared ownership and low cost homes for sale. As such, it is not clear that this affordable housing model would be viable, or an attractive option for potential developers.

If the Councils are not seeking to apply the discretionary social housing relief, the reasoning and justification must be robust. As evident above, we believe that the Councils should be encouraging this affordable housing model as an additional delivery mechanism beyond s106 and grant-funding, and as such should initiate the discretionary relief.

Monitoring

We support the Councils' identification of specific indicators for the future review of CIL. However, we would posit an additional indicator. Whilst the Councils have identified overall housing delivery as an indicator of the effectiveness of CIL, it would also be necessary to monitor the delivery of affordable housing separately. Evidently, CIL is a fixed charge, and should the development context change, then this could lead to planning obligations, notably affordable housing, being squeezed. It is necessary for the Councils to monitor affordable housing delivery against the adopted targets, to ensure CIL is set at a realistic level which does not compromise delivery.

Regulation 123 List

The Regulation 123 list and the accompanying guide to s106 obligations are not clear.

Firstly, it is not evident that all the items identified on the Councils' s106 obligations column meet the 'tests' contained within the CIL 2010 Regulations; necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. Notably, the element of strategic access management, support for administration, the setting up of local community groups and general maintenance. The Council must ensure that future planning obligations meet the tests.

The draft Regulation 123 list is also not sufficiently detailed to ensure clarity and prevent misunderstanding in respect to 'double-dipping'.

Instalments

We support the Councils' introduction of an instalment policy. We would however, query whether it would be more appropriate to decrease the threshold for qualification. £250,000 is a significant payment to be made in a single sum. We would encourage the Councils to decrease this threshold.

S106 Costs

It is noted that s106 costs are given at £1,000 per dwelling excluding affordable housing provision. We do not believe that this is accurate. The Council must provide historical s106 receipts in order to understand current and historical levels of s106 contributions.

SANGS Cost

The Viability Report (June 2013) indicates that SANGs costs are expected to be met through CIL receipts, and as such no allowance has been made within the calculations for s106 contributions.

This does not appear consistent with the adopted Core Strategy, which indicates that the "*provision of SANGs will form part of the infrastructure provision of that site particularly where new neighbourhoods or greenfield sites are proposed*" (paragraph 13.21), and as noted in Policy ME2 itself, SANGs will be

secured by way of a legal agreement between the developer and the relevant Council. The policy notes that Heathland mitigation will be secured by CIL, however it is evident that this is not the same as SANGs. It is evident from consideration of a number of the site-specific designations, that provision of SANGs is expected to be accomplished through the development process. This is affirmed in the draft Regulation 123 list which indicates that existing schemes identified in the Heathlands Interim Planning Framework will be provided through planning obligations. Upon review, it is not clear that these schemes have all been secured, it is thus evident that there will be a number of schemes subject to SANGs provision through planning obligations. As such, their costs must form part of the CIL evidence base, to ensure a development's viability will not be compromised.

Looking beyond those identified in the Interim Planning Framework, should the Council indicate that the provision of schemes will be made through CIL receipts, with maintenance secured via planning obligations, it would seem that the Council, through CIL would be paying for the creation of the SANGs and that, additionally, should a developer own the land to which the SANGs would be provided, then they can claim the value of the land as an in-kind payment of total CIL receipts. We presume this is not the intention of the Council, and would request clarification.

Old persons

We support the Councils' identification of C2 as a separate use class subject to alternate viability issues. We do however reiterate our concerns raised in our representation to the PDCS, that the study does not consider alternative forms of specialist older people's which fall within the C3 Use Class.

Whilst older people's housing within the C3 class shares some characteristics with general market housing, as households have their own living space and front doors, there are some considerable differences which affect the viability of such schemes. Typically specialist older people's housing has a considerably higher percentage of non-saleable communal floorspace than general market housing. In addition, sales periods are much longer than general market properties as units cannot be sold off-plan.

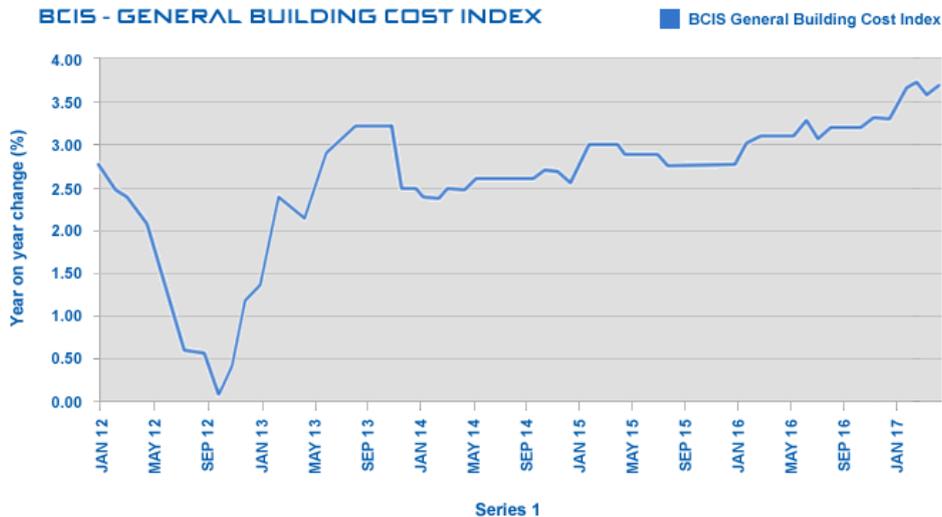
We consider that further viability work is required to ascertain the effect of CIL charges on older people's housing across both Use Classes C2 and C3 and suggest the Councils consider setting a separate charging rate for all types of older people's accommodation. A separate CIL charge for older people's accommodation would appear to be the most appropriate option.

Given the aims of the adopted Core Strategy in providing housing for this age group and the considerable level of household growth from this sector over the plan period, we consider that setting a CIL charge for older people's accommodation will provide greater certainty for developers. The current approach of charging for charging the same level of CIL on all types of C3 development will frustrate the delivery of accommodation such as Extra Care Housing and threaten the plan's ability to deliver sufficient housing for the over 50s age group.

The need to account for this type of development has been recognised in the recently published NPPG, which highlights the requirement to consider the need and delivery mechanisms associated with the range of housing models required to meet an ageing population's needs.

BCIS

It is not clear from the assessment the date at which the BCIS data is taken from. As illustrated on the graph below, there was an unexpected drop in general build costs in 2012, which must be considered, should the Viability Assessment be based upon costs from this period.



Exceptional Relief

It is entirely inappropriate to not adopt the discretionary exceptional circumstances relief. Firstly, we have already noted above a considerable concern in relation to the testing of larger development sites. Without sufficient testing, and without the ability to apply exceptional relief, there is the potential that larger development sites across the plan area will stall, or fail to deliver expected planning obligations.

As mentioned, particular concerns have been raised in respect to a consortium member's development within the plan area, for a 205 unit scheme. It is noted that without the application of exceptional relief to some or part of the proposed CIL charge, it is unlikely that the development will be viable in its current form, and would thus necessitate amendment to affordable housing, open space or other forms of contribution.

More generally, with the use of an exceptional relief policy, the entire purpose of rural exception sites is compromised. It is evident that in some instances, a cross-subsidy mechanism would be required to bring forward land to build such developments upon. The market housing required should be the minimum required to make the development viable, however, if CIL is required to be paid on these market units, evidently this alters the number of units required to bring the development forward, with the perverse situation whereby additional market housing may be required on a rural exception site in order to pay CIL liability. This is emphasised by the Councils' decision to not apply the discretionary social housing relief, discussed above, which has offered in some instances an alternative delivery method, whereby this housing affordable housing tenure can be used to subsidise other affordable tenures.

The above comments are intended to be constructive. We would like to be kept informed of this document's progress and consulted on further stages; please ensure that the **South West HARP Planning Consortium** are retained on the Local Plan database, with **Tetlow King Planning** listed as their agents

Yours sincerely

FELICITY TOZER BSC (HONS) PG DIP
SENIOR PLANNER
 For and On Behalf Of
 TETLOW KING PLANNING

cc: Aster Group
Guinness Partnership
Raglan Housing Association
Sanctuary Housing Group
Spectrum Housing Group

Katherine Blatchford, Christchurch Borough Council
Shelley Hayes, Christchurch Borough Council
Tim Davies, Christchurch and East Dorset Partnership
Keith Mallett, East Dorset District Council