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Date: 29 July 2013
Our Ref: CB M5/0504-10
Your Ref:

By email only: newlocalplan@warwickdc.gov.uk

Dear Sir or Madam

RE: CONSULTATION ON THE PRELIMINARY DRAFT CHARGING SCHEDULE OF THE COMMUNITY INFRASTRUCTURE LEVY

We represent the **West Midlands HARP Planning Consortium** which includes 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.

Overarching Comments

We welcome the opportunity to comment on the CIL Charging Schedule and the underlying viability evidence. Our main concern is to ensure that the delivery of affordable housing is not squeezed by CIL charges that are set too high. The delivery of affordable housing should be a fundamental consideration for local authorities when setting the rate of CIL.

The starting point should be delivering the affordable housing development plan targets. We consider it extremely important that the Council properly considers the overall impact of CIL on the delivery of affordable housing. Greg Clark MP, Minister for Decentralisation and Cities stated on 20 April 2012 in an article in Inside Housing that:

"A key point of the viability test for CIL [charge setting] is that it doesn't make socially important development unviable, including social housing. I would expect that to be at the forefront of examiners' minds".

The importance of ensuring affordable housing delivery was recently highlighted by an Inspector's report from the Mid-Devon District Council CIL examination:

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

The Council will need to consider the rates they finally decide upon in the Draft Charging Schedule in the context of the recently published (April 2013) statutory guidance for CIL. This says in paragraph 29 that local authorities should take account of policies within the development plan when setting their charging schedule in particular their affordable housing targets. Furthermore, one of the key considerations for the independent examiner to assess at examination is whether the Charging Schedule would *"threaten delivery of the relevant Plan"* (Par. 9, CIL Guidance, 2013). The affordable housing target is a key part of housing delivery in Local Plans and the setting of CIL. CIL, by statute, must be set at a level that will not frustrate delivery of this target.

Our interpretation is that the CIL viability evidence has correctly considered the 40% affordable housing target proposed in the Local Plan. However, the viability study does become increasingly

complicated as it goes on and we would like reassurance that we are correct that the local authority have fully tested these levels of CIL against the proposed 40% target.

Our representations are as follows:

Section 106 Contributions

CIL Guidance 2013 sets out clearly that:

"As background evidence, the charging authority should also prepare and provide information about the amounts raised in recent years through Section 106 agreements. This should include the extent to which affordable housing and other targets have been met"

(Para.22, pg 8 CIL Guidance, DCLG 2013)

DCLG guidance stipulates that information on a Council's ability to meet its' affordable housing targets and the amounts raised in previous years through Section 106 agreements should be included within the evidence base. We question whether the evidence actually has provided this important information and we believe that if the Council take the view that it has been supplied it should be more overt and a clear explanation supplied.

Other Contributions

We note that Para. 2.3 in the viability assessment states other sources of funding are not taken into account and is simply a viability study. CIL Guidance 2013 indicates that:

"A charging authority needs to identify the total cost of infrastructure that it desires to fund in whole or in part from the levy. In order to do this, the charging authority must consider what additional infrastructure is needed in its area to support development and what other funding sources are available (for example, core Government funding for infrastructure, which will continue following the introduction of a levy, anticipated section 106 agreements and anticipated necessary highway improvement schemes funded by anyone other than the charging authority) based on appropriate available evidence".

(Para.12, pg 6 CIL Guidance, DCLG 2013)

The Council need to consider other forms of funding when setting CIL rates. We accept the point in Para. 2.2 of the PDCC that not all infrastructure costs have been costed at this time but we would suggest that working out the infrastructure costs is vital to allow for the setting of a suitable and viable CIL level and so should be completed before a Draft Charging Schedule is submitted.

Older People's Housing

We are concerned that there appears to be no testing on either C2 or C3 development related to older person's housing, this type of development has reduced profit margins due to the higher percentage of un-sellable floor space and that the nature of the development requires full completion before any of the lots can be occupied.

Local Plan - PO6 states that all strategic sites will include Extra Care Housing schemes; this does not seem to have been factored in when assessing the CIL level. CIL Guidance stipulates that a range of sites across the strategic site should be tested:

"a charging authority should sample directly an appropriate range of types of sites across its area in order to supplement existing data..... The focus should be in particular on strategic sites on which the relevant Plan relies and those sites (such as brownfield sites) where the impact of the levy on economic viability is likely to be most significant".

(Para. 27, pg 8 CIL Guidance, DCLG 1013)

CIL Guidance is also clear that specialist forms of development should not be unduly affected by CIL charges; this has currently not been taken into consideration in the current CIL charging schedule.

"resulting charging schedules should not impact disproportionately on particular sectors or specialist forms of development and charging authorities should consider the views of developers at an early stage"

(Para. 37, pg 12 CIL Guidance, DCLG 2013)

Below is an excerpt from Corby Borough Councils' Community Infrastructure Levy: Viability Study, it demonstrates the need to consider Extra Care Housing Schemes differently because of their unique nature:

"In our experience, Extra Care Housing Schemes have gross to net floor space ratios of between 55% and 60% due to the additional communal areas.

It is therefore considered that the viability of Extra Care Housing is very different from standard C3 housing and care homes, and our calculations show that they would be unable to absorb a CIL tariff. Our appraisals of retirement housing (i.e. a McCarthy and Stone type development, where residents have their own flat or house and buy in additional services and support as required) indicate that such developments are unlikely to generate positive residual land values. Our appraisals assume a 70% gross to net ratio, accounting for additional common areas required in such developments. This factor, along with a slower sales rate, combine to adversely affect viability".

(Para. 6.36-38, pg 43. Corby Borough Council. Community Infrastructure Levy: Viability Study)

We would recommend that the viability study is revisited and that consideration is given to working out a CIL threshold for C2 and C3 class use for older people's housing.

Phased Payment Policy

We are supportive of the Councils proposal to allow payment of CIL in instalments, upfront CIL charges can push up costs for developers which may have a negative effect on the viability of the site. A suggested charging schedule would be one which stipulates payments in thirds with the final payment on occupation of the development.

Exemptions and CIL Relief

We note that the Council has stated it is yet to form a view on exceptional relief; we are of the opinion that including an exceptional circumstances policy allows some flexibility for the Council to ensure housing remains deliverable on a few specific sites, particularly in the current depressed market. Exceptional circumstances policy will only be applicable in a very small number of cases where the cost of items in a section 106 agreement are greater than CIL and where the exemption from CIL would not constitute State Aid. We consider that within the short and medium term allowing exceptions would assist the delivery of affordable housing in Warwick and we therefore encourage the Council to consider the benefits of including exemptions in their charging schedule.

Effect of CIL charging schedule on cross-subsidy rural exception schemes

We note the Council have visited the idea of cross-subsidy in rural exception sites in the Local Plan-Preferred Options PO5. We are concerned, however, that the £180/m² charge will impede the delivery of affordable housing through cross-subsidy schemes. A higher rural charge will threaten viability of such schemes, reducing the delivery of affordable homes in rural locations. We suggest the Council revisit its viability evidence to test the effect on cross-subsidy schemes and the level of affordable housing they are able to deliver with the £180/m² charge. We consider that this would accord with the DCLG guidance:

"a charging authority should sample directly an appropriate range of sites across its area in order to supplement existing data"

Other Development


We would like to draw the Councils attention to Table 1 in the PDCC, a range of charging schedules for different uses has been presented but we would consider it prudent to include an 'other development' charging schedule. This is to stop confusion if a development does not fit into any of the categories proposed.

Superstores, Supermarkets, Retail Parks and Hotels

We note that in the viability assessment that a CIL level of £105 /m² is recommended for superstores, supermarkets and retail parks, this has been reduced to £75/m² in the PDCC while hotels have been reduced from £100/m² to £80/m². We would like to inquire as to the justification of reducing these recommended CIL rates but not any of the others? If it is because Section 106 agreements have been taken into consideration on these sites then that should also be the case for other forms of development. Lowering the CIL rate unnecessarily may lead to a shortfall in expected CIL payments, there is also the possibility to reduce the burden on residential developments CIL charge by charging more for said developments so making affordable housing allocation more viable.

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

Yours faithfully


CHRIS BURTON
ASSISTANT PLANNER
For and On Behalf Of
TETLOW KING PLANNING

cc: Bromford Housing Group
Jephson Housing Association
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