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(Representations submitted by email to newlocalplan@warwickdc.gov.uk)

10th April 2015

RE: Community Infrastructure Levy – Draft Charging Schedule

Previous Consultation

Gladman Developments have previously made representations regarding the CIL at the Preliminary Draft Charging Schedule stage in 2013. These representations consisted of a covering letter and a detailed submission from Carter Jonas. Prior to preparing this representation Gladman have examined the Councils online portal and spoken to Council officers in order to understand how the previously submitted comments have been fed into the development of the now Draft Charging Schedule. It is our understanding from reading the currently set out consultation responses that the letter prepared on our behalf by Carter Jonas has not been considered by the Council. For this reason we resubmit this letter as Appendix 1 to this representation. It is not clear from the Councils online portal exactly how submitted comments have been taken forward or into account in developing the Draft Charging Schedule.

As part of the response explanation was sought as to the way the CIL was evidenced and further information was requested by Carter Jonas in order to explore in detail some of the assumptions behind the CIL. Whilst some dates and figures contained in the letter may have changed we still consider the evidence of Carter Jonas to be relevant and important in the development of the Draft Charging Schedule. It is clear that these points have not been answered or addressed by the Council as such Gladman express considerable concern about the way in which the Draft Charging Schedule has been prepared and the evidence which underpins it.

Given the above points Gladman would like to reserve the right to be heard at the examination of the CIL should it proceed forward in its current format.

Introduction

Gladman Developments has considerable experience in the development industry in a number of sectors including residential and employment land. Gladman are aware that Warwick District Council have progressed a Local Plan which will be subject to examination in public in May 2015 and that

alongside this the Council are in the process of preparing a Community Infrastructure Levy (CIL) for the area. This Consultation is for the Draft Charging Schedule of CIL.

CIL is intended to have a positive effect on development. The Planning Practice Guidance (PPG) on CIL notes that *“The levy is expected to have a positive economic effect on development across a local plan area. When deciding the levy rates, an appropriate balance must be struck between additional investment for infrastructure to support development and the potential economic effect on the viability of developments...This balance is at the centre of the charge setting process”* (PPG Paragraph 009 Reference ID:25-009-20140612).

In accordance with the latest CIL Regulations, the Council is required to strike an appropriate balance between the desirability of funding from CIL and the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across the local authority area. The Council must consider the impact of CIL together with the policies contained in the Local Plan on developments within the borough when deciding an appropriate CIL rate.

Setting the levy at the appropriate rate will be key to ensuring that development comes forward in the local authority area and subsequently that the Local Plan can be implemented. These representations address some key areas that local planning authorities must consider when preparing their CIL charging schedule, drawing on guidance within the PPG.

Funding gap / evidence base

Local planning authorities need to be able to demonstrate the infrastructure need and subsequent funding gap and must ensure that the level of total CIL receipts that could be generated through the levy reflects the true needs and proposals in the Local Plan. The CIL should not be used by Council's as a mechanism for creating an unrealistic 'wish list' of infrastructure projects in their area.

When establishing a funding gap that CIL receipts are intended to contribute towards filling, it is vital that the Council take account of every possible income stream. This has to include an accurate assessment of future New Homes Bonus and council tax and business rates receipts generated as a result of new developments allocated in the Local Plan, as well as central government funding streams. This should also include an assessment of statutory undertakers' asset management plans, as these companies will at some stage be upgrading their systems/facilities. This also needs to be taken account of when assessing the infrastructure requirements of the authority.

The Council need to have an up to date, robust evidence base that fully justifies the infrastructure needs based on the amount of development that is required. Information on these infrastructure needs should, wherever possible, be drawn directly from the infrastructure planning that underpins the Development Plan, as this should identify the quantum and type of infrastructure required to realise their local development needs. If the authority's infrastructure planning is weak or out of date then the Council should undertake an exercise to refresh this. If the evidence base is not complete, robust and up to date the charging schedule will be unsound and the local planning authority will have difficulty adequately demonstrating their funding gap and subsequent CIL requirements.

PPG notes that: *“A charging authority should be able to explain how their proposed levy rate or rates will contribute towards the implementation of the relevant Plan..., and support development across their area. Charging authorities will need to summarise their economic viability evidence. This evidence should be presented in a document (separate from the charging schedule) that shows the potential effects of the proposed levy rate or rates on the economic viability of development across the authority area”* (PPG Paragraph 018 Reference ID: 25-018-20140612).

It is important that in calculating the level of infrastructure the authority needs as a result of development the Council distinguishes between *new* and *existing* demands. New houses do not always create new pressure on infrastructure as evidence shows that a large proportion will be occupied by people already living in the borough, attending local schools, and registered with local GP surgeries. They will therefore require less infrastructure provision compared to new residents in the borough.

The available guidance makes it clear that CIL is expected to have a positive economic effect on development across an area in the medium to long term. As outlined in recent Inspector's Letters to East Devon District Council (April 2014), the CIL charging rates should not be set at such a level that would threaten development, and must be based on robust evidence and assumptions. The rate will also need to be appropriate over time, bearing in mind land values, market conditions and the wider economic climate change rapidly. The viability impact of incremental policy obligations must be assessed and reflected in the charging schedule.

The Council needs to ensure that they have a full understanding of the potential costs of infrastructure projects needed to meet the infrastructure needs. Gladman believe that it is inappropriate to set the levy based on a partial understanding of these infrastructure costs and in particular if the total money needed for infrastructure is unknown.

Differential charging rates

The CLG guidance notes that the use of differential charging rates can be an appropriate approach where there is clear viability evidence to justify this. The CIL regulations allow charging authorities to apply differential rates in a flexible way, to help ensure the viability of development is not put at risk.

The rules around the use of differential rates in the Charging Schedule are clear: they can only be applied in relation to different geographical zones in which development would be situated, related to different types of development, and/or scales of development. Furthermore as the Government's CIL guidance and inspectors have made clear, differential rates should be set "*based on economic viability considerations alone, rather than any planning or any other public policy related choices*" (Paragraph 14, Newark and Sherwood EIP report, August 2011), and "*CIL is not intended to be a planning policy tool*" (Paragraph 23, Huntingdonshire EIP report, April 2012). Charging schedules with differential rates should not have a disproportionate impact on particular sectors or specialist forms of development.

It is integral when setting differential rates for different geographical areas that these differential rates are based on accurate, up to date housing market intelligence forming the evidence base for this decision.

Furthermore the map used as part of the consultation on the CIL Draft Charging Schedule is printed at a scale and quality that it is impossible to see exactly where the borders between the differential zones are drawn. A properly scaled and drawn map should have been provided as part of the consultation to allow proper consideration of the zones. Once this has been provided Gladman reserve the right to make further comments.

Discretionary Relief

Regulation 55 of the CIL Regulations allows local authorities to grant relief for exceptional circumstances from liability to pay CIL. Such provision should be factored into the Council's CIL and

will avoid rendering sites with specific and exceptional cost burdens unviable should exceptional circumstances arise.

Payments in Kind

Regulations 73 and 73A of the CIL Regulations provides a mechanism for local authorities to accept infrastructure payments, or payments in kind, for land or infrastructure to be provided instead of money to satisfy a charge arising from the levy. An allowance for infrastructure payments should therefore be made available by the Council, recognising that there may be time, cost and efficiency benefits in accepting land or infrastructure from parties liable for payment of the levy.

Requirement to consult

As with Local Plans, local planning authorities have an obligation to consult at various stages of the CIL preparation process. However, the guidance does not provide details as to the format that this consultation must take or length of the consultation period. Gladman echo the CIL guidance and would consider the need to engage meaningfully with local developers and others in the property industry early and throughout the process crucial to the production of a robust CIL.

Examination

As outlined in Para 034 Reference ID: 25-034-20140612 of the PPG the charging authority must appoint the examiner. The examiner must be independent and have the appropriate qualifications and experience. The guidance confirms that a Planning Inspector would fulfil these criteria.

Conformity with Framework

The National Planning Policy Framework (from here on referred to as the Framework) provides the current central government planning policy and requirements for local planning authorities to meet. The Framework places emphasis on sustainable development and in particular ensuring that the objectively assessed needs of an area are met through the requirements and policies within the Local Plan.

It is fundamental that the Council ensures that the proposed levy rates are realistic and not set too high. Arbitrarily high rates may jeopardise the delivery of housing schemes within the area. This would be contrary to the Government's aim outlined in the Framework to "*significantly boost the supply of housing*", as schemes may not come forward due to viability issues.

The Council's CIL charging rates must not threaten the overall delivery of the Local Plan, by making sites unviable. This point is reiterated in the PPG, which states that "*Charging authorities should set a rate which does not threaten the ability to develop viably the sites and scale of development identified in the relevant Plan*" (PPG Paragraph 008 Reference ID: 25-008-20140612). When testing the impact of CIL it is vital that the assumptions that underlie the standard residual valuation approach used to test the impact on viability of CIL are realistic and accurate. This should include abnormal costs, contingency costs, preliminary costs, and developer profit, which should reflect the current level of risk perceived in the market.

Gladman would urge the Council to adopt an instalments policy for CIL payments as this will give developers the flexibility to pay contributions in line with development phasing schemes and will facilitate cash flow and therefore development viability. With this in mind, in accordance with

Regulation 8(3A) of the CIL Regulations the Council should also accept the phasing of planning permissions, with each phase treated as a separate chargeable development.

Gladman also remind the Council of the need to review CIL tariffs once these have been set. The economic climate will inevitably change over the course of the plan period and as such the levy rates that can be set whilst ensuring development remains viable will also change. In accordance with the PPG *“Charging authorities must keep their charging schedules under review and should ensure that levy charges remain appropriate over time. For example charging schedules should take account of changes in market conditions, and remain relevant to the funding gap for the infrastructure needed to support the development of the area”* (PPG Paragraph 043 Reference ID: 25-043-20140612).

The Local Plan for your area will need to be in place prior to the CIL being adopted. Gladman believe that the Council need to have a clear understanding of the level of residential development to be brought forward in the plan period when preparing the charging schedule as this will directly influence the scale of CIL that will be generated. Without this the charging schedule will not reflect the relevant and true infrastructure needs of the area. This is particularly problematic in the case of Warwick where the Local Plan remains the subject to considerable objections related to the full objectively assessed housing needs for the area and where further concerns are being raised about the requirement of Warwick to meet some of the unmet need of Coventry. The Council must consider that changes to the CIL may be required in order to consider issues which arise from the examination in public of the Local Plan which is due to begin in early May.

I hope that these representations were helpful in the process of preparing the CIL charging schedule. If you require any further information or wish to meet with one of the Gladman team then please do not hesitate to contact me.

Yours faithfully,

Mathieu Evans
Gladman Developments