Warwick District Council Community Infrastructure Levy Draft Charging Schedule

Consultation response on behalf of a Landowner and Developer Consortium

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1. Executive Summary

This representation has been prepared by Savills (UK) Limited (hereafter "Savills") on behalf of a Landowner and Developer Consortium (hereafter "the Consortium"). It is made in respect of Warwick District Council's (WDC) Draft Charging Schedule (DCS) for the Community Infrastructure Levy (CIL). The Consortium represents significant interests in the District.

The Consortium's concerns relate to a number of assumptions used in the viability assessment, and also the overall approach to viability by WDC's appointed consultant BNP Paribas. Whilst some of the inputs used by BNP Paribas are reasonable, a number of the fundamental assumptions are challenged, including Benchmark Land Values, infrastructure costs, Section 106 assumptions, developers profit and Stamp Duty Land Tax. We also have concerns that the open market sales values have not been updated in a robust manner since the previous reports, which as the sales values were from 2013, we would strongly suggest that this is done as a matter of urgency. Further clarification is sought on fundamental assumptions including dwelling size and affordable housing values.

The evidence provided in these representations clearly demonstrates the shortcomings in the viability evidence which we consider will impact upon the proposed CIL residential rate of all rates. For the reasons outlined, we believe the proposed rates are unviable and will considerably impact on Warwick's housing delivery.

Our fundamental concerns with the approach proposed by BNP Paribas and WDC are as follows:

- **Lack of working appraisals** – without the appraisal summaries, we are unable to sense-check these against market norms. BNP Paribas have provided assumptions, but these are not sufficiently robust or extensive for us to run our own models. We request as a matter of urgency that these are provided for public consultation.

- **Benchmark Land Values are not reflective of current market expectations** – we understand that the data from the previous BNP Paribas Viability Studies (2013 and 2014) has not been updated. These values date from 2011, and it is inappropriate to suggest that these are reflective of current market expectations for land values. Land values that are too low will artificially suggest that sites are viable when in reality landowners will not release land if they do not achieve a competitive return for their land.

- **Typologies of sites assessed** - the Consortium is concerned that there have been no sites assessed between 100 and 319 units. Of the five strategic sites analysed (of over 319 units), one of those sites has a planning consent, and therefore will not be liable for CIL. We note that the emerging Warwick District Local Plan proposes the allocation of a number of sites for between 100 and 319 units. The typologies selected to be assessed for viability must "*reflect a selection of the different types of sites included in the relevant Plan*", as per the CIL Guidance.

- **Proposed rates inconsistent with the viability evidence** – The viability evidence does not appear to support the DCS rates, and further the proposed CIL rates appear to be unreflective of the local market fundamentals. For example, the sales values in the high area are only 38% higher than the low zone, but the CIL rate is 180% higher suggesting that CIL is being used as a policy tool.

- **Rates proposed in Zones A and C are not compatible with policy levels of affordable housing** – The results from BNP Paribas suggest that sites in Zones A and C are unable to support CIL and 40% affordable housing. Despite this, they suggest that a CIL rate is set. This is contrary to National Policy and Guidance, which states that CIL should be set at a level that supports policy compliant affordable housing.

- **Rates are out of line with surrounding authorities –** it is proposed that CIL in the District is charged between £70 - £195 per sqm. The top range is significantly above the surrounding Local Authorities' rates, which typically fall between £100 and £150 per sq m. This may act as a barrier to development in the District, as developers chose to locate on sites outside of the District where there are lower costs.

- **Over-reliance on national housebuilder assumptions** – A number of the assumptions are only appropriate for national housebuilders, whereas over half of the sites analysed by BNP Paribas are for schemes of 50 units or less. These sites are more likely to appeal to the small to medium housebuilders that are unable to achieve the same build costs (and other costs) as the national housebuilders. We also note that there is strong support from Central Government for encouraging small and medium housebuilders, and they should not be excluded from the analysis.

For the reasons outlined in the representation, the Consortium strongly urge WDC to revisit the evidence and approach to infrastructure funding and delivery.

2. Introduction

Overview

2.1. This representation has been prepared by Savills on behalf of a Landowner and Developer Consortium (hereafter known as the 'Consortium') comprising (alphabetically):

- Crest Strategic Projects
- Nurton Developments
- Spitfire Properties
- Taylor Wimpey

2.2. This representation has been submitted in response to the WDC CIL DCS published for public consultation in the period 16th January to 20th February 2017.

Land Holdings

2.3. The Consortium members have a variety of land interests in the Districts, including potential development opportunity in all of the proposed zones. The main concerns for the consortium are the inconsistencies with, and in some cases lack of, the evidence produced by BNP Paribas on behalf of the Council, and the CIL rates chosen to be set. There are a number of assumptions that by themselves cause alarm, but when combined with other assumptions threaten the assumed viability of a number of the schemes appraised, and pose a significant threat to the delivery of development in the District.

Key Issues

2.4. The Consortium have concerns with the approach proposed by WDC, notably regarding the viability of the proposed residential rate and the evidence base used (refer to **Appendix 1** for a list of relevant evidence). Our main concerns were set in the Executive Summary. However, three of the key issues are as follows:

- No working appraisals for a sense check to be carried out; therefore it is difficult to robustly check the assumptions used by BNP Paribas.
- Out of date assumptions from previous studies that have not been robustly updated and examined in the current market.
- Misleading conclusions that suggest CIL is viable under policy compliant affordable housing for Zones A and C, when the results of BNP modelling suggests otherwise.

2.5. The Consortium is concerned that CIL is being used incorrectly as a policy tool with a mismatch between the differences in the sales values in the different Zones and the CIL rate proposed.

2.6. The CIL rates proposed for Zones B and D are significantly above the maximum CIL rates proposed in neighbouring districts.

Table 2.1: CIL Rates Comparison

Authority	Stage	Max Residential	WDC Proposed Max Rate: £195 (Zones B and D)
		(per sqm)	(% Difference)
Coventry	Pre PDCS	-	-
Rugby	PDCS	£100	95%
Solihull	Adopted	£150	50%
Stratford on Avon	Examination	£150	50%

Source: Savills Research, February 2017

2.7. By setting rates that are higher than surrounding areas, there is a danger that this will act as a barrier to development in the District.

Structure of this Representation

2.8. This representation is structured as follows:

- **Section 3** - planning and legal background.
- **Section 4** - outlines specific points about the available evidence bases, notably in respect of infrastructure delivery and the adopted Local Plan and the Local Plan Review.
- **Section 5** - provides scrutiny of the available viability assessment study (BNP Paribas, November 2016).
- **Section 6** - outlines the position of the Consortium in respect of the effective operation of CIL.
- **Section 7** - conclusions.

2.9. Where relevant this representation provides comment on the supporting evidence/existing guidance and also makes reference to policy documents, a list of which can be found at **Appendix 1**.

3. Summary of National Policy and Legal Context

Introduction

3.1. In respect of the preparation of Charging Schedules and supporting documentation, it is important to have regard to the Government policy, guidance and law. This includes:

- *Part 11 of the Planning Act 2008; Community Infrastructure Levy Regulations 2010 (as amended)*
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG) CIL Guidance 2014 (as amended)
- Non-statutory Guidance

Planning Act 2008 (as amended)

3.2. Section 205 (2) of Part 11 of the 2008 Act (as amended by the Localism Act 2011) states that:

> *"In making the regulations the Secretary of State shall aim to ensure that the overall purpose of CIL is to ensure that costs incurred in supporting the development of an area can be funded wholly or partly by owners or developers of land in a way that does not make development of the area economically unviable."*

3.3. Section 212 of the Planning Act requires the examiner to consider whether the "*drafting requirements*" have been complied with and, if not, whether the non-compliance can be remedied by the making of modifications to the DCS. The "*drafting requirements*" mean the legal requirements in Part 11 of the Planning Act and the CIL Regulations so far as relevant to the drafting of the charging schedule. In considering the "*drafting requirements*", examiners are required in particular to have regard to the matters listed in Section 211(2) and 211(4). This requires examiners to consider whether the relevant charging authority has had regard to the following matters:

- Actual and expected costs of infrastructure;
- Matters specific by the CIL Regulations relating to the economic viability of development;
- Other actual and expected sources of funding for infrastructure; and
- Actual or expected administrative expenses in connection with CIL.

3.4. Regulation 14 of the CIL Regulations (as amended) expands on these requirements, explaining that charging authorities must, when striking an appropriate balance, have regard to:

- The desirability of funding from CIL (in whole or in part), the actual and expected estimated total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and

- The potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.

3.5. The Examiner will need to determine whether appropriate evidence on infrastructure needs and development viability has been presented by the Council.

National Planning Policy Framework

3.6. It is important that the preparation of CIL is in the spirit of the NPPF, notably that it is delivery-focused and "*positively prepared*"[1].

3.7. The NPPF outlines 12 principles for both plan making and decision taking, notably that planning should "*proactively drive and support sustainable economic growth*"[2]. Plan making should *"take account of market signals such as land prices and housing affordability"* and that "*the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth"*[3]*.*

3.8. Furthermore, the NPPF refers to the ***"cumulative impacts"***[4] of standards and policies relating to the economic impact of these policies (such as affordable housing) and that these should not put the implementation of the Plan at serious risk. Existing policy requirements should therefore be considered when assessing the impact of CIL on development viability.

3.9. The NPPF calls for local authorities to boost significantly the supply of housing[5]. It requires local authorities to:

- Meet the full, objectively assessed needs for housing, including identifying key sites;
- Identify deliverable sites to provide five years worth of supply and developable sites further ahead;
- Provide a housing trajectory for the plan period describing how the five year supply is to be maintained.

3.10. The NPPF expressly states that CIL ***"should be worked up and tested alongside the Local Plan"*** and ***"should support and incentivise new development"***[6]. To comply with this policy, CIL Charging Schedules must be demonstrated to have positive effects on development and have regard to an up-to-date Local Plan. The absence of adverse effects on the economic viability of development, whether serious or otherwise is not enough to justify CIL proposals. Charging Authorities have a positive duty when it comes to setting CIL rates and formulating their approach on the application of CIL.

[1] Paragraph 182, National Planning Policy Framework, March 2012

[2] Ibid, Criterion 3, March 2012

[3] Ibid, Paragraph 19, March 2012

[4] Ibid, Paragraph 174, March 2012

[5] Ibid, Paragraph 47, March 2012

[6] Ibid, Paragraph 175, March 2012

3.11. CIL Examiners' reports, such as those for Mid Devon (February 2013) and Winchester City Council (October 2013), have set a clear precedent for CIL to be considered in the round, including the testing of policy-compliant levels of affordable housing and other policy costs.

3.12. In the case of Mid Devon, the Inspector concluded the use of a reduced affordable housing figure by the Council would put the provision of affordable housing at serious risk.[7] The Inspector outlined:

> "*If the Council wishes to reduce the percentage of affordable housing to be provided (assuming such an approach could be justified, bearing in mind the advice in the NPPF that in principle the full objectively assessed needs for market and affordable housing should be met) then this should be achieved through a review of the adopted policies"*.[8]

3.13. The Inspector also had concerns that Mid Devon had a historic significant undersupply of affordable homes which was also recognised as a key issue for the District. CDC has a historic undersupply of affordable homes as well (alongside market homes). This is discussed in further detail in Section 4 of this report.

Planning Practice Guidance (PPG)

3.14. In 2014 the Government published an online resource of Planning Practice Guidance (PPG) which provided technical guidance on a series of planning related topics. Relevant to CIL, the PPG (2014) states:

- Charging schedules should be consistent with, and support the implementation of, up-to-date relevant Plans[9].
- The need for balance (as per Regulation 14[10]).
- The need for "*appropriate available evidence to inform the Draft Charging Schedule*" (as per Schedule 211(7) (a) of the 2008 Act[11].

3.15. The PPG re-affirms the requirement of paragraph 175 of the NPPF which states that, where practical, charging schedules should be worked up and tested alongside the Local Plan. It also states that *"a charging authority may use a draft plan if they are proposing a joint examination of their relevant Plan and their levy charging schedule"*[12].

[7] Paragraph 14, Mid Devon Council Draft CIL Charging Schedule, Examiners Report, February 2013

[8] Ibid., paragraph 14

[9] Paragraph 10, Reference ID: 25-010-20140612, Planning Practice Guidance, revision date 12 June 2014

[10] CIL Regulations 2010 (as amended)

[11] Paragraph 19, Reference ID: 25-019-20140612, Planning Practice Guidance, revision date 12 June 2014

[12] Paragraph 11, Reference ID: 25-011-20140612, Planning Practice Guidance, revision date 12 June 2014

3.16. The policy direction from central government is very much towards facilitating development. This policy imperative should have a major material bearing on the CIL rates. This applies to the evidence to support the balance reached between the desirability of funding infrastructure through CIL and the potential effects on economic viability of development across that area.

3.17. The Guidance states that it is up to charging authorities to decide how much potential development they are willing to put at risk through CIL (the "appropriate balance"). Clearly this judgement needs to consider the wider planning priorities. Furthermore, the CIL Guidance outlines that CIL receipts are not expected to pay for all infrastructure but a "significant contribution"[13]. The overall approach and rate of CIL will have to pay attention to the development plan and intended delivery.

3.18. The Guidance also states that charging authorities may adopt differential rates in relation to:

- Geographical zones within the charging authority's boundary
- Types of development; and/or
- Scales of development[14]

3.19. It explains that where a particular type or scale of development has low, very low or zero viability, the charging authority should consider setting low or zero rates for that type of development. The opportunity to define a CIL rate by development scale is important in this instance.

Non-Statutory Guidance

3.20. In addition to the regulations and statutory guidance, two specific non-statutory guidance documents have been published which are directly relevant to the CIL rate setting process. These two guidance documents have been recognised by Inspectors elsewhere as valuable sources of advice regarding the approach to, and assumptions to be used in, the setting of CIL levy rates for residential development. The two documents are:

- Financial Viability in Planning, RICS (August 2012) and
- Viability Testing Local Plans, Local Housing Delivery Group (June 2012) ('Harman Report')

3.21. Reference is made to these guidance documents where relevant throughout this representation.

[13] Paragraph 95, Reference ID 25-095-20140612, Planning Practice Guidance, revision date 12 June 2014

[14] Paragraph 21, Reference ID 25-021-20140612, Planning Practice Guidance, revision date 12 June 2014

4. Planning Overview and Housing Delivery

The Development Plan

4.1. The Statutory Development Plan for Warwick includes the saved policies of the adopted Warwick Local Plan (2007), which was originally drawn up to cover the period 1996-2011. WDC are currently preparing a new Warwick District Local Plan which will cover the period 2011 to 2029.

4.2. Warwick District Council submitted their 'new' Local Plan to the Secretary of State for Examination in Public (EiP) on 30 January 2015 following a consultation. Hearings commenced in May 2015 but were suspended in June 2015 due to the Inspector finding that the Local Plan was not sound in terms of overall housing provision and the supply and delivery of housing land.

4.3. The Hearing Sessions reconvened on 27 September 2016. Along with a range of other matters, overall provision for housing and the supply and delivery of housing land were reconsidered in the light of the suspension of the examination, further work undertaken by the Council in association with the other Coventry and Warwickshire authorities and the Council's suggested modifications.

4.4. The Examination was formally closed on 15 December 2016. The Inspector subsequently wrote to Warwick District on 16 December to confirm that the submitted Local Plan was not sound however could be made sound by modifications. The Inspector's modifications are now awaited.

Housing Delivery

4.5. Analysis of viability results should always be considered in the context of the relevant Development Plan and the identified housing supply. The most up to date five year housing land supply position was published in March 2016. This confirms that Warwick District has 4.69 years supply of housing. In LPAs, where there has been an under-delivery of housing (both private and affordable), greater attention needs to be paid to the proposed rates as, if they are set at unviable levels, the Development Plan will be put at risk.

4.6. The introduction of CIL represents an additional obligation and therefore must be assessed holistically to establish the cumulative impact of CIL and existing planning obligations, to ensure that the delivery of development would not be threatened by its introduction. Savills has therefore reviewed the identified housing supply for WDC to determine whether the proposed CIL rates would threaten the delivery of the development during the Plan period.

4.7. The CIL Guidance confirms that LPAs must have an "up-to–date" development strategy for the area in which they propose to charge CIL. In addition, it states that a Charging Authority must be able to demonstrate how the proposed levy rates will contribute towards the implementation of the Local Plan. This is not exclusive in approach and stems from the contents of Paragraph 137 of the NPPF.

4.8. The Warwick District Plan, which was subject to Examination in 2015 and 2016, plans for at least 16,776 new homes between 2011 and 2029. The revised requirement is borne out of the fact that Coventry City Council is unable to accommodate the whole of its new housing requirements for 2011-31 within its administrative boundary and that some provision is being made in adjoining areas to help meet its needs.

4.9. The Council should therefore take steps to ensure that the CIL charges are set well below the margins of viability to ensure that they do not threaten the delivery of the identified housing need. An argument supported by the CIL Guidance, 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.

Applying the Guidance

4.10. The PPG CIL Guidance[15] must be followed in the preparation of a charging schedule. The Consortium wishes to outline a number of observations against relevant aspects of the Guidance.

Table 4.3: CIL PPG Extracts and Implications for Warwick District

Paragraph and Reference ID	Topic	Guidance	Implications for Warwick District
Paragraph 008, Reference ID: 25-008-20140612, CIL Guidance (revision date 12 June 2014)	Rate setting	*"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."*	It is imperative that a CIL rate is not set which could have a negative impact on housing delivery. The contribution of strategic sites to the housing supply puts greater importance on the testing of a wide range of residential development scenarios.
Paragraph 009, Reference ID: 25-009-20140612, CIL Guidance (revision date 12 June 2014)	Positive duty	*"The levy is expected to have a positive economic effect on development across a local plan area."*	To be a success, CIL must facilitate development and enable infrastructure delivery required to support development.
Paragraph 010, Reference ID: 25-010-20140612, CIL Guidance (revision date 12th June 2014)	Positive duty	*"Charging authorities should be able to show and explain how their proposed levy rate (or rates) will contribute towards the implementation of their relevant plan and support development across their area."*	Reliance must therefore be had on infrastructure evidence and viability evidence, with reasoned consideration of the views of the key stakeholders and delivery agents.

[15] PPG CIL Guidance, 2014 (as amended)

Paragraph and Reference ID	Topic	Guidance	Implications for Warwick District
Paragraph 010, Reference ID: 25-010-20140612, CIL Guidance (revision date 12 June 2014)	Positive duty	*"Charging schedules should be consistent with, and support the implementation of, up-to-date relevant Plans."*	The approach to viability testing must be grounded on the viability of strategic sites and other developments needed to support the delivery of the housing requirement.
Paragraph 011, Reference ID: 25-011-20140612, CIL Guidance (revision date 12 June 2014)	Spending	*"Charging authorities should think strategically in their use of the levy to ensure that key infrastructure priorities are delivered to facilitate growth and economic benefit of the wider area."*	A difference must be distinguished between "scheme mitigation" infrastructure and "strategic infrastructure" required to address the delivery of the whole plan (i.e. to address cumulative impacts).
Paragraph 019, Reference ID: 25-019-20140612, CIL Guidance (revision date 12 June 2014)	Viability assessment	*"…A charging authority should directly sample an appropriate range of types of sites across its area....The exercise should focus on strategic sites on which the relevant Plan relies, and those sites where the impact of the levy on economic viability is likely to be most significant."*	As above, the Viability Assessment evidence should test strategic sites in the Local Plan. The viability inputs and assumptions in the testing of the generic site typologies must though be realistic and reasonable. We do not consider this to be the case for all of those assumptions used in the Viability Assessment.
Paragraph 020, Reference ID: 25-020-20140612, CIL Guidance (revision date 12 June 2014)	Viability assessment	*"A charging authority should take development costs into account when setting its levy rate or rates, particularly those likely to be incurred on strategic sites or Brownfield land. A realistic understanding of costs is essential to the proper assessment of viability in an area."*	Reliance must therefore be placed on infrastructure and viability evidence, with reasoned consideration of the views of the key stakeholders and delivery agents. The additional costs of strategic development must be recognised.
Paragraph 021, Reference ID: 25-021-20140612, CIL Guidance (revision date 12th June 2014)	Differential rates	*"If the evidence shows that the area includes a zone, which could be a strategic site, which has low, very low or zero viability, the charging authority should consider setting a low or zero levy rate in that area."*	We object to the principle of CIL on Strategic Allocations.
Paragraph 028, Reference ID: 25-028-20140612, CIL Guidance (revision date 12 June 2014)	Infrastructure list	*"It is good practice for charging authorities to also publish their draft infrastructure lists and proposed policy for the associated scaling back of section 106 agreements at this stage* [Preliminary Draft Charging Schedule] *in order to provide clarity about the extent of the financial burden that developments will be expected to bear so that viability can be robustly assessed."*	Infrastructure evidence on the onward use of Section 106 contributions should be published. It is clear that Section 106, whilst potentially scaled back in some cases, will continue to play an important role in relation to infrastructure delivery. The updated Guidance is clear that the sharing of infrastructure evidence should be earlier in the process.
Paragraph 038, Reference ID: 25-038-20140612, CIL Guidance (revision date 12 June 2014)	Examination	*"The examiner should establish that the charging authority has complied with the legislative requirements set out in the Planning Act 2008 and the Community Infrastructure Levy Regulations as amended; the draft charging schedule is supported by*	"Appropriate available evidence" must be published by the District Council. This requires the full detail of the viability appraisals to be made available. A relevant input to the evidence of

Paragraph and Reference ID	Topic	Guidance	Implications for Warwick District
		background documents containing appropriate available evidence; the proposed rate or rates are informed by and consistent with the evidence on economic viability across the charging authority's area; and evidence has been provided that the proposed rate or rates would not threaten delivery of the relevant Plan as a whole."	economic viability is the likely use of "scheme mitigation" Section 106.
Paragraph 061, Reference ID: 25-061-20140612, CIL Guidance (revision date 12 June 2014)	Payment in kind	*"…where an authority has already planned to invest levy receipts in a project there may be time, cost and efficiency benefits in accepting completed infrastructure from the party liable for payment of the levy. Payment in kind can also enable developers, users and authorities to have more certainty about the timescale over which certain infrastructure items will be delivered."*	The operation of Payment in Kind needs to consider the implications of the 2014 Regulations, which make clear that reductions in the CIL rate are not possible for infrastructure which is provided to mitigate the impacts of development (and hence typically "site specific").
Paragraph 062, Reference ID: 25-062-20140612, CIL Guidance (revision date 12 June 2014)	Payment in kind	*"This document* [the Infrastructure Payments Policy Statement] *should confirm that the authority will accept infrastructure payments and set out the infrastructure projects, or type of infrastructure, they will consider accepting as payment (this list may be the same list provided for the purposes of Regulation 123)."*	An Infrastructure Payments Policy Statement.
Paragraph 083, Reference ID: 25-083-20140612, CIL Guidance (revision date 12 June 2014)	Borrowing	*"Charging authorities are not currently allowed to borrow against future levy income. However, the levy can be used to repay expenditure on income that has already been incurred. Charging authorities may not use the levy to pay interest on money they raise through loans."*	The use of wider funding sources to enable infrastructure delivery should be considered.
Paragraph 093, Reference ID: 25-093-20140612, CIL Guidance (revision date 12 June 2014)	Planning obligations	*"…Charging authorities should work proactively with developers to ensure they are clear about the authorities' infrastructure needs and what developers will be expected to pay for through which route. There should be no actual or perceived 'double dipping' with developers paying twice for the same item of infrastructure."*	This is an important principle that Warwick District should be aware of.
Paragraph 094, Reference ID: 25-094-20140612, CIL Guidance (revision date 12 June 2014)	Planning obligations	*"The levy is intended to provide infrastructure to support the development of an area, rather than making individual planning applications acceptable in planning terms. As a result, some site specific impact mitigation may still be necessary in order for a development to be granted planning permission. Some of these needs may be provided for through the levy but others may not, particularly if they*	This is a key point, and distinguishes between the strategic infrastructure used to address cumulative impacts, which are required to deliver the plan as a whole and the scheme mitigation infrastructure used to mitigate the impact of the sites.

Paragraph and Reference ID	Topic	Guidance	Implications for Warwick District
		are very local in their impact. Therefore, the Government considers there is still a legitimate role for development specific planning obligations to enable a local planning authority to be confident that the specific consequences of a particular development can be mitigated."	
Paragraph 106, Reference ID: 25-106-20140612, CIL Guidance (revision date 12 June 2014)	Grampian conditions	*"In England, the National Planning Policy Framework sets out that planning conditions (including Grampian conditions) should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. When setting conditions, local planning authorities should consider the combined impact of those conditions and any Community Infrastructure Levy charges that the development will be liable for."*	Grampian conditions must be used sparingly. Warwick should publish a policy on the use of Grampian conditions.
Paragraph 107, Reference ID: 25-107-20140612, CIL Guidance (revision date 12 June 2014)	Highway agreements	*"Charging authorities should take care to ensure that their existing or forthcoming infrastructure list does not inadvertently rule out the use of section 278 agreements for highway schemes that are already planned or underway, or where there would be clear merit in retaining the ability for developers to contribute towards specific local highway works through s278 agreements."*	The cost of Section 278 infrastructure is a relevant consideration for the viability evidence.
Paragraph 107, Reference ID: 25-107-20140612, CIL Guidance (revision date 12 June 2014)	Highway agreements	*"Where section 278 agreements are used, there is no restriction on the number of contributions that can be pooled."*	Pooled Section 38/278 Agreements may represent a feasible alternative to pooled Section 106 contributions in relation to new/improved roads.

Regulation 123 List and Infrastructure Delivery

4.11. The Planning Act 2008 (as amended)[16] defines infrastructure as:

- *"(a) roads and other transport facilities,*
- *(b) flood defences,*
- *(c) schools and other educational facilities,*
- *(d) medical facilities,*
- *(e) sporting and recreational facilities, and*
- *(f) open space."*

[16] Section 216, Planning & Compulsory Purchase Act 2008 (as amended)

4.12. There is a requirement within the CIL Regulations to provide a list of *"relevant infrastructure"*[17] to be wholly or partly funded by CIL. It is also lawful[18] for CIL to be used to reimburse expenditure already incurred on infrastructure, a tool which could have useful implications in respect of the forward funding obtained for major strategic infrastructure.

4.13. The Consortium considers it imperative that the evidence supporting CIL:

- Clearly outlines the key infrastructure projects required to support development (this being a key test of the Regulations); and
- Produces an up to date, consistent and well informed evidence base of economic viability in order to test various development typologies against CIL rates.

4.14. The sequencing of the delivery of infrastructure is also an important consideration.

4.15. The CIL Guidance[19] places a strong emphasis on the need for local authorities to demonstrate when setting their Charging Schedule that they have been realistic when assessing what residual Section 106 and 278 requirements will remain. In order to do this it is therefore necessary for Warwick District to prepare a draft list of relevant infrastructure (referred to as a 'Regulation 123 list') to establish what on-site infrastructure is anticipated to continue to be delivered through Section 106 planning obligations.

4.16. Warwick District published a Draft Regulation 123 List in January 2015 as part of a 'first' round of consultation on the Draft Charging Schedule. This has not been refreshed as part of the current consultation on the revised DCS however will be published in the spring once the Infrastructure Delivery Plan has been updated. The Regulation 123 List serves as a useful guide as to the direction that the charging authority envisages taking in providing for the delivery of infrastructure to support the Local Plan. Accordingly, it is essential that there is an appropriate opportunity to comment on this in respect of the CIL rates which are proposed.

4.17. Whilst we welcome the publication of a Regulation 123 list at this stage in the CIL process, it is not clear in the current drafts how CIL payments will be separated from Section 106 payments, and which projects will be funded by CIL. We would therefore recommend that the Council produce a supporting Planning Obligations SPD to give the development industry a clearer indication of what specific items of infrastructure will be delivered through CIL and what will remain through Section 106 or Section 278 Agreements. This concern is particularly relevant to sites where infrastructure requirements are greater and the timing and delivery is critical to ensure the delivery of well planned communities.

[17] Regulation 123, CIL Regulations 2010 (as amended)

[18] Regulation 60(1), CIL Regulations 2010 (as amended)

[19] Paragraph 017 Reference ID: 25-017-20140612, PPG CIL Guidance, revision date 12 June 2014

4.18. Allied to the above, we wish to stress to Warwick District that any projects that are classified as infrastructure on the 123 list will not be able to be funded by Section 106 contributions, where more than five are required to be pooled or have already been secured since April 2010. Indeed, after the CIL Charging Schedule is published (or after April 2015), no more than 5 developments can make S106 contributions to one piece of infrastructure:

> *"At no point no more may be collected in respect of a specific infrastructure project or a type of infrastructure through a section 106 agreement, if five or more obligations for that project or type of infrastructure have already been entered into since 6 April 2010, and it is a type of infrastructure that is capable of being funded by the levy. Where a section 106 agreement makes provision for a number of staged payments as part of a planning obligation, these payments will collectively count as a single obligation in relation to the pooling restriction"* (PPG Paragraph 99, Reference ID 25-99-20140612).

4.19. This is important as a single development and Section 106 agreement can have more than one obligation in relation to a type of infrastructure and as such restricts the Council's ability to pool obligations.

4.20. In the absence of an updated Regulation123 List (and an associated proposed policy for the associated scaling back of Section 106), it is unclear whether the District fully understand the implications of Section 106 pooling post-CIL and its impact on its intended delivery mechanism for vital infrastructure in the District.

Historic Section 106 Contributions

4.21. The CIL Guidance states that *"when a charging authority introduces the levy, Section 106 requirements should be scaled back to those matters that are directly related to a specific site… For transparency, charging authorities should have set out at examination how their Section 106 policies will be varied and the extent to which they have met their Section 106 targets"*[20].

4.22. This information has not been published as part of the DCS consultation. As part of the Local Plan evidence base, WDC prepared an IDP which evaluates the impact of developments on a range of infrastructure items in their locality. Whilst some items of infrastructure may be funded from other sources, since the infrastructure has been included in the IDP it can be assumed to represents a cost to the development and should form part of the Gross Development Costs in the viability assessment.

4.23. It is important that a reasonable cost assumption is included for Section 106 planning obligations and infrastructure items, based on the IDP, in the viability assessment of sites. The outputs from this assessment should determine the appropriate quantum of affordable housing to be sought, as the affordable housing percentage bears the greatest area of flexibility given that it does not indicate whether a development is acceptable in planning terms (unlike other Section 106 obligations).

[20] Ibid. Paragraph 098, Reference ID 25-098-20140612

4.24. The Consortium would therefore ask for further detail on the anticipated Section 106 contributions to be sought by WDC to ensure that a realistic figure is included in the viability assessments. This information should be broken down by scheme type to enable a comparison on a cost per unit basis. This will help ensure that the combined total cost of Section 106 and CIL is not in excess of historically delivered Section 106 contributions and will not therefore adversely impact the deliverability of any sites coming forward.

5. Viability Appraisal

Introduction

5.1. Section 211 (7a) of the Planning Act (as amended), requires Councils to use "*appropriate available evidence*" to inform their Charging Schedules. In the case of the DCS, we have assumed the Council has relied upon the Viability Assessment Study[21] produced by BNP Paribas. We have critically examined the report as part of this representation to determine if WDC has sufficiently met the requirements of Section 211 (7a) in preparing their rates.

5.2. We have split our response in respect of the Viability Study into two parts:

- **Part 1 – Summary of BNP Paribas Appraisal Inputs**
- **Part 2 – Assessment of Appraisal Inputs**

5.3. We would typically run our own appraisal as a sense check, however, we note that BNP Paribas have not provided any workings in an appraisal, and we are missing some of the basic assumptions, which render this sense check impossible.

5.4. We have focused on the assumptions used by BNP Paribas in their modelling. The Consortium represents a range of landholdings in the District, and therefore our comments have focused on these assumptions rather than the individual site typologies. We note that BNP Paribas have tested only nine non-strategic site typologies ranging from 4 units to 100 units (with the 100 unit scheme being 100% flats. However, there does not appear to be any testing of sites larger than 100 units but smaller than the strategic sites (of 319 units). We would argue that this represents key sites that can deliver immediate housing in the District.

5.5. Whilst we understand the need to test a sample of sites, we have concerns that this does not fully test the range of sites identified in the SHLAA and those proposed for allocation within the emerging Warwick Local Plan.

Part 1 – Summary of BNP Paribas Appraisal Inputs

5.6. We summarise below the BNP Paribas appraisal viability assumptions and highlight the initial areas of concern. Further detail on the specific areas of disagreement is set out in **Part 2**.

[21] Community Infrastructure Levy: Viability Study (2016 Update), BNP Paribas, November 2016.

Table 5.1: Opinion on BNP Paribas Appraisal Inputs – Residential Typologies

Viability Appraisal Assumptions	BNP Paribas Assumption	Consortium Opinion
Values		
Benchmark Land Values (BLVs)	○ Greenfield (CLG high end of range) - £370,000 per ha ○ Greenfield (CLG low end of range) - £250,000 per ha ○ Commercial sites - £1.05 million per ha ○ Former community sales - £500,000 per ha	**Disagree** - see Part 2
Viability Buffer	**Unknown**	**Requires clarification**
Open Market Value	£3,073 psm (£285 psf) - £4,236 psm (£393 psf)	**Disagree** - see Part 2
Affordable Housing Value	Unknown	**Requires clarification**
Densities		
Dwellings Per Hectare	Various depending on site typologies – 20 dph (100% houses on Greenfield) to 60 dph (100% flats on Urban)	**Clarification required** – whilst we agree with a range of densities to be tested, we are unable to comment in full as dwelling size and mix is unknown.
Dwelling Sizes		
Open Market Housing and Affordable Housing	Unknown	**Clarification required** on house sizes used and if an allowance for garages has been made within the floor areas adopted, as these would be CIL liable under the definition of GIA
Net Developable Area (NDA)		
NDA per Gross Ha	For greenfield sites - a gross to net ratio of 67% For urban sites – a gross to net ratio of 100%	**Disagree** – see Part 2
Acquisition Costs		
Stamp Duty	5% of land costs	**Disagree** – see Part 2
Legal Fee	0.8% on purchase price	**Agree**
Agents Fee	1% on purchase price	**Agree**
Sales and Construction Timescale		
Lead In	Site preparation time assumed at 6 months.	**Clarification required** (see Part 2)
Construction	Unknown	

Viability Appraisal Assumptions	BNP Paribas Assumption	Consortium Opinion
Sales	3 private units per month (except for strategic sites where 6 private units per month is assumed, assuming 2 developers)	**Agree**
Construction Costs		
Build Costs	£1,127 psm (£105 per sq ft) £1,330 psm (£124 per sq ft)	**Disagree – see Part 2**
Code for Sustainable Homes (now Building Regs)	An additional 6% allowance	**Agree**
Preliminaries / Site Preparation	Unknown	**Clarification required** (see Part 2)
Plot Externals / Site Works	15% on base build costs	**Agree**
Infrastructure / Abnormals	£12,000 per unit allowance for on-site infrastructure on strategic sites only	**Disagree** - see Part 2
Contingency	5% of build cost	**Clarification required** (see Part 2) – should also include site works
Professional Fees	10% / 12% for strategic sites	**Clarification required** (see Part 2)
Section 106		
Affordable Housing	40% provision Tenure split 80:20 (rented: intermediate)	**Agree**
S. 278 and residual S. 106 Financial Contribution	£1,500 per unit Strategic sites - £13,000 per unit	**Disagree** - see Part 2
Planning Promotion Costs		
Statutory Fees	Nil	**Disagree** - see Part 2
Developers Profit		
Developers Profit	20% profit on private GDV 6% profit on affordable GDV	**Disagree**- see Part 2
Finance		
Debit Rate	7% interest	**Agree**
Marketing Fees		

Viability Appraisal Assumptions	BNP Paribas Assumption	Consortium Opinion
Sales Marketing Fees	3% of GDV	**Disagree**
Legal Fees	0.5% of GDV	**Agree**
Sensitivity	Variations in affordable housing only	**Disagree** - see Part 2

5.7. We note that the Viability Study does not include the appraisals, only the results. It is therefore difficult to fully analyse and comment on the methodology used. We request that this information is made available as a matter of urgency.

Part 2 – Assessment of Appraisal Inputs

5.8. As outlined in Table 5.1, there are a number of assumptions made by BNP Paribas that cause concern. In the following section we have explored a number of these points further and made reference to evidence where appropriate.

Methodology

5.9. Having reviewed the Viability Study prepared by BNP Paribas, we understand that the maximum CIL rates have been determined as follows:

i) BNP Paribas establishes the Benchmark Land Value (BLV) for different site typologies (we discuss this in greater detail under paragraph 5.10).

ii) BNP Paribas has then undertaken residual appraisals for each typology based on generic inputs as outlined in Table 5.1 above to establish a residual land value (RLV). However, we note that the appraisals themselves are not provided – only the results.

iii) Using a fixed land value (the BLV) in each scenario, the BNP Paribas model deducts the BLV from the residual land value (RLV); and

iv) The resulting figure is divided by the total open market floor area (sq m) demonstrating the maximum rate of CIL (£ psm).

5.10. The Consortium has a number of concerns relating to this approach. These are set out in greater detail below.

Benchmark Land Values (BLVs)

5.11. Our key concerns in relation to the BLV assumptions can be summarised as follows:

- **Comparable Evidence** – BNP Paribas have adopted the following benchmark land values (per gross ha):
  - Commercial sites: £1.05 million per ha;
  - Former community sites: £0.5 million per ha;
  - Greenfield (CLG high end of range) - £0.37 million per ha; and
  - Greenfield (CLG lower end of range) - £0.25 million per ha.

- This is taken from the CLG Cumulative impacts of regulations on house builders and landowners Research paper 2011. We have concerns using land values from a research paper in 2011, when the market, and landowners expectation of a competitive return for their land, was significantly depressed compared to the market today. We note that the above BLVs were the same as those applied in the 2013 and 2014 Studies.

- The Savills Development Land Index for Western Greenfield Land shows an increase of 14.67% between March 2011 and June 2016. Therefore the Greenfield values should be increased as a minimum to the following:
  - Greenfield (CLG high end of range) - £424,279 per ha; and
  - Greenfield (CLG lower end of range) - £286,675 per ha.

- However, these values are not based on comparable evidence for the area. Savills has researched a number of option agreements and the minimum price provisions set out within these. These provide a good benchmark for minimum land value for Greenfield land and provide a more robust evidence base than the assumptions used by BNP Paribas. Savills sets out this evidence below:

Table 5.2: Comparable Land Transactions Submitted by Savills

Location	Date	Site Area Net (acres)	Price per NDA	Price per Net Ha
Warwick/Leamington	2015	16	£ 958,125	£ 2,367,527
Warwick/Leamington	2015	25.8	£ 896,512	£ 2,215,281
Warwick/Leamington	2016	29.7	£ 949,158	£ 2,345,369
Warwick/Leamington	2013	Unknown	£ 1,050,000	£ 2,594,550
Warwick/Leamington	2014	Unknown	£ 975,000	£ 2,409,225
Warwick/Leamington	2013	Net 9.64	£ 1,574,000	£ 3,889,354

- The range of prices paid for net hectares are £2.2 million - £3.8 million for transacted sites. Although these are net hectares, we note that if we applied the 67% gross to net ratio for Greenfield sites as applied by BNP Paribas in their Viability Study, this would generate gross land values of £1.47 million - £2.54 million, which is 4 – 5 times the values suggested by BNP Paribas, and based on comparable transactions. It should be noted that Savills has extensive involvement in the local residential development market, which provides us with first hand knowledge of land sales, options and promotion agreements in the Warwick area.

- We also note that the size of site is greater than those tested by BNP Paribas, although not as great as the strategic sites tested.

- **Different Land Values across the District** – There are number of key concerns regarding this approach; firstly the BLVs do not take into consideration the different value areas within the District. By BNP Paribas' own study there are a variety of different value areas across the District. This is supported by the proposal to charge differential CIL rates based on value areas. It is therefore inconsistent to assume a landowner in a higher value area will accept the same land value as a landowner in the lower value area. Thus, the BLV across the District needs to reflect the local economics of different housing markets and land values.

- **Viability Buffer** – It is unclear what, if any, allowance has been made as an appropriate viability buffer within the adopted BLV's. The CIL Guidance highlights the importance of a charging authority recognising the need for an appropriate balance when determining CIL rates:

> "*The authority will need to be able to show why they consider that the proposed levy rate or rates set an appropriate balance…between the need to fund infrastructure and the potential implication for the economic viability of development across their area.*"

- It is therefore important that when setting rates that the Council applies an appropriate viability 'buffer'. We seek clarity on this point. We recommend that a minimum 30% buffer is applied to the BLV. This, in addition to the land index inflation, would result in the following BLV's for Greenfield:
    - Greenfield (CLG high end of range) - £424,279 per ha + 30% = £551,562 per ha; and
    - Greenfield (CLG lower end of range) - £286,675 per ha + 30% = £372,678 PER HA.

- This is still below the comparable evidence that we have put forward, but is more likely to reflect real world expectations than the BLV's currently adopted (and not changed since 2011).

Sales Values

5.12. BNP Paribas have applied a range of residential market values within their Viability Study, which we understand are reflective of the various sub-markets in the District. The below table summarises these from the 2013, 2014 and 2016 studies:

Table 5.3: Sales Values adopted by BNP Paribas

Area	Average Values £ per sq m (£s per sq ft) - 2013	Average Values £ per sq m (£s per sq ft) - 2014	Average Values £ per sq m (£s per sq ft) - 2016
Warwick and East Leamington Spa (Charging Zone A)	£2,307 (£214)	£2,630 (£244)	£3,073 (£285)
Most of Leamington Spa (Charging Zone B)	£2,981 (£277)	£3,398 (£316)	£3,971 (£369)
Kenilworth (Charging Zone C)	£2,691 (£250)	£3,068 (£285)	£3,584 (£333)
Rural areas (Higher Values) (Charging Zone D)	£3,180 (£295)	£3,625 (£337)	£4,236 (£393)
Rural areas (Lower Values) (Charging Zone A)	£2,449 (£228)	£2,792 (£259)	£3,262 (£304)

5.13. The Table shows that there has been a 16% increase in house prices between 2013 and 2014, and a 33% increase from 2013 to 2016. The 2016 Viability Study at para 4.2 states that this has been the increase in values from the Land Registry House Price Index. However, we are concerned as to the source of the original 2013 sales values noting that BNP Paribas state at para 4.2 in their 2013 Study:

We have considered comparable evidence of transacted properties in the area and also properties on the market to establish appropriate values for testing purposes. We have also had regard to the values identified in the Council’s 2011 Affordable Housing Viability Assessment, which broadly accords with the findings [of] our own research. This exercise indicates that developments in the District will attract sales values ranging from circa £214 per sq ft (£2,307 per square metre) to £295 per sq ft (£3,180 per square metre).

5.14. However, we note in the 2011 Affordable Housing Viability Assessment (prepared by DTZ) that the values used in their modelling ranged from £1,399 per sq m (£130 per sq ft) to £3,229 per sq m (£300 per sq ft). There is no further explanation from BNP Paribas as to how they have equated this range to the range used in their 2013 Study, and thus their subsequent studies (as they have been inflated by the Land Registry House Price Index).

5.15. Like any District, sales values on a £ psm basis will vary depending on location, specification, size of the dwelling and the scale of development within which the dwellings sits. However, we have carried out additional high level research into the values used for Zone D – high value rural.

Table 5.4 – High Value Rural Sales Analysis

Area	Average Price Paid (last 12 months)	£ per sq ft	Difference between £ per sq ft and BNP rate
Rowington	£524,533	£237 - £386	2 – 68%
Leek Wootton	£461,708	£330 - £343	15 – 19%
Ashow	£439,333	£349 - £400	0 – 13%
Hunningham	£455,000	£330 - £401	0 – 19%
Cubbington	£305,663	£279 - £337	17 – 41%
Norton Lindsey	£679,750	£312 - £399	0 – 26%
Shrewley	£430,417	£360	9%
Bishop’s Tachbrook	£253,773	£282 - £333	18 – 40%

Source: Zoopla, February 2017

5.16. In Table 5.4 there are some areas that are broadly in line with the values used by BNP Paribas, but in five of the eight areas specifically looked at the BNP Paribas values are 2 – 68% higher. This will have a significant impact on the viability, if the assumptions used in the viability modelling are over inflating sales values that could be achieved, it will artificially suggest that sites are viable.

5.17. There is also a significant danger that using a broad zone based value neglects some of the key differentials in the District. One such example is the area to the South of Coventry, which is classed as Zone D (and thus applicable for the higher rate of £195 per sq m). However, any development in this area is likely to be greatly affected by the Coventry residential housing market rather than the typical “rural” market. The Coventry residential market unlikely to achieve average sales values of £4,236 per sq m (£393 per sq ft). We note that Zoopla (February 2017) suggests that the average sales rate in Coventry is £1,980 - £2,799 per sq m (£184 - £260 per sq ft), which is significantly lower than the average Zone D rate proposed by BNP Paribas. The use of Zone D rates in this particular area is further questioned when the Kenilworth area which borders part of this area attracts a lower value (and thus CIL charge). This suggests that CIL is being used as a policy tool to deter development in this area rather than based on analysis of the likely economic drivers for development.

5.18. Looking at Table 5.3 in detail it is clear that the differences in sales values are the main driver behind the variation in the proposed CIL rates. It is, therefore, interesting to note the average price psm increased by 10% - 16% between the Zone A and Zone C, and 21 – 38% between Zone A and Zones B and D, whilst the proposed CIL rate increases by 100% between Zones A and C and 180% between Zones A, and B and D. In short, sales values in the high area are only 38% higher than the low zone, but the CIL rate is 180% higher.

Affordable Housing Revenue

5.19. Affordable housing is a key component of the CIL viability testing. It is therefore of paramount importance that the affordable housing assumptions are realistic and reflective of current market conditions. With this in mind, we highlight the impact of the 2015 Budget announcements on the affordable housing sector, which can be summarised as follows:

- An absolute rent reduction of 1% per annum on social and affordable rents until 2020;
- A Freeze on Local Housing Allowance (the housing benefit cap);
- A reduction in the benefit cap to £23,000 in London and £20,000 in the rest of the Country, from the current £26,000; and
- The abolition of Housing Benefit for under-21 and the end of Social Rents for Local Authority and Housing Association tenants who earn more than £30,000 (£40,000 in London).

5.20. We are aware that Registered Providers (RPs) are consequently renegotiating Section 106 packages, with a direct impact on land values. These amendments will subsequently have a significant impact on RPs and the valuation of affordable / social rental products in CIL viability work.

5.21. This is again, supported by the letter to Local Authority Leaders and Chief Planning Officers in England, dated 9th November 2015 from Brandon Lewis which urges Local Planning Authorities to respond '*constructively, rapidly and positively*' to requests to renegotiate Section 106 packages. This letter recognises the wider implications of the Budget announcement and the requirement for LPA's to respond positively to affordable housing re-negations to minimise impact on viability.

5.22. The impact of the change in the affordable housing sector will vary depending on the tenure split prescribed by the Local Planning Authority, as only social and affordable rental products are affected; however, we are aware of offers being reduced by £10,000 - £30,000 per plot. WDC's emerging Local Plan requires 80% of the affordable housing provision to be rented and therefore this is likely to have a significant impact.

5.23. For the purpose of viability appraisals these policy requirements will clearly result in a reduction in affordable revenues for developers. However, BNP have not provided detailed explanation as to how they will calculate the rented or intermediate housing. They state at para 4.7 in their 2016 Study that:

> *Registered Providers are expected to set rents for Affordable Rent properties so that they do not exceed 60% of market rents. For modelling purposes, we have adopted a worst case scenario and assumed that all the rented housing is provided at Target Rents, thus ensuring that rents do not exceed those permitted by central government.*

5.24. This raises concerns as to if it is affordable rent or social rent that is being modelled. There has been no information provided as to the assumptions employed, including appropriate rental levels.

5.25. There is further explanation regarding shared ownership units (para 4.9):

For shared ownership units, we have assumed that RPs will sell 40% initial equity stakes and charge a rent of 2.75% on the retained equity, capitalised at 5%.

5.26. However, again we have not been provided with further explanation of the assumptions.

5.27. CIL, Section 106 and Affordable housing is a three way trade off, where if CIL is set at unviable rates, it will be the affordable housing provision, which decreases.

Dwelling Sizes and Density

5.28. We are not aware that a schedule of dwelling sizes has been provided as part of the Viability Study. Further information on this is requested as a matter of urgency as we are not able to comment on if the dwelling sizes modelled are appropriate.

5.29. We also seek clarity on if garages have been included in the sizes modelled. Garages are CIL liable under the definition of GIA, and can have a significant impact on the viability of some sites. An average garage is typically 15 – 18 sqm. This will be an additional £1,050 - £3,510 per unit, which on a site of 100 dwellings (assuming 60% garage provision) could total an additional £63,000 - £210,600. On sites where the viability is currently marginal this will be a significant impact.

5.30. Whilst we welcome the inclusion of a range of densities in the modelling, without detail on the dwelling sizes, we are unable to fully agree with this assumption as the dwelling sizes may not be appropriate for the densities used.

Build Costs

5.31. The approach adopted by BNP Paribas to use BCIS costs does not reflect the range of housebuilders operating in the District. The values quoted ("all-in costs" of £1,369 per sq m for houses and £1,849 per sq m for flats) may be reflective of the rates that can be achieved by national housebuilders, who have access to economies of scale through their wider operations, but neglects the small and medium housebuilders that are likely to deliver schemes of up to 50 units. The smaller schemes (of 50 units or less) consist of over half of the development site typologies analysed by BNP Paribas, and therefore we have concerns that this underestimates a significant cost in those appraisals. They also are often too small to attract the national housebuilders, but appeal to the small and medium housebuilders.

5.32. The small and medium housebuilders typically build to a higher "bespoke" standard than the national housebuilders, and thus the build costs used in the appraisals are likely to be underestimated. By setting the build costs too low, there is a suggestion that WDC is not advocating the highest standards in design. Therefore we would suggest that the build costs are revisited to include small and medium housebuilders who operate in the District. .

5.33. This concern over a reliance on national housebuilder assumptions apply to additional headings including the marketing assumptions, finance rate, and acquisition costs. We strongly suggest that greater consideration is given to the role that small and medium housebuilders will play in the delivery of development sites, particularly in light of Government support for these organisations in the Housing White Paper.

Construction and Sales Timescales

5.34. Construction and sales timescales, in addition to cash flow assumptions within modelling will have a detrimental impact on the apparent viability of a development site, and is of particular relevance to larger Greenfield sites where phasing is relevant.

5.35. It is unclear as to the assumptions regarding construction have been modelled, particularly how these costs have been profiled across the development period. We would typically expect development costs to be profiled as an S Curve, but this has not been stated. Neither has how the Sales would be expected to be received.

5.36. We note that in Figure 4.19.1 of the Viability Study 2016 (Development Programmes), that it would appear that in all of the nine non-strategic sites that have been modelled, the sales period commences in the final quarter of the construction period. We consider this highly unrealistic, particularly on those sites of 25 units plus. Developers will sell units as soon as they are able in order to improve the cash flow of the scheme, and will not wait until the last quarter of construction, which in some cases has been modelled over a 2 year period. We would strongly encourage more commercially realistic timescales to be modelled.

5.37. We also note that any residual s.106 payment (of £1,500 per unit) for non strategic sites would be paid post construction. We would like further clarity as to why this has been suggested.

Externals / Site Works

5.38. The Consortium and Savills disagree with the approach adopted for external works and site works. We accept the use of 15% on build cost for externals with an additional 6% allowance for sustainability requirements (therefore totalling an additional 21% on build cost), but are concerned as to the lack of consideration of site works.

5.39. BNP Paribas state that they have included an additional £12,000 per unit allowance for on-site infrastructure for strategic sites but make no allowance for the non strategic site typologies. These sites will also have on-site infrastructure requirements, and therefore by excluding this cost from the appraisal, there is a danger that this will model costs of development that are artificially low.

5.40. BNP Paribas state that the £12,000 per unit allowance is base on average infrastructure costs on strategic Greenfield sites across the south east (para 4.18, 2016 Viability Study), but have not provided the evidence to support this.

5.41. The Harman Report[22] suggests a range of £17,000 - £23,000 per dwelling is appropriate for large sites. Considering the Harman Report was produced in 2012, we have increased the figures [provided by the BCIS All in Tender Price Index]. By indexing the recommendations within the Harman Report, the updated figures for site work / infrastructure is £21,590 to £29,210 per plot.

5.42. Considering both the levels suggested by the Harman Report and the indexed figures, the remainder for on-site infrastructure works proposed by BNP Paribas seems to be too low.

5.43. In order to provide further justification for an increase in site works, we have sought to obtain information on site works / infrastructure costs from a number of development sites across the region. Our evidence is for sites of 200 units or more and shows a range in infrastructure costs (scheme enabling and abnormal) from £3,232 to £39,879 per plot, providing an overall average of £17,079 per plot. What is of interest is how significantly the infrastructure requirement varies, which is due to site specifics. Due to this variation, it is crucial that the assumption on infrastructure costs is not underestimated as this will have a significant impact on site viability, and if underestimated across the District, housing supply will be severely compromised.

[22] Viability Testing Local Plan (June 2012), Page 44

5.44. We include below our evidence for infrastructure costs.

Table 5.5: Savills Evidence on Infrastructure / Site Works

Number	Region	Local Authority	Affordable	Net: to Gross	£ per unit		
					Scheme Enabling & Abnormals	Scheme Mitigation (S. 106)	Total Site Works
200 - 500 units							
1	YH	East Riding of Yorkshire	25%	68%	£18,112	£808	£18,920
2	NE	Northumberland	30%	66%	£7,824	£2,100	£9,924
3	YH	Barnsley	0%	82%	£15,422	£3,339	£18,761
4	SW	Exeter City Council	53%	82%	£22,302	£6,854	£29,156
5	SW	South Hams District Council	25%	71%	£16,738	£5,225	£21,963
6	NW	Telford & Wrekin	25%	52%	£15,238	£2,865	£18,103
7	NE	North Tyneside	25%	77%	£8,765	£8,888	£17,653
8	NW	Tameside	0%	91%	£3,616	£1,500	£5,116
9	YH	Wakefield	30%	-	£13,827	£7,657	£21,484
10	WM	Wychavon	7%	75%	£25,823	£3,288	£29,111
11	NE	Redcar and Cleveland	15%	73%	£6,170	£4,021	£10,191
12	NW	Cheshire East	16%	87%	£3,232	£2,210	£5,442
13	NW	Telford & Wrekin	15%	84%	£18,264	£7,289	£25,553
14	SE	Basingstoke & Deane	40%	62%	£17,571	£18,606	£36,177
15	NW	Preston City Council	30%	68%	£21,269	£2,398	£23,667
16	EE	Babergh District Council	20%	53%	£30,743	£11,337	£42,080
17	WM	Stafford Borough Council	0%	-	£7,000	£7,190	£14,190
AVERAGE			**21%**	**73%**	**£14,819**	**£5,622**	**£20,441**
501 - 1000 units							
18	SE	Hart District Council	40%	61%	£17,630	£10,213	£27,843
19	SE	Horsham District Council	20%	39%	£30,145	£18,127	£48,272
AVERAGE			**30%**	**50%**	**£23,888**	**£14,170**	**£38,058**
1001 units +							
20	EE	Daventry District Council	15%	56%	£22,163	£14,977	£37,140
21	EE	Peterborough City Council	46%	40%	£18,476	£17,097	£35,573
22	SW	Taunton Deane Borough Council	25%	43%	£39,879	£2,715	£42,594
23	EE	Cambridge City Council	40%	36%	£10,104	£17,741	£27,845
24	SE	Cherwell District Council	30%	33%	£14,628	£16,679	£31,307
25	EE	Chelmsford City Council	27%	42%	£16,645	£28,594	£45,239
26	SE	Winchester City Council	15%	45%	£22,476	£18,844	£41,320
AVERAGE			**28%**	**42%**	**£20,624**	**£16,664**	**£37,288**
AVERAGE (ALL)			**24%**	**62%**	**£17,079**	**£9,252**	**£26,332**

Source: Savills, using data provided by the HBF

5.45. On the basis of the evidence provided and the recommendations contained within the Harman Report, we strongly recommend the appraisals are re-run using an assumption of £20,000 per plot for infrastructure for all sites above 200 units, with additional sensitivity testing at higher costs (as this will be determined on a site by site basis), and that consideration is given to an appropriate figure for on-site infrastructure works for non strategic sites.

Section 106 / 278 Costs

5.46. CIL will not contribute towards on-site 'scheme mitigation' (such as POS, community or highway infrastructure) and hence the only way of accounting for these elements will be through a Section 106/278 obligation or contribution, or via a planning condition.

5.47. BNP Paribas has allowed £1,500 per dwelling (£15 psm assuming 100 sq m dwellings) for non strategic sites and £13,000 per dwelling (£130 psm assuming 100 sq m dwellings) for strategic sites. No breakdown of what this is likely to include has been provided.

5.48. It is acknowledged that the level of site specific mitigation Section 106 will vary considerably between sites; however, it is our opinion that the lower threshold of £1,500 per dwelling for s106 and s278 works is too low, and there is a lack of evidence, particularly when combined with no Regulation 123 List to suggest a figure this low.

5.49. It would be normal practice for just Section 106 contributions to be anticipated at over £10,000 per plot for sites above 200 units, where the scale of development can result in significant on site mitigation (i.e. primary school provision). The information provided in Table 5.5 demonstrates that the average s.106 for schemes ranges from £808 - £28,594.

5.50. As an example, the provision of a primary school on site can be between £6 - £7.5 million (depending on the number of forms). For a scheme of 500 units, this equates to £12,000 - £15,000 per dwelling. Thus the allowance of £13,000 per dwelling for ***all*** s.106 and residual s.278 items (not just primary school provision) seems to be a significant underestimate.

5.51. We would recommend that the appraisals are re-run with higher s.106 / s.278 contributions to reflect the likely situation.

Planning Promotion Costs

5.52. Promotion costs are incurred when a development site is promoted through the Local Plan and Planning system. How these costs are recovered will depend on a site by site basis, however, they are a cost of development which is deducted from the residual land value. The cost of promoting a site through the planning process can be considerable, especially with the larger strategic urban extensions. The Viability Study does not seem to recognise or allow for these costs.

5.53. In this hypothetical situation, the market value is the residual land value (RLV), and therefore any deduction from the RLV needs to be factored into the viability appraisals with the other development costs which are incurred through the development process. By way of an example, promotion costs on one of our clients' strategic sites in a neighbouring District are over £700 per dwelling to date, without having achieved a planning permission. This is therefore a significant cost and cannot be ignored. A cost for promotion should be added to all strategic sites.

Stamp Duty

5.54. The current assumption is 5% for Stamp Duty. However, this is not the prevailing HMRC rate, which is set out below:

Table 5.6 – HMRC Stamp Duty (Feb, 2017)

Property or lease premium or transfer value	SDLT rate
Up to £150,000	Zero
The next £100,000 (the portion from £150,001 to £250,000)	2%
The remaining amount (the portion above £250,000)	5%

5.55. By only applying a 5% rate, this is underestimating the level of Stamp Duty that will be applied to the appraisals. .

Gross to Net Developable

5.56. We note that BNP Paribas have applied a 67% gross to net ratio for Greenfield and 100% gross to net ratio for urban sites. The strategic sites have been run with a 50% gross to net ratio.

5.57. Table 5.5 suggests that 67% for sites under 100 units is too low, as our average gross to net for sites up to 500 units suggests that a rate of 73% would be more appropriate.

5.58. We request that BNP Paribas provide their evidence to support their choice of gross to net ratio.

Sales and Marketing

5.59. We request evidence as to why a 3% rate has been used, when we consider this too low, and would typically use 4%.

Contingency

5.60. We agree a 5% contingency, but are unsure what this has been applied to without the workings of the viability models. We would expect this to be applied to build costs and external works, but require further clarification.

Professional Fees

5.61. As above with contingency, we require clarification as to what the professional fees have been applied to.

Developer Profit

5.62. The NPPF states that to ensure viability, developments should provide competitive returns to a willing land owner and willing developer. A competitive return to a developer is one that provides a sufficient return for the developer to continue a successful business through the economic cycle, taking account of the risk profile of the business. We are pleased to see in the Viability Study that a minimum of 20% of private GDV is used. However, we do stress that this is at the lower end of the scale used in the market. We also disagree with the use of a differential profit figure for the private and affordable housing, as a blended rate is more appropriate in the current market (particularly with increase market risk for Registered Providers).

5.63. We have attached a report on Competitive Developer Return **(Appendix 2),** which provides evidence on the minimum profit margins required by Plc housebuilders. The key focus is the distinction between gross (site level) margin and net operating margin. A point discussed in the Harman Report, which suggests that "Overheads for house-building typically lie in the range of 5%-10% of gross development value". This is particularly relevant for large Greenfield sites and regeneration areas, where large up-front costs have an impact on a developer's required Return on Capital Employed (ROCE), as a higher margin is required to reflect the higher risk.

5.64. Taking this in to account, we would therefore ask that a further profit level of 25% on GDV (blended) plus 25% ROCE across all tenures, subject to consideration of the risk profile of the scheme, is adopted as part of future sensitivity testing.

Interpretation of Results – BNP Paribas

5.65. Savills are concerned by the number of assumptions made by BNP Paribas that have artificially lowered development costs, raised sales values and set BLVs at lower than commercially realistic values. We would strongly suggest the appraisals are re-run with these realistic assumptions so that accurate conclusions can be drawn regarding the viability of sites able to support development.

5.66. Our comments below reflect the findings that have been presented to us based on the assumptions used by BNP Paribas. These comments do not imply that we agree with the maximum CIL rates or assumptions outlined above. To the contrary, we strongly recommend the amendments as outlined in this section of our representation to correct assess the impact of the proposed CIL rates on the anticipated housing supply in the District.

5.67. In para 6.18 of the 2016 Viability Study BNP Paribas state that:

"Our appraisals indicate that smaller sites below the affordable housing threshold are viable with high levels of CIL against the relevant benchmark land values".

5.68. This statement is alarming, as it suggests that CIL can only be achieved at high levels without a policy compliant affordable housing threshold. This is contrary to National Guidance (PPG, Reference 25-010-20140612) and conclusions from Planning Inspectors at Examination (see section 3).

5.69. The results from the modelling (as we have only been provided with the results, not the working appraisals) shown at Appendix 3 of the 2016 Viability Study, demonstrate that no Warwick sites are able to support CIL with 40% affordable housing, and few lower value rural sites are viable with 40% affordable housing. Yet, the CIL rates for these Zones are set at £70 per sq m. Even at 30% affordable housing, using BNP Paribas' own results, this suggests that CIL would still not be viable for some site typologies. It is only at 20% affordable housing that a CIL range of £60 - £280 per sq m can be achieved. By setting a CIL rate that is shown to be significantly unviable at policy compliant affordable housing, there is a danger that this will deter development from being able to take place in these areas. This is contrary to national policy and guidance, and therefore we suggest that CIL is reduced to £0 in Zone A.

5.70. A similar approach is taken by BNP Paribas for schemes in the Kenilworth area (Zone C), where they state in para 6.20:

"To ensure an optimum balance between maximising affordable housing and infrastructure requirements, we consider that the maximum CIL level is in the region of £180 to £200 per square metre. At this level of CIL, most scheme types can provide 30% affordable housing".

5.71. This raises the aforementioned concern, that at policy level of affordable housing, schemes will not be viable. It suggests, as the results conclude, that under a policy compliant level of affordable housing, sites would be marginal in terms of viability, and therefore may not come forward for development.

5.72. It is clear from this, that even with lower costs, higher sales values and unrealistic BLVs, that the proposed level of CIL on policy compliant affordable housing schemes in two of the zones is not viable. As we have stated in section 3, this is against National Policy and Guidance regarding the setting of CIL, and we strongly urge WDC to not adopt CIL at the proposed rate until further viability work is carried out in order to ensure that the delivery of housing in the District is not prevented.

5.73. We also note that under the strategic sites, that the only sites that are considered viable are those in Zone D (higher value rural) under the BNP results. However, a rate of £25 - £55 per sq m is proposed for Areas B – D. Given our previously raised concerns regarding the BLVs, and our wider concerns regarding undervalued assumptions, we consider that further work needs to be carried out in order to provide justification as to this.

5.74. This is particularly highlighted in relation to on site strategic costs, where BNP Paribas have adopted £12,000 per plot, whereas our evidence suggests it should be £20,000 per plot. Whilst on a per plot basis this is a £8,000 difference, on a scheme of 300 units this amounts to c. £2.4 million, which will affect the residual land value. Without the appraisals as evidence we are unable to establish the extent of this, and thus we strongly recommend that strategic sites are rated as £0 per sq m in order to ensure their delivery.

Sensitivity Analysis

5.75. We note that the only sensitivity analysis has been on the level of affordable housing. There has not been any modelling of potential changes in market movements. If the market changes, for example house price growth halters but build cost inflation increases, it is highly likely that schemes will become unviable quickly and the CIL would need to be reviewed as a matter of urgency. In addition, to revisiting the assumptions previously outlined, we urge BNP to carry out robust sensitivity testing of their appraisals.

Conclusions - Part 2

5.76. In providing our review of the Viability Study provided by WDC, and their consultants BNP Paribas, we have determined the following key conclusions (this list is not exhaustive):

- **The BLV is not based on market transactions**. Savills has provided evidence within the representation of likely minimum prices which are in current option agreements. It is our opinion this provides appropriate evidence to base the BLV. We strongly recommend the BLV are increased inline with this evidence, as figures from 2011 have been used (and not updated).

- **The proposed CIL rates are significantly out of kilter with the average values in the each area**. The difference between the low and high proposed CIL rate is 180%, however average sales values only increase by 38%. It appears the CIL rates do not reflect the current market and it could be argued the highest rate is being used as a policy tool to restrict development in areas.

- **There is a lack of up to date evidence for sales values.** The sales values have been increased by the Land Registry House Price Index since 2013. However, we have been unable to find this original evidence, and suggest it is inappropriate to just increase this by an index figure, and that a greater review should be carried out into the current housing market in the area.

- **The allowance for site works is lower than guidance set out in the Harman Report and Savills' appropriate evidence from developments across the Country**. We recommend the allowance for site works is separated from external works and is increased to £20,000 per plot minimum. For larger schemes, it could be argued the allowance should be higher. Unless this work is carried out, we recommend that strategic sites are set at £0 rate in order to ensure that they are able to come forward for development, and do not have their viability compromised.

- **The appraisal results provided at Appendix 3 of the 2016 Viability Study have a number of inaccuracies and draw misleading conclusions.** We strongly recommend these are clarified and re-run adopting more realistic assumptions. It is also a major concern that despite the results showing that CIL can not be supported under policy compliant affordable housing in key locations, that BNP Paribas and WDC have chosen to set CIL at £70 and £140 per sq m.

- **Over-reliance on national housebuilder assumptions** – A number of the assumptions are only appropriate for national housebuilders, whereas over half of the sites analysed by BNP Paribas are for schemes of 50 units or less. These sites are more likely to appeal to the small to medium housebuilders that are unable to achieve the same build costs (and other costs) as the national housebuilders. We also note that there is strong support from Central Government for encouraging small and medium housebuilders, and they should not be excluded from the analysis.

5.77. In light of this, we strongly recommend BNP Paribas revisits their viability study based on the evidence provided within this representation, and provide the full working appraisals so that we can fully sense check the assumptions.

6. Effective Operation of CIL

CIL Operation

6.1 Despite the narrow scope of the Examination, we urge WDC to make clear at the earliest opportunity, the supporting documentation needed to operate CIL and to make it available for consultation, particularly the Regulation 123 List.

6.2 Practically, this needs to be done as soon as possible, so that participants and stakeholders are able to comment on the effective operation of CIL. Whilst this supporting information is not tested at Examination, this information is critical to allow for the successful implementation of CIL and to demonstrate that the CIL has been prepared positively and supports sustainable development.

6.3 In addition to the Regulation 123 list, the documentation should include:

- Guidance on how to calculate the relevant chargeable development/level of CIL
- Guidance on liability to pay CIL/Appeals process
- Policy for payments by instalments
- Approach to payments in kind
- Guidance on relief from CIL and a policy on exceptional circumstances for relief from CIL

6.4 The DCS touches on some of these points in the commentary text. A further comment on a selection of these points is provided in this section.

Discretionary and Exceptional Circumstances Relief

6.5 We welcome the decision by WDC to consider the case for exceptional relief on a case by case basis in line with Policy DM2 of the emerging Local Plan.

Instalments Policy

6.6 We note that WDC state that they are prepared to accept payment of CIL in instalments (depending in the total amount of the liability). WDC state that details of the instalments policy will be determined prior to adoption of CIL.

6.7 However, we note in the modelling work undertaken by BNP Paribas that they have modelled instalment policies of 3 payments (as shown in Figure 4.19.1) for all sites regardless of size. We request further clarity as to the extent this reflects current WDC policy, as if in some of the cases there will only be one instalment, this may adversely affect the residual land value, which will impact on the viability of the schemes, and thus the proposed CIL rates to be charged. As we have not seen the individual appraisals, and thus the workings of BNP Paribas, we are unable to see if this is reflected in the current modelling work.

Payment in Kind

6.8 WDC state that they will consider Payment "in Kind" for CIL rather than direct financial payments, to be discussed on a case by case basis and will only be accepted where the value "in Kind" can be demonstrated to match or exceed the value of the financial payment that would otherwise be made (para 6.4).

6.9 The CIL Regulations does now allow for Payment in Kind through the provision of infrastructure. However, there remain notable deficiencies in the operation of CIL, caused primarily by the CIL Regulations, which places WDC and the development industry in a difficult position.

6.10 The scope to reduce the CIL liability via utilisation of Payment in Kind is therefore restricted to those items of infrastructure which are not required to mitigate the impact of a development. Payment in Kind is therefore not a credible option, which further emphasises the need to ensure that the Regulation 123 List to be published and to ensure that it does not include any items of infrastructure intended to be delivered through Section 106 agreements on strategic sites.

Reviewing CIL

6.11 The CIL Guidance states that charging authorities 'must keep their Charging Schedules under review'[23] to ensure that CIL is fulfilling its aim and responds to market conditions. The Consortium therefore requests that regular monitoring is undertaken by WDC to ensure that any detrimental impact of CIL on housing delivery is noticed promptly and remedied. A review period of between 2-3 years from adoption, or sooner if there is a substantive change in market conditions or Central Government policy, should be publicly committed to by WDC.

[23] Viability Testing Local Plan (June 2012), Page 44

7. Conclusion

This representation has been prepared by Savills on behalf of a Landowner and Developer Consortium, which has significant interests in the District.

The Consortium's concerns relate to a number of assumptions used in the viability assessment, and also the overall approach to viability by WDC's appointed consultant BNP Paribas. Whilst some of the inputs used by BNP Paribas are reasonable, a number of the fundamental assumptions are challenged, including Benchmark Land Values, infrastructure costs, Section 106 assumptions, developers profit and Stamp Duty Land Tax. We also have concerns that the open market sales values have not been updated in a robust manner since the previous reports, which as the sales values were from 2013, we would strongly suggest that this is done as a matter of urgency. Further clarification is sought on fundamental assumptions including dwelling size and affordable housing values.

The evidence provided in these representations clearly demonstrates the shortcomings in the viability evidence which we consider will impact upon the proposed CIL residential rate of all rates. For the reasons outlined, we believe the proposed rates are unviable and will considerably impact on Warwick's housing delivery.

Our fundamental concerns with the approach proposed by BNP Paribas and WDC are as follows:

- **Lack of working appraisals** – without the appraisal summaries, we are unable to sense-check these against market norms. BNP Paribas have provided assumptions, but these are not sufficiently robust or extensive for us to run our own models. We request as a matter of urgency that these are provided for public consultation.

- **Benchmark Land Values are not reflective of current market expectations** – we understand that the data from the previous BNP Paribas Viability Studies (2013 and 2014) has not been updated. These values date from 2011, and it is inappropriate to suggest that these are reflective of current market expectations for land values. Land values that are too low will artificially suggest that sites are viable when in reality landowners will not release land if they do not achieve a competitive return for their land.

- **Typologies of sites assessed** - the Consortium is concerned that there have been no sites assessed between 100 and 319 units. Of the five strategic sites analysed (of over 319 units), one of those sites has a planning consent, and therefore will not be liable for CIL. We note that the emerging Warwick District Local Plan proposes the allocation of a number of sites for between 100 and 319 units. The typologies selected to be assessed for viability must "reflect a selection of the different types of sites included in the relevant Plan", as per the CIL Guidance.

- **Proposed rates inconsistent with the viability evidence** – The viability evidence does not appear to support the DCS rates, and further the proposed CIL rates appear to be unreflective of the local market fundamentals. For example, the sales values in the high area are only 38% higher than the low zone, but the CIL rate is 180% higher suggesting that CIL is being used as a policy tool.

- **Rates proposed in Zones A and C are not compatible with policy levels of affordable housing** – The results from BNP Paribas suggest that sites in Zones A and C are unable to support CIL and 40% affordable housing. Despite this, they suggest that a CIL rate is set. This is contrary to National Policy and Guidance, which states that CIL should be set at a level that supports policy compliant affordable housing.

- **Rates are out of line with surrounding authorities –** it is proposed that CIL in the District is charged between £70 - £195 per sqm. The top range is significantly above the surrounding Local Authorities' rates, which typically fall between £100 and £150 per sq m. This may act as a barrier to development in the District, as developers chose to locate on sites outside of the District where there are lower costs.

- **Over-reliance on national housebuilder assumptions** – A number of the assumptions are only appropriate for national housebuilders, whereas over half of the sites analysed by BNP Paribas are for schemes of 50 units or less. These sites are more likely to appeal to the small to medium housebuilders that are unable to achieve the same build costs (and other costs) as the national housebuilders. We also note that there is strong support from Central Government for encouraging small and medium housebuilders, and they should not be excluded from the analysis.

We strongly reiterate our request for BNP Paribas to provide evidence on the aspects highlighted in Section 5 of this representation.

We welcome the Council's choice to employ discretionary relief on sites, on a case by case basis.

The Consortium strongly urges WDC and the appointed viability consultants BNP Paribas to review the viability evidence and CIL Charging Schedule in light of our comments. We believe there are grounds to amend the Charging Schedule to reflect the situation. **We are open to a meeting to discuss the detail so that we may all understand the relevant viability inputs and approach.**

Appendices

Appendix 1.0
List of Documentation

Appendix 1 - List of Documentation

General

Community Infrastructure Levy Guidance, DCLG (2014), Planning Practice Guidance Website
Community Infrastructure Levy Regulation (2010) (as amended)
National Planning Policy Framework, DCLG (March 2012)
Planning Act (2208) (as amended)
Viability Testing Local Plans – Advice for Planning Practitioners, Local Housing Delivery Group Chaired by Sir John Harman (June 2012)
Financial Viability in Planning, RICS (2012)
CIL – Getting it Right, Savills (UK) Ltd (January 2014)
Developer Profit, Savills (UK) Ltd (October 2014)
Developer Profit, Savills (UK) Ltd (October 2016)

Warwick District Council

Warwick District Preliminary Draft CIL Charging Schedule (June 2013)
Warwick District Draft CIL Charging Schedule (January 2015)
Warwick District 5-Year Housing Land Supply Update (March 2016)
Warwick District Infrastructure Delivery Plan (June 2016)
Warwick District Strategic Housing Land Availability Assessment 2016 Update (March 2016)
Warwick District Local Plan Submission Version incorporating proposed changes (January 2015)

BNP Paribas (on behalf of Warwick District Council)

Community Infrastructure Levy: Viability Study Final Report (June 2013)
Community Infrastructure Levy – Viability Assessment – Update Addendum Report (November 2014)
Community Infrastructure Levy: Viability Study (2016 update) (November 2016)

Appendix 2 – Developer Profit

October 2016

Residential Development Margin

Competitive Return to a Willing Developer

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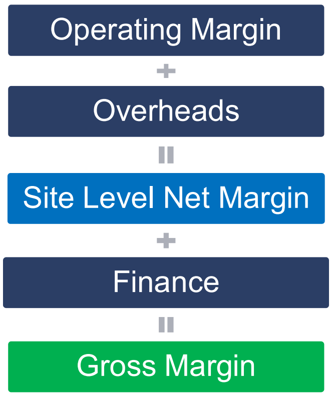
Executive Summary

The level of return required by a willing developer needs to have regard to the scale and complexity of the project in question, its cash efficiency, the scale of investment required and the embedded sales risk. Returns need to be set at a level which supports existing business models, stimulates new entrants into the housing market and which do not act as a barrier to entry to smaller less efficient companies. With no new entrants of scale into the housing market over the last 10 years, and SME's in perpetual decline, the evidence would suggest that current returns are not adequate for the risks involved.

In all cases developer margin is essentially split into three components with Net Operating Margin, overheads and finance needing to be considered in order to derive a gross hurdle rate. This is more easily explained as follows:

Figure 1 – Understanding Gross Margins



Operating Margin

+

Overheads

=

Site Level Net Margin

+

Finance

=

Gross Margin

Source: Savills

Establishing the correct Site Level Net Margin for incorporation into residual land value calculations used during development viability discussions is key to ensuring the continuation of a robust and sustainable residential development industry.

Our analysis indicates that Operating Margin targets for housebuilders across the economic cycle are 15-20% on Gross Development Value (GDV). Overheads vary significantly (5% - 12%) depending on the scale and type of developer. For the purpose of our analysis we have used an average of 8% on GDV and, after adjusting for site specific finance the resultant suggests a Site Level Net Margin target of 20 – 25% of GDV. It should be noted that this does not take account of any exceptional items or planning costs associated with the promotion of strategic sites. Similarly it does not take in to account the cost of securing and promoting unsuccessful sites, which developers have to cover centrally. This figure could subsequently be higher for certain types and scale of development, such as high capital projects in London and provincial City Centres.

Also, in most cases, Return on Capital Employed (ROCE) is considered to be an equally important indicator, particularly on large capital intensive schemes. A target ROCE needs to be achieved alongside the Site Level Net Margin of 20-25% on GDV. This means that the minimum KPIs used within viability testing (the hurdle rates) should be a Site Level Net Margin of 20% - 25% on GDV, blended across all tenures, subject to also achieving a minimum site level hurdle rate of 25% Return on Capital Employed (ROCE).

Introduction

The Savills Community Infrastructure Levy (CIL) team has a national mandate from the Home Builders Federation (HBF) to prepare CIL representations, attend Examination Hearings and offer CIL consultancy advice across the country. Savills is the only consultancy firm to have a team of this scale solely focused on CIL advice; making the CIL team a market leader.

The CIL team has been involved with all stages of the CIL process (both pre- and post-implementation) offering advice to landowners, housebuilders, developers and local authorities. Since its inception, the CIL team has submitted over 250 separate representations and formed over 100 local housebuilder and developer consortiums.

We are therefore well placed to observe trends in the emerging viability work and subsequent CIL examinations.

Purpose

The purpose of this Briefing Note is to present evidence of what represents a competitive return to a willing developer, taking account of the Government's policy priority to stimulate new entrants into the housing market, support the SME sector and to build one million homes during the course of this Parliament.

Please note that this report is based on research and publically available date compiled in the period January - June 2016.

Jim Ward

Director

Residential Research

Lizzie Cullum

Associate Director

Residential Capital Markets

Definitions

The following definitions will be referred to throughout the report:

Description	Calculation	Target Percentages
Gross Development Value (GDV)	= Total Development Receipts (Turnover)	n/a
Operating Profit (£)	= Turnover less All Development Costs (Excl. Cost of Debt) - Overheads	n/a
Operating Margin	= Operating Profit (as a % of GDV)	15% to 20%
Gross Profit (£)	= Operating Profit + Overheads	n/a
Gross Margin	= Gross Profit (as a % of GDV)	23% to 28%
Site Level Net Margin (% of GDV)	= Minimum profit margin, or hurdle rate, required to allow the development to commence[1]	20% to 25%
Return on Capital Employed (ROCE)	= Site Level Net Margin divided by annualised cumulative funds employed (including overheads)	Min. 25%
Overhead (%)	The level of overhead required by a home builder (of any size) to undertake residential development (*NB: In addition to normal overheads many housing developers include the cost of directly employing design managers, buyers and surveyors within their cost of overheads*).	5% to 12%

[1] It should be noted that this figure excludes finance costs. For the purpose of CIL and viability testing, industry practice is to use ARGUS Developer or similar modelling tools that include a developer margin separately to the finance rate. For the purpose of our analysis, we therefore make recommendations in relation to the net site margins as finance will be charged in addition.

Development Margin

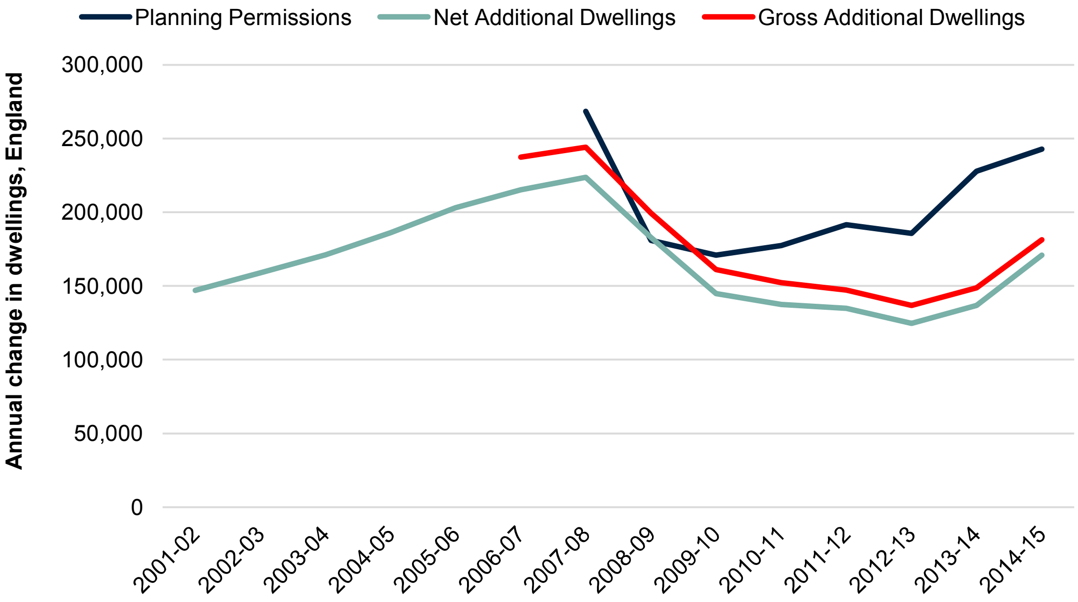
Policy Background

1.1 The NPPF states that to ensure viability developments should provide competitive returns to a willing land owner and willing developer[2].

1.2 A competitive return to a developer is one that provides a sufficient return for the developer to continue a successful and resilient business through the economic cycle; taking account of the risk profile of the business and its development programme, within the current policy environment.

1.3 A key policy priority of the Government is to build one million additional homes during the course of this Parliament. This is an ambitious target that will require further investment and expansion of output across all developers currently in the market, compared with the 180,000 gross additional homes that were delivered in 2014-15 (Figure 2). Expansion of output by Small and Medium-sized Enterprises (SMEs), including new entrants, is an essential part of the route to building one million homes. The steep decline in output from SMEs since the 2008-09 downturn is still holding back housebuilding, as shown in Figure 4.

Figure 2 – Housebuilding and planning permissions in England



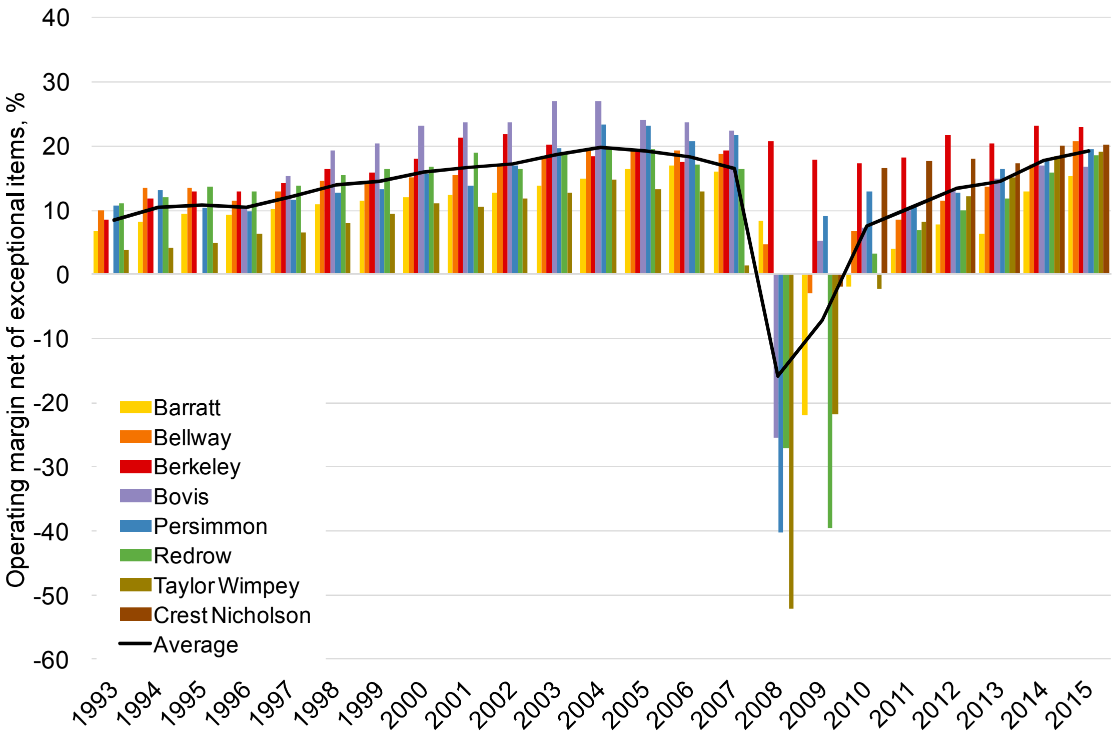
Source: DCLG, Glenigan (Please note that the total planning permissions figure includes those applications submitted by non-housebuilders (i.e. land promoters, Local Authority).

[2] *NPPF, Communities and Local Government. Para 173. March 2012*

1.4 Expansion will require additional financial investment. A necessary condition of the financial investment required across both new entrants and existing developers is that developer margins and the return on capital employed are seen by those in the capital markets as being sufficiently robust and sustainable to justify that investment. In the case of quoted national housebuilders their finance is secured at a corporate level via capital markets. This enables them to secure competitive rates, as the majority of their business is undertaken by way of equity rather than debt. In contrast, SMEs secure finance on a project-by-project basis from third parties lenders at much higher rates (8-14%).

1.5 The most readily available market evidence of a competitive return is the return achieved for the shareholders of the quoted Plc housebuilders, noting that the Top 14 House Builders accounted for 59% of new home starts in Great Britain in 2015[3]. The Operating Margins (based on Earnings or Profit before Interest and Tax) of the Plc housebuilders are shown in Figure 3 below.

Figure 3 – Operating Margins of major housebuilders 1993 – 2015



Source: Thomson Reuters

1.6 It should be noted that the analysis above refers to blended margins across the business, including:

- All types, size and risk profile of site;

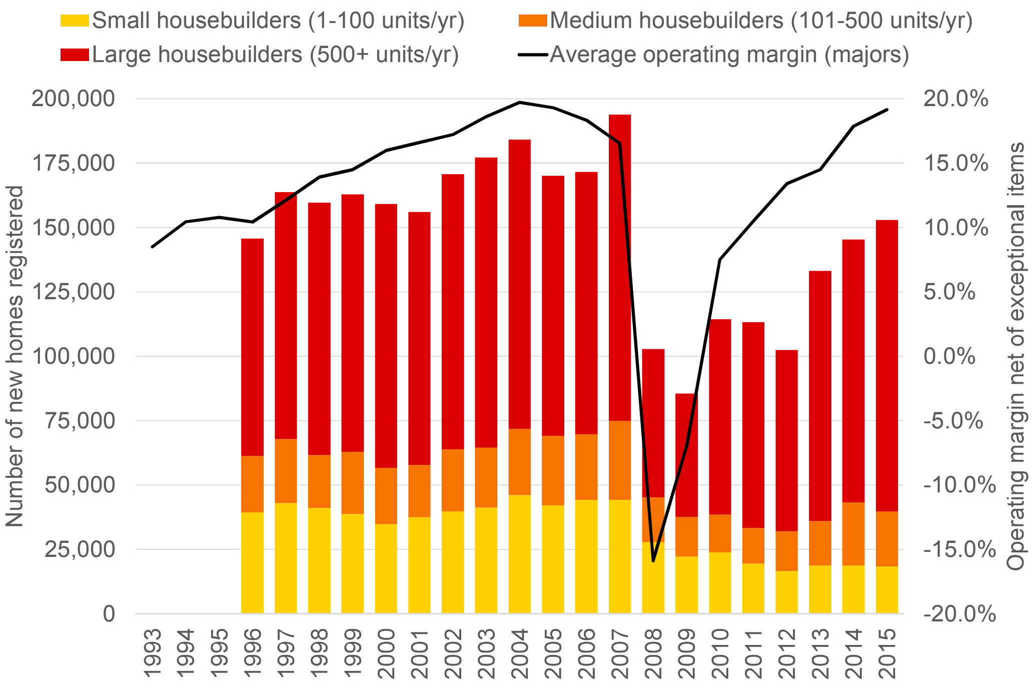
[3] *NHBC registrations as published in Housing Market Report, January 2016*

- All tenures of housing, including market sale, market rent and affordable;
- The costs of securing and promoting unsuccessful sites; and
- Overheads.

1.7 A number of viability consultants argue that a different developer margin should be applied to private and affordable housing. However, it is increasingly common for developers to purchase land prior to securing an offer from Registered Providers who are subject to more market risk from the current affordable housing regime than in previous systems of funding. It should also be highlighted that even when a Registered Provider has been secured on a site, the developer is open to risk from planning, ground conditions, delays and abnormals. Developers will therefore review a site as a whole, adopting a blended development margin to reflect the risk of the project in its totality.

1.8 Since the economic downturn, the average level of Operating Margin achieved has been building back to 15% to 20% which was achieved during the 2000 to 2007 period, when sector output was approaching and then exceeding 200,000 additional homes per annum (Figure 4 and Figure 2). Only if margins are maintained at these percentages will the required levels of investment in housebuilding be made, enabling significant investment in new entrants and reinvestment amongst existing developers. The margin needs to be sufficiently high to protect, or at least cushion, investors from such downturn risks as evidenced during the 2008-2009 downturn.

Figure 4 – Registrations by size of housebuilder compared to margin levels



Source: Thomson Reuters and NHBC (NB: These reported figures are after the cost of Overheads has been deducted)

1.9 With the number of new entrants and SMEs in serious decline (as highlighted in Figure 4), this analysis highlights that existing and historic margins have been insufficient to stimulate a broader range of operators into the market. In order for the Government's targets to increase housing supply and SME operators to be realised, the level of competitive returns secured needs to be reflective of the risk and lending requirements of this key part of the sector.

Providers of Finance & Capital

1.10 Shareholders in the quoted housebuilders are principally institutional investors - pension funds, insurance companies and private equity funds. They have a wide range of companies and sectors to choose from, including retail, house building, mining, transport, energy and telecommunications, all with different risk and return profiles. If shareholders' hurdle rates are not achieved then they will invest in other sectors, reducing the development capacity of the house building sector.

1.11 In the case of SMEs the profile of their finance providers is different. Given the varying covenant strength of these companies (compared to national housebuilders) the requirements of lenders for development funding are much stricter. SMEs will therefore be required to demonstrate sufficient site level margins to cover the additional risk implied by their respective covenant strength. Acknowledgment of the additional overheads and finance costs incurred by SMEs needs, therefore, to be recognised.

Market Trends

1.12 The key measures are Site Level Net Margin and ROCE associated with a cashflow that is deliverable from a funder's perspective. For a development to be viable, all of these measures need to meet acceptable target levels.

Gross vs. Net Margins

1.13 As illustrated in Figure 1, it is important to distinguish between site level margins and the Operating Margin reported in house builder accounts. This is discussed in the Harman Report, which suggests that:

"*Overheads for house-building typically lie in the range of 5% - 10% of gross development value, with only the very largest developers operating near the lower end of the scale*"[4] (emphasis added)

1.14 JP Morgan's analysis[5] of Plc housebuilder performance for the financial years 2012 and 2013 indicates that the average overheads of the quoted housebuilders (the difference between Gross Margin and Earnings Before Interest and Tax) were 6.4% and 6.0% of revenue respectively, averaging 6.2%. However, it should be highlighted that SMEs are subject to higher overheads, within the range of 5-12% of GDV. This suggests that an average of 8% for overheads is more appropriate, which when applied to a

[4] *Viability Testing Local Plans, Chaired by Sir John Harman, June 2012*
[5] *UK Housebuilding, Europe Equity Research. J.P. Morgan. September 2013*

target Operating Margin range of 15% to 20% of revenue derives, at a corporate level, a Gross Margin of 23% to 28% of GDV.

1.15 In viability testing, if delivery is not to be constrained, operating margins should be set at a level which facilitates developers of all shapes and sizes; as opposed to a level which relies upon the efficiencies of scale achieved solely by the larger developers.

1.16 Both Operating Margin and Gross Margin are quoted before deduction of the cost of paying interest on debt, which at a corporate level has averaged 3-5% of GDV in recent years. Therefore the hurdle rate for Site Level Net Margin for larger housebuilders is 20-25% of GDV. For SMEs the hurdle rate will be higher (in the region of 25-30%) to reflect their higher project finance costs.

1.17 This is the basis of the developer margin hurdle rate that is applicable to site level development appraisals calculating the Residual Land Value (RLV), in which the cost of debt is included separately[6].

1.18 Around this average, there will be a range of site specific development risks and therefore a range of site level hurdle rates for developer margin. For example:

- Smaller, lower density, less constrained sites are inherently less capital intensive and represent a lower delivery risk than costlier larger sites and higher density sites. It therefore follows that smaller, lower density site’s hurdle rate will be below the corporate average. Although it should be noted that sales risk and delivery risk are inherently different. For example, a small site with low delivery risk can still represent a higher risk to the developer if in a high value location above the Help to Buy thresholds. In this case the site will require a higher hurdle rate to reflect the increased sales risk.

- In contrast, larger complex sites requiring up-front infrastructure delivery and protracted timescales will be above the corporate level average. This is particularly relevant for brownfield sites where the extent of abnormal costs (ground conditions and remediation) is largely unknown at the outset. Furthermore, on large sites there is significantly more sales risk, as there is greater uncertainty about the strength of market conditions over the life of the development, which is likely to include a market downturn. Such uncertainty both in terms of cost and timings increases the risk profile and therefore the hurdle rate required.

- The variance in sales rate also needs to be considered, with the relative strength of the market reflected in the risk profile of a site. It therefore follows that larger sites in weaker or over-supplied markets reflect a greater risk and subsequently require a higher hurdle rate than similar sites in stronger markets. Similarly, larger projects pose a greater sales risk as they are likely to be developed across a property cycle introducing more uncertainty.

[6] *Refer to footnote 1*

1.19 The above is particularly relevant for large-scale development and regeneration areas, where large up-front costs hamper the developer's ability to achieve the required ROCE, such that a higher margin is necessary to reflect the additional risk. In these instances, ROCE becomes the primary hurdle rate as highlighted by the Harman Report:

"Developments of large flatted blocks on previously used land in urban areas with high cash requirements will demand significantly higher levels of profit to achieve an acceptable ROCE than developments of a more standard, less cash intensive nature on virgin ground. Likewise, projects with significant up-front infrastructure may also require higher levels of profit to generate an acceptable ROCE."[7]

1.20 The requirements for those investing in the sector will subsequently be a minimum hurdle rate of 25%. Although it is worth highlighting that our analysis is based on typical hurdle rates on sites across the Country. It does not therefore reflect the additional cost and risk associated with delivering sites in London. In this instance, different investment requirements may be sought, reflecting significantly higher minimum hurdle rates.

Appeal Precedent

1.21 For the reasons outlined above, development margin is a key point in viability discussions and will vary depending on a number of factors. This point has been acknowledged by a number of Inspectors at appeals, including the following:

Land at The Manor, Shinfield, Reading[8]

"The appellants supported their calculations by providing letters and emails from six national housebuilders who set out their net profit margin targets for residential developments. The figures ranged from a minimum of 17% to 28%, with the usual target being in the range 20-25%. Those that differentiated between market and affordable housing in their correspondence did not set different profit margins. Due to the level and nature of the supporting evidence, I give it great weight. I conclude that the national housebuilders' figures are to be preferred and that a figure of 20% of GDV, which is at the lower end of the range, is reasonable."[9]

Land at Lowfield Road, Rotherham[10]

"The Council's approach, set out in the DVs report, is that a profit of around 17.5% is reasonable for a scheme of this nature, which equates (on a 'blended basis') to 16.47% on revenue. The DV has provided evidence to support this view, based on a range of sites – identified only in general terms.

The return to a developer is inevitably going to vary considerably between one development and another, and will properly reflect the risk of a specific project. Reference has been made to a number of appeal

[7] *Ibid. p46*

[8] *Ref: APP/X0360/A/12/2179141 – dated 8th January 2013*

[9] *Paragraph 44*

[10] *Ref: APP/R4408/Q/14/2216976 – dated 9th September 2014*

decisions where varying levels of developer profit have been accepted. However these other decisions are of limited value, as much will depend on the individual circumstances of the particular site and development.

There are various 'rules of thumb' which are quoted when discussing developer profit, and these generally vary between 15% and 25%. However, in general, it is reasonable to assume that on more marginal sites, profit expectations would be higher. In this case, the developer has been very clear about the slow sales and the reasons why the site has not been mothballed, as it otherwise might have been. This background tends to support a figure in the upper part of the 'normal' range.

In this case, recognising the approach of this appellant to the use of in-house professional expertise, the appellant's proposed level of developer profit shown in the viability appraisal (22% - i.e. 15% profit and 7% overheads) is reasonable."[11]

Land between Lydney Bypass and Highfield Road[12]

"The Council considered that due to the improving market a profit level of 17.5% would be reasonable. The Appellant on the other hand considered that 20% would be the minimum on which finance could be obtained. The amount required by a developer to undertake the development is a reflection of the anticipated risk. In this case the evidence indicates that the market is not an easy one within this part of the country. Although the Council considered that work had started on the site with the installation of the pumping station, I am not convinced that this would greatly reduce the risk element of the project. Whilst the greenfield site has an attractive position with enviable views it is not within a prime location on the edge of one of the major towns such as Gloucester or Cheltenham. Furthermore the scheme would be carried out over a relatively long time period and this would add to uncertainty in terms of future economic conditions.

Taking all of the above circumstances into account I consider that it is reasonable to adopt the Appellant's figure of 20% of gross development value as the input for Developer's profit in this case."[13]

[11] *Paragraphs 31 - 34*
[12] *Ref: APP/P1615/Q/14/2215840 – dated 18th June 2014*
[13] *Paragraphs 24 - 25*

Summary

The evidence in this paper indicates that the minimum margin used within viability testing for development sites should be a Site Level Net Margin[14] of 20-25% on GDV, blended across all tenures, subject to achieving a minimum site ROCE of 25%, subject to consideration of the risk profile of the scheme. Those sites with a higher risk profile (i.e. longer term projects with significant upfront infrastructure costs and abnormals) will be at the upper end of this range, shorter term projects with less capital intensive infrastructure are likely to fall at the lower end.

The reference to ROCE is particularly important on large, capital intensive schemes. This needs to be achieved in addition to the Site Level Net Margin of 20-25% on GDV. Typically, the assessment of viability is undertaken using ARGUS Developer or a bespoke residual land value model. These include a developer margin and normally report on IRR not ROCE. In these cases the relevant hurdle rate for site specific appraisals is an Internal Rate of Return of at least 25%.

A number of viability consultants argue that a different developer margin should be applied to private and affordable housing. If this is the case, then the blended margin across all tenures should equate to the hurdle rate referred to above.

It is increasingly common for developers to purchase land prior to securing an offer from Registered Providers who themselves are subject to more market risk from the current affordable housing regime than in previous systems of funding. There is, therefore, a heightened risk associated with the affordable housing in addition to increased holding and finance costs. We would also highlight that the potential for the introduction of Starter Homes results in an additional level of risk for developers (these units being retained by the housebuilder as opposed to being sold to a Registered Provider). Receipts from Starter Homes are received later on in a project’s cashflow and, to reflect this increased risk, developers will subsequently require a higher return on these units compared to ‘traditional’ affordable housing.

[14] *Please note that this excludes finance, which will be included separately in viability appraisals.*

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