

## CIL Draft Charging Schedule Response Form 2017

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Ref:

Rep. Ref.

Please use this form if you wish to support or object to the Community Infrastructure Levy – Draft Charging Schedule. If you are commenting on multiple sections of the document you will need to complete a separate copy of Part B of this form for each representation. This form may be photocopied or, alternatively, extra forms can be obtained from the Council's offices or places where the plan has been made available (see back page). You can also respond online using the LDP Consultation System, visit: [www.warwickdc.gov.uk/planning](http://www.warwickdc.gov.uk/planning)

### Part A - Personal Details

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| Would you like to be made aware of future updates on the CIL? |   | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No  |
| About You: Gender   | Male  |  |
| Ethnic Origin   | Caucasian   |  |
| Age   | <input type="checkbox"/> Under 16 <input type="checkbox"/> 16 - 24      | <input checked="" type="checkbox"/> 25 - 34 <input type="checkbox"/> 35 - 44                                 |
|   | <input type="checkbox"/> 45 - 54 <input type="checkbox"/> 55 - 64       | <input type="checkbox"/> 65+   |
| <b>Notifications</b>  | Please specify whether you wish to be notified of any of the following: |  |
| 1. Submission of the Draft Charging Schedule for examination  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No     |  |
| 2. Examiner's Report  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No     | 3. Council approval of Charging Schedule <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

# Part B - Commenting on the CIL Draft Charging Schedule

If you are commenting on multiple sections of the document you will need to complete a separate sheet for each representation

Sheet  of

Which part of the document are you responding to?

1.

Paragraph number / Heading / Subheading (if relevant)

Introduction to the Community Infrastructure Levy

Map (e.g. CIL Charging Zones / Prime Retail Zone)

What is the nature of your representation?

Support

Object

Please set out full details of your objection or representation of support. If objecting, please set out what changes could be made to resolve your objection (Use a separate sheet if necessary).

The introductory section within the Draft Charging Schedule (DCS) (January 2017) highlights the fundamental principles of the Community Infrastructure Levy (CIL).

Paragraph 1.4 states "*CIL is intended to compliment rather than replace other funding streams and is intended to promote development rather than hinder it.*"

The adopted CIL rate must consider local market conditions and expected costs as well as the cumulative effect of planning obligations proposed onto development.

Paragraph 1.10 of the DCS repeats the CIL Regulations stating:

*"In setting its CIL rate the council must 'aim to strike what appears to the charging authority to be an appropriate balance between:*

- The desirability of funding CIL and the actual and expected costs of infrastructure required to support development and*
- The potential effects of the imposition of CIL on the economic viability of development across its area."*

Critically, and in summary, CIL must not threaten the borough-wide deliverability of the Local Plan.

It is IM Land's judgement that Warwick District Council ('the Council') has failed to comply with the requirements of the Planning Act 2008 and the CIL Regulations 2010 as amended. On this basis, the DCS should be found unsound by the Examiner in its current form.

Moreover, the Government confirmed at paragraph 2.29 within the Housing White Paper (2017), published on 7<sup>th</sup> February, that it will undertake examination of the options for the long-term reform of the existing system of developer contributions. It will also respond to the independent national CIL Review published alongside the Housing White Paper. The White Paper highlights that this has been influenced by the findings of the CIL Review which concluded that the current system of CIL and Section 106 Agreements is not as fast, simple, certain or transparent as originally intended. It advocates the abolition of CIL and its replacement with a two-

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tier Local Infrastructure Tariff (LIT) and Strategic Infrastructure Tariff (SIF) regime by 2020 (at the latest).

The White Paper confirms that the Government will consult upon improving arrangements for capturing uplifts in land value for community benefit, whilst seeking to simplify the system of developer contributions. The Government's examination is underway and the response to the CIL Review is to be made at the Autumn Budget 2017. On this basis, for Warwick District Council to proceed with implementing a CIL Charging Schedule at a time when the regime is facing imminent significant overhaul or altogether abolition is wholly inappropriate. It represents frivolous use of taxpayer's money as well as necessitating the incurring of abortive costs to the development industry in engaging in a regime that is unlikely to be adopted for a worthwhile period of time.

Assuming that the Council adopts its CIL Charging Schedule in Autumn 2017, it could be redundant before the turn of the calendar year. Moreover, it is likely to only be operational for a maximum of two years (i.e. to 2020). The scope to accrue and spend CIL liability on the delivery of new infrastructure during this short period will be highly limited. It may even dissuade and stall the commencement of new development (or submission of planning applications) if the industry considers that the reforms to the regime would reduce the cost burden on development, or simplify payment for (and delivery of) infrastructure if delivery occurs beyond the transition period. This, in itself, poses a significant risk to the delivery of the Local Plan for it could undermine the ability of the Council to demonstrate a deliverable 5-year housing land supply.

**In summary, it is IM's firm recommendation that the Council holds the process of adopting a CIL Charging Schedule in abeyance until the Government's intentions for reform of the CIL and developer contributions regime are announced within the Autumn Statement, or such time that clarity is provided over transitional arrangements. Until this time, the DCS should progress no further than this consultation.**

Notwithstanding this, in accordance with the Council's request for responses to the DCS consultation, the following representation is structured to respond to each section of the DCS, evaluating the underpinning methodological approach and evidence base, and makes recommendations for necessary improvement in accordance with Planning Practice Guidance (PPG) and the CIL Regulations.

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Paragraph number / Heading / Subheading (if relevant)

Map (e.g. CIL Charging Zones / Prime Retail Zone)

What is the nature of your representation?

Support

Object

Please set out full details of your objection or representation of support. If objecting, please set out what changes could

Section 3 of the DCS outlines that a series of viability studies have been undertaken on the Council's behalf, by BNP Paribas Real Estate (BNPPRE), to provide an evidence base to assess the impact of the proposed CIL rates on the deliverability and viability of development across the borough.

The Community Infrastructure Levy: Viability Study 2016 (hereafter the 'VS 2016,') informs the rates set within the current DCS. It represents an update to the Community Infrastructure Levy: Viability Study 2013 (hereafter the 'VS 2013').

IM is highly concerned that there are significant shortcomings within the VS 2016, which will overstate the propensity of development to accommodate CIL. The focus of IM's concerns is with respect to the financial viability evidence base utilised to support the proposed residential rates within the DCS.

### ***Development Typologies***

Testing should be applied to development typologies likely to be brought forward in delivering the Local Plan. PPG states that:

*"The sampling should reflect a selection of the different types of sites included in the relevant Plan, and should be consistent with viability assessment undertaken as part of plan-making.*

*Charging authorities that decide to set differential rates may need to undertake more fine-grained sampling, on a higher proportion of total sites, to help them to estimate the boundaries for their differential rates."* (Ref: Planning Practice Guidance (PPG) (2014) - Paragraph 019, Reference ID 25-0190-20140612.)

The residential typologies appraised within the VS 2016 (table 4.11.1) fail to appropriately represent the different scale of sites allocated within the Draft Local Plan and envisaged as critical to meeting the objectively assessed needs of the borough.

There are 9 non-strategic typologies of between 4 and 100 units tested with varying housing type, densities, site area and land classification (urban/ greenfield). Only one typology is for 100 units – and this is for a 100%

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flatted scheme.

However, the Draft Local Plan (Note: and more recently published Proposed Modifications to the Publication Draft Local Plan (Part 1) January 2016,) proposes the allocation numerous non-strategic sites of between 75-300 dwellings, which clearly represent an important component of housing supply.

It is IM's firm opinion that the viability evidence base should include an expansion of the typologies tested to appropriately assess the impact of CIL on the full range of sites forming non-strategic allocations within the Local Plan (i.e. 100 – 300 dwellings). This should include as a minimum:

- 100 units: 100% houses (greenfield) at 20dph and at 35dph
- 150 units: 100% houses (greenfield) at 20dph and at 35 dph
- 200 units: 100% houses (greenfield) at 20dph and at 35 dph
- 250 units: 100% houses (greenfield) at 20dph and at 35 dph
- 300 units: 100% houses (greenfield) at 20dph and at 35 dph

Presently, the use of a maximum scheme size of just 75 dwelling houses represents a very small non-strategic upper scheme size for viability appraisal. On this basis, the VS 2016 does not appropriately represent the development land supply characteristics within the borough. Further testing and consultation is required.

### **Unit Mix**

Whilst the proportional mix of residential unit types within each typology is set out within Table 4.11.2 of the VS 2016, this does not confirm the actual unit sizes utilised within the viability appraisals. Neither does it appear to be confirmed elsewhere within the published evidence base. This is inappropriate and opaque. It has a threefold impact.

Firstly, it is impossible for stakeholders to assess whether the unit sizes utilised are representative of current market facing product delivered by developers within the Warwickshire and wider West Midlands market. This is critical if the evidence base is to appropriately represent the type of development to be brought forward through the Local Plan. This should be based upon 'appropriate' market evidence, which should be 'available' to both the Council/BNPPRE and stakeholders. Presently, it is neither confirmed as appropriate and is unavailable. The unit sizes should be confirmed, the supporting market evidence published, and both tested with stakeholders within a further consultation process.

Secondly, the absence of this information renders the viability appraisal results within Appendix 3 of the VS 2016 as of limited use. It is impossible for stakeholders to understand and sense-test the calculation basis upon which the residual land value (RLV) of each appraisal typology has been tested - given this is dependent upon the scale of development (square metres) that is assumed (yet not disclosed) by BNPPRE.

Moreover, given the approach of the VS 2016 is to test the impact of CIL on RLV by applying a £/m<sup>2</sup> rate on chargeable floorspace, and then comparing this to a benchmark land value (BLV) for each appraisal, it is absolutely critical that stakeholders (and the Examiner) can understand the basis for determining CIL chargeable floorspace. It represents an absolutely fundamental component of viability testing and should be both 'available' and demonstrated by the Council/BNPPRE to be 'appropriate'.

Despite reams of summaries within Appendix 3, the VS 2016 effectively represents a 'black box' viability assessment, which is advised against by the Planning Advisory Service (PAS) and the Government within PPG. Both recommend transparency in viability modelling and presentation of assumptions. Without disclosure of the unit size information and headline viability appraisals it is impossible to address whether the available evidence is appropriate, and has been appropriately applied, for the proposed setting of the CIL

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rates within the DCS. Thirdly, garages (whether integral, attached or detached) fall within the RICS definition of Gross Internal Area (GIA). This is the basis upon which CIL liability is calculated in accordance with the CIL Regulations. All charging authorities are therefore charging CIL liability on garages in addition to the habitable area of the built residential unit.

It is not possible to determine from the evidence presented within the VS whether this has made any floorspace allowance for garages in preparing the viability appraisals. Should allowance have not specifically been made, this means that BNPPRE is vastly underestimating the CIL chargeable floorspace within development.

Moreover, if garages are not specifically allowed for, this in itself will underestimate the construction costs of development. Based on IM's experience of working with national housebuilders across the West Midlands and Warwickshire it is anticipated that all 3+ bedroom open market dwellings would provide at least a single garage, with 4+ bedroom dwellings providing double garages (or triple garages in limited cases). Within the typologies tested within the VS 2016, it is clear that the unit mix would lean considerably towards provision of units with garages.

Whilst garages are unlikely to attract a full BCIS £/m<sup>2</sup> cost, the current costs are substantial – ranging from circa £25/m<sup>2</sup> for integral garage construction through to £45/m<sup>2</sup> - £50/m<sup>2</sup> for detached garages (dependent on whether single, double or triple). Failure to accommodate and clearly set out these costs represents a shortcoming of the VS 2016.

Pre-empting a possible response, it is not appropriate or sufficient for such a cost to be met within any 'buffer' allowance. The buffer is to allow for unforeseen costs, fluctuations in market conditions, and to recognise that there will be variation in the viability of specific sites that the VS cannot account for. The VS 2016 should, however, be more than capable of estimating and accounting for the cost of garage provision within viability appraisal. Evidence will be readily available based on recently consented and completed development schemes via the Council's records.

IM requests confirmation if garages have been taken account in the manner described above within viability assessment and CIL rate setting, and seeks a full explanation of approach from BNPPRE.

If not accounted for, this represents a major flaw within the viability evidence base. It will substantially underestimate construction costs, which will overstate the viability of sites to accommodate CIL, whilst also underestimating the square meterage to which CIL liability will be applied in practice. This will overstate the propensity of sites to accommodate CIL on a £/m<sup>2</sup> basis – as the square meterage will be insufficient to represent the reality of built development within each typology.

### **Development Costs** **Construction Costs**

IM has assessed the base build costs utilised within the VS 2016, as set out in Table 4.16.1 on page 14 for their validity.

IM obtained mean average RICS BCIS build cost data for 'Estate Housing – Generally' and for 'Flats (apartments) – Generally' and re-based this to Warwick as at Q4 2016 with an appropriate restriction to tenders recorded over the last 5 years ('the 5 year period'). This is considered the most robust basis for

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utilising BCIS costs, for it draws on those tendered schemes that will have constructed to current Building Regulations (and recent versions) and excludes more historic tenders for schemes dating back beyond 5 years, which would now lack relevance (and would unduly skew costs downwards).

IM is comfortable that the cost of £1,127/m<sup>2</sup> utilised within the VS 2016 is consistent with the cost for 'Estate Housing – Generally' published by the RICS BCIS as at Q4 2016.

However, IM is concerned that the cost of £1,330/m<sup>2</sup> utilised within the VS 2016 for 'Flats (apartments) – Generally' is inconsistent with the cost data published by the RICS BCIS at Q4 2016. RICS BCIS records this cost as £1,380/m<sup>2</sup>.

This inconsistency is not explained or justified within the VS 2016, which purports alignment with RICS BCIS. IM considers this an error. The viability appraisals for typologies that include flatted units will not be based on the reasonable costs published by RICS BCIS - and will undercount construction costs by £50/m<sup>2</sup>. When the cumulative costs of contingency allowance, professional fees and finance are added, it would be reasonably expected for this error to undercount the development costs of typologies including apartments by some £60/m<sup>2</sup> to £70/m<sup>2</sup>.

Anticipating the Council's probable response, this cost difference represents a deficiency of between 3.8% and 5.3% of costs (the former only base costs and the latter including cumulative costs). This would clearly utilise a large proportion, if not all, of the contingency allowance attributable to apartments. This cost is for unforeseen construction costs – not quantifiable costs – and it is not appropriate for the Council to rely on this sum in any case given it may well be insufficient to bridge the identified deficit.

Considered in comparison to the residential CIL rates proposed within Table 2 of the DCS, this development cost undercount would be expected to necessitate a substantial reduction in residential rates – given the direct relationship – unless the Council and BNPPRE 'squeezes' the 'buffer' allowance.

It is strongly recommended that the appraisal typologies including flatted development are re-run to assess the viability of flatted development at the construction cost that is genuinely consistent with RICS BCIS. The RICS BCIS data is attached at **Appendix 1** for transparency.

### ***Professional Fees***

The VS states professional fees covering cost of design, consultation, planning etc., are applied at 10% of build costs within the appraisals. This rate is at the lower end of industry expectations on medium and larger development sites, where the Harman Guidance (Ref Local Plans Housing Delivery Group (2012) Viability Testing Local Plans: Advice for Planning Practitioners ('the Harman Guidance') Appendix B p.44-45,) advocates a range of 8 – 20%. IM would expect to see professional fees at 10% (including planning, surveying, NHBC etc.) on sites of less than 100 units, but would fully anticipate professional fees to increase to 12-15% on sites of 100-300 units – particularly those requiring promotion through the planning system (e.g. Local Plan allocations; CIL representations/Examination etc.). For sites larger than 300 units, and strategic sites, IM has experience of professional fees increasing to a range of 15% - 20% of total construction costs. This is clearly recognised as a realistic, necessary and appropriate order of cost within the Harman Guidance (Ref: Ibid). The VS 2016 should re-run the viability assessment incorporating

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increased professional fees allowances to reflect the fee ranges set out above.

Professional fees will also be incurred on the design and delivery of external works (e.g. highways; sewerage; services infrastructure etc.). The application of professional fees should be broadened to cover both base construction costs and external works within the viability appraisals. Failure to do so will overstate development viability and propensity to demonstrate CIL 'headroom'.

### ***Contingency Allowance***

BNPP have adopted a 5% contingency rate and applied this to base construction costs. This would be the absolutely minimum rational contingency allowance. To reflect industry practice, the contingency allowance should be extended to cover both external works and professional fees.

### ***Site Enabling or Abnormal Works – Brownfield Sites***

There is no specific allowance for site enabling or abnormal costs on brownfield sites within the assessment. IM considers this as unusual, given such costs are to be expected, and this does not appear to have been factored into the benchmark land values (BLVs) utilised within the VS 2016.

IM would expect such costs to cover demolition, service diversions and potential site remediation prior to development occurring. Indeed, the VS 2016 confirms within paragraph 6.16 and the subsequent bullet that abnormal or 'exceptional' costs pose one of the major risk factors to the ability of residential development to absorb CIL rates.

The VS 2016 suggests that allowance of a 'buffer' in setting rates back from the margins should reduce this risk. It is IM's view that this is a flawed recommendation given that there are numerous issues identified within this representation that indicate that the VS 2016 is substantially over-stating viability, even before accounting for the additional risk factors it identifies. The 'buffers' are not clearly set out in any case, and are expected to be far smaller in reality than the VS 2016 suggests within chapter 6.

Instead, to guard against this risk, and appropriately accommodate this issue within viability testing, IM consider that it would be sensible for an allowance of £200,000 per net hectare to be applied to the brownfield site typology appraisals. This approach has been taken by other practitioners and has been supported at CIL Examination.

Re-testing should be undertaken and consulted upon. Failure to do so will increase the risk that brownfield sites are not redeveloped where an overbearing CIL liability reduces the maximum bid for acquisition below the minimum competitive landowner's expectation (i.e. the BLV).

### ***Residual S106/S278 Cost Allowance & Emerging Regulation 123 List***

Paragraph 173 of the NPPF clearly states that the combined impact of CIL and S106 / S278 obligations should not threaten viability and the delivery of the development plan.

The VS 2016 confirms that the viability appraisals contain an allowance of £1,500 per unit to address residual S106 and S278 contributions alongside CIL on non-strategic sites.



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IM is highly disappointed that the Council has opted not to publish a draft Regulation 123 List alongside the DCS for stakeholder consideration and comment. This document is essential for stakeholders to understand the intended division between CIL-funded infrastructure and planning obligations continuing to be sought by the Council via S106/S278.

Equally, a draft Regulation 123 List should inform the residual sum for S106/S278 costs to be incorporated within the viability assessment evidence base. In the absence of a draft Regulation 123 List, IM questions the robustness of assumption within the VS 2016 that residual S106/S278 costs will equate to £1,500 per unit on non-strategic sites.

PPG requires that, as background evidence, the charging authority should also provide information about the amount of funding collected in recent years through section 106 agreements. Whilst the Council has not explicitly undertaken this exercise for CIL setting purposes, review of the Council's latest published 'Section 106 spreadsheet' last dated January 2017, indicates that the Council has secured contributions towards highways, education, healthcare, open space, sports provision and other various obligations that far and away exceed £1,500 per unit on non-strategic sites.

IM request that the Council both formally publish evidence of the S106/S278 funding secured in recent years, with clear disaggregation by number of units. A draft Regulation 123 List should be published alongside this information, and the Council should undertake an analysis to demonstrate that, on average, a sum of £1,500/unit represents an evidenced and reasonable sum to cover the cost of residual S106/S278 contributions following adoption of CIL.

### ***Developer's Profit***

IM considers that the proposed developer's profit of 20% of gross development value (GDV) of market units and 6% of GDV for affordable units is misrepresentative of current market conditions. National housebuilders are operating on increased hurdle rates following the EU Referendum, and as a result of the economic and housing market uncertainty widely anticipated as a result of the looming exit from the EU ('Brexit'). It is IM's view that the developer's profit should be a minimum of 20% of GDV irrespective of tenure.

### ***Development Revenue***

#### ***Open Market Sales Values***

Relevant RICS guidance (Ref: RICS (2012) Financial Viability in Planning, Reference (GN/94 2012) advocates that development sales values should be supported by local comparable evidence. Guidance within the Harman Report also confirms:

*"...when considering information on sales values and rates care should be taken to reflect current market conditions having regard to net sales revenues rather than asking prices."*

The VS 2016 presents sales values on a square foot and square meter basis over 5 market areas: 'Warwick and East Leamington Spa,' 'Most of Leamington Spa,' 'Kenilworth,' 'Rural areas (higher value- Rowington, Leek Woolton, Ashlow, Hunningham, Cubbington, Norton Lindsey, Shrewley, Bishop's Tachbrook)' and 'Rural areas (lower values)'. There is no accompanying map to define these areas.

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These values are understood to have been derived by applying 33.2% uplift to the historic sales values within the VS 2013 (Table 4.4.3). The uplift is stated within the VS 2016 as being reflective of the Land Registry House Price Index (LRHPI), rebased to Warwick.

IM is highly concerned that the pricing proposed within Table 4.4.3 of the VS 2016 fails to reflect their expectations and understanding of overall and variations in pricing across the borough. IM is particularly concerned that the open market price of £4,236/m<sup>2</sup> (£393/ft<sup>2</sup>) utilised across a very wide charging zone comprising the 'higher value rural area' and 'most of Leamington Spa' is too high and misrepresentative of pricing across large swathes of this zone.

IM has reviewed the residential pricing methodology applied within the 2013 VS to inform these original open sales prices. IM is concerned that the pricing analysis was not robust at this point. It is stated within paragraph 4.2 of the VS 2013 that comparable evidence of 'transacted properties' and 'properties on the market' has been *considered* to establish values. It also suggests that analysis draws on the findings of the Council's 2011 affordable housing viability evidence base.

IM views this as deficient for the following reasons:

- The comparable pricing evidence has not been published, meaning the evidence is not 'available' before stakeholders or the Examiner and cannot be determined as robust as a basis for setting CIL rates;
- There is no confirmation in the VS 2016 or VS 2013 that the pricing evidence was based on new build properties that reflect the characteristics of units that will be developed on sites allocated within the draft Local Plan;
- There is no confirmation that the pricing evidence was based on net sales prices to reflect discounting from asking prices;
- There is no way of confirming whether the sample of pricing evidence is of a sufficient volume and spatial distribution to robustly justify the introduction of the differential zones proposed within the VS 2016 and DCS; and
- There is no way of confirming the transaction dates for properties within the sample to understand the period over which sales prices were assessed and conclusions reached.

Such deficiencies are compounded by applying an extremely crude uplift to un-evidenced 2013 values using LRHPI. The rudimentary approach applied in the VS 2016 fails to reflect disparities in price changes that have occurred spatially across the borough since 2013, and is in no way a reliable basis upon which to set differential charging rates.

IM firmly requests that the market pricing evidence base that underpinned the VS 2013 is published for consultation and stakeholder comment / review. As stated within the Harman Report, sales values within viability testing should be informed by net achieved sales and represent market actualities. It is strongly recommended that BNPPRE undertakes a refreshed market pricing analysis to sense-test the prices within the VS 2016 and provide the industry / Examiner with the necessary available local market evidence. The burden of evidence is placed firmly with the Council to confirm the evidence supports an

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'appropriate balance'. Without evidence, this cannot be demonstrated.

In addition, IM requests that the LRHPI data is published. It is absent from the VS 2016, which means that the validity of the applied uplift cannot be confirmed.

### ***Affordable Housing Values***

Paragraphs 4.4 - 4.9 of the VS 2016 are set out under a heading 'Affordable housing tenure and values'. This is misleading as the affordable housing values applied within the VS 2016 appraisals are not stated in this section or elsewhere within the evidence base.

Given that 40% affordable housing is applied within the appraisals, of which 80% is social rent in tenure and 20% is shared ownership, it forms a key component of the built development and revenue stream for each site. IM request that the Council / BNPPRE transparently set out what capital values they are applying to:

- Social rent units - this should be consistent across the typologies, but vary by dwelling size; and
- Shared ownership units – this should vary depending on unit size/type and linked to open market sales values (i.e. by zone).

Appropriate evidence should be obtained from RP's active in the local area to demonstrate that these capital values are realistic and achievable (or exceeded) based on transactions in practice. At present, it is unclear whether this appropriately reflects the local property market, or has been based on any available market evidence.

Until this information is provided, IM reserves the right to provide further comment and analysis on this issue, but is highly concerned by a lack of transparency in the calculation of development value within the viability evidence base.

### ***Development Programme & Instalments Policy***

IM notes that the development programme for each typology is summarised within a table format in Figure 4.19.1 of the VS 2016. IM considers the sales rate of 3 private units per calendar month to be appropriate on non-strategic sites.

However, the VS 2016 does not confirm the rate of revenue receipts assumed for affordable units. The timing of this revenue will have a bearing on cashflow and the accruing of development finance charges. IM requests that this is clarified by the Council / BNPPRE for transparency and to ensure that it appropriately reflects market realities.

Secondly, IM notes that the timing of residual S106 contribution costs is placed in between 50% and 75% of the way through the sales programme on non-strategic sites of 75+ units. The intended nature of residual S106 contributions has not yet been disclosed by the Council via a draft Regulation 123 List, which is a deficiency that has been highlighted already within this representation. However, further review of the Council's latest published 'Section 106 spreadsheet' last dated January 2017

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indicates that the Council has sought to secure the vast majority of larger-scale planning obligations with triggers prior to 1<sup>st</sup> occupation, or with staged payments on 1<sup>st</sup> occupation, 25% of occupations and 50% of occupations, on similar sized and larger non-strategic sites. This clearly demonstrates a predisposition of the Council to secure S106 contributions far earlier than simply at 50% of occupations. On this basis, IM considers that the development programme within the VS 2016 is overly generous towards S106 payment triggers based on the Council's recent track record. This will push costs back in the development programme and will understate likely finance costs incurred in reality by developers. It is IM's view that, in order, to take a pragmatic and conservative assessment, the appraisals for non-strategic typologies of 75+ units should be run to include all residual S106/S278 costs to be incurred prior to 1<sup>st</sup> occupation (given this will be the Council's sought position).

Thirdly, the Council has yet to publish a draft Instalment Policy for the payment of CIL liability. This is disappointing as it is generally considered good practice nationally for this to be consulted upon with the industry in a collaborative manner. IM notes that the Council has stated under paragraph 6.6 of the DCS that it intends to allow payment of CIL by instalments depending on the total amount of the liability. Yet no detail is provided, with the Council stating merely: "*Details of the instalments policy will be determined prior to adoption of CIL*".

However, IM is concerned that the VS 2016 has already included pre-determined instalments for the payment of CIL liability within the approach to viability testing to assess the propensity of sites to accommodate CIL. Inspection of the development programme for each typology summarised in Figure 4.19.1 of the VS 2016 confirms that payment of CIL liability is assumed in 3 instalments for all typologies – over varying timescales. No explanation is provided as to the rationale behind this, or to the scale of each instalment – for example – are such instalments all equal or weighted?

IM consider this as unusual practice. The approach adopted within the VS 2016 to include pre-determined (and unjustified/unexplained) instalments poses a downside risk to viability of development in reality post-adoption. For example, the Council may not opt to introduce the payment of instalments in the manner applied within the VS 2016 viability testing, and may instead introduce fewer instalments or require payments to occur earlier. They may ultimately determine not to permit instalments at all for liability under a certain threshold. This would have a negative impact on development cashflow by increasing finance costs, and reducing development viability – and hence the propensity of sites to provide a CIL payment.

In the absence of a published draft Instalments Policy to which the Council confirms its commitment, the appraisals for all typologies should be re-run and based upon the payment of CIL liability within 60 days of commencement (i.e. same quarter that commencement of construction occurs). This is consistent with Regulation 70(7). This would be representative of a pragmatic and conservative approach, which would reduce the risk to development viability posed by the introduction of CIL, and reflects the CIL Regulations and guidance within PPG where an Instalments Policy is yet to be published and adopted.

### **Benchmark Land Values (BLV)**

IM is highly concerned with the BLV's utilised within the VS 2016 to test the viability of the sites to accommodate CIL liability.

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The greenfield BLVs (BLV 3 & 4) are drawn from a Department for Communities and Local Government (CLG) research paper (Ref: CLG (2011) "Cumulative Impacts of Regulations on House Builders and Landowners," DCLG Publications published in 2011,) and based on evidence preceding this date. This information is now outdated and the VS 2016 does not make reference to any cross-checking of local market activity to confirm whether these land values are representative of the minimum competitive returns being sought by landowners and agreed with developers within transactions.

In addition, the very assumption that open market sales values have increased by 33.2% since 2013, yet the expectations of landowners have not risen proportionally since either 2011 or 2013 ignores the fundamentals of the economy, land and property market.

Landowner's reasonable expectations of competitive returns for the sale of their landholdings are not fixed in a point in time. If the economy improves, housing demand increases. If housing demand increases prices grow and land supply is placed under greater pressure, which increases landowner's expectations as competition for land rises in a competitive market.

Despite this, the VS 2016 uses the exact same BLVs as used within the VS 2013, which are based on a report from 2011. IM sees this as fundamentally flawed and lacking common sense. It follows that, if house prices have increased since 2013 (and further since 2011), so will have landowner's expectations of minimum competitive returns for the disposal of their landholdings for housing development. The BLV 3 and BLV 4 benchmarks bear no representation to the non-strategic land supply allocated within the Draft Local Plan.

It is IM's view that a BLV4 has no relationship with non-strategic sites and should not be used as a measure of BLV. Instead, a single re-calibrated BLV3 should be utilised. Based on IM's exposure to the land market and negotiations with landowners across Warwick, and wider Warwickshire, IM consider that an appropriate BLV 3 threshold would equate to a minimum of £650,000 per gross ha or £1.3m per net ha (£0.26m per gross acre or £0.53m per net acre) – assuming a 50% net developable area (as per the VS 2016). This is representative of 'mid-range' market conditions in Warwick and should be the minimum BLV against which non-strategic site typologies are appraised within the viability evidence base.

IM strongly recommends that the appraisals within the VS 2016 are re-run to incorporate the revised BLV3 as set out above for the non-strategic sites.

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### **Appendix 1:**

£/m2 study

**Description:** Rate per m2 gross internal floor area for the building Cost including prelims.

**Last updated:** 04-Feb-2017 12:20

› Rebased to 4Q 2016 (288; forecast) and Warwick (102; sample 38)

**Maximum age of results:** 5 years

| Building function<br>(Maximum age of projects) | £/m <sup>2</sup> gross internal floor area |        |                 |        |                 |         | Sample |
|--|--|--------|-----------------|--------|-----------------|---------|--------|
|  | Mean                                       | Lowest | Lower quartiles | Median | Upper quartiles | Highest |        |
| <b>New build</b>                               |  |        |                 |        |                 |         |        |
| 810. Housing, mixed developments (5)           | 1,148                                      | 692    | 1,007           | 1,125  | 1,266           | 2,550   | 454    |
| <b>810.1 Estate housing</b>                    |  |        |                 |        |                 |         |        |
| Generally (5)                                  | 1,127                                      | 713    | 969             | 1,090  | 1,229           | 3,581   | 723    |
| Single storey (5)                              | 1,297                                      | 837    | 1,115           | 1,290  | 1,429           | 1,877   | 105    |
| 2-storey (5)                                   | 1,091                                      | 713    | 953             | 1,068  | 1,184           | 2,149   | 573    |
| 3-storey (5)                                   | 1,138                                      | 766    | 1,001           | 1,132  | 1,273           | 1,623   | 44     |
| 4-storey or above (5)                          | 3,581                                      | -      | -               | -      | -               | -       | 1      |
| 810.11 Estate housing detached (5)             | 1,327                                      | 837    | 1,130           | 1,300  | 1,488           | 1,877   | 5      |
| <b>810.12 Estate housing semi detached</b>     |  |        |                 |        |                 |         |        |
| Generally (5)                                  | 1,134                                      | 713    | 972             | 1,108  | 1,235           | 1,911   | 190    |
| Single storey (5)                              | 1,321                                      | 837    | 1,128           | 1,326  | 1,434           | 1,818   | 33     |
| 2-storey (5)                                   | 1,093                                      | 713    | 961             | 1,076  | 1,189           | 1,911   | 149    |
| 3-storey (5)                                   | 1,130                                      | 839    | 972             | 1,110  | 1,200           | 1,623   | 8      |
| <b>810.13 Estate housing terraced</b>          |  |        |                 |        |                 |         |        |
| Generally (5)                                  | 1,147                                      | 766    | 972             | 1,090  | 1,260           | 3,581   | 142    |
| Single storey (5)                              | 1,360                                      | 888    | 1,140           | 1,422  | 1,548           | 1,827   | 10     |
| 2-storey (5)                                   | 1,110                                      | 766    | 957             | 1,073  | 1,193           | 2,149   | 113    |
| 3-storey (5)                                   | 1,127                                      | 766    | 1,024           | 1,132  | 1,241           | 1,586   | 18     |
| 4-storey or above (5)                          | 3,581                                      | -      | -               | -      | -               | -       | 1      |
| <b>816. Flats (apartments)</b>                 |  |        |                 |        |                 |         |        |
| Generally (5)                                  | 1,380                                      | 779    | 1,162           | 1,308  | 1,558           | 4,509   | 264    |
| 1-2 storey (5)                                 | 1,311                                      | 803    | 1,164           | 1,259  | 1,437           | 2,009   | 54     |
| 3-5 storey (5)                                 | 1,342                                      | 779    | 1,142           | 1,288  | 1,522           | 2,442   | 182    |
| 6+ storey (5)                                  | 1,755                                      | 1,036  | 1,432           | 1,661  | 1,757           | 4,509   | 28     |

# Part B - Commenting on the CIL Draft Charging Schedule

If you are commenting on multiple sections of the document you will need to complete a separate sheet for each representation

Sheet  of

Which part of the document are you responding to?

5.

Paragraph number / Heading / Subheading (if relevant)

Proposed CIL Charging Rates

Map (e.g. CIL Charging Zones / Prime Retail Zone)

What is the nature of your representation?

Support

Object

Please set out full details of your objection or representation of support. If objecting, please set out what changes could be made to resolve your objection (Use a separate sheet if necessary).

For the reasons set out within this representation, it is IM's firm view that the proposed charging rates within the CIL DCS are fundamentally flawed.

The CIL DCS is based upon an inadequate viability study (the VS 2016), which fails to represent appropriate available evidence in accordance with the CIL Regulations and PPG as a basis for setting CIL rates. It is considered that the flaws within the VS 2016 significantly overstate the propensity of sites to accommodate CIL and, consequently, the rates within the CIL DCS are erroneously skewed upwards.

IM has made multiple requests for additional clarifications, corrections and the preparation of additional supporting viability evidence within this representation. Without provision of this additional evidence, IM maintains that the CIL DCS should be found unsound at Examination.

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If you are commenting on multiple sections of the document, you will need to complete a separate sheet for each representation

Sheet  of

### CIL Examination : Right to be Heard

Do you wish to be heard by the Examiner at the examination?

Yes

No

If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:

To discuss the considerable matters raised within this representation before the Examiner.

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## Guidance on Making Representations

- Please use this response form as it will help the Council to keep accurate and consistent records of all the comments on the Plan, alternatively complete online at [www.warwickdc.gov.uk/planning](http://www.warwickdc.gov.uk/planning)
- If you wish to make comments on more than one aspect of the Plan, please use a separate copy of Part B of this form for each
- You may withdraw your objection at any time by writing to Warwick District Council, address below
- It is important that you include your name and address as anonymous forms cannot be accepted. If your address details change, please inform us in writing
- All forms should be received by 4.45pm on Monday 20 February 2017
- Copies of all the objections and supporting representations will be made available for others to see at the Council's offices at Riverside House and online via the Council's e-consultation system. Please note that all comments on the Local Plan are in the public domain and the Council cannot accept confidential objections. The information will be held on a database and used to assist with the preparation of planning policy documents and with consideration of planning applications in accordance with the Data Protection Act 1998
- Please return this form to: Development Policy Manager, Development Services, Warwick District Council, Riverside House, Milverton Hill, Leamington Spa, CV32 5QH or email: [newlocalplan@warwickdc.gov.uk](mailto:newlocalplan@warwickdc.gov.uk)

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