

WEST BERKSHIRE DISTRICT COUNCIL

Community Infrastructure Levy - Preliminary Draft Charging Schedule

STATEMENT OF CONSULTATION – MAY 2013

Details of Consultation

The Preliminary Draft Charging Schedule (PDCS) was published for consultation as the first step in the adoption of a CIL for West Berkshire (in accordance with Regulation 15 of the CIL Regulations 2010). It provided the background to the proposed levy and was the public's first opportunity to comment on the charging schedule. The six week consultation process took place from Friday 15th February to Tuesday 2nd April 2013.

A total of 36 comments were received from 31 contributing consultees, and have been considered, and amendments made to the Draft Charging Schedule (DCS) as appropriate. This statement firstly provides a summary of the changes that have been made between the PDCS and the DCS, and secondly sets out the comments received together with the Council's response. Some comments are summarised, with the detail saved as separate documents, these are highlighted within the document.

Summary of Changes Made between PDCS and DCS

- Removal of information pertaining to the PDCS and explanation of approval process for DCS, within the document
- Inclusion of a demonstrable funding gap within the DCS, within the document
- No changes to the level of CIL, or to the differential rate zones
- No changes to the instalment policy
- Addition of information about mandatory and discretionary relief, within the document
- Addition of use classes to the retail rate to provide clarity, within the document
- Additional clarification to show that the differential rate maps relate to residential development, not to retail or other types of development, within the document
- Inclusion of the refreshed Infrastructure Delivery Plan showing total gross infrastructure requirements, external funding available and net infrastructure requirements, as a supporting document to the DCS
- Inclusion of a statement of S106 receipts as a supporting document to the DCS
- Inclusion of a draft Regulation 123 list as a supporting document to the DCS
- Explanation of the residual use of S106 in the DCS and in the draft Reg 123 list
- Inclusion of a document setting out the procedures for making representation, as a supporting document to the DCS

STATEMENT OF CONSULTATION

Community Infrastructure Levy - Preliminary Draft Charging Schedule

Public Consultation from 15th February 2013 to 2nd April 2013

Total of 36 comments from 31 contributing consultees

Consultee / Agent		On Behalf of	Consultation Response	Council's Response	Proposed Action
Full Name	Company / Organisation				
Responses Received on the overall document:					
Mr Mark Knight			Formalising this and bringing some clarity is a very good idea. Needed for a long time.	Thank you for responding, your comments are noted	No changes
Mrs Jayne Kirk	Stratfield Mortimer Parish Council		<p>Stratfield Mortimer Parish council have thoroughly examined WBC's proposals with regard to CIL and make the following observations:</p> <ol style="list-style-type: none"> 1. There is no evidence that the funding gap between CIL and the resources needed for necessary infrastructure has been examined in any rational way. 2. The consultant's report (Para 2.11.3) makes it quite clear that CIL is a minor factor in the viability of housing sites. 3. The consultant's report appendix makes it clear that in general and in Mortimer in particular, that even within the terms of reference of the consultant's report viability for housing at the CIL levels proposed is not threatened. 4. Not to have any CIL on developments other than housing and retail does not seem logical. 	<p>The levels proposed have had due regard to the viability study to ensure that the level does not threaten delivery of development overall. An appropriate balance must be struck between the need to secure investment for infrastructure and the economic effects upon development as a result.</p> <p>The viability study has shown that it is not possible to levy a CIL on development other than residential and retail development.</p>	No changes

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			<p>5. Indeed it is clear that CIL levels could be considerably higher than those proposed and there would be no threat to viability,</p> <p>Bearing the above in mind the Parish Council would urge WBC to:</p> <ol style="list-style-type: none"> 1. Increase the CIL to more nearly cover the cost of provision of infrastructure. 2. Extend CIL, albeit at a lower rate, to other forms of development in addition to housing and retail. 		
Ms Cathy Harrison	Environment Agency		Thank you for your consultation, which we received on 15 February 2013. We have no comments to make on the preliminary draft charging schedule.	Thank you for responding, your comments are noted	No changes
Lorraine Kelly	Peacock and Smith	WM Morrison Supermarkets plc	<p>On behalf of our client, Wm Morrison Supermarkets Plc, we strongly object to the following proposed Community Infrastructure Levy rate for 'retail' in West Berkshire set out in the Preliminary Draft Charging Schedule (February 2013):</p> <ul style="list-style-type: none"> • £125/sq m across all zones <p>Whilst we acknowledge that the Preliminary Draft Charging Schedule has been informed by a Viability Study prepared by Dixon Searle Partnership (January 2013), our client is gravely concerned that the suggested charge will have a significant adverse impact on the overall viability of future retail development in West Berkshire. It is considered that a balance has not been found between infrastructure funding requirements and viability.</p> <p>The draft charge will put undue additional risk on the delivery of any such proposals and will be an 'unrealistic' financial burden. This, in turn, poses a significant threat to potential new investment and job creation in the local area at a time of economic recession and low levels of development activity.</p>	<p>The viability study has shown that in the West Berkshire area, retail development is able to support the rate of £125 per sqm. This is covered in part 3.4 of the viability study.</p> <p>The viability results show that the CIL charging rate for the larger retail types could certainly be taken up to match the £125 per sqm recommended retail charging rate. The report further states that the rate could be taken higher than this in theory, however was not recommended, or proposed by this council, due to the prospect that relatively high land values may be</p>	

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			<p>It should also be noted that the proposed charges for retail development are somewhat higher than those being proposed by other local authorities in the south:</p> <ul style="list-style-type: none"> • Oxford City Council: Charge of £100/sq m for A1 uses • Bracknell Forest Borough Council: Charge of £95/sq m for retail developments over 280sq m • Hertsmere District Council: £84/sq m for retail • Purbeck District Council: Charge of £75/sq m for A1 retail • Mid Devon District Council: No charges for retail <p>We should be grateful if you would take into account the above comments in progressing the CIL Charging Schedule. We look forward, with great interest, to the Council's response.</p> <p>Please acknowledge receipt of this objection and keep us informed with all progress.</p>	<p>associated with this form of development, together with the overall development costs. For this reason the rate was not set higher, although the study shows that a rate of up to £200 per sqm could be defended.</p> <p>In addition paragraph 3.3.2 details the position in West Berkshire, which is that no new retail space is needed in the District. This was set out in the retail study (Employment Land Assessment (2007) as updated by the West Berkshire Retail & Leisure Study 2010), which was used in support of the West Berkshire Local Plan Core Strategy.</p> <p>Thus a more than appropriate balance has been struck between the viability of retail development in particular, and the requirement for retail development in West Berkshire.</p> <p>The rate set is not based on rates already proposed in neighbouring authorities, or in authorities not geographically close to West Berkshire. It has due regard to the</p>	

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				viability study for West Berkshire only.	
Mr Jon Waite	South Oxfordshire District Council		<p>We note that your Preliminary Draft Charging Schedule rates are the same as those recommended in your viability study. South Oxfordshire District Council (SODC) considers this a sensible approach. We also note that you are proposing an instalment policy which SODC supports.</p> <p>It is unclear from the viability study whether a buffer has been applied to the rate. If not, West Berkshire may wish to consider a buffer allowance to the rate to cover any unexpected build costs to the developer. This is recommended in the CIL guidance.</p>	<p>Thank you for your comments regarding the rate proposed and the inclusion of a viability study.</p> <p>Appendices 11a and 11b of the viability study clearly shows the viability of schemes, both residential and commercial. For ease of interpretation, the results have been colour coded. Green indicates that a scheme is viable, and red indicates that a scheme is not viable. Testing has taken place of a substantial number of scheme types at different value levels using a test CIL rate in £25 bands. The tables show that the vast majority of scenarios are viable to a greater or lesser extent. The tables show that the rates proposed are entirely reasonable and concur with CIL Regulations.</p>	
Mr Ian Wheaton	Network Rail		<p>Network Rail has been consulted by West Berkshire Council on the Community Infrastructure Levy Preliminary Charging Schedule Consultation. Thank you for providing us with this opportunity to comment on this planning document. This email forms the basis of our response to this consultation request.</p> <p>Network Rail is a statutory undertaker responsible for maintaining and operating the country's railway infrastructure and associated estate. Network Rail owns,</p>	<p>CIL regulations specify that all development over 100m2 will be CIL chargeable. This includes development carried out under pd rights. However this Council is only proposing a levy rate above zero for residential and retail development.</p>	

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			<p>operates, maintains and develops the main rail network. This includes the railway tracks, stations, signalling systems, bridges, tunnels, level crossings and viaducts. The preparation of local policy is important in relation to the protection and enhancement of Network Rail's infrastructure. In this regard, please find our comments below.</p> <p>Paragraph 2.5 implies that some permitted developments may be liable for CIL. Although we understand that this relates to only those developments where the size / type means it is eligible to pay CIL, Network Rail would like confirmation that its developments over 100sqm undertaken using our Permitted Development Rights will not be CIL chargeable.</p> <p>Paragraph 3.3 notes that money raised through the CIL will be used to help pay for projects that will be set out in a "Regulation 123 list". We look forward to viewing this list and request that our comments below are taken into account. Network Rail would encourage the railways to be included in Regulation 123 list of the types of projects that will be funded through CIL which should also include Newbury Station / Newbury Racecourse / Sandford Park.</p> <p>As Network Rail is a publicly funded organisation with a regulated remit it would not be reasonable to require Network Rail to fund rail improvements necessitated by commercial development. It is therefore appropriate to require developer contributions to fund such improvements.</p> <p>Specifically, we request that a Policy is included within the document which requires developers to fund any qualitative improvements required in relation to existing facilities and infrastructure as a direct result of increased patronage resulting from new development.</p> <p>The likely impact and level of improvements required will be specific to each</p>	<p>The updated infrastructure delivery plan will be attached as supporting information to the draft charging schedule and includes details of improvements required for railway stations.</p> <p>The updated Infrastructure Delivery Plan (IDP) demonstrates a net funding requirement in excess of £163.5m. Given that 3,820 houses are still to be delivered in the remainder of the plan period to 2026, using the most optimistic estimate of CIL receipts would still result in a funding gap in excess of £121m.</p> <p>The governance of CIL receipts is to be drawn up by officers and members however it will have due regard to the IDP as mentioned above.</p>	

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			<p>station and each development meaning standard charges and formulae may not be appropriate. Therefore in order to fully assess the potential impacts, and the level of developer contribution required, it is essential that where a Transport Assessment is submitted in support of a planning application that this quantifies in detail the likely impact on the rail network.</p> <p>To ensure that developer contributions can deliver appropriate improvements to the rail network we would recommend that Developer Contributions should include provisions for rail and should include the following:</p> <ul style="list-style-type: none"> • Network Rail believes that developments on the railway infrastructure should be exempt from CIL or that its development should at least be classified as payments in-kind. • Network Rail believes that developments on the railway infrastructure should be exempt from CIL or that its development should at least be classified as payments in-kind. • We would encourage the railways to be included on the Regulation 123 list of the types of infrastructure projects that will be funded through CIL. Network Rail would like to seek a clear definition of buildings in the draft charging schedule. Railway stations are open-ended gateways to railway infrastructure and should not be treated as buildings. Likewise lineside infrastructure used to operate the railway (such as sheds, depot buildings etc) should be classed as railway infrastructure and not treated as buildings for the purposes of the charging schedule. • Network Rail would like confirmation that its developments over 100sqm undertaken using our Permitted Development Rights will not be CIL chargeable. • We consider that imposing a charge on one infrastructure project to pay for another in an inefficient way of securing funding. • A requirement for development contributions to deliver improvements to the rail network where appropriate. 		

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			<ul style="list-style-type: none"> • A requirement for Transport Assessments to take cognisance of impacts to existing rail infrastructure to allow any necessary developer contributions towards rail to be calculated. • A commitment to consult Network Rail where development may impact on the rail network and may require rail infrastructure improvements. In order to be reasonable these improvements would be restricted to a local level and would be necessary to make the development acceptable. We would not seek contributions towards major enhancement projects which are already programmed as part of Network Rail's remit. <p>Notwithstanding the above, I enclose a link to Network Rail's website; http://www.networkrail.co.uk/browseDirectory.aspx?dir=\RUS%20Documents&p ageid=2895&root=</p> <p>This link provides access to Network Rail's Great Western Route Utilisation Strategy (March 2010) of which sets out the strategic vision for the future of the railway in this vital part of the railway network. It is hoped that this will be of use to the Council to keep you up to date with future aspirations for railway development in West Berkshire.</p> <p>I would be grateful if confirmation of receipt of these comments could be provided.</p>		
Mr Martin Small	English Heritage		<p>**SEE SEPARATE ENGLISH HERITAGE APPENDIX FOR FURTHER INFORMATION**</p> <p>Thank you for advising English Heritage of the consultation on the Preliminary draft Charging Schedule. As the Government's Statutory Advisor on the Historic</p>	The updated IDP will be attached as supporting information to the Draft Charging Schedule and includes within it references to maintenance and improvement to the Council's	

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			<p>Environment, English Heritage is pleased to comment on this document.</p> <p>English Heritage advises that CIL charging authorities identify the ways in which CIL, planning obligations and other funding streams can be used to implement the policies within the Local Plan aimed at and achieving the conservation and enhancement of the historic environment, heritage assets and their setting.</p> <p>The Community Infrastructure Levy covers a wide definition of infrastructure in terms of what can be funded by the levy and is needed for supporting the development of an area. This can include:</p> <ul style="list-style-type: none"> • Open space: as well as parks and green spaces, this might also include wider public realm improvements, possibly linked to a Heritage Lottery Fund scheme, conservation area appraisals and management plans, and green infrastructure; • 'In kind' payments, including land transfers: this could include the transfer of an 'at risk' building; • Repairs and improvements to and the maintenance of heritage assets where they are an infrastructure item as defined by the Planning Act 2008, such as cultural or recreational facilities. <p>The Localism Act 2011 also allows CIL to be used for maintenance and ongoing costs, which may be relevant for a range of heritage assets, for example, transport infrastructure such as historic bridges or green and social infrastructure such as parks and gardens.</p> <p>The Council should consider whether any heritage-related projects within West Berkshire would be appropriate for CIL funding.</p>	<p>heritage assets and open spaces.</p> <p>The viability study details the testing which has taken place for a substantial number of scheme types at different value levels, using a test CIL rate in £25 bands. The tables at appendices 11a and 11b of the viability study show that the vast majority of scenarios are viable to a greater or lesser extent. The tables show that the rates proposed are entirely reasonable and concur with CIL Regulations. Accordingly this council does not view CIL as a key threat to the delivery of a scheme. Planning applications that threaten the setting of a heritage asset will not be approved without appropriate mitigation measures.</p> <p>A draft version of the Reg 123 list will be attached as supporting information to the Draft Charging Schedule, and will make it clear that, given our formulaic policy currently in place for S106 contributions, this council will no longer seek S106 contributions on any but the largest developments in West Berkshire, once a CIL is</p>	

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			<p>The Council should also be aware of the implications of any CIL rate on the viability and effective conservation of the historic environment and heritage assets in development proposals. For example, there could be circumstances where the viability of a scheme designed to respect the setting of a heritage asset in terms of its quantum of development could be threatened by the application of CIL. There could equally be issues for schemes which are designed to secure the long term viability of the historic environment (either through re-using a heritage asset or through enabling development).</p> <p>Paragraph 126 of the National Planning Policy Framework requires that local planning authorities set out, in their Local Plan, a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In relation to CIL, this means ensuring that the conservation of its heritage assets is taken into account when considering the level of the CIL to be imposed so as to safeguard and encourage appropriate and viable uses for the historic environment.</p> <p>We are therefore encouraging local authorities to assert in their CIL Charging Schedules their right to offer CIL relief in exceptional circumstances where development which affects heritage assets and their settings may become unviable it was subject to CIL. We also urge local authorities to then offer CIL relief where these circumstances apply.</p> <p>For clarity, following guidance set out in the Community Infrastructure Levy Relief Information Document (2011), we recommend that the conditions and procedures for CIL relief be set out within a separate statement following the Charging Schedule. The statement could set out the criteria to define exceptional circumstances and provide a clear rationale for their use, including the justification in terms of the public benefit (for example, where CIL relief would enable the restoration of heritage assets identified on English Heritage's</p>	<p>adopted. Given this situation, the Council does not intend to adopt an Exceptional Circumstances policy at this time.</p>	

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			<p>Heritage at Risk Register). For clarity the statement could also reiterate the necessary requirements and procedures which would be followed in such cases, including the need for appropriate notification and consultation.</p> <p>It should also be remembered that development-specific planning obligations may still continue to offer further opportunities for funding improvements to and the mitigation of adverse impacts on the historic environment, such as archaeological investigations, access and interpretation, and the repair and reuse of buildings or other heritage assets.</p> <p>English Heritage strongly advises that the Council's conservation staff are involved throughout the preparation and implementation of the Draft Charging Schedule as they are often best placed to advise on local historic environment issues.</p> <p>I attach an Appendix to this letter that sets out some background information on the relationship of Infrastructure with the historic environment which I hope will be helpful in explaining English Heritage's position on infrastructure and CIL.</p> <p>**SEE SEPARATE ENGLISH HERITAGE APPENDIX FOR FURTHER INFORMATION**</p>		
Mr Graham Hunt	Newbury Town Council		<p>Thank you for the opportunity to respond to the Consultation on the Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule. Given that current S106 requests (which CIL will largely replace) are delegated to the Chief Executive Officer, this response was drafted by the Chief Executive Officer and subsequently discussed and ratified at the Planning & Highways Committee meeting of Newbury Town Council on 11 March 2013.</p> <p>a) Given the successful partnership with West Berkshire Council on the current</p>	<p>Thank you for your comments. It should be noted that current regulations require 15% of CIL receipts from a development to be allocated to the relevant Parish or Town Council. This does not preclude any Parish or Town Council from spending any other resources on</p>	

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			<p>S106 process, particularly in relation to Developer Contributions relating to Open Space, the Town Council remains disappointed that central government interference has removed a perfectly good process in West Berkshire. It does however recognise that the CIL change is happening nationally without choice and the Town Council's efforts are now directed in ensuring the best possible outcomes for the community of Newbury.</p> <p>b) There is further disappointment from the Town Council that in relation to CIL, central government is proposing restrictive allocations to the relevant parish council (15% capped at £100 per existing household for areas without a Neighbourhood Plan), which will potentially diminish the direct infrastructure investment that the Town Council will be able to make, even though no Neighbourhood Plan is currently required.</p> <p>c) The Town Council therefore hopes that in spite of central government restrictions, that Newbury Town Council and West Berkshire Council will be able to work in effective partnership on CIL, to continue the effective investment in infrastructure that the community of Newbury requires.</p> <p>d) Newbury Town Council has submitted a number of generic and specific infrastructure requirements to West Berkshire Council as part of the parallel update of the Infrastructure Delivery Plan (IDP) that CIL is dependent on. It is hoped that the processes will be sufficiently flexible to allow further updates to the IDP as further infrastructure requirements and ideas become known, as was possible under the S106 regime.</p> <p>e) With regard to the overall rates proposed of £75/sqm and £125/sqm, the Town Council have no specific comment apart from the fact that the supporting documentation appears to provide sufficient justification for the rates proposed.</p>	<p>infrastructure improvements, and indeed does not preclude the Unitary Authority from contributing to infrastructure projects that are considered a priority.</p> <p>The governance policy around CIL receipts is being considered by officers and members and does not form part of the consultation; however your views will be taken into account.</p> <p>The viability study has proven that (a) there is sufficient viability in the retail sector to support a CIL charge, and (b) there is insufficient viability in the business sector to support a CIL charge.</p> <p>The timetable for future updates to CIL will be considered by officers and members in due course, once a CIL has been adopted.</p>	

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			<p>f) The Town Council does have a strong concern that it appears that Retail development is treated as a specific, and more detrimental case. Retail development in the Town Centre must be encouraged, and so it is suggested that the £125/sqm should only be applied to "Out of Town" retail development, with "Town Centre" retail development set at £50/sqm.</p> <p>g) The Town Council is disappointed that the report suggests that there should be no CIL charge for other non-residential development, and specifically Business Developments. All such developments still have an impact on infrastructure requirements, in some cases bigger than the impact of residential / retail. The Town Council requests that there is at least a nominal charge rate of say £50/sqm for the three Business Development categories.</p> <p>h) Finally, it is not clear how the rates may be changed in future, if development rates / viability tests and the like result in rates of development (either too slow or too fast) that are inappropriate. The Town Council would like a clear mechanism for monitoring and change to be included in the final document.</p>		
Mr David Wilson	Savills	Thames Water	<p>Thames Water Utilities Ltd (Thames Water) Property Services function is now being delivered by Savills (UK) Limited as Thames Water's appointed supplier. Savills are therefore pleased to respond to the above consultation on behalf of Thames Water.</p> <p>Thames Water are the statutory water and sewerage undertaker for the West Berks District and are hence a "specific consultation body" in accordance with the Town & Country Planning (Local Planning) Regulations 2012. In this context we have the following comments on the draft CIL Charging Schedule:</p> <p>Thames Water provide essential water and wastewater infrastructure in order to support growth and deliver environmental improvements. That infrastructure</p>	The recommendations of the viability study are that a CIL rate can only be levied for dwellings and for the retail sector. The Council is setting a zero rate for all other development.	

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			<p>provision can incorporate the provision of buildings such as a new sewage pumping station or new water treatment building for example. The nature of such infrastructure buildings means that there is no impact on other forms of infrastructure requirements such as schools, open space and libraries. We therefore consider that water and wastewater infrastructure buildings should be exempt from payment of the Community Infrastructure Levy and this appears to be the case in the draft schedule where all types of development, other than residential and retail, have a Nil charge which Thames Water support.</p> <p>The purpose of the CIL is to raise funds from developers of new building projects to help fund infrastructure that is needed as a result of development. This includes transport schemes, flood defences, schools, hospitals and other health and social care facilities, parks, green spaces and leisure centres. However, water and wastewater infrastructure is also essential to all new development. Such water and wastewater infrastructure provision is unlikely to put additional pressure on the above mentioned infrastructure.</p> <p>The Communities and Local Government document entitled "The Community Infrastructure Levy – An Overview" sets out that the money raised by developer contributions should be spent in a way that developers feel is worthwhile namely on infrastructure to support development and the creation of sustainable communities. The document also sets out that "the responsibility to pay the levy runs with the ownership of land on which the liable development will be situated. This is in keeping with the principle that those who benefit financially when planning permission is given should share some of that gain with the community. That benefit is transferred when the land is sold with planning permission, which also runs with the land."</p> <p>The predominant aims of water and wastewater infrastructure development are to support growth (the same aim as the CIL) and to deliver environmental</p>		

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			<p>improvements. Consequently, Thames Water do not benefit in the same way as residential or commercial developers through the ability of selling operational sites with planning permission for operational buildings.</p> <p>Given the aim of new water and wastewater infrastructure buildings are to provide the infrastructure required to support growth or to deliver environmental improvements it is considered that charging the CIL on such water and wastewater developments would be unreasonable.</p> <p>For the reasons set out above we consider that buildings required for water and wastewater infrastructure provision should be identified as being exempt from paying the CIL.</p> <p>The Council may however wish to consider using CIL contributions for enhancements to the sewerage network beyond that covered by the Water Industry Act and sewerage undertakers, for example by providing greater levels of protection for surface water flooding schemes. Sewerage undertakers are currently only funded to a circa 1:30 flood event.</p> <p>We trust the above is satisfactory, but please do not hesitate to contact me if you have any queries.</p>		
Mr John Moran	Health and Safety Executive		<p>We have concluded that we have no representation to make on this occasion. This is because your consultation request is not concerned with the potential encroachment of future development on the consultation zones of major hazard installations of MAHPs. As the request is not relevant for HSE's land-use planning policy, we do not need to be informed of the next stages in the adoption of the Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule.</p>	Thank you for your response. Your comment is noted	
Ziyad Thomas	McCarthy and Stone		**SEE SEPARATE APPENDIX FOR FURTHER INFORMATION**	Thank you for your detailed comments with particular regard to	

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	Retirement Lifestyles Ltd		<p>As the market leader in the provision of sheltered housing for sale to the elderly, McCarthy and Stone Retirement Lifestyles Ltd considers that with its extensive experience in providing development of this nature, it is well placed to provide informed comments on the aforementioned document insofar as it affects or relates to housing for the elderly.</p> <p>For your convenience, please find attached our comments with regards to the recent round of consultation on the emerging West Berkshire CIL Preliminary Draft Charging Schedule.</p> <p>In Brief Summary:</p> <p>The consultation response expresses concerns that the viability study work undertaken does not include scenarios for sheltered housing developments.</p> <p>The consultation response sets out the individual factors to be considered with specialist accommodation for the elderly including communal areas, sales rate, empty property costs, and build costs. An instalment plan is also requested.</p>	<p>sheltered housing development for the elderly.</p> <p>The approach taken by West Berkshire Council is in line with approaches taken and supported at Examinations to date. This type of housing is regarded as C3 development and testing has taken place for a wide range of scenarios as part of the viability study. Appendix 11a of the viability study clearly shows that for the majority of scenarios, sites remain viable at levels above the proposed CIL rates. Whilst West Berkshire Council notes the particular characteristics associated with this particular form of development it considers the approach taken to be reasonable.</p> <p>Reference has been made to factors which negatively affect viability. In the Council's opinion this is to some extent balanced by positive factors such as premium sales values, high density development and reduced external works.</p>	
Ms Nicola Gooch	Asda Stores Ltd		We act for Asda Stores Limited ('Asda'). We write on behalf of our client to make representations in respect of West Berkshire Council's Preliminary Draft	Thank you for your comments. The council's response to each of your	

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			<p>Charging Schedule.</p> <p>Under Regulation 14 of the Community Infrastructure Levy Regulations 2010 ('CIL Regulations') the Council's primary duty when setting the level of Community Infrastructure Levy ('CIL') charge is to strike an appropriate balance between the desirability of funding the cost of infrastructure required to support development from CIL and its potential effects on the economic viability of development.</p> <p>In our view, the approach taken to assessing the Charging Schedule does not achieve an appropriate balance between these two objectives.</p> <p>We wish fundamentally to object to the approach taken to assessing the Charging Schedule, and to the disproportionate loading of CIL upon retail and residential development on the following grounds:</p> <ul style="list-style-type: none"> • Impact on policies promoting economic growth and employment opportunities; • The financial assumptions and viability assessments contained in the Council's Viability Study; • Concerns about the Council's approach to setting CIL charges generally; and • Comments on the Council's proposed instalments policy. 	<p>grounds is shown on the following pages below.</p>	
			<p>Impact on policies promoting economic growth and employment opportunities</p>	<p>The viability study has shown that in</p>	

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			<p>We will not repeat the Council's Strategic Objectives, set out in its core strategy, however, in order to achieve realise these Objectives; the Council will need to set an appropriate CIL charge. An appropriate CIL charge will encourage new development and promote redevelopment to create employment and ensure a range of shopping choices for consumers and enhance the vitality and viability in district and local centres.</p> <p>The proposed CIL rate of £125 per square metre for all retail development, regardless of its size or location, could have the effect of reducing the range, variety and choice of shopping within the Borough.</p> <p>It is our view that if the retail charge set out in the Charging Schedule is adopted, there will be a disincentive (and market distortion accordingly) to investment in this sector of the economy, as opposed to other industrial/ employment or town centre uses.</p> <p>The Government is keen to encourage the creation of additional employment across the economy and the retail sector is one of the largest employers, and the largest creator of new jobs at the present time, as well as being one of the most dynamic and innovative sectors within the UK economy.</p> <p><u>Asda example 1</u></p> <p>Asda has a proven track record of investing in local communities and of creating jobs within these areas. For example, of the 123 colleagues recruited for the Asda store in Tunbridge Wells, 76 colleagues (71%) were previously unemployed.</p> <p>The supporting papers do not acknowledge this trend, nor do they fully assess</p>	<p>the West Berkshire area, retail development is able to support the rate of £125 per sqm. This is covered in part 3.4 of the viability study:</p> <p>The viability results show that the CIL charging rate for the larger retail types could certainly be taken up to match the £125 per sqm recommended retail charging rate. The report further states that the rate could be taken higher than this in theory, however was not recommended, or proposed by this council, due to the prospect that relatively high land values may be associated with this form of development, together with the overall development costs. For this reason the rate was not set higher, although the study shows that a rate of up to £200 per sqm could be defended.</p> <p>In addition paragraph 3.3.2 details the position in West Berkshire, which is that no new retail space is needed in the District. This was set out in the retail study (Employment Land Assessment (2007) as updated by the</p>	

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			<p>the role of retail within the national economy. They simply assert that retail continues to be one of the better performing sectors in the UK and that operators within it have the capacity to pay potentially very large sums of CIL. A CIL charge on retail development should be set at an appropriate rate and not be used as a cash cow to fund infrastructure in the area.</p> <p>Any CIL schedule that imposes a larger CIL charge on retail than other town centre uses, (including leisure, office, industrial, warehousing and other employment uses) could effectively undermine the retail function of local and town centres by detracting from their viability and vitality as large retail developers in these sectors may be discouraged by the imposition of CIL.</p> <p><u>Asda example 2</u></p> <p>Asda's stores regularly rejuvenate and regenerate existing centres, and the surrounding areas, and draw new shoppers to them, which benefits the existing retailers, and those who open stores in Asda-anchored centres in their wake. For example in 2006, Asda opened a store in Romford, transforming a derelict brownfield site through an extension of an existing retail mall and creating 347 jobs. This helped to propel Romford into the top fifty UK retailing cities. Indeed, owing to the success of the store in attracting more footfall to that part of the town's Primary Shopping Area, the local authority redrew the town centre boundary to include the edge of centre Asda store into the heart of the Romford town centre.</p> <p>We therefore believe that the proposed CIL rate of £125 per square metre for Retail development will undermine the Strategic Objectives set out in the Council's Core Strategy. The Council may find it more difficult to attract retail development and retail led regeneration schemes at these rates and there is a risk that the area will lose potential developers to surrounding areas where CIL</p>	<p>West Berkshire Retail & Leisure Study 2010), which was used in support of the West Berkshire Local Plan Core Strategy.</p> <p>There is no development plan based requirement for further retail space in the West Berkshire area.</p> <p>Thus a more than appropriate balance has been struck between the viability of retail development in particular, and the requirement for retail development in West Berkshire.</p> <p>Rates are required to be set at an affordable rate having regard to viability. The rates proposed by this authority have full regard to the Regulations.</p> <p>Appendix 11b of the viability study shows commercial appraisal results. These clearly show the testing of retail development scenarios and show that at rates above the £125 proposed, development remains viable. The rate has not been set at the maximum viable level.</p>	

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			<p>rates may be lower (or non-existent).</p> <p>This concern is heightened by the fact that the retail levy appears to have been set at the maximum viable charge recommended for large scale retail schemes by Dixon Searle LLP. This goes against DCLG Guidance which clearly states that Councils should avoid setting CIL rates at the uppermost margins of viability, allowing a 'buffer' or margin to account for changes in the market or unexpected circumstances on site.</p> <p>As CIL is fixed and non-negotiable the importance of such a buffer cannot be overstated, particularly when a Council's core strategy focuses new developments onto previously developed land, which is likely to carry higher decontamination and remediation costs. This is particularly important as Dixon Searle appears to have expressly excluded such costs from their assumptions in the viability study.</p>		
			<p>The financial assumptions and viability assessments contained in the Council's Viability Study</p> <p>We have a number of additional concerns about the retail assumptions used in the Dixon Searle LLP: Community Infrastructure Levy Viability Study (January 2013) (the 'Viability Study').</p> <p>Most importantly, the viability study does not appear to allow for residual s.106 contributions or s.278 costs in relation to retail developments. Although the Council will not be able to pool s.106 contributions once CIL is adopted, the types of commonly pooled contributions tend not to make up a large proportion of the contributions sought from commercial schemes – which are usually focussed on site specific highways and access works, employment and training contributions, environmental mitigation works and other, site specific,</p>	<p>An analysis of previous S106 receipts will be provided as a supporting document to the Draft Charging Schedule. This will provide evidence of the amount of revenue received under our current S106 formulaic approach, and will set out our current example contributions for additional information.</p> <p>West Berkshire considers that, given the local circumstances, the overall approach taken to (firstly) weighing up the level of costs associated, at</p>	

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			<p>requirements. Many of these types of planning contributions (detailed in appendix 1) will still be required after CIL has been adopted to make a retail scheme acceptable in planning terms.</p> <p>By excluding the true cost of residual planning and highways contributions for a commercial development, the Council has underestimated the true cost of retail developments and artificially inflated the residual land values used for the financial viability models. This will, in turn, have inflated the amount of CIL proposed for these uses.</p> <p>In addition, the DCLG now requires local authorities to produce evidence of the amount of revenue raised by Section 106 contributions in their area, and set out details of whether their affordable housing targets and other strategic objectives have been met. The proposed CIL levies for any individual sector can then be assessed against the contributions previously received, minus any contributions that developers would still have to pay notwithstanding any CIL payments, to see if they are realistic.</p> <p>The evidence put forward by the Council does not appear to contain this information. It is difficult to see how the Council can be certain that the proposed CIL levy will not prohibit the viability of retail development without it.</p>	<p>the necessary level appropriate to CIL viability testing, and (secondly) to considering the likely strength of the relationship between development costs and values, is appropriate and provides a reasonable reflection of the viability of the scenarios. Taken alongside the required approach not to set rates at the maximum possible levels, the approach is appropriate.</p>	
			<p>Concerns about the Council's approach to setting CIL charges generally</p> <p>The stated purpose of CIL is to raise revenue for infrastructure necessary to serve development. CIL is intended to address the imbalance of raising funds for infrastructure under the Section 106 route where larger schemes have effectively subsidised minor developments. However, CIL does not replace the Section 106 revenue stream - it will simply provide additional revenue for infrastructure. In light of this, we have some further concerns:</p>	<p>In West Berkshire's case, given its highly successful formulaic approach to securing developer contributions, the pooling restriction placed on S106 after the introduction of CIL means that the use of S106 contributions will be severely restricted once CIL is adopted.</p>	

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			<p>Concerns on CIL payments and the infrastructure requirements</p> <p>The Council's Strategic Infrastructure Plan does not appear to calculate the extent of the funding gap that the Council's CIL receipts are intended to meet (or at least contribute too).</p> <p>As you are aware, Reg 14(1) of the Community Infrastructure Regulations (as amended) states that:</p> <p>(1) ... a charging authority must aim to strike what appears to the charging authority to be an appropriate balance between—</p> <p>(a) 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</p> <p>(b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.</p> <p>Although the Council has produced a detailed infrastructure delivery plan, this does not appear to include an estimated funding gap. We understand that the IDP is in the process of being refreshed and this revised version will be used to calculate what the Council's infrastructure delivery funding gap will be. If that is the case, then this consultation could be seen as premature. It is difficult to see how the Council can propose a CIL rate that strikes the necessary balance without first knowing the true extent of its infrastructure funding gap.</p> <p>The Charging Schedule, as drawn, does not make the connection between the</p>	<p>The updated Infrastructure Delivery Plan (IDP) demonstrates a net funding requirement in excess of £163.5m. Given that 3,820 houses are still to be delivered in the remainder of the plan period to 2026, using the most optimistic estimate of CIL receipts would still result in a funding gap in excess of £121m.</p>	

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			<p>CIL charges proposed and the infrastructure requirements of the particular developments upon which they are being levied.</p> <p>By way of example, using the CIL figures proposed in the Charging Schedule for retail (£125 per square metre) the proposed charge would add £500,000 to the cost of a generic 4,000 square metres supermarket development. There is no evidence that this is necessarily the appropriate figure in terms of the related infrastructure costs that a retail development should be expected to carry but rather it appears to be a high level calculation based on the sector's assumed ability to pay.</p> <p>We accept that some superstores may individually necessitate the provision of specific local infrastructure but it could be argued that given the expansion of modern supermarkets infrastructure requirements have reduced. For example, it is frequently the case that journey times fall as new supermarkets are opened. The inevitable consequence of this is that most existing infrastructure is used less, not more, as a result of such developments. There is a concern that as local authorities will still seek site-specific commitments under the Section 106 regime as well as CIL that the two charges together represent an unreasonable double levy for infrastructure which is seemingly being placed onto a very limited category of development.</p> <p>There is also a risk that some of the infrastructure projects identified by the Council to be funded by CIL will already have been funded by undelivered projects funded by existing Section 106 commitments. At present, Section 106 contributions paid to a Council are repaid to the developer if the infrastructure has not been delivered within a certain period of time. These delivery periods are long, usually between five and ten years, and the onus is on the developer to check that the council has carried out the works and to request a refund if not. As you will be aware, there is no similar mechanism to allow developers to</p>		

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			reclaim unspent CIL contributions.		
			<p>Instalment policy</p> <p>Our client welcomes the fact that the Council is considering adopting a draft instalments policy.</p> <p>Many major development projects are implemented in phases and by adopting an instalment policy this should ensure that developers are not disadvantaged by submitting an application for full, rather than outline, planning permission. We therefore also urge the Council to adopt an instalment policy which ensures that developers are not disadvantaged by the decision to submit a full planning application for a phased development scheme.</p>	The instalments policy will be carried forward into the DCS for Examination and Adoption	
			<p>Asda's suggestions</p> <p><u>1 Exceptional Circumstances policy</u></p> <p>The Council has not indicated in the Charging Schedule whether it intends to adopt an Exceptional Circumstances policy. We would urge it do so.</p> <p>The viability of any particular development scheme is finely balanced and will fluctuate depending upon the costs involved in the development and the state of the economy when the development comes forward. By adopting exceptional circumstances relief, the Council will have the flexibility to allow strategic or desirable but unprofitable development schemes to come forward by exempting them from the CIL charge, or by reducing it in certain circumstances.</p> <p>Simply exempting schemes from certain Section 106 obligations is unlikely to be sufficient to counteract the negative impact of the CIL charge, particularly as not</p>	<p>A draft version of the Reg 123 list will be attached as supporting information to the Draft Charging Schedule, and will make it clear that, given our formulaic policy currently in place for S106 contributions, this council will no longer seek S106 contributions on any but the largest developments in West Berkshire, once a CIL is adopted. Given this situation, the Council does not intend to adopt an Exceptional Circumstances policy at this time</p> <p>The viability study does not support a flat rate levy.</p>	

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			<p>all schemes (in particular retail developments) would attract an affordable housing requirement which could be waived. Further, the types of strategic development which are most likely to be of concern to the Council, such as large regeneration or housing schemes, are precisely the types of development which are likely to carry heavy site-specific infrastructure costs, which will be funded under Section 106, and are most likely to qualify for exceptional circumstances relief. We therefore encourage the Council to adopt it.</p> <p><u>2 Flat Rate levy</u></p> <p>A much fairer solution, accepting for the purpose of this argument the premise that CIL is necessary for the purpose of funding district-wide infrastructure, would be to divide the Council's estimate of total infrastructure costs over the charging period (and in this connection, it is important to remember that the Government's guidance as recorded in the National Planning Policy Framework is that only deliverable infrastructure should be included) by the total expected development floor space, and apply a flat rate levy across the area and across all forms of development. That will have the least possible adverse effect upon the market for land and for development, and yet the greatest possible opportunity for the economy to prosper and thrive and for jobs to be created.</p> <p>The potential impact of a flat rate levy on the viability of those types of development which are not currently identified as viable could be balanced by the Council's implementation of exceptional circumstances relief, as mentioned above.</p>		
			<p>Conclusion</p> <p>For these reasons, we would ask that the Council undertakes a rethink of its position and substantially alters its Charging Schedule in so far as it relates to</p>	<p>The viability assessment has been carried out appropriately and can be defended. An exceptional circumstances policy is not being</p>	

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			<p>large retail development.</p> <p>Accordingly, we would request that the Council:</p> <ul style="list-style-type: none"> • Revisits its viability assessments for retail development, to address the concerns set out above; • Adopts an exceptional circumstances policy allowed for under the CIL Regulations; • Produces a draft instalment policy to ensure that developers carrying out phased developments are not disadvantaged by submitting an application for full, rather than outline, planning permission; and • Adopts a single flat rate levy across all development within its boundaries 	<p>considered at this time. A draft instalments policy will be included within the DCS. A flat rate levy is not appropriate.</p>	
Ms Catherine Mason	Savills	W. Cumber and Sons	<p>**SEE SEPARATE DOCUMENT FOR FULL CONSULTATION RESPONSE **</p> <p>The maps showing the differential CIL rates across the district are misleading as these only show the residential rate and not the retail rate as this is the same throughout the district. A note to make this clear on the maps should be added.</p> <p>See separate letter for detailed comments on the preliminary draft charging schedule.</p> <p>In Summary:</p> <p>"W. Cumber & Son (Theale) Ltd has an interest in sites in Theale and Calcot, within the Eastern Urban Area as identified in the Core Strategy (adopted July 2012)"</p>	<p>The differential rate maps for residential will be amended to clarify that they only relate to residential development. All other rates are proposed for the whole authority area.</p> <p>A draft version of the Reg 123 list will be attached as supporting information to the Draft Charging Schedule, and will make it clear that, given our formulaic policy currently in place for S106 contributions, this council will no</p>	

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			<p>"We welcome the Council's decision to set a nil rate for business development (office, industrial and warehousing) and fully support this. However, we are concerned generally about the impact the proposed residential and retail rates in the West Berkshire Preliminary Draft Charging Schedule will have on developments and that it may render them unviable."</p> <p>The respondent advises that the Reg 123 list is done before the Draft Charging Schedule consultation.</p> <p>The accuracy and relevance of the IDP is questioned.</p>	<p>longer seek S106 contributions on any but the largest developments in West Berkshire, once a CIL is adopted.</p> <p>The updated Infrastructure Delivery Plan (IDP) demonstrates a net funding requirement in excess of £163.5m. Given that 3,820 houses are still to be delivered in the remainder of the plan period to 2026, using the most optimistic estimate of CIL receipts would still result in a funding gap in excess of £121m.</p>	
			<p>The requirement for a viability buffer must be incorporated into the viability study.</p> <p>The respondent is concerned about the blanket retail rate in mixed use developments, and questions the evidence of grouping the Eastern Urban Area with Newbury.</p>	<p>Appendices 11a and 11b of the viability study clearly show for each of the areas assessed, the residual land value results by scheme type, value level and CIL rate at increasing £25 band intervals. For ease of interpretation the results have been colour coded so that green cells are viable and red unviable. The tables clearly show that the vast majority of scenarios are viable at rates higher</p>	

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				<p>than those proposed. West Berkshire Council has not set rates at the limits of viability tested (i.e. £200), in accordance with CIL Regulations. The council contends that the proposed rates of £75 and £125 are entirely reasonable.</p> <p>The differential rate proposed has had regard to the viability of sites across West Berkshire. A differential rate can be supported, as is explained in detail in the viability study.</p>	
			<p>Concerns are also expressed re Threshold Land Values, build costs, the level of developer profits, and sales rates. Clarity is requested over the residual use of S106.</p> <p>**SEE SEPARATE DOCUMENT FOR FULL CONSULTATION RESPONSE**</p>	<p>The assumptions made by West Berkshire's consultants, Dixon Searle, and the approach that they have taken is appropriate and has been supported consistently at previous Examinations. The assumptions represent an appropriate overview approach for study purposes.</p>	
Mr Philip Brown	Savills (L&P) Ltd	Landowner / Developer Consortium	<p>**SEE SEPARATE DOCUMENT FOR FULL CONSULTATION RESPONSE**</p> <p>Please find attached a response to the Council's Community Infrastructure Levy Preliminary Draft Charging Schedule that is made on behalf of a landowner and developer Consortium comprising of David Wilson Homes, Taylor Wimpey Homes, Rivar Homes, Westbuild Homes and Hicks Homes.</p>	<p>Thank you for submitting your comments on the PDCS. We note that your comments are restricted to residential development in West Berkshire.</p> <p>In response to part 4 – Viability</p>	

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			<p>Part 6 (Conclusions) of the attached response is shown below:</p> <p>6.1 This representation has been prepared by Savills on behalf of a landowner and developer Consortium comprising of David Wilson Homes, Taylor Wimpey Homes, Rivar Homes, Westbuild Homes and Hicks Homes. The Consortium is concerned with aspects of the approach adopted by WBC towards CIL relating to the rates for development, especially residential development, and wishes to work with the Council in ensuring that suitable levels of residential development come forward within the plan period.</p> <p>6.2 Furthermore, we have concerns relating to the robustness of the Infrastructure Delivery Plan and the assumptions used in the viability models, and would ask that DSP provide evidence on the aspects we have highlighted. In particular, bearing in mind the points raised, the following matters should be investigated further by WBC:</p> <ul style="list-style-type: none"> • Development Profit • Gross and net developable area • Sales rate • Viability buffer • Infrastructure costs <p>6.3 We feel it necessary to stress that if the CIL level is set too high, it will almost certainly have a negative impact on a large proportion of development coming forward, especially bearing in mind the reliance on Strategic Urban Expansion areas for growth. We believe that once the assumptions – as mentioned above –</p>	<p>Appraisal: Build Costs – the approach taken is appropriate, has been supported consistently at past Examinations and represents an appropriate overview approach; particularly alongside the approach to allowing for external works etc. It is appreciated that costs are highly variable and in fact include lower base build costs in some instances. The approach and assumption is suitable. Developer Profit – the nature of assumptions made has been supported consistently at past Examinations. It is appreciated that profit levels vary; the approach is appropriate for the study purpose. Professional Fees: 10% is reflective based on testing carried out by the consultants. It is not considered appropriate to move this assumption upwards. Developable Area and Sales Rate: at this level of review and for the scenarios tested and most relevant to the remaining plan delivery in West Berkshire, the approach is suitable. S106 – please see paragraph below in relation to the Reg 123 list where</p>	

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			<p>have been clarified, it will show the proposed residential CIL levels are too high and need reviewing.</p> <p>6.4 The Consortium is open to meeting with WBC and its advisors to discuss amendments to the approach taken. We believe this should be arranged as soon as possible.</p> <p>**SEE SEPARATE DOCUMENT FOR FULL CONSULTATION RESPONSE**</p>	<p>the relationship between CIL and S106 is explained more fully. Viability Buffer: Appendices 11a and 11b of the viability study clearly show for each of the areas assessed, the residual land value results by scheme type, value level and CIL rate at increasing £25 band intervals. For ease of interpretation the results have been colour coded so that green cells are viable and red unviable. The tables clearly show that the vast majority of scenarios are viable at rates higher than those proposed. West Berkshire Council has not set rates at the limits of viability (i.e. £200), in accordance with CIL Regulations. The council contends that the proposed rates of £75 and £125 are entirely reasonable.</p> <p>In response to parts 3 (infrastructure and Planning) and 5 (Effective Operation) of the response: The updated Infrastructure Delivery Plan (IDP) demonstrates a net funding requirement in excess of £163.5m. Given that 3,820 houses are still to be delivered in the remainder of the plan period to 2026,</p>	

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				<p>using the most optimistic estimate of CIL receipts would still result in a funding gap in excess of £121m.</p> <p>A draft version of the Reg 123 list will be attached as supporting information to the Draft Charging Schedule, and will make it clear that, given our formulaic policy currently in place for S106 contributions, this council will no longer seek S106 contributions on any but the largest developments in West Berkshire, once a CIL is adopted.</p> <p>The instalment policy will be carried forward unchanged to the next stage of the adoption process.</p> <p>Given that this Council has set rates at a more than reasonable level, no Exceptional Circumstances policy is proposed.</p> <p>The timetable for future updates to CIL will be considered by officers and members in due course, once a CIL has been adopted.</p>	
Mr Greg	Planning Issues	Churchill	**SEE SEPARATE DOCUMENT FOR FULL CONSULTATION RESPONSE**	Thank you for your letter with	

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Hilton	Ltd	Retirement Living Ltd	<p>Please find attached a completed representation on behalf of Churchill Retirement Living Ltd to the draft CIL charging schedule.</p> <p>In summary:</p> <ol style="list-style-type: none"> 1. The current viability evidence prepared by Dixon Searle Partnership does not include specific consideration of retirement housing/sheltered housing. The viability appraisals referred to in the consultation response represent a typical retirement apartment development and should therefore be used as a standalone development typology in the CIL viability evidence base to be tested in Value Points 2 to 4. 2. The viability assessment to inform the Draft Charging Schedule should include a consideration of the relative viability of retirement housing when set against both existing site values, and a range of alternative values for the land on which a retirement development might be situated. 3. The Draft Charging Schedule should pay heed to the effect of CIL on the supply of housing for the elderly, including the wider benefits that the provision of this tenure in sufficient numbers can bring, as per the NPPF paragraphs 50 and 159. <p>**SEE SEPARATE DOCUMENT FOR FULL CONSULTATION RESPONSE**</p>	<p>particular regard to sheltered housing development for the elderly. Your comments have been considered.</p> <p>The approach taken by West Berkshire Council is in line with approaches taken and supported at Examinations to date. This type of housing is regarded as C3 development and testing has taken place for a wide range of scenarios as part of the viability study.</p> <p>Appendix 11a of the viability study clearly shows that for the majority of scenarios, sites remain viable at levels above the proposed CIL rates. West Berkshire Council has not set rates at the limits of viability (i.e. £200), in accordance with CIL Regulations. The council contends that the proposed rates of £75 and £125 are entirely reasonable.</p> <p>Whilst West Berkshire Council notes the particular characteristics associated with this particular form of development it considers the approach taken to be reasonable.</p>	

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				Reference has been made to factors which negatively affect viability. In the Council's opinion this is to some extent balanced by positive factors such as premium sales values, high density development and reduced external works.	
Miss Jessica Stanley	Deloitte LLP	Oxford Properties	<p>On behalf of Oxford Properties, we welcome the opportunity to comment on the Community Infrastructure Levy Preliminary Draft Charging Schedule (CIL PDCS).</p> <p>Oxford Properties is the owner of Green Park Business Park, a strategically-important employment site, which is located across three local authority areas (Reading Council, West Berkshire Council and Wokingham Council). Oxford Properties completed the acquisition of Green Park from Prupim in 2011, and is committed to the long term management and on-going successful development of the Business Park.</p> <p>Green Park is of great importance to the regional and sub regional economy, and is identified as a Core Employment Area within the adopted Reading and Wokingham Core Strategies. To date, Planning Permissions at Green Park have been granted for 2,345,000 sq. ft. of office floorspace and 750 new homes as part of the Green Park Village residential development to the north of the Business Park.</p> <p>There remains scope for further expansion of Green Park on land partly within West Berkshire's administrative boundary to the east of the Reading to Basingstoke railway line and to the north of 900 South Oak Way (Plot 9). This</p>	<p>Thank you for your response. We note your support for the zero rate for business development and hotels.</p> <p>A draft version of the Reg 123 list will be attached as supporting information to the Draft Charging Schedule, and will make it clear that, given our formulaic policy currently in place for S106 contributions, this council will no longer seek S106 contributions on any but the largest developments in West Berkshire, once a CIL is adopted.</p>	

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			<p>land would represent a substantial opportunity to build upon the competitive advantages Green Park possesses as an established sustainable employment location which increasingly incorporates a wider mix of uses including a substantial residential community at Green Park Village.</p> <p>As a major landowner, Oxford Properties is keen to continue to actively engage with West Berkshire Council to ensure that future development proposals to expand Green Park continue to be viable. It is critical to ensure that the proposed CIL rates would not threaten the delivery of any future development, of this regionally significant employment location.</p> <p>As clarified in the recently updated Community Infrastructure Levy Guidance (DCLG, December 2012) and the CIL PDCS, the Charging Schedule must consider the balance between securing additional investment for infrastructure to support development and the potential economic effect of imposing CIL across the area. In meeting Regulation 14(1) this includes evidence of how the Levy will contribute towards the implementation of the Local Plan and is in line with the NPPF to ensure that the viability of sites is not threatened.</p> <p>In line with the NPPF, development should not be subject to a scale of obligations and policy burden that threatens the ability to deliver an otherwise viable and appropriate development.</p> <p>We note the proposals for a nil CIL rate in relation to Business Development (including offices, industrial and warehousing) and Hotels across the West Berkshire local authority area and welcome that approach on the basis that it will support future sustainable economic development which will meet the aims of both the West Berkshire Local Plan and the NPPF.</p> <p>In relation to the proposed CIL rate of £125 per sq.m for Residential and Retail</p>		

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			<p>Development in the East Kennet Valley, we would welcome the opportunity to investigate the appropriateness of this proposed rate and its potential impact upon viability of future proposals through dialogue with West Berkshire officers and further independent assessment of the Viability Study and emerging update to the Infrastructure Delivery Plan.</p> <p>We would also request further clarification of the circumstances in which Section 106 obligations may be sought in the future, to ensure that there will be no overlap or double-counting in respect of infrastructure contribution on any development sites. The CIL PDCS provides for payments in addition to the proposed West Berkshire CIL, via Section 106 Agreements relating to site-specific obligations on "large scale development", which individually and cumulatively could pose significant viability problems to scheme delivery.</p> <p>We therefore submit this representation as a holding response to the CIL PDCS and would welcome the opportunity for further discussion with officers. We reserve the right to make further, and more detailed, representations to future stages of consultation in relation to the West Berkshire CIL Charging Schedule, including the CIL Draft Charging Schedule and the Examination in Public.</p>		
Mr Steven Smallman	Pro Vision Planning and Design	The Benham Estate	<p>Representations on behalf of the Benham Estate</p> <p>The Benham Estate is a major traditional rural estate lying immediately to the west of Newbury and encompassing much of the village of Stockcross, as well as including a number of farmsteads and residential properties. Promoting sustainable development forms an important part of our Client's objective to create a viable and vibrant rural estate that will continue to make an important contribution to the economy, community and natural and built environment of the area.</p>	<p>Thank you for your response. Your support for the differential rate is noted, as is your support for the proposal to seek CIL on residential and retail development only.</p> <p>In response to point 1: Regulation 40(11) states that CIL is not chargeable on buildings into which people do not normally go, or</p>	

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			<p>Our Clients support the Council's proposal to set differential rates of CIL given the complex nature of the local property market. They also generally welcome the proposal to seek to levy CIL on residential and retail development only. The Benham Estate does however have the following concerns:</p> <p>1. For the avoidance of any possible doubt, the Estate believes that the charging schedule should expressly confirm that Agricultural Development is not regarded as development that is liable to CIL because it would generally only involve the erection or extension of buildings that "people do not normally go in" (i.e. livestock buildings, grain stores or machinery stores).</p> <p>2. The uniform charge proposed for retail development does not reflect the substantial differentiation in rental values between the defined zones. There is for example, a very substantial difference in rental levels and capital values between a village store or farm shop and a store in a Primary Retail frontage in Newbury Town Centre. The Viability Assessment expressly does not assess the impact of the proposed uniform charge on the viability retail development in the rural areas. The justification for this approach is based entirely on the view that the plan (Core Strategy) delivery would not be prejudiced by the setting of a charging rate for retail that may affect the viability of individual proposals that may come forward outside the Core Strategy policies scope.</p> <p>The study goes on</p> <p>"On this key point however, as at 3.3.2 above, the CIL charging approach for retail development in West Berkshire need not differentiate for varying types because retail is no longer a theme for the Core Strategy. Therefore a simple single rate approach (at £125/sq m equivalent to the upper end of the residential rates parameters) would respond appropriately to the local circumstances and in any event would not put the plan at risk."</p>	<p>buildings into which people only go intermittently for the purposes of maintaining or inspecting machinery. It is not appropriate to make generalisations about types of development as this can lead to confusion. CIL Regulations will be referred to during the planning application process and the appropriate CIL rate charged at that time.</p> <p>In response to point 2: The viability study has shown that in the West Berkshire area, retail development is able to support the rate of £125 per sqm. This is demonstrated in Appendix 11b of the retail study referring to Commercial Appraisal results, and shows that retail development is still viable at rates higher than that proposed.</p> <p>The charging rate proposal for retail has been made a single level of £125 because in West Berkshire's case there is no development plan based requirement for further retail space in the West Berkshire area.</p>	

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			<p>The Regulations make it clear that Charging Authorities should demonstrate that their proposed charging rates will contribute positively towards, as well as not threatening, the delivery of the Plan. Our Clients are concerned that there are types of retail development in the AONB (for example a farm shop as part of a diversification scheme) that would fully accord with the objectives of the Core Strategy but that would be threatened by the proposed charging rate. They note that Core Strategy Policy ADPP 5 promotes the diverse retail offer of Hungerford and offers support to economic development within the AONB that strengthens the local economy.</p> <p>In our Clients view retail development in the AONB should be zero rated.</p> <p>3. The charging schedule should differentiate between the development of new housing and extensions to existing dwellings (of more than 100sqm). Adding an extension to an existing dwelling (even a large extension) will not, for every square metre of new build, place the same burden on community services and infrastructure as building a new house. Thus adding a 175 sqm extension to an existing 400 sqm house will not have the same impact on local schools or health care services as building a new 75sqm house, but both proposals under the proposed charging schedule would attract a CIL payment of £9,375. It is also the case that the viability of house extensions is significantly less than new build housing given current VAT rates.</p> <p>In our Clients view therefore residential extensions above 100 sqm should be zero rated.</p>	<p>Thus a more than appropriate balance has been struck between the viability of retail development in particular, and the requirement for retail development in West Berkshire.</p> <p>In response to point 3: The CIL Regulations set out the thresholds for levying a CIL charge. It is not in the gift of the Council to deviate from the CIL Regulations. For clarity it should be noted that CIL is charged on net additional floorspace, therefore in general, conversions of existing buildings which result in no net increase in floorspace would not be liable, unless a new dwelling is created.</p>	
Mr Mark Leedale	Mark Leedale Planning		It's simple...no one will build anything on urban land	Your comment is noted.	
Ms Helen	Turley	ALDI Stores	On behalf of my client, ALDI Stores Ltd, I am pleased to provide representations	Thank you for your response to the	

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Tilton	Associates		<p>in response to the West Berkshire Preliminary Draft CIL Charging Schedule (PDCCS) (February 2013) and the associated maps and other evidence, including the Viability Study (Dixon Searle LLP, January 2013), and the Infrastructure Delivery Plan (IDP) (Adams Hendry Consulting Ltd).</p> <p>ALDI has development interests within the area to which the PDCCS refers, including an existing modest-scale discount foodstore in Newbury (c.1,500 sq.m. gross) that fulfils a neighbourhood shopping role as well as attracting customers from the surrounding area. Our representations therefore provide general comment on the LPAs' approach to CIL as proposed by the PDCCS, and specific comment on the proposed retail charge.</p> <p>It is important that any Charging Schedule is underpinned by a recognition that the planning system should do everything it can to support sustainable economic growth (NPPF, Paras 18 and 19). This aim requires careful attention to viability and costs, and the scale of obligations and policy burdens should ensure that development viability is not threatened (NPPF para.173) - on the contrary, CIL should support and incentivise new development (NPPF para. 175).</p> <p>The application of CIL and the evidence base underpinning the Charging Schedule should be in accordance with Government guidance and statutory provisions, including: the NPPF (March 2012); CIL Regulations 2010 (as amended April 2011, and November 2012); and Community Infrastructure Levy: An Overview (May 2011). We trust that the Local Planning Authority (LPA) has considered all relevant guidance in preparing the PDCCS.</p> <p>The introduction of a Charging Schedule represents a significant consideration for potential investors in the administrative area of West Berkshire, and will influence both existing and proposed developments, their location, nature and form and ultimately their viability and deliverability. As a result, it is important that</p>	<p>consultation.</p> <p>For clarity the DCS will show that the retail rate will apply to use classes A1 thru A5 – as is stated in the viability study.</p> <p>The viability study has shown that in the West Berkshire area, retail development is able to support the rate of £125 per sqm. This is covered in part 3.4 of the viability study:</p> <p>The viability results show that the CIL charging rate for the larger retail types could certainly be taken up to match the £125 per sqm recommended retail charging rate. The report further states that the rate could be taken higher than this in theory, however was not recommended, or proposed by this council, due to the prospect that relatively high land values may be associated with this form of development, together with the overall development costs. For this reason the rate was not set higher, although the study shows that a rate of up to £200 per sqm could be</p>	

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			<p>the Charging Schedule that is implemented provides robust, clear and concise guidance.</p> <p>Viability & Approach to the CIL Charge</p> <p>We do not wish to comment in any detail in respect of the economic viability assessment underpinning the PDCCS, but make the following observations.</p> <p>The retail CIL charge proposed by the LPA, as set out in the PDCCS, is a rate of £125 per square metre irrespective of the size, location or type of retail development. The LPA will need to clarify as part of the charging schedule what is meant by 'retail', by reference to the Use Classes Order, in order to be able to demonstrate that the charge can be related to a clearly defined use (e.g. Use Class A1).</p> <p>We do not object to the application of a single retail rate, in principle. However, ALDI wishes to ensure that any retail levy that the LPA seeks to impose is based on a robust evidence base, and that the charge can be fully demonstrated to be both necessary in principle and appropriate in terms of ensuring that development is not stifled.</p> <p>The Viability Study clarifies why a CIL levy higher than £125 per square metre is not viable (para. 3.4.4.), but in determining that a rate of £125 per square metre would be appropriate, the Study does not consider the deep-discount retail market (it instead considers a 'typical' retail supermarket of 1,000 sqm. GIA).</p> <p>National food operators do not all operate the same business models. 'Deep-discount' retailers such as ALDI operate business models designed to deliver discounted goods for a localised catchment. ALDI in particular operate a model based on high levels of efficiency and low overheads, which enables cost</p>	<p>deferred.</p> <p>In addition paragraph 3.3.2 details the position in West Berkshire, which is that no new retail space is needed in the District. This was set out in the retail study (Employment Land Assessment (2007) as updated by the West Berkshire Retail & Leisure Study 2010), which was used in support of the West Berkshire Local Plan Core Strategy.</p> <p>There is no development plan based requirement for further retail space in the West Berkshire area.</p> <p>Thus a more than appropriate balance has been struck between the viability of retail development in particular, and the requirement for retail development in West Berkshire.</p> <p>The timetable for future updates to CIL will be considered by officers and members in due course, once a CIL has been adopted.</p> <p>Your comment regarding the instalment policy is noted.</p>	

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			<p>savings to be passed on to their customers. ALDI, therefore, provides accessible low-cost goods that assist those on lower incomes, and as such ALDI is able to provide greater choice for customers in deprived areas. A high rate of CIL could impact upon the viability of the business and deter future investment, resulting in a loss of key discount retail provision and choice within West Berkshire.</p> <p>It is our view that a single retail levy must be demonstrated to be viable for any retail development, irrespective of the size or type of A1 use.</p> <p>Further to the above, the Viability Study does not appear to have accounted for any remaining s.106 costs that may be applied to retail development once CIL has been adopted. An appropriate assumption should be made in calculating a viable CIL levy, and on this basis alone, we would expect that the proposed charge of £125 per square metre would be reduced.</p> <p>Monitoring / Early Review</p> <p>Trigger points whereby a review of the CIL (once adopted) is required are not stated in the PDCCS, and we can find no evidence to demonstrate that the LPA has considered this issue. This issue should be considered in order to provide greater certainty to investors. In the event that values drop, a lower levy may be appropriate to ensure that the future delivery of development is not threatened.</p> <p>Instalment Policy / Phased Payments</p> <p>We are pleased to see that the LPA will be considering payment by instalments. Payment by instalments would provide certainty and flexibility in respect of levy payment deadlines. Consideration should also be given to payments in kind (e.g. land could be offered as part or all of the payment in certain cases, which could offer an equal if not greater benefit).</p>	<p>A draft version of the Reg 123 list will be attached as supporting information to the Draft Charging Schedule, and will make it clear that, given our formulaic policy currently in place for S106 contributions, this council will no longer seek S106 contributions on any but the largest developments in West Berkshire, once a CIL is adopted. Given this situation, the Council does not intend to adopt an Exceptional Circumstances policy at this time.</p>	

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			<p>Exemptions</p> <p>We note that the LPA does not comment upon/consider the introduction of an exceptional circumstances policy.</p> <p>Exceptional relief concerns discretionary exceptional circumstances in respect of a set of tightly drawn conditions. Unless the LPA is able to demonstrate a sound basis for not introducing exceptional circumstances policy, we object to the decision not to refer to it.</p> <p>We consider that any future review of the CIL is unlikely to be timely enough to address changing circumstances, and nor would it address individual circumstances. As such, we urge the LPA to consider non-mandatory exemptions as soon as possible.</p> <p>On the basis of the foregoing, we suggest that further consideration is given to the evidence for reducing the retail levy. We consider that it is also important that the LPA also considers exemptions.</p> <p>We should be grateful if you would keep us informed of the Council's progress in introducing CIL.</p> <p>Should you have any queries in respect of these representations, please do not hesitate to contact Helen Tilton or Dan Templeton of this office.</p>		
Mr Mark Lewis	West Berkshire Council		<p>Contributions to Town and Parish Councils</p> <p>We will need to work closely with the Parish and Town Council members to ensure that necessary local infrastructure is provided. Ideally we will work</p>	<p>Thank you for your response; your comment is noted.</p> <p>The governance policy around CIL</p>	

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			together to identify priorities and will spend CIL monies accordingly. The level of CIL money to be given to these Councils is a significant percentage where this already an acknowledged shortfall. This could affect our ability to meet our statutory duties.	receipts is being considered by officers and members and does not form part of the consultation; however your views will be taken into account.	
Responses received on the Introduction to the Community Infrastructure Levy					
Ms Isabel Carmona Andreu	Berkshire Society of Architects		<p>Comments on 2.4</p> <ul style="list-style-type: none"> • Unclear why CIL needs to be per m2 as the current S106 charge by bedroom system seems to be fairer in that it does not penalise small development – it seems that with the new system and the rates suggested the smaller units (less infrastructure burden?) get worse hit. 1 Bed unit (assumed 45m2) currently paying 1910 (£42/m2) would end up paying £3375 at £75/m2 or £5625 at £125/m2 • Within the rural areas (the £125/m2 rate) all the unit types seem to pay more under the £/m2 option than the proposed updated S106 rates. Is the proposed rate therefore based on an assessment of infrastructure costs or is the proposed rate arbitrary? If it is based on increased infrastructure costs in rural areas is there a sound evidence base for this assessment? • Are Annexes treated as extensions (do they follow the 100m2 rule?) or as new dwellings? Or does it depend on use? • We believe these charges will have a negative effect on the quality of space provided and the living standards as developers charged by the m2 will now be able to afford less m2 for the same charge. • Unclear how much is charge on extensions – is it the extra above the 100m2 	<p>Thank you for your comments.</p> <p>The charges as set out in the PDCS are in accordance with the CIL regulations and the council has no discretion to operate a CIL charge outside these Regulations. The charge must be set at a rate per M² as per the Regulations.</p> <p>The higher rate in the AONB and the East Kennet Valley is set according to the site viability in those areas, determined as a result of the viability study. The rate set can only be determined based on viability; it cannot be set on infrastructure requirements within the area.</p> <p>The planning application process would determine whether an annexe is treated as a new dwelling, or an extension. If the proposed annexe</p>	

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			<p>that incurs the levy or is it the total square metres built. If the latter, the CIL would not be fair as a 99m2 extension would incur no CIL and a 105 extension could incur a fee in excess of £13,000.</p> <ul style="list-style-type: none"> • What happens if the extension (over 100m2) comes under permitted development? • Extensions are not necessarily adding to infrastructure cost which is the purpose of this CIL. An assessment of the additional burden to the local infrastructure should be added to this CIL – the m2 rate as a sole mechanism would not fairly represent the added burden. • Is there a distinction to be made between development as a financial activity and self development of dwellings for the owners use? <p>Comments on 2.5</p> <ul style="list-style-type: none"> • Why are charges so high on new dwellings but no charge on conversion (change of use to dwellings) or subdivision – there will be an increase on infrastructure load on those cases - is that not the reason for the CIL? • Unclear whether replacement dwellings are affected by CIL – as they are not new floor space the assumption would be that they are not affected by CIL as long as the area is the same? 	<p>was above 100m² a CIL would be payable whether or not a new dwelling was created. This is in accordance with the CIL Regulations.</p> <p>The CIL Regulations have determined that 100m² is the threshold for requiring CIL. Development over this size will be liable, whether they are permitted development or not.</p> <p>There is currently no distinction between development by developers and a self-build development. Reference should be made to the DCLG consultation (consultation process from 15/04/13 to 28/05/13) where this issue is being considered.</p> <p>The CIL Regulations specify that no CIL is chargeable on conversions of existing buildings where there is no increase in floorspace.</p>	
Mr Mark Lewis	West Berkshire Council		<p>Paragraph 2.4 – What development is liable?</p> <p>It is not entirely clear what the triggers are for CIL and this could be laid out more clearly. We believe that developments of two or more dwellings must be greater</p>	<p>The CIL regulations state that any new development over 100m² is liable for CIL (at the rate set by the local authority) unless a new</p>	

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			<p>than 100sqm to trigger a CIL payment and that single dwellings of any size also trigger a CIL payment but aren't sure if this is correct ?</p> <p>Paragraph 2.5 - A lack of contributions for change of use.</p> <p>There is the risk to the Council of commercial development being changed to residential and no monies being paid. There will not have been any school infrastructure in place for this commercial development and this will have to be provided. This will put further strain on Council finances.</p>	<p>dwelling is created.</p> <p>We agree that there is a risk of commercial development being changed to residential – this is in accordance with the Regulations and is not something that is in the Council's gift to amend.</p>	
Responses Received on CIL and S106					
Ms Isabel Carmona Andreu	Berkshire Society of Architects		<p>Comments on 3.1</p> <ul style="list-style-type: none"> • Why is CIL coming into place if it is not replacing S106 – would an additional tax not duplicate work and add to the cost of running the system without added benefit? 	The ability to use the S106 mechanism and pool contributions is severely constrained after April 2014. There is no option for this council – it must adopt a CIL.	
Mr Mark Lewis	West Berkshire Council		<p>Paragraph 3.4 - When CIL or S.106 will be applied.</p> <p>The document states that CIL will apply except for large sites where on site facilities will be required and this will be dealt with via S.106. What will happen where a large site (that would trigger significant on site infrastructure) is split up amongst developers and separate applications are submitted? The infrastructure need and land requirements would remain the same but we aren't clear how this would be treated. Our current approach does allow some flexibility where local circumstances require it.</p>	In the case of a large site where on-site mitigation measures are required this would be dealt with through the planning application process as currently. An outline or full permission would be accompanied by a S106 agreement. We agree an issue may arise if the site is split up into more than 5 developments, as there may be an issue with the pooling restrictions.	
Responses received on Evidence Base					

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Mr Benjamin Walmsley			<p>- Section 4.1 sets out the ability for the West Berkshire Council to reduce or remove the developer funding subsidies. This should be removed, or at worst should not be possible without sufficient public, transparent consultation and representation from local town councils</p> <p>- Section 4.2 documents the local policies the council will consider. Local planning documents should be mandatory in this matrix to ensure that local pressures are considered because local communities know the local issues best. For example, the Hungerford Town Plan. Ignoring these documents will lead to localisation issues and funding gaps requiring bridging from council revenues</p>	<p>Section 4.1 is taken directly from CIL regulation 14 and the council has no discretion in this regard</p> <p>The documents referred to provide supplementary information setting out the planned housing delivery, the infrastructure requirements and the site viability study. Differential CIL rates cannot be set based on the requirements for infrastructure in a particular area.</p>	
Mr Simon Dackombe	Thames Valley Police		<p>Thames Valley Police (TVP) support West Berkshire Council in the production of their CIL charging schedule and would wish to continue the ongoing positive dialogue that we have had thus far.</p> <p>TVP do not see it as within their remit to query the manner in which the draft charging schedule has been calculated, but we note the background information and supporting evidence presented with the draft Charging Schedule.</p> <p>TVP welcome the identification of the provision of Police Infrastructure as part of the Infrastructure Delivery Plan, in our ongoing discussions with the Council we have provided details of the likely cost of this infrastructure and we would anticipate that this will be reflected in future versions of the IDP.</p> <p>Whilst acknowledging that the IDP is a "living" document that will change and alter to reflect the growth situation TVP are concerned that our Infrastructure requirements are categorised as "preferred" as opposed to "critical" or "necessary".</p>	<p>Thank you for your comments, the IDP has been amended to reflect the comments you have made regarding the priority of your infrastructure requirements</p>	

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			<p>The delivery of growth and new development within the area imposes additional pressure on TVP's infrastructure base which is critical to the delivery of effective policing and securing safe and sustainable communities. In general terms, the Police Service does not receive Central Capital for new growth related infrastructure provision. While revenue funding is provided by the Home Office and the Council Tax precept, capital projects are financed through borrowing. Borrowing to provide infrastructure has an impact on the delivery of safe and sustainable communities because loans have to be repaid from revenue budgets, the corollary of which is a reduction in the money available to deliver operational policing.</p> <p>As part of the Government's Comprehensive Spending Review (CSR) announced in November 2010, TVP has been forced to rationalise its estate and plan for future financial cuts in order to achieve its CSR requirements. In general terms this has included the consolidation of policing services at some police stations and the closure of other police stations whereby the capital receipts from the sale of stations has been committed to supplementing other funding streams within TVP (to minimise potential impacts on frontline services). The force has sought to streamline its services whilst maintaining frontline presence to match the existing population and growth position within the force area.</p> <p>Therefore, any net additional growth within the West Berkshire Local Police Area will place additional demands on the police service. Mitigation in the form of additional development funded policing infrastructure and resources is necessary to ensure that TVP is able to continue to provide an efficient and effective local police service in West Berkshire.</p> <p>We would therefore wish to put on record at this stage that we would wish to see the identified Police Infrastructure placed in the "Necessary" section of the IDP –</p>		

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			alongside other Emergency Service providers.		
Mr Chris Kidd	Highways Agency		<p>The Highways Agency (HA) is an executive agency of the Department for Transport (DfT). We are responsible for operating, maintaining and improving England's Strategic Road Network (SRN) on behalf of the Secretary of State for Transport.</p> <p>The HA will be concerned with proposals that have the potential to impact the safe and efficient operation of the SRN. We would be keen to have early discussions with West Berks about any transport interventions that the Community Infrastructure Levy might contribute towards that could impact on the A34 and M4.</p>	Thank you for responding. Your comments are noted.	
Ms Vicky Aston	Sport England		<p>Thank you for consulting Sport England on the above documents. Sport England provides the following comments:</p> <p>CIL Preliminary Draft Charging Schedule</p> <p>Sport England has no comments to make on the Community Infrastructure Levy Preliminary Draft Charging Schedule.</p> <p>Comments on West Berkshire Infrastructure Delivery Plan</p> <p>Sport England is concerned that the West Berkshire Infrastructure Delivery Plan contains too little provision for indoor and outdoor sport.</p> <p>Sport England welcomes the Council's intention to collect contributions towards;</p> <ul style="list-style-type: none"> • Improvements to Sports Pitch Provision in step with new development. • Newbury Racecourse Strategic Site: Off- Site Improvements to playing pitch 	<p>The IDP provides background information setting out likely infrastructure requirements as a result of development. There is no requirement to spend CIL receipts in line with the IDP and conversely a scheme could be funded from CIL that is not in the IDP.</p> <p>The IDP has been refreshed and will be included as supporting information to the DCS. Future discussions with officers and members will decide the protocol and timing for the refresh of this document.</p>	

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			<p>provision.</p> <p>However, there appears to be no other provision for outdoor sports facilities that will be required to meet the needs of residents when new development takes place e.g. MUGAs, tennis courts, bowling greens etc.</p> <p>There also appears to be no provision for the indoor sports facilities or improvements to existing facilities that will be required to support new development. This is only covered by; 'Various schemes to provide for and/or extend community facilities.'</p> <p>These appear to be the only references to sport requirements for the District in the plan. It is noted that the Council does not have a Playing Pitch Strategy or any other up-to-date indoor or outdoor sports strategies that would help the Council to understand the need for new facilities within the District. Paragraph 73 of the National Planning Policy Framework underlines the importance of access to sport and recreation facilities and its contribution to the health and well being of communities. It states that;</p> <p>'Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreational provision is required.'</p> <p>Without an evidence base, the Council cannot be certain that it is meeting the indoor and outdoor sports needs of the District. This means that the opportunity to secure CIL money to improving sports and leisure facilities in the District and creating new ones that will support the existing and growing community will be</p>		

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			<p>missed.</p> <p>Further information on preparing Playing Pitch Strategies and other sport needs assessments is available from Sport England's website:</p> <p>http://www.sportengland.org/facilities__planning/putting_policy_into_practice/assessing_need_and_demand.aspx</p> <p>http://www.sportengland.org/facilities__planning/putting_policy_into_practice/assessing_need_and_demand.aspx</p> <p>If you require any further assistance from Sport England in relation to this matter, please contact me.</p>		
Mrs Rachel Francis	Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust (BBOWT)		<p>Thank you for consulting with BBOWT on the Preliminary Draft Charging Schedule.</p> <p>CIL Guidance (CLG, December 2012) states that a charging authority needs to identify the total cost of infrastructure that it desires to fund from CIL (paragraph 12). It should also set out a draft list of projects or types of infrastructure that are to be funded by CIL in order to provide transparency (paragraph 15).</p> <p>The Preliminary Draft Charging Schedule suggests that action has been, and continues to be, taken to carry out this work. It states that an indicative funding requirement of more than £150 million has been identified. However, from the information provided on the Council's website in respect of this consultation, it is not always possible for consultees to determine how this figure is arrived at and which projects are included. Some information is provided in the Council's Infrastructure Delivery Plan ("IDP"), which supports the Draft Charging Schedule. However, in respect of infrastructure for biodiversity, the IDP is too vague to</p>	<p>The updated Infrastructure Delivery Plan (IDP) will be attached as supporting information to the Draft Charging Schedule and includes details of Green Infrastructure improvements.</p> <p>The updated IDP demonstrates a net funding requirement in excess of £163.5m. Given that 3,820 houses are still to be delivered in the remainder of the plan period to 2026, using the most optimistic estimate of CIL receipts would still result in a funding gap in excess of £121m.</p>	

Consultee / Agent		On Behalf of	Consultation Response	Council's Response	Proposed Action
Full Name	Company / Organisation				
			<p>determine what, if anything, is included in the indicative figure for the following reasons:</p> <p>Firstly, the provision of Green Infrastructure in the IDP is intended to satisfy, among others, Core Strategy 18 (Biodiversity and Geodiversity). The cost of this provision is noted as the formula set out in the SPG. However, biodiversity/environmental enhancements do not form part of the open space formula in the Sustainable Development (Developer Contributions) SPG, to which the IDP seems to refer; and</p> <p>Secondly, no costs are identified in respect of the project to deliver integrated countryside and conservation management within the Living Landscape Area (Schedule 3 of the IDP), so it is not clear if CIL is intended to contribute to this project.</p> <p>Without biodiversity projects and their costs being identified in the IDP, we have concerns that they will not form part of the proposed CIL charging schedule. If this is the case, there is the risk that pressures on biodiversity caused by increased development will not be capable of mitigation once Section 106 obligations are scaled back and the ecological objectives of the NPPF will not then be delivered.</p> <p>BBOWT would welcome the opportunity to meet with the Council to discuss and address this issue in advance of the IDP update, which is scheduled for March/April 2013.</p>	<p>There is no requirement to spend CIL receipts in line with the IDP and conversely a scheme could be funded from CIL that is not in the IDP. However the policy of governance of CIL receipts is to be drawn up by officers and members and it will have due regard to the IDP as mentioned above.</p>	
Ms Francesca Barker	Natural England		<p>Thank you for your consultation on the above, which was received by Natural England on the 15 February 2013.</p> <p>Natural England is a non-departmental public body. Our statutory purpose is to</p>	<p>The updated Infrastructure Delivery Plan (IDP) will be attached as supporting information to the Draft Charging Schedule and includes</p>	

Consultee / Agent		On Behalf of	Consultation Response	Council's Response	Proposed Action
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			<p>ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.</p> <p>Natural England is not a service provider, nor do we have detailed knowledge of infrastructure requirements of the area concerned. However, we note that the National Planning Policy Framework Para 114 states "Local planning authorities should set out a strategic approach in their Local Plans, planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure." We view CIL as playing an important role in delivering such a strategic approach.</p> <p>As such we advise that the council gives careful consideration to how it intends to meet this aspect of the NPPF, and the role of the CIL in this. In the absence of a CIL approach to enhancing the natural environment, we would be concerned that the only enhancements to the natural environment would be ad hoc, and not deliver a strategic approach, and that as such the local plan may not be consistent with the NPPF.</p> <p>Potential infrastructure requirements may include:</p> <ul style="list-style-type: none"> • Access to natural green space. • Allotment provision. • Infrastructure identified in the local Rights of Way Improvement Plan. • Infrastructure identified by any Local Nature Partnerships and or BAP projects. • Infrastructure identified by any AONB management plans. 	<p>details of Green Infrastructure improvements.</p> <p>The updated IDP demonstrates a net funding requirement in excess of £163.5m. Given that 3,820 houses are still to be delivered in the remainder of the plan period to 2026, using the most optimistic estimate of CIL receipts would still result in a funding gap in excess of £121m.</p> <p>There is no requirement to spend CIL receipts in line with the IDP and conversely a scheme could be funded from CIL that is not in the IDP. However the policy of governance of CIL receipts is to be drawn up by officers and members and it will have due regard to the IDP as mentioned above.</p>	

Consultee / Agent		On Behalf of	Consultation Response	Council's Response	Proposed Action
Full Name	Company / Organisation				
			<ul style="list-style-type: none"> • Infrastructure identified by any Green infrastructure strategies. • Other community aspirations or other green infrastructure projects (e.g. street tree planting). • Infrastructure identified to deliver climate change mitigation and adaptation. • Any infrastructure requirements needed to ensure that the Local Plan is Habitats Regulation Assessment compliant <p>We hope that you find this information useful. For any correspondence or queries relating to this consultation only, please contact Francesca Barker using the details given below. For all other correspondence, including in relation to forward planning consultations, please contact the address above or email consultations@naturalengland.org.uk.</p>		
Responses Received on Preliminary Draft Charging Schedule					
Ms Isabel Carmona			<p>Comment on 5.3 proposed rates for CIL:</p> <p>Is it fair to charge more for development in ANOB? Once planning has determined and the proposed design has been deemed suitable for the site – why penalise development with a higher rate of CIL?</p> <p>The level of rates proposed for ANOB seem to punish development in this areas over and above the increased level of difficulty that attaining planning consent in these areas.</p>	The higher rate in the AONB and the East Kennet Valley is set according to the site viability in those areas, determined as a result of the viability study. The rate set can only be determined based on viability; it cannot be set on infrastructure requirements within the area, or on the level of difficulty of obtaining planning permission.	

Consultee / Agent		On Behalf of	Consultation Response	Council's Response	Proposed Action
Full Name	Company / Organisation				
Mr Andrew Lord	North Wessex Downs AONB		<p>The North Wessex Downs AONB support the increased CIL rate for residential properties in the AONB. A concern of the AONB Unit through the Core Strategy process has been that if allocated levels of development were to come forward then not only would there be a failure in terms of the need to "conserve and enhance" the natural beauty of the area, the primary reason for designation, but that also that CIL would not offer sufficient compensation or mitigation. Given that harm to the AONB is a potential reason why development may not happen at all in the first place it should follow that reduction or mitigation to the AONB should be ranked as being of primary importance in terms of CIL. Therefore, fixing a higher CIL rate for residential properties in the AONB is supported and monies raised should actively support AONB related projects.</p>	<p>The higher rate in the AONB and the East Kennet Valley is set according to the site viability in those areas, determined as a result of the viability study. The rate set can only be determined based on viability; it cannot be set on infrastructure requirements within the area, or on the level of difficulty of obtaining planning permission. However it must be noted that 15% of CIL receipts are paid over to the Parish or Town Council for use on local infrastructure projects.</p>	
			<p>A further reason for prioritising AONBs for CIL payments is that it has been shown that nationally, house prices within AONBs are higher than outside AONBs (Lloyds TSB 2012 Research - on average £14,951 per dwelling premium to be in an AONB). It is therefore likely that developers will be selling houses within AONBs at a premium because of the "value" of being within a protected landscape. It should follow that the AONB should see some of this benefit in supporting its many projects which go into maintaining the quality and character of the AONB.</p>	<p>Thank you for your comments</p>	
			<p>In conclusion, the North Wessex Downs AONB Unit do not make any specific reference as to the appropriate level of CIL payment. However, we do wish to make it clear that there are very valid reasons as to why CIL payment should be of high priority and fixed at the higher rate as proposed, particularly as developers will benefit in gaining a higher premium for house sales.</p>	<p>Thank you for your comments</p>	
Ms Rose Freeman	The Theatres Trust		<p>We support a nil rate for Community and Other Uses at para.5.3 on page 6 as theatre uses are generally unable to bear the cost of CIL for viability reasons.</p>	<p>Thank you for your comments, your support for the zero rate is noted.</p>	

Consultee / Agent		On Behalf of	Consultation Response	Council's Response	Proposed Action
Full Name	Company / Organisation				
			<p>We suggest the inclusion of information regarding Charitable Status and Discretionary Relief. Regulations 43-48 of the Community Infrastructure Regulations (2010) considers the exemptions for charities. Most developments of theatre buildings will be led by charity landowners, developers or will be charities that have material interests in the land or property. Under regulation 55, The Theatres Trust suggests that theatre buildings listed as Assets of Community Value should be eligible for discretionary relief under exceptional circumstances given that these buildings would be providing both for the social and cultural interests and wellbeing of the area and are unlikely to be able to bear the cost of CIL for viability reasons.</p>	<p>Given a zero rate is proposed for all development except retail and dwellings, a discretionary relief policy is not required.</p>	
Ms Isabel Carmona Andreu	Berkshire Society of Architects		<p>Comment on 5.3 proposed rates for CIL:</p> <ul style="list-style-type: none"> • Is it fair to charge more for development in ANOB? Once planning has determined and the proposed design has been deemed suitable for the site – why penalise development with a higher rate of CIL? • The level of rates proposed for ANOB seem to punish development in these areas over and above the increased level of difficulty that attaining planning consent in these areas. • The benefit to the local economy is not proven as this amount of levy would potential slow the economy even further (less building) 	<p>The higher rate in the AONB and the East Kennet Valley is set according to the site viability in those areas, determined as a result of the viability study. The rate set can only be determined based on viability; it cannot be set on infrastructure requirements within the area, or on the level of difficulty of obtaining planning permission.</p>	
Responses received on the Differential Rate Map					
Mrs Sarah Orr	West Berkshire Council		<p>My only comment on this relates to a communication I've already had with you about the need for proper corporate mapping of the spatial areas in GIS. The document supplied of the detailed maps http://www.westberks.gov.uk/CHttpHandler.ashx?id=32945&p=0 says that they</p>	<p>Thank you for your comment. Once adopted it is planned to include the differential rates on the Council's mapping system. It would not,</p>	

Consultee / Agent		On Behalf of	Consultation Response	Council's Response	Proposed Action
Full Name	Company / Organisation				
			are designed to be viewed digitally using the zoom functions available - but of course this statement would make much more sense were the maps to be available on our online map, not in a pdf.	however, be appropriate to do this until the CIL rates are adopted.	
Responses received on Proposed Instalment Policy					
Mr Mark Lewis	West Berkshire Council		<p>Appendix B - The instalment plan proposed does not align with our build costs profile.</p> <p>The majority of our costs are incurred at the beginning and middle of a project. It is therefore a risk to the Council to have to wait until months 9 and 12 to receive half of the CIL monies. By this point 100 dwellings could be completed and a good number occupied, which school places will need to be available for.</p>	<p>An instalment policy is strongly recommended and is an aid to cash flow for developers. Clearly it is of no benefit to the Council. It should be noted that there is no link between CIL paid for a particular development and the delivery of infrastructure required to mitigate the impact of that development.</p> <p>The governance policy around CIL receipts will be considered separately by officers and members.</p>	

ADDITIONAL RESPONSES AS
NOTED IN TABLE ABOVE

INFRASTRUCTURE AND THE HISTORIC ENVIRONMENT

Infrastructure

The National Planning Policy Framework endorses the role of the historic environment in sustainable development. It notes that pursuing sustainable development involves seeking positive improvements in the quality of the historic environment. There can often be a range of ways in which the historic environment can contribute to and benefit from the range of infrastructure and investment needs that are required for sustainable development and communities.

Physical Infrastructure

Heritage assets can help to deliver a range of infrastructure needs associated with housing, economic development and sustainable transport networks.

Historic buildings within or in the vicinity of a settlement may offer opportunities for residential reuse, including for affordable housing [see *Affordable Rural Housing and the Historic Environment*, <http://www.helm.org.uk/server/show/nav.00h015005004>].

Heritage assets can be economic assets in their own right and support the regeneration of areas as well as the tourism economy. For example, the adaptive reuse and repair of historic buildings may offer opportunities for business or employment use. More generally the investment in heritage assets (e.g. buildings at risk), and the wider historic character of a place (e.g. conservation areas at risk) may also serve to strengthen and reinforce the attractiveness of a place to retain and attract economic development and to stimulate and support the area's tourism offer. Investment could be directed to establishing or extending area-based schemes aimed at regenerating valued historic townscapes, as exemplified by Townscape Heritage Initiatives funded through the HLF. Specific opportunities may also exist to further develop the tourism offer of established heritage assets open to the public and their links to nearby settlements.

The following publications illustrate practical examples of where the protection and adaptation of historic places through active management (constructive conservation) has delivered social and economic benefits:

- Valuing Places: Good Practice in Conservation Areas <http://www.english-heritage.org.uk/professional/advice/conservation-principles/constructive-conservation/valuing-places/>
- Constructive Conservation In Practice: <http://www.english-heritage.org.uk/professional/advice/conservation-principles/constructive-conservation/constructive-conservation-in-practice/>

Improvements to the public realm in town and village centres can help encourage walking and cycling and support the delivery of sustainable transport objectives. They can also support the delivery of the objectives for the historic environment through helping to deliver conservation area management plans and tackling issues related to conservation areas being identified as at risk. Improvements could include promoting community based de-cluttering audits and the better coordination of signage and street furniture as promoted through English Heritage's Streets for All programme. Improvements in the overall quality, character and indeed functioning of areas can also contribute to wider policy aims linked to

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tourism, the economy and the built environment. Practical guidance on community audits and managing, designing and maintaining the public realm is available at: <http://www.helm.org.uk/server/show/nav.19637> .

In certain cases the direct investment in a heritage asset might be required for supporting the development of an area. For example, this could include investment in the improvement and or maintenance of a historic bridge where it is part of the transport infrastructure for the planned development.

Social and Community Infrastructure

Historic buildings, including places of worship, can accommodate many social and community services and activities as well as represent a focus for the community in their own right. Investment in their continued or improved maintenance could be warranted in supporting and extending the capacity of existing infrastructure. Promoting the adaptive reuse of a vacant or underused building or facilitating the multiple-use of existing buildings for a wider range of community services might also offer the opportunity to support the repair and maintenance of historic buildings, particularly where identified nationally or locally as a building at risk.

Practical examples of how heritage assets can be adapted to realise their potential as social and economic assets are available via the English Heritage website: <http://www.english-heritage.org.uk/professional/advice/conservation-principles/constructive-conservation/> . Specific guidance on caring for Places of Worship and new uses for former places of worship is available at: <http://www.english-heritage.org.uk/publications/caring-for-places-of-worship/> ; and <http://www.english-heritage.org.uk/publications/new-uses-former-places-of-worship/>.

The community transfer of assets may also be an option for delivering infrastructure and the sustainable management of a heritage asset. Guidance for local authorities, public sector bodies and community groups on the transfer the ownership and management of historic buildings, monuments or landscapes is available on the English Heritage website [*Pillars of the Community: The Transfer of Local Authority Heritage Assets, 2011*): <http://www.english-heritage.org.uk/publications/pillars-of-the-community-the-transfer-of-local-authority-heritage-assets/>

In supporting access to green space and encouraging walking and cycling, extensions to the public rights of way network can include improving access to heritage assets and their improved interpretation and enjoyment. The provision of open space might also be linked to improving public access to historic landscapes in the vicinity of a settlement.

Social and community infrastructure may also include cultural facilities such as a local museum. Investment may offer opportunities to widen and improve its use by existing and new communities as well as support the tourism economy.

Green Infrastructure

The historic environment and heritage assets can make a valuable contribution to green infrastructure networks and its wider functions, as for example in providing leisure and recreation opportunities, encouraging walking and cycling and strengthening local character. Historic places such as historic parks and gardens, archaeological sites, the grounds of historic buildings and green spaces within conservation areas can form part of a green infrastructure network as well as underpin the character and distinctiveness of an area and its sense of place. Other heritage assets can also offer a range of opportunities such as canal networks and churchyards and the wider countryside including networks of 'green-lanes', common land and historic parkland.

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Planning Policy
West Berkshire Council
Market Street
Newbury
Berkshire
RG14 5LD

2nd April 2013

**McCARTHY & STONE RETIREMENT LIFESTYLES LTD.
REPRESENTATION TO THE COMMUNITY INFRASTRUCTURE LEVY PRELIMINARY DRAFT CHARGING
SCHEDULE**

As the market leader in the provision of retirement housing for sale to the elderly, McCarthy and Stone Retirement Lifestyles Ltd considers that with its extensive experience in providing development of this nature it is well placed to provide informed comments on the emerging West Berkshire Council Community Infrastructure Levy (CIL), insofar as it affects or relates to housing for the elderly.

The effect of the imposition of CIL will be to constrain land supply. This is a significant threat to land with a high existing use value and therefore to the delivery of retirement developments, which due to the nature of residents are required to be sited in close proximity to town and local centres. It is hoped that the CIL schedule can be adopted in a way that does not constrain this much needed form of development.

The CIL Guidance published in December 2012 by the Department for Communities and Local Government (DCLG) states consistently that *'In proposing a levy rate(s) charging authorities should show that the proposed rate (or rates) would not threaten delivery of the relevant Plan as a whole'* (Paragraph 29).

The CIL Guidance also stresses the importance of this principle to individual market sectors that play an important role in meeting housing need, housing supply and the delivery of the Development Plan, such as specialist accommodation for the elderly. This is relevant in the context of Paragraph 37 of the Guidance:

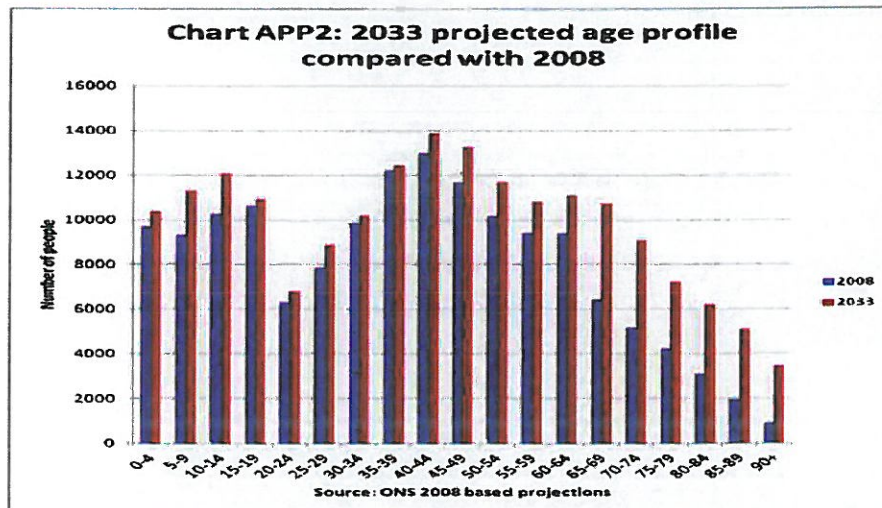
"... However, resulting charging schedules should not impact disproportionately on particular sectors or specialist forms of development and charging authorities should consider views of developers at an early stage".

Where the provision of specialist accommodation for the elderly plays a clear role in meeting housing needs in the emerging or extant Development Plan, by not properly considering the effect of CIL on this form of development the Council would be putting the objectives of the Development Plan at risk and thereby contravening Government Guidance. It is therefore of clear importance that the emerging CIL rate accurately assess the development of specialist accommodation for the elderly in West Berkshire.

Growing Elderly Population

The National Planning Policy Framework stipulates that the planning system should be 'supporting strong, vibrant and healthy communities' and highlights the need to 'deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. Local planning authorities should plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community... such as...older people' [emphasis added].

The "What Housing Where Toolkit" developed by the Home Builders Federation uses statistical data and projections from the Office of National Statistics (ONS) and the Department for Communities and Local Government (DCLG) to provide useful data on current and future housing needs. The table below has been replicated from the toolkit and shows the projected change to the demographic profile of West Berkshire between 2008 and 2033.



In line with the rest of the country, this toolkit demonstrates that the demographic profile of West Berkshire is projected to age, with the proportion of the population aged 65 and over increasing from 14.33% to 22.51% between 2008 and 2033. The largest proportional increases in the older population is expected to be of the 'frail' elderly, those aged 75 and over, who are more likely to require specialist care and accommodation.

The adopted West Berkshire Core Strategy (2012) reflects this by identifying the demographic profile of the area is ageing, raising concerns over the future provision of adequate support and accommodation for the growing elderly population. The provision of suitable housing to meet the diverse needs of the population is addressed in *Policy CS4: Housing Type and Mix* which states that 'Residential development will be expected to contribute to the delivery of an appropriate mix of dwelling types and sizes to meet the housing needs of all sectors of the community, including those with specialist requirements'. The development of specialist accommodation for the elderly is specifically encouraged in the justification for this policy in paragraph 5.20 which states 'Housing provision must support the needs of the whole community, include the provision of both market and affordable housing, and reflect the needs of specific groups such as families with children, single person households, the elderly, and those households with special needs'. It is therefore clear that the development of specialist accommodation for the elderly is a priority for the Council.

In light of the above, we consider that it is of vital importance that the emerging CIL does not prohibit the development of specialist accommodation for the elderly at a time when there is an existing and urgent need for this form of development and that by not properly assessing this form of development the proposed CIL rate would threaten the delivery of the relevant Development Plan contravening Government Guidance.

Development Scenario

As you are aware, as a national retirement housing company, McCarthy & Stone are currently submitting planning applications throughout the Country. Presently all but a handful of our schemes are unable to support policy compliant levels of affordable housing contributions and as such have required viability assessments. In light of this we obviously need to ensure that the supporting viability work for the CIL is actually representative of what is happening in the real market place for all forms of housing, as, if it is not, the adoption of CIL may prevent needed development coming forward.

The Preliminary Draft Charging Schedule, whilst differentiating between the lower value areas of Newbury, Thatcham and the eastern urban area on the grounds of viability, provides a uniform CIL levy rate for all forms of residential development and does not differentiate between houses, flats and specialist accommodation for the elderly, despite the significant differences between these forms of accommodation

Whilst there is an understandable desire to keep the charging rates as simple as possible the broad inclusion of some retirement housing within a "general residential heading" fails to acknowledge the very specific viability issues associated with such specialist accommodation for the elderly. Indeed it is recommended within the Viability Assessment that sheltered accommodation is included within the residential charging rate. Given the significant differences between sheltered accommodation and standard market housing, it is unclear as to what the basis for such advice is, particularly as the Viability Assessment did not include a development scenario for sheltered housing, despite advising the Council to include sheltered housing in the residential CIL rates.

A crucial element of the CIL viability appraisal will be to ensure that the baseline land value against which the viability of the retirement scheme is assessed properly reflects the spatial pattern of land use in the locality.

Therefore the viability of retirement should be assessed against both likely existing site values, and just as importantly, of potential alternative (i.e. competitor) uses. Our concern is that CIL could prejudice the delivery of retirement housing against competing uses on the land suitable for retirement housing schemes.

The average age of residents in retirement housing is around 79 years old, likely to have abandoned car ownership, be of lower mobility and/or rely on close proximity to public transport. For this reason retirement housing developers will not consider sites that are over a walking distance of approximately half a mile from a town or local centre with a good range of shops and services to meet a resident's daily needs. The result is that retirement housing can only be built on limited range of sites, typically high value, previously developed sites in close proximity to town centres. It is worth noting that Paragraph 27 of the December 2012 Community Infrastructure Levy Guidance recognises that brownfield sites are those where the CIL charge is likely to have the most effect, stating; *"The focus should be in particular on strategic sites on which the relevant Plan relies and*

those sites (such as brownfield sites) where the impact of the levy on economic viability is likely to be most significant".

The Viability Assessment should therefore provide a development scenario for a typical flatted retirement housing scheme, located on a previously developed site within 0.4 miles of a town centre.

Viability Assumptions

Any CIL viability assessment should consider the effect of the imposition of CIL on a retirement apartment scheme and should be quantified using appraisal inputs specific to the retirement housing product. It is not correct to simply assume that a general needs apartment scheme is comparable to a retirement apartment scheme as there are a number of key differences which will affect the land value that can be produced by each.

The remainder of this representation will provide details of the appraisal inputs specific to retirement housing.

Communal Areas

Many forms of specialist accommodation for the elderly, such as retirement housing, provide communal areas for residents at an additional cost to developers. Specialist housing providers also have additional financial requirements as opposed to other forms of development that will only pay on 100% saleable floorspace. This does not provide a level playing field for these types of specialist accommodation and a disproportionate charge in relation to saleable area and infrastructure need would be levied.

In comparison to open market flats the communal areas in specialist accommodation for the elderly are considerably larger in size, fulfil a more important function and are accordingly built to a higher specification in order to meet the needs of the elderly than those provided by open market flatted developments. Typically an open market flatted residential development will provide 16% non-saleable floorspace, whereas this increases to 30% for sheltered accommodation and 35% for Extra Care accommodation.

This places providers of specialist accommodation for the elderly at a disadvantage in land acquisition as the ratio of CIL rate to net saleable area would be disproportionately high when compared to other forms of residential accommodation

Sales Rate

In the case of retirement housing for example there is also a much longer sales period which reflects the niche market and sales pattern of a typical retirement housing development. This has a significant knock on effect upon the final return on investment. This is particularly important with empty property costs, borrowing and finance costs and sales and marketing which extend typically for a longer time period. Currently the typical sales rate for a development is approximately one unit per month, so a 45 unit retirement scheme (i.e. an average sized scheme) can take 3-4 years to sell out.

As a result of this typical sales and marketing fees for specialist accommodation for the elderly are typically in excess of 6% of GDV, not the conservative 3% assumed in the Viability Assessment.

Empty Property Costs

Properties can only be sold upon completion of the development and the establishment of all the communal facilities and on-site house manager. These communal areas cost additional monies to construct and are effectively subsidised by the developer until a development has been completely sold out. In a McCarthy and Stone development the staff costs and extensive communal facilities are paid for by residents via a management / service charge. However, due to the nature of these developments the communal facilities have to be fully built and operational from the arrival of the first occupant. Therefore to keep the service charge at an affordable level for residents, service charge monies that would be provided from empty properties are subsidised by the Company (these are typically known as Empty Property Costs). This is a considerable financial responsibility as, as previously mentioned, it usually takes a number of years to fully sell a development. For a typical 45 unit McCarthy and Stone Later Living development the Empty Property Costs are on average £100,000.

Build Costs

Whilst the Viability Assessment differentiates between the build costs between bungalows, houses and apartments, excluding abnormals, it does not consider the build costs of flatted sheltered housing.

The Build Costs Information Services (BCIS) shows that the Mean Average Build Costs per m² for a region. This database consistently shows that build costs vary significantly between housing types with the cost of providing sheltered housing consistently higher than for general needs housing and apartments.

The most recent BCIS figures for Berkshire (23rd March 2013) show that the mean cost of building one m² of estate housing is £913, while the equivalent cost for apartment developments is £1,075 per m². Sheltered housing costs £1,134 per m² - 5.4% more expensive than the cost of building apartments and 24% more expensive than estate housing.

While the BCIS figures are subject to fluctuation it is our experience that specialist accommodation for the elderly tends to remain in the region of 5% more expensive to construct than apartments and generally between 15 to 20 % more expensive than estate housing. No analysis of the build costs for sheltered accommodation is provided in the Viability Study.

Payment by Instalments

Consideration should also be given to the timing of CIL payments and an allowance for payment by instalments. Whilst we appreciate that, in line with 69B of the CIL Regulations 2011, an instalment policy does not form part of the charging schedule and would not be subject to examination, we would welcome flexibility in the timing of CIL payments as on commencement would introduce an additional financial cost on the development prior to the receipt of any revenue from the proposed development. This would place an additional burden on the developer and would affect the viability of the development, and possibly in the case of residential development impinge upon the developer's ability to provide for affordable housing.

This issue is compounded in the case of specialist accommodation for the elderly, as developments need to be completed in their entirety before a single unit of accommodation can be sold. It is considered that at the earliest, part payment on first occupation would be fairer and would reduce unnecessary financial costs to the developer. This should then be phased depending upon occupation levels. For the foreseeable economic climate, such as currently being experienced, there is considerable merit in staged payments reflecting occupation levels throughout the sale of the development.

Summary

Given the extent of projected housing need for older person's accommodation it is paramount that the West Berkshire Council CIL schedule recognises the potential shortcomings of providing a uniform CIL rate for all forms of residential development. The additional costs associated with the construction and initial maintenance of this form of development, coupled with the slower sales rate, make it clear that the financial viability of such developments are more finely balanced than those of houses and apartments.

It is for the above reasons that we suggest either a bespoke CIL rate is prepared for sheltered housing and other forms of specialist accommodation, or, that the CIL levy is restricted to the saleable areas of these forms of development.

Thank you for the opportunity for comment.

Yours faithfully,


A large black rectangular redaction box covering the signature of Ziyad Thomas.

Ziyad Thomas
Policy Planner
The Planning Bureau Ltd.

£/m2 study

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

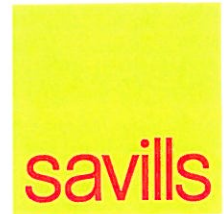
Last updated: 23-Mar-2013 12:19

 Rebased to Berkshire

Maximum age of results: Default period

Building function (Maximum age of projects)	£/m ² gross internal floor area						Sample
	Mean	Lowest	Lower quartiles	Median	Upper quartiles	Highest	
New build							
Estate housing							
Generally (15)	913	471	780	891	1,010	1,897	1131
Single storey (15)	1,006	544	866	972	1,138	1,742	227
2-storey (15)	889	471	773	868	987	1,699	817
3-storey (15)	894	589	748	830	999	1,897	85
4-storey or above (25)	1,283	978	-	1,174	-	1,698	3
Flats (apartments)							
Generally (15)	1,075	545	895	1,034	1,200	3,307	646
1-2 storey (15)	1,033	609	891	998	1,148	1,929	177
3-5 storey (15)	1,059	545	888	1,033	1,193	2,178	421
6+ storey (15)	1,407	819	1,078	1,330	1,583	3,307	41
Sheltered housing							
Generally (15)	1,134	620	918	1,049	1,263	2,479	73
Single storey (15)	1,257	767	883	1,102	1,400	2,479	17
2-storey (15)	1,088	620	908	1,024	1,263	1,829	29
3-storey (15)	1,108	874	1,010	1,037	1,115	1,637	14
4-storey or above (15)	1,043	790	861	1,014	1,111	1,574	8

2 April 2013
Letter CIL Reps March 2013



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Dear Sir or Madam

WEST BERKSHIRE COUNCIL COMMUNITY INFRASTRUCTURE LEVY – PRELIMINARY DRAFT CHARGING SCHEDULE

On behalf of W. Cumber & Son (Theale) Ltd we have reviewed West Berkshire Council's Preliminary Draft Charging Schedule and associated documents and have some comments as set out below.

Background

W. Cumber & Son (Theale) Ltd has an interest in sites in Theale and Calcot, within the Eastern Urban Area as identified in the Core Strategy (adopted July 2012).

The proposed charges for Newbury, Thatcham and the Eastern Urban Area are:

Residential - £75 per sq. m
Retail - £125 per sq. m

We welcome the Council's decision to set a nil rate for business development (office, industrial and warehousing) and fully support this. However, we are concerned generally about the impact the proposed residential and retail rates in the West Berkshire Preliminary Draft Charging Schedule will have on developments and that it may render them unviable. This is heightened by the continuing uncertainty of the economic climate. Additionally, the NPPF places a strong emphasis on growth but the rates proposed in the Draft Charging Schedule are contrary to this and may in effect curb growth. Our main concerns are set out below.

CIL Regulations and Guidance

Regulation 14 of the Community Infrastructure Levy Regulations 2010 (as amended) requires that a charging authority, in setting levy rates, 'must aim to strike what appears to the charging authority to be an appropriate balance between' the desirability of funding infrastructure from the levy and 'the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area'. Paragraph 8 of the Community Infrastructure Levy Guidance (December 2012) provides further guidance on what is meant by the appropriate balance and states that:

'By providing additional infrastructure to support development of an area, the levy is expected to have a positive economic effect on development across an area. In deciding the rate(s) of the levy for inclusion in its draft charging schedule, a key consideration is the balance between securing additional investment for infrastructure to support development and the potential economic effect of imposing the levy upon development across their area.'

Offices and associates throughout the Americas, Europe, Asia Pacific, Africa and the Middle East.

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Registered office: 20 Grosvenor Hill, London W1K 3HQ

It is imperative that the evidence supporting CIL:

- clearly outlines, and be based on an up to date list of, the key infrastructure projects required to support development (this being the key test of the Regulations);
- Outlines an up to date, consistent and well informed evidence base of economic viability in order to test various scenarios against CIL rates.

With regard to the preparation of Charging Schedules and supporting documentation it is important to have due regard to the available Government guidance, notably, the CLG Community Infrastructure Levy – an Overview (May 2011), CLG Community Infrastructure Levy Guidance (December 2012), CLG Community Infrastructure Levy Relief (May 2011), the Planning Act 2008 and the CIL Regulations 2010 (as amended). It is also important that the preparation of CIL is in line with the National Planning Policy Framework (NPPF), notably that it is delivery focused and '*positively prepared*'. Our comments are based on these publications and the Regulations.

Paragraph 17 of the NPPF outlines 12 principles for both plan making and decision taking, notably that planning should "*proactively drive and support sustainable economic growth*". and that plan making should "*take account of market signals such as land prices and housing affordability*". Paragraph 19 states that "*the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth*".

The NPPF refers to the "*cumulative impacts*" 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.

The CIL Guidance outlines that CIL should only be considered where an identified funding gap is demonstrated. The process of demonstrating this should also identify a CIL "infrastructure funding target" which should be based upon the selection of infrastructure projects or types that are identified as candidates to be funded by the levy in whole or in part. The 'gap' and 'target' is not presently clear as it is not explicitly stated and a draft Regulation 123 list has not been made available for consultation.

The CIL Guidance states that, at Examination, authorities should '*set out those known site-specific matters where section 106 contributions may continue to be sought*'. Whilst we are aware authorities are not required to produce this information and their Regulation 123 list until the Examination, we would suggest this is done earlier, preferably before the Draft Charging Schedule consultation, to allow more consultation and input from the development industry.

Infrastructure Schedule and Viability Buffer

The Infrastructure Delivery Plan, February 2010, lists the infrastructure that the District considers is required to support development during the period of the West Berkshire Local Plan Core Strategy.

The IDP is also now more than 3 years old and therefore its accuracy and relevance is questioned; Paragraph 4.4 of the Preliminary Draft Charging Schedule indicates that the IDP is not based on the latest housing projections for West Berkshire District.

Paragraph 4.4 acknowledges the inaccuracy of the IDP and advises that in order for it to provide a better representation of details and costs associated with infrastructure to be funded by the Levy it needs to be refreshed. The refresh of the IDP is taking place in March and April 2013 and as a consequence, the evidence base for the Preliminary Draft Charging Schedule is clearly not up to date and the robustness of assumptions made about the funding gap and target must be questioned.

Further clarification should be provided regarding the evidence which has been prepared in order to inform the estimated costs of infrastructure listed in the IDP. Greater clarity and transparency is needed in regard to how the list of infrastructure has been arrived at, how the costs have been calculated and the potential sources of funding.

It is unclear whether all of the infrastructure listed in the IDP will need to be funded by CIL. There is concern that elements of the IDP list are site-specific projects that would be more appropriately funded via S.106 developer contributions.

Paragraph 30 of the 2012 CIL Guidance outlines that "*charging authorities should avoid setting a charge right up to the margin of economic viability across the vast majority of sites in their area.*" Paragraph 25 of Community Infrastructure Levy – an Overview (May 2011) states that "*Charging authorities should prepare evidence about the effect of the levy on economic viability in their area to demonstrate to an independent examiner that their proposed rates, for the levy, strike an appropriate balance.*"

The fundamental premise is that to enable delivery, sites must achieve a credible land value and developers the required return on investment, otherwise development will be stifled. This is recognised by the NPPF and is certainly 'in-built' within the CIL Regulations.

Dixon Searle LLP (DSP) have not provided copies of their Development Appraisals for scrutiny, and as such we have been unable to consider the detail on a site type by site type basis.

There must be a viability buffer incorporated either into the benchmark land value or elsewhere through the CIL assessment process, which would ensure delivery of sufficient housing to meet strategic requirements. The viability buffer should also take account of the risks to delivery flowing from the potential for some sites to achieve a lower sales value than anticipated, the higher costs of zero carbon homes and the adoption of a threshold land value at the lower end of landowners' expectations.

This sentiment is further echoed in the recent Plymouth City Council CIL Examination in public. The Inspector recognised the importance of such a buffer and commented:

"The 40% or greater discount and the inclusion of contingency costs within the viability appraisals provide a buffer against any changes in the costs of meeting new or emerging policy requirements such as higher environmental standards. This buffer also provides for any actual variations in costs over and above those used in other assumptions adopted in the appraisals, such as sales rates and developer's margin."

The Examiner's Report for the Greater Norwich Development Partnership also references the importance of not setting the CIL rates up to the margin of viability. In particular, it highlights greenfield sites: "*The need for a substantial 'cushion' is particularly important on Greenfield sites where, as the Harman advice notes, prospective sellers are often making a once in a lifetime decision and are rarely distressed or forced sellers.*" This statement notes that there must be allowance within the CIL rates to account for the variation in landowner aspiration, as well as the potential differences in costs and values of individual sites. The viability cushion should take account of the risks to delivery flowing from the potential for some sites to achieve a lower sales value than others.

Therefore, there must be a viability buffer incorporated either into the benchmark land value or elsewhere through the CIL assessment process, which would ensure delivery of sufficient housing to meet strategic requirements.

This is particularly important in the Eastern Area which is allocated for 1400 during the plan period in the adopted Core Strategy, and it is recognised that some of these will need to be on greenfield sites. In addition the affordable housing provision on greenfield sites is 40% within the Core Strategy (as opposed to 30% on previously developed sites) and this will have a further impact on viability. If the current CIL rates are taken

forward we think it is likely that affordable housing provision in the district, and in particular the Eastern Area, will come under pressure as developers seek to make schemes viable.

Retail CIL Rate

We are concerned that the blanket rate of £125 per sqm across the district for retail development will undermine the objectives in the NPPF for sustainable mixed use development as it could render retail as part of a mixed use scheme unviable. We are not convinced that sufficient viability evidence has been provided to justify the same rate being applied to the Eastern Area as Newbury. The rate should be determined based on the economic viability of development across the area and it is our view that this is likely to vary across the district.

Residential CIL Rate

The justification for differential rates in the district does not appear to be in line with the CIL regulations. This should be based on economic viability of development in the area rather than the Council's preferences for the location of development, this is guided by the planning policies and is not the role of CIL rates. Furthermore we question whether there is adequate evidence to justify the reasons for grouping the Eastern Area within the same rating category as Newbury. The Viability Study by DSP and Appendices do not provide sufficient justification for this. If this work was undertaken we think that it likely to show that the residential values would be higher in Newbury than Theale and that economic viability is therefore more likely to be questionable in the latter.

We have a number of comments on the various assumptions made by DSP in relation to the residential charge, which we have set out below.

Threshold Land Values:

We are concerned by the lack of supporting information regarding Benchmark Land Values. Reference is made within DSP's Viability Study to VOA Property Market Data, but there does not appear to be any further supporting data, nor is there a clear indication of what Benchmark Land Values have been applied, and in what scenarios. Without details of the Threshold Land Values adopted we are unable to fully understand how the viability testing results support the suggested charging levels.

Build Costs:

We accept the principle of estimating the build costs from the RICS Build Cost Information Service, however we question how these figures have been extrapolated. The cost of £853 per sq m for houses and £970 per sq m for flats has been taken from the median BCIS build costs. As these costs are being applied across a range of development sizes we are of the opinion that with the exception of the smallest sites, mean costs should be used. We have checked these costs and can confirm that the average cost of building 'Estate Housing' in Newbury using the same base date is in fact £861 per gross square metre, and 'Flats' is £1,014 per sq m.

Invariably the larger schemes are generally built by national house builders who are able to build for less than the majority of house builders. These competitive build costs simply cannot be replicated by regional or local house builders and by using an average index this naturally discounts 50% of the statistics and more importantly 50% of the house builders behind the statistics. We are of the opinion that a higher build cost should be applied to the viability testing to allow for a more holistic cost assumption

The BCIS index states that 'one off' housing (classified as 3 units or less) costs an average of £1,240 per sq m, which is considerably above that stated in the DSP viability assessment.

Development Profit:

We are concerned over the level of developer's profit that has been included by DSP in the viability appraisals. A minimum profit margin that the lending institutions are currently prepared to accept, on private housing, is 20% on Gross Development Value (GDV) and it is industry practice to include this as a single GDV calculation, rather than the approach proposed by DSP whereby different profit levels are applied to the private market and affordable elements for the hypothetical development schemes.

Concerning developer profit, a recent appeal decision relating to Land at The Manor, Shinfield is relevant. We are of the opinion that this is an important decision in terms of viability in planning, and whilst it is not directly related to CIL, it does address many of the factors that are under consideration here, in particular developer's profit. The decision states:

"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."

The DSP methodology of applying circa 6% profit on cost to the affordable element was designed by the HCA to assist Registered Providers (RPs) in preparing their bids and applying for HCA grant funding. Grant funding is no longer available and developers generally make their bids for sites without prior agreements from RPs; instead seeking RP partners after the sites have been acquired.

There is therefore a similar level of risk to the developer that an RP may not be found to take on the Affordable element, or indeed it may take longer to do so. We are aware of many instances where developers have found it difficult to secure an RP and, where they have, the bids received can often be less than anticipated. We are also aware of instances where the RPs operating in an area are not willing to take the specified affordable dwellings as they are not the dwelling types required by their tenants; even though the affordable unit types were defined by the Local Planning Authority. The result of this uncertainty and risk is delays to the build programme and, consequently, increased holding and finance costs. As such, the developer will take a similar view on profit as to the Market Housing to reflect this risk.

DSP's inclusion of 20% profit on GDV for private housing and 6% profit on cost for affordable housing equates to a blended profit of circa 17.5% which is, of course, subject to variations based on the level of affordable housing required in each scenario. Accordingly we are of the opinion that this is on the low side, and does not reflect current market conditions.

Taking account of the Inspector's decision, funding requirements and housebuilders target profits upon which they base their bids, we are of the view that a profit of 20% on GDV for both Market Housing and Affordable Housing is appropriate.

S106:

Greater clarity is needed regarding the items which the Council considers will remain to be funded through S106 following the adoption of a CIL. At present, the uncertainty makes it difficult to assess the impact of CIL.

Paragraph 22 of the CIL 2012 Guidance states that "as background evidence, the charging authority should also prepare and provide information about the amounts raised in recent years through section 106 agreements. This should include the extent to which affordable housing and other targets have been met". It does not appear that this evidence is available.

Sales Rate:

The sales rate anticipated on a site determines the cash flow for the developer. In particular, it determines how quickly the developer can repay any borrowings in order to make a return. If the sales rate falls for any



reason, the cash flow is affected, causing further interest costs and reduced levels of return. It is therefore important that a realistic sales rate is adopted that reflects the current market.

From the information provided, it is unclear as to the sales rates that have been adopted, and whether these are supported by local evidence.

Summary

Imposing a CIL charge on residential development in a fragile market makes it less likely that the Council will be able to meet its housing targets going forward. It will essentially make some residential development unviable.

W. Cumber & Son (Theale) Ltd requests to be heard by the CIL examiner in respect of their representations (if and when the CIL draft charging schedule is submitted by the Council for examination). Please ensure we are kept updated on CIL developments and in the meantime do not hesitate to contact me should you have any queries.

Yours sincerely

Catherine Mason
Associate

**WEST BERKSHIRE COUNCIL
COMMUNITY INFRASTRUCTURE LEVY**



On behalf of a Housebuilder/Landowner Consortium

April 2013

Savills (UK) Limited

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1.0 Introduction

- 1.1 This Representation has been prepared by Savills on behalf of a landowner and developer Consortium comprising of David Wilson Homes, Taylor Wimpey Homes, Rivar Homes, Westbuild Homes and Hicks Homes hereafter referred to as ‘the Consortium’. The Consortium wishes to work with the Council in ensuring that suitable levels of residential development come forward within the plan period
- 1.2 This representation has been submitted to influence the emerging Preliminary Draft Community Infrastructure Levy (CIL) Charging Schedule proposed by West Berkshire Council (WBC), placed for public consultation in the period March to April 2013. Our clients’ particular comments relate to the proposed rates for residential development.
- 1.3 The Consortium has come together owing to certain concerns with the approach proposed by WBC, notably regarding the viability of the proposed rates for residential development. The Consortium’s members have significant land holdings across the district, which are likely to contribute to the maintenance and delivery of the housing land supply in West Berkshire both in the medium (5 year land supply) and long-term (identified need to 2031). The rate of CIL adopted in the district is therefore of critical importance to our clients.
- 1.4 In setting the rate of CIL, the Community Infrastructure Levy, England and Wales Regulations 2010 (as amended) (‘the Regulations’) state that **“an appropriate balance”** needs to be struck between **“a) the desirability of funding from CIL (in whole or in part)”** against **“b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development”¹**. The term ‘taken as a whole’ implies that it may be acceptable for some schemes to be rendered unviable by the level of CIL charge; however, there is a clear requirement to ensure that most developments are able to proceed. The Government provides further guidance on the meaning of the appropriate balance from paragraph 8 of the Community Infrastructure Levy Guidance (‘the Guidance’, December 2012)².
- 1.5 The Consortium therefore considers that it is imperative that the evidence supporting CIL:
- clearly outlines, and be based on an up to date list of, the key infrastructure projects required to support development (this being the key test of the Regulations);

¹ Regulation 14(1)

² This document supersedes the previously published Community Infrastructure Levy Guidance – Charge Setting & Charging Schedule Procedures, 2010

- Outlines an up to date, consistent and well informed evidence base of economic viability in order to test various scenarios against CIL rates.

1.6 This representation outlines certain concerns with the Viability Appraisal prepared Dixon Searle Partners (DSP) (Section 4.0). Dependent on the further response to these, Savills may provide further evidence of viability for consideration at the consultation of the Draft Charging Schedule and subsequent Examination.

2.0 The Approach of National Policy

- 2.1 With regard to the preparation of Charging Schedules and supporting documentation it is important to have due regard to the available Government guidance, notably, the CLG Community Infrastructure Levy – an Overview (May 2011), CLG Community Infrastructure Levy Guidance (December 2012), CLG Community Infrastructure Levy Relief (May 2011), the Planning Act 2008 and the CIL Regulations 2010 (as amended). It is also important that the preparation of CIL is in the spirit of the National Planning Policy Framework (NPPF), notably that it is delivery focused and ‘*positively prepared*’³. The Consortium comments are based on these publications and the Regulations.
- 2.2 The (NPPF) outlines 12 principles for both plan making and decision taking, notably that planning should “*proactively drive and support sustainable economic growth*”.⁴ Furthermore, that plan making should “*take account of market signals such as land prices and housing affordability*”. Furthermore, that “*the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth*”.⁵
- 2.3 Further, the NPPF refers to the “*cumulative impacts*”⁶ 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.
- 2.4 The steer from Central Government is very much angled toward facilitating development, which should have a major material bearing on the preparation of CIL and the balance applied when considering Regulation 14(1).
- 2.5 The Government has also provided through the CIL Guidance, advice on the preparation of CIL, notably:
- The need for balance (as per Regulation 14); and
 - The need for ‘*appropriate available evidence to inform the draft Charging Schedule*’ (as per Schedule 212(4) (b)) of the 2008 Act) .

³ Paragraph 182

⁴ Criterion 3

⁵ Paragraph 19

⁶ Paragraph 174

- 2.6 The Guidance states that **“the levy is expected to have a positive economic effect on development across an area.”**⁷ The Government also makes clear that it is up to Local Authorities to decide ‘how much’ potential development they are willing to put at risk through CIL. Clearly this judgement needs to consider the wider planning priorities.
- 2.7 Recent Examiner’s reports for Mid Devon, (February 2013) and the Greater Norwich Development Partnership (December 2012) have set a clear precedent for CIL to be considered in the round, including the testing of policy-compliant levels of affordable housing.

⁷ Paragraph 8

3.0 Infrastructure & Planning

3.1 The purpose of CIL must be to positively fund the infrastructure required to enable growth. This is clearly outlined within the Regulations which state **“A charging authority must apply CIL to funding infrastructure to support the development of its area”⁸**. The Planning Act 2008 defines infrastructure⁹ 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 spaces”**

3.2 There is a requirement within the CIL Regulations to provide a list of “relevant infrastructure”¹⁰ to be wholly or partly funded by CIL. We question whether this requirement has been fully satisfied.

3.3 Ascertaining the level of CIL is essentially a development viability exercise and owing to this it is critical that the level of CIL is based on robust and credible evidence. The CIL – An Overview document outlines that **“Charging Authorities wishing to introduce the levy should propose a rate which does not put at serious risk the overall development of their area”¹¹**. It will therefore be important that the rate is based on reality and the viable level of funding towards the planned provision of infrastructure needed to deliver the development plan.

3.4 The CIL Guidance outlines that CIL should only be considered where an identified funding gap is demonstrated¹². The process of demonstrating this should also identify a CIL **“infrastructure funding target”¹³** which should be based upon the selection of infrastructure projects or types that are identified as candidates to be funded by the levy in

⁸ Regulation 59(1)

⁹ Section 216

¹⁰ Regulation 123

¹¹ Paragraph 23

¹² Paragraph 14

¹³ Paragraph 13, CIL Guidance

whole or in part. The ‘gap’ and ‘target’ is not presently clear as it is not explicitly stated and a draft Regulation 123 list has not been made available for consultation.

- 3.5 The CIL Guidance states that, at Examination, authorities should ‘*set out those known site-specific matters where section 106 contributions may continue to be sought*’¹⁴. Whilst we are aware authorities are not required to produce this information and their Regulation 123 list until the Examination, we would suggest this is done earlier, preferably before the Draft Charging Schedule consultation, to allow more consultation and input from the development industry.
- 3.6 It is also considered that the supporting evidence should consider and outline in greater detail the alternative funding sources which have been considered to reduce the gap in funding, including New Homes Bonus, Tax Increment Financing.

Infrastructure Schedule – January 2013

- 3.7 The objectives of CIL are fundamentally to assist with the delivery of developments as CIL receipts are used toward the funding of new major infrastructure¹⁵.
- 3.8 The Infrastructure Delivery Plan, February 2010, lists the infrastructure that the District considers is required to support development during the period of the West Berkshire Local Plan Core Strategy. Appendix B of the IDP provides the Critical, Necessary and Preferred infrastructure schedules and was updated in February 2011.
- 3.9 The consortium would welcome clarification of the evidence which has been prepared in order to inform the estimated costs of infrastructure listed in the IDP. Greater clarity and transparency is needed in regard to how the list of infrastructure has been arrived at, how the costs have been calculated and the potential sources of funding.
- 3.10 The IDP is also now more than 3 years old and therefore its accuracy and relevance is questioned; Paragraph 4.4 of the Preliminary Draft Charging Schedule indicates that the IDP is not based on the latest housing projections for West Berkshire District, which is of concern to the consortium.

¹⁴ Paragraph 15

¹⁵ Regulation 59(1)

- 3.11 Paragraph 4.4 acknowledges the inaccuracy of the IDP and advises that in order for it to provide a better representation of details and costs associated with infrastructure to be funded by the Levy it needs to be refreshed. The refresh of the IDP is taking place in March and April 2013 and as a consequence, the evidence base for the Preliminary Draft Charging Schedule is clearly not up to date and the robustness of assumptions made about the funding gap and target must be questioned.
- 3.12 Finally, it is unclear whether all of the infrastructure listed in the IDP will need to be funded by CIL. There is concern on the consortium's part that elements of the IDP list are site-specific projects that would be more appropriately funded via S.106 developer contributions.

4.0 Viability Appraisal

- 4.1 Owing to the key test of Regulation 14(1)¹⁶ it is important that the viability appraisal prepared is fit for purpose. It is clear that at Examination the Charging Schedule will need to be supported by “relevant evidence”¹⁷.
- 4.2 The requirement to justify the Charging Schedule with evidence of viability is outlined by CIL – An Overview¹⁸, which notably also makes reference to setting differential rates. The CIL Guidance outlines **“charging authorities should avoid setting a charge right up to the margin of economic viability across the vast majority of sites in their area”**¹⁹. It will therefore be an important consideration to ensure that the evidence of viability adequately tests scenarios that reflect the key sites required to deliver the planned growth.
- 4.3 The fundamental premise is that to enable delivery, sites must achieve a credible land value and developers the required return on investment, otherwise development will be stifled. This is recognised by the NPPF²⁰ and is certainly ‘in-built’ within the CIL Regulations. It is also the basis of the definition of viability with the Local Housing Delivery Group report, Viability Testing of Local Plans.²¹
- 4.4 Within their West Berkshire Council Community Infrastructure Levy Viability Study (Ref DSP 12132) dated January 2013 DSP have not provided copies of their Development Appraisals for scrutiny, and as such we have been unable to consider the detail on a site type by site type basis. We would of course welcome the opportunity to do so.
- 4.5 At this stage, no alternative viability evidence has been prepared by Savills or our clients, although we may do so at the Draft Charging Schedule and Examination stage if it is felt this were required. It may however be more prudent for Savills, on behalf of our clients, to liaise directly with WBC and their advisors over the necessary changes to the viability study prior to the publication of the consultation on the Draft Charging Schedule. We set out below some of our concerns with various assumptions made by DSP.

¹⁶ CIL Regulations 2010 (as amended)

¹⁷ Ibid. Regulation 11(1) (f) / 19(1) (e)

¹⁸ Paragraphs 25 and 26

¹⁹ Paragraph 30

²⁰ Paragraph 174

²¹ Section One

Assumptions

Threshold Land Values

- 4.6 We are concerned by the lack of supporting information regarding Benchmark Land Values. Reference is made within DSP's Viability Study to VOA Property Market Data, but there does not appear to be any further supporting data, nor is there a clear indication of what Benchmark Land Values have been applied, and in what scenarios. Without details of the Threshold Land Values adopted we are unable to fully understand how the viability testing results support the suggested charging levels.
- 4.7 We would welcome the opportunity to consider detailed information provided by DSP in due course.

Build Costs

- 4.8 We accept the principle of estimating the build costs from the RICS Build Cost Information Service, however we question how these figures have been extrapolated. The cost of £853 per sq m for houses and £970 per sq m for flats has been taken from the median BCIS build costs. As these costs are being applied across a range of development sizes we are of the opinion that with the exception of the smallest sites, mean costs should be used. We have checked these costs and can confirm that the average cost of building 'Estate Housing' in Newbury using the same base date is in fact £861 per gross square metre, and 'Flats' is £1,014 per sq m.
- 4.9 Invariably the larger schemes are generally built by national house builders who are able to build for less than the majority of house builders. These competitive build costs simply cannot be replicated by regional or local house builders and by using an average index this naturally discounts 50% of the statistics and more importantly 50% of the house builders behind the statistics. We are of the opinion that a higher build cost should be applied to the viability testing to allow for a more holistic cost assumption
- 4.10 The BCIS index states that 'one off' housing (classified as 3 units or less) costs an average of £1,240 per sq m, which is considerably above that stated in the DSP viability assessment.

Development Profit

- 4.11 We are concerned over the level of developer's profit that has been included by DSP in the viability appraisals. A minimum profit margin that the lending institutions are currently prepared to accept, on private housing, is 20% on Gross Development Value (GDV) and it is industry practice to include this as a single GDV calculation, rather than the approach proposed by DSP whereby different profit levels are applied to the private market and affordable elements for the hypothetical development schemes.
- 4.12 Concerning developer profit, a recent appeal decision relating to Land at The Manor, Shinfield is relevant²². We are of the opinion that this is an important decision in terms of viability in planning, and whilst it is not directly related to CIL, it does address many of the factors that are under consideration here, in particular developer's profit. The decision states:
- "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."*²³
- 4.13 The DSP methodology of applying circa 6% profit on cost to the affordable element was designed by the HCA to assist Registered Providers (RPs) in preparing their bids and applying for HCA grant funding. Grant funding is no longer available and developers generally make their bids for sites without prior agreements from RPs; instead seeking RP partners after the sites have been acquired.
- 4.14 There is therefore a similar level of risk to the developer that an RP may not be found to take on the Affordable element, or indeed it may take longer to do so. We are aware of many instances where developers have found it difficult to secure an RP and, where they have, the bids received can often be less than anticipated. We are also aware of instances where the RPs operating in an area are not willing to take the specified affordable dwellings as they are

²² Ref: APP/X0360/A/12/2179141 – dated 8th January 2013

²³ Paragraph 44

not the dwelling types required by their tenants; even though the affordable unit types were defined by the Local Planning Authority. The result of this uncertainty and risk is delays to the build programme and, consequently, increased holding and finance costs. As such, the developer will take a similar view on profit as to the Market Housing to reflect this risk.

- 4.15 DSP's inclusion of 20% profit on GDV for private housing and 6% profit on cost for affordable housing equates to a blended profit of circa 17.5% which is, of course, subject to variations based on the level of affordable housing required in each scenario. Accordingly we are of the opinion that this is on the low side, and does not reflect current market conditions.
- 4.16 Taking account of the Inspector's decision, funding requirements and housebuilders target profits upon which they base their bids, we are of the view that a profit of 20% on GDV for both Market Housing and Affordable Housing is appropriate.

Professional Fees

- 4.17 Professional fees include all costs associated with bringing forward and implementing proposed sites. On larger, complex sites such as Strategic Urban Extensions these fees can be a significant proportion of the total costs of development.
- 4.18 We would expect a slightly higher average level of professional fees to be seen, and would welcome the inclusion of a 12% allowance for professional fees across all typologies.

Finance Costs

- 4.19 In the current market, finance is incredibly difficult to secure for development. Fees for finance are higher than previously seen and tend to rise in accordance with the complexity of a development and the timescale for the project.
- 4.20 The Consortium therefore welcomes the Council and DSP's inclusion of a 7% allowance for finance fees across all typologies plus a 2% arrangement fee.

Developable Area

- 4.21 The ratio of gross to net developable area is a key consideration, especially in respect to the typologies that test the larger residential sites. This is important because the comparison of the viability appraisal results against a benchmark land value is reliant upon the correct land take assumptions. We have concerns that some of the gross to net ratios applied within the viability appraisals are inappropriate.
- 4.22 For example, in the case of the viability work completed for WBC all of the typologies appear to assume a net to gross area of 100%.
- 4.23 We do not believe that an assumption of 100% net to gross development area is the correct approach. Even with high density schemes in urban areas, requirements for open space etc. reduces the amount of developable space available.
- 4.24 This above sentiment is reinforced by the guidance from the Harman report – Viability Testing Local Plans – which states:
- “In all but the smallest redevelopment schemes, the net developable area is significantly smaller than the gross area that is required to support the development, given the need to provide open space, play areas, community facility sites, public realm, land for sustainable urban drainage schemes etc”.*²⁴
- 4.25 The Consortium would therefore ask DSP and WBC to review their gross to net assumptions on the typologies tested.

S106

- 4.26 Within their appraisals it appears that DSP have adopted £1,500 per dwelling as a notional sum. In addition the largest scheme types are stated to have had a notional £15,000 per dwelling and £400,000 per gross hectare S.106 cost applied. Should the actual sums be higher this could render more sites unviable. As discussed in Section 3, greater clarity is needed regarding the items which the Council considers will remain to be funded through S106 following the adoption of a CIL. At present, the uncertainty makes it difficult to assess the impact of CIL.

²⁴ Appendix B Section 1 Paragraph 3

Contingency

- 4.27 The Consortium welcomes the Council and DSP's inclusion of a 5% allowance for contingency across all typologies. We note that no allowance has been made for abnormal costs within DSP's appraisals, making the requirement for a contingency even more crucial.

Sales Rate

- 4.28 The sales rate anticipated on a site determines the cash flow for the developer. In particular, it determines how quickly the developer can repay any borrowings in order to make a return. If the sales rate falls for any reason, the cash flow is affected, causing further interest costs and reduced levels of return. It is therefore important that a realistic sales rate is adopted that reflects the current market.
- 4.29 This is of particular importance for Strategic Urban Extensions (SUEs) where a number of developers will be on site at any one time. Whilst additional housebuilders on a SUE implies a higher number of sales, it is important to recognise that the presence of different companies in turn creates more competition. It is therefore common to see a lower sales rate per month on sites where there are multiple sales outlets.
- 4.30 From the information provided, it is unclear as to the sales rates that have been adopted, and whether these are supported by local evidence.
- 4.31 We would therefore ask that DSP provide us with details of their assumptions and evidence that supports their conclusion concerning sales rates. If such evidence is not available we would request that DSP ensure their sales rates accurately reflect the current market conditions.

Viability Buffer

- 4.32 A viability buffer should be incorporated either into the benchmark land value or elsewhere through the CIL assessment process, which would ensure delivery of sufficient housing to meet strategic requirements. The viability buffer should also take account of the risks to delivery flowing from the potential for some sites to achieve a lower sales value than

anticipated, the higher costs of zero carbon homes and the adoption of a threshold land value at the lower end of landowners' expectations.

- 4.33 This sentiment is echoed in the recent Plymouth City Council CIL Examination in public. The Inspector recognised the importance of such a buffer and commented:

"The 40% or greater discount and the inclusion of contingency costs within the viability appraisals provide a buffer against any changes in the costs of meeting new or emerging policy requirements such as higher environmental standards. This buffer also provides for any actual variations in costs over and above those used in other assumptions adopted in the appraisals, such as sales rates and developer's margin."

- 4.34 The Examiner's Report for the Greater Norwich Development Partnership also references the importance of not setting the CIL rates up to the margin of viability. In particular, it highlights greenfield sites: *"The need for a substantial 'cushion' is particularly important on Greenfield sites where, as the Harman advice notes, prospective sellers are often making a once in a lifetime decision and are rarely distressed or forced sellers."*²⁵ This statement notes that there must be allowance within the CIL rates to account for the variation in landowner aspiration, as well as the potential differences in costs and values of individual sites. The viability cushion should take account of the risks to delivery flowing from the potential for some sites to achieve a lower sales value than others.

- 4.35 We would therefore reiterate that, in reality, site specific circumstances will mean that the economics of the development pipeline will vary from the typical levels identified via analysis of the theoretical site typologies. This is inevitable given the varied nature of housing land supply and costs associated with bringing forward development.

- 4.36 It is noted that the PDCS makes no reference to a viability buffer. This allows no margin for cost / market changes..

5 year land supply

- 4.37 It is essential that the viability evidence has been based on typologies that reflect the future housing supply. It is also acknowledged in the CIL Guidance that the typologies selected to be assessed for viability must *"reflect a selection of the different types of sites included in the relevant Plan"*²⁶.

²⁵ Paragraph 25,

²⁶ Paragraph 27

- 4.38 There should also be an assessment of the proportion of the planned supply of housing that falls within each typology tested. This is in order that the impact of the proposed CIL rate on the viability of the planned housing supply is explicit. This is in conformance with the CIL Guidance, which quotes the NPPF²⁷ and states that authorities “*should show that the proposed rate (or rates) would not threaten delivery of the relevant Plan as a whole*”²⁸.
- 4.39 It is therefore essential that the typologies are tested against the housing trajectory in the Annual Monitoring Report (AMR).

Site Infrastructure

- 4.40 Site infrastructure includes improvements to the strategic road network, the provision of on-site non-frontage roads, on-site strategic foul and surface water drainage costs including Sustainable Urban Drainage Systems (SUDS), pumping stations and rising mains, off-site utility reinforcements, on-site service diversions, ground remodelling and structural landscaping, Section 38 and Section 278 costs, and maintenance costs pending adoption. These are all matters that the CIL guidance indicates that should be dealt with via S.106 developer contributions and not CIL. It is however unclear from the Preliminary Draft Charging Schedule and the IDP whether this distinction has been made.

Strategic Urban Extensions

- 4.41 On larger sites we would expect an additional cost per unit to be included in appraisals. This view is in line with the Viability Testing of Local Plans document which offers a range of £17,000 – 23,000 per plot²⁹ for additional infrastructure costs on large Greenfield sites.
- 4.42 The Consortium is therefore concerned that no allowance appears to have been made over and above the level of build costs adopted for on site infrastructure or “opening up costs”. We would therefore ask that DSP give significant consideration to the inclusion of such costs within their appraisals.

²⁷ Paragraph 173

²⁸ Paragraph 29, CIL Guidance, 2012

²⁹ Appendix B Section 2

Other Comments

- 4.43 We note that WBC have applied differential rates covering “Newbury & Thatcham, and Eastern Urban Area” and “Area of Outstanding Natuaral Beauty, and East Kennet Valley” . However there appears to be some overlap which could make some areas identified as being of low value, but falling within the higher rate AONB charging area, becoming unviable; Lambourn is one such area acknowledged by DPS within their Viability Appraisal. We would recommend that a “heat map” identifying the lower value areas is produced which would allow lower value areas to be correctly identified and an appropriate charge applied.

5.0 Effective Operation of CIL

Instalments Policy

5.1 The Regulations³⁰ and CIL – An Overview³¹ are clear that the charging authority has the flexibility to adjust the timing of the charge and to outline the payment procedure. This flexibility extends to:

- Levy payment deadlines
- Instalments policy

5.2 The Consortium welcomes WBC's inclusion of a proposed Instalment Policy.

5.3 We believe however that there should be an overriding mechanism which, in certain situations should the CIL payments threatens the viability, and thus the deliverability of the scheme proposed, can be negotiated and agreed on a one-to-one basis.

Payments in Kind

5.4 The Regulations³² permit the payment of land in lieu of CIL. This is an interesting tool which could be proactively implemented where the land in question is provided for infrastructure, for example 'strategic' highways or open space.

5.5 The mechanism of payments in kind must result in credible land values being agreed and offset against the levels of potential CIL receipts incurred through the chargeable development. If operated effectively the mechanism could considerably assist with development delivery. Historically, some such negotiations have proved lengthy and costly; a 'fall-back' provision should be made for timely resolution of such cases through arbitration.

5.6 We would recommend that the WBC take advantage of this facility and allow for the payment of land in lieu of CIL.

³⁰ Regulation 69B(1)

³¹ Paragraphs 45 - 48

³² Regulation 73(1)

Relief

- 5.7 The Community Infrastructure Levy Relief – Information Document (CLG, May 2011) outlines the Government’s position on “**exceptional circumstances**” which could warrant exception from CIL. The first matter to note from the Regulations is that the offer of relief is discretionary on the charging authority.
- 5.8 It is noted that WBC have not made reference as to whether they wish to include relief within the emerging CIL. The Consortium considers it imperative that WBC make available exceptional circumstances relief from the date of the adoption of CIL, and that the intended approach to doing so (in conformity with the Regulations) is outlined at the next stage of consultation.

Review of CIL

- 5.9 The CIL Guidance outlines that the Government ‘strongly encourages’ reviews to ensure that CIL is fulfilling its aim and responds to market conditions. If the CIL is set at too high a rate, the delivery of housing will be put at risk. Regular monitoring is required to ensure that any detrimental impact of the CIL on delivery is noticed promptly and remedied. It should be borne in mind that, in reviewing the CIL rates, the same charge setting process and procedures are required to be followed and therefore there will be an inevitable delay until any deficit in delivery can be remedied.
- 5.10 Our clients agree that the authorities should have a clearly defined review mechanism and suggest that monitoring takes place on a 6-monthly basis. Monitoring data and reviews should be regularly published, for example on the Councils’ website. Regular monitoring is key, to ensure that CIL does not stifle development in the right locations.

CIL Regulation 122 – Double Counting

- 5.11 With regard to the relationship with Section 106 the CIL Charging Schedule should be clear that ‘double counting’ of Section 106 contributions and CIL is not permitted by law. The revised CIL Guidance has reinforced this point and states: “**Where the regulation 123 list includes a generic item (such as education or transport), section 106 contributions should not normally be sought on any specific projects in that category.**”³³ Further,

³³ Paragraph 89

the Guidance is clear that charging authorities should ensure they are clear about their infrastructure needs and what will be paid through each route (s.106 or CIL), “**so that there is no actual or perceived ‘double dipping’**”.³⁴

- 5.12 The key tests of CIL Regulation 122 should be outlined within the supporting documentation. In practical terms, owing to the need to publish a Regulation 123 List, it is likely that only site specific or immediately adjacent measures will continue to be funded by Section 106 (i.e. site access or immediately adjacent open space). As outlined, the costs of this on-site infrastructure will increase for larger scale development.
- 5.13 The Government’s position on the role of Planning Obligations is clearly outlined in the Overview document,³⁵ notably the statutory basis that they must be directly related to mitigating the impact of development, and that CIL payments and planning obligations do not overlap. This is also made clear in the NPPF³⁶.

³⁴ Paragraph 85

³⁵ Paragraphs 59 and 60

³⁶ Paragraph 204

6.0 Conclusions

- 6.1 This representation has been prepared by Savills on behalf of a landowner and developer Consortium comprising of David Wilson Homes, Taylor Wimpey Homes, Rivar Homes, Westbuild Homes and Hicks Homes. The Consortium is concerned with aspects of the approach adopted by WBC towards CIL relating to the rates for development, especially residential development, and wishes to work with the Council in ensuring that suitable levels of residential development come forward within the plan period.
- 6.2 Furthermore, we have concerns relating to the robustness of the Infrastructure Delivery Plan and the assumptions used in the viability models, and would ask that DSP provide evidence on the aspects we have highlighted. In particular, bearing in mind the points raised, the following matters should be investigated further by WBC:
- Development Profit
 - Gross and net developable area
 - Sales rate
 - Viability buffer
 - Infrastructure costs
- 6.3 We feel it necessary to stress that if the CIL level is set too high, it will almost certainly have a negative impact on a large proportion of development coming forward, especially bearing in mind the reliance on Strategic Urban Expansion areas for growth. We believe that once the assumptions – as mentioned above – have been clarified, it will show the proposed residential CIL levels are too high and need reviewing.
- 6.4 The Consortium is open to meeting with WBC and its advisors to discuss amendments to the approach taken. We believe this should be arranged as soon as possible.

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02 April 2013

Dear Sir/Madam

RE: Draft Community Infrastructure Levy Charging Schedule

Please accept this submission on behalf of and Churchill Retirement Living Ltd. The purpose of this letter is to inform and respond to the draft Community Infrastructure Levy by your local authority, with specific regard to the need, benefits and economic viability of retirement apartments¹. Churchill Retirement Living are concerned that many charging schedules published across the country to date could disproportionately affect the viability of their developments, given that they fail to properly consider the impact of CIL on the retirement housing market. The submission makes a number of recommendations that should be taken into account in the formulation of your evidence base, draft charging schedule and decision making process.

Specifically, we propose that;

1. The current viability evidence prepared by Dixon Searle Partnership does not include specific consideration of retirement housing/sheltered housing. The viability appraisal inputs referred to in Table 1 below represent, as far as is possible, a "typical" retirement apartment development and should therefore be used as a standalone development typology in the CIL viability evidence base to be tested in Value Points 2 to 4;
2. The viability assessment to inform the draft charging schedule should include a consideration of the relative viability of retirement housing when set against both existing site values, and a range of alternative values for the land on which a retirement development might be situated;
3. The draft Charging Schedule should pay heed to the effect of CIL on the supply of housing for the elderly, including the wider benefits that the provision of this tenure in sufficient numbers can bring, as per the NPPF paragraphs 50 and 159;

¹ Which can be referred to as Category II Sheltered Housing (less care) and use class C3, or Extra Care housing (Higher levels of care and therefore deemed use class C2).

The effect of the imposition of CIL will be to constrain land supply. This is a significant threat to land with a high existing use value and therefore to the delivery of retirement developments, which by nature are limited to previously developed sites in close proximity to town centres. By following the recommendations below it is hoped that the CIL schedule can be adopted in a way that does not constrain the supply of retirement housing for the elderly. The consequences of ignoring this evidence risk putting the delivery of the development plan in jeopardy, a situation to be avoided according to paragraph 30 of the 2012 CIL regulations published by DCLG.

The Developer

Churchill Retirement Living are developers of open market retirement apartments in the United Kingdom. The company has ambitious expansion plans which rely on being able to secure sufficient land for development. As one of the main developers of age restricted housing for the elderly it is important that their concerns are properly addressed so as not to constrain land supply in the retirement housing sector.

Their apartments offer accommodation for purchasers over 60 years of age. Typical facilities within a development include a communal lounge for the use of all residents for socialising and events, a Lodge Manager working full time hours at the development, an emergency call system in every apartment, laundry facilities, a wellbeing suite (for local business to bring their services into the development), a guest bedroom, communal gardens and landscaped grounds, plus electric scooter charging points, communal refuse areas and parking facilities. Given the nature of the customer, the retirement schemes in question are built within level walking distance of town centres to enable the resident to easily access all of their needs (shops, banks & post offices, cafes, community facilities, doctor, dentist etc) without daily recourse to a car. This is one of the main reasons a purchaser of a retirement apartment will consider downsizing from properties generally further away from the required facilities. It also allows a high development density to be achieved given the low requirements for parking on-site.

A Growing Elderly Population

By 2026 older people will account for almost half (48 per cent) of the increase in the total number of households, resulting in the addition of 2.4 million older person households than there are today. The number of people aged 85 or over will increase by 2.3 million by 2036, a 184 per cent increase. The ageing of society poses one of our greatest housing challenges. The Government has recognised this and has set out its aims and objectives of providing more specialised housing for older people in 'A National Strategy for Housing in an Ageing Society - Lifetime Homes, Lifetime Neighbourhoods'. The National Strategy identifies the important role the planning system has in delivering housing choice for older people, stating; 'Spatial planning offers a new and real opportunity to provide more and better quality housing - across the necessary range - for an ageing population in a way that we've not done before.' In respect to future planning policy the Strategy is clear as to the

level of importance to be given to an ageing society, stating; 'Recent reforms to the planning system require regional and local plans to take proper account of ageing and the needs of older people. Future planning policy reform will reflect the high priority we are giving to the challenge of ageing.'

This is reflected in the NPPF at paragraphs 50 and 159. The thrust of these paragraphs is to ensure that Local Plans properly account for the need for older persons housing (amongst other housing types).

The Role of CIL and setting an appropriate rate

When setting a CIL rate, Regulation 14(1) of the 2010 Community Infrastructure Levy Regulations states that “*an appropriate balance*” between “*a) the desirability of funding from CIL (in whole or in part)*” and “*b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development*” should be found.

It is recognized that this does not require CIL to be set at a rate that ensures every scheme is viable. However, the majority of schemes should not be rendered unviable by CIL.

Paragraph 30 of the December 2012 DCLG CIL Guidance states that;

“Charging authorities should avoid setting the charge right up to the margin of economic viability across the vast majority of sites in their area. Charging authorities should show, using appropriate available evidence, including existing published data, that their proposed rates will contribute positively towards and not threaten delivery of the relevant Plan as a whole at the time of charge setting and through the economic cycle”

The interpretation presented here is that this principle should also be applied to individual market sectors that play an important role in meeting housing needs, housing supply and the delivery of the Development Plan. This is relevant in the context of Paragraph 37 of the Guidance;

“... However, resulting charging schedules should not impact disproportionately on particular sectors or specialist forms of development and charging authorities should consider views of developers at an early stage”.

More generally Paragraph 8 of the CIL Guidance;

“By providing additional infrastructure to support development of an area, the levy is expected to have a positive economic effect on development across an area. In deciding the rate(s) of the levy for inclusion in its draft charging schedule, a key consideration is the balance between securing additional investment for infrastructure to support development and the potential economic effect of imposing the levy upon development across their area. The Community Infrastructure Levy regulations place this balance of considerations at the centre of the charge-setting process. In meeting the requirements of regulation 14(1), charging authorities should show and explain how their proposed levy rate (or rates) will contribute towards the implementation of their relevant Plan and support the development of their area. As set out in the National Planning Policy Framework in England, the ability to

develop viably the sites and the scale of development identified in the Local Plan should not be threatened”.

In order to ensure that the delivery of the plan is not jeopardised by the introduction of CIL, and in keeping with the specific paragraphs of the CIL Regulations and Guidance laid out above, it is imperative that the evidence base pays due regard to retirement housing schemes.

Viability

With the onus on the CIL charging authority to set a rate that has regard to available evidence on the viability of development, it is considered that this submission represents just that type of evidence. On balance the general approach to viability appraisals in the CIL rate setting process has been consistent across the country, subject to the proper assessment of retirement apartments as suggested below. It is fair to say however that there is growing house building sector concern about the levels of CIL that are being proposed and adopted.

Any CIL viability assessment should consider the effect of the imposition of CIL on a retirement apartment scheme. This effect should be quantified using appraisal inputs specific to the retirement housing product. It is not correct to simply assume that a general needs apartment scheme is comparable to a retirement apartment scheme. There are a number of key differences which will affect the land value that can be produced by each. Table 1 below summarises the residual land appraisal inputs applicable to a typical scheme on a 0.4 hectare site, a 40 unit retirement apartments scheme. These should be tested as a separate development typology by the CIL viability assessment. Also provided (for comparison purposes only) are the applicable inputs to a typical general needs apartment scheme on a similar size land plot, such that the differences can be noted and quantified. Whilst the retirement housing product is relatively standard (specification does not necessarily depend on location), a general needs scheme could of course offer various flat types and specifications, dependant on local markets and demand (e.g. commuter belt, first time buyers, buy to let, larger family size flats in urban locations).

Table I – Viability Appraisal Inputs for a typical retirement scheme, 0.4ha.

	40 unit Category II Retirement Apartment scheme	Typical General Needs Flatted Scheme at 35 units (More flexible development model)
Housing Mix	1 bed @ 70% 2 bed @ 30%	1 bed @ 30% 2 bed @ 70%
GIFA 1 Bed (m ²)	50-60 sq m	45 sq m
GIFA 2 Bed (m ²)	70-80 sq m	70 sq m
Site area (ha)	0.4	0.4
Net to gross ratio (%) saleable/non saleable	70% saleable to 30% non-saleable/communal space	90% saleable to 10% non-saleable/communal space
Residential Values (Revenue)		
Sales revenue 1BF (£/m ²)	Local comparable rates. As per CIL Viability evidence appendices I & III, Viability points 2-4 are the main population centres outside of which CRL would not consider developing	Local comparable rates
Sales revenue 2BF (£/m ²)	As above	Local comparable rates
Sales Rate	Overall 1 unit per month. Sales curve to front load a proportion of sales after build completion	2 per month, some sold off-plan to buy-to-let market
Ground rent per 1 bed/pa	£425	£150
Ground rent per 2 bed/pa	£495	£200
Yield - capitalised ground rent	7.0%	7.0%
Building Costs		
Building costs New Build (£/m ²)	Current BCIS Mean Generally Retirement Housing rate with location factor applied	Current BCIS rate for Mean Generally Flatted Development with location factor applied
Abnormal/Extra overs	Site by site	Site by site
External works	10% of basic build cost	10% of basic build cost
Allowance for Sustainability/ B. Regs changes to Part L 2013	c6% of basic build cost	c6% of basic build cost
Contingencies (%)	5%	5%
Building cost/Professional fees (%)	10%	10%
Empty property costs to cover Service Charge, Council tax, electricity	For a 40 unit site this is typically £140,000 over the sales period	Minimal
S106 Costs	As per Local Plan policy (removing the requirement for education, sports facilities etc)	As per Local Plan policy
Affordable Housing Assumption	As per Local Plan Policy – typically a financial contribution off-site in West Berkshire to be a minimum of the affordable requirement % of the residual land value of the	As per Local Plan Policy but typically on-site

	scheme	
Sales & Marketing Costs		
Legal fees (per open market unit sale)	£600	£600
Sales & marketing fees (%) of GDV	6%	3%
Finance and acquisition costs		
Arrangement fee (loan)	1% of max loan	1% of max loan
Interest rate (%)	7%	7%
Agents fees (%) of land	1-1.50%	1-1.50%
Legal fees (%) of land	0.75%	0.75%
Stamp Duty (%)	as per applicable rate	as per applicable rate
Developer's return for risk		
Profit as % of sales revenue	20%	17.5%
Site Benchmark land value	Existing Use Values could be - Hotel; Residential Land Assembly of 3-4 detached properties; 30,000 sq ft office. Alternative Site Value - c75 bed Care Home; Lower Density Housing Development; General Needs flatted scheme; Retail led Scheme	Site Specific
Timings	Month	Month
Planning permission = month 0	0	0
Construction period	12	12
Construction start	7	7
Construction end	18	18
First sale	18	14
Last sale (legal completion)	57	33
Selling rate	1 per month. Sales curve at 18 units in initial 12 months, 12 units in next 12 months, final 10 units sold in next 16 months	c2 per month, but sales curve as per local experience
Freehold sale (ground rent payment)	57	33
Overall scheme end date	57	33
Empty Property Cost	Assume commensurate with sales	-
SI06 payments	on commencement	on commencement

A crucial element of the CIL viability appraisal will be to ensure the baseline land value against which the viability of the retirement scheme is assessed, properly reflects the spatial pattern of land use in the locality.

Therefore the viability of retirement development should be assessed against both likely *existing* site values, and just as importantly, of potential *alternative* (i.e. competitor) uses. Our concern is that CIL could prejudice the delivery of retirement housing against competing uses on the land suitable for retirement housing schemes.

As retirement housing is an age restricted housing type, it is important that it is located within close proximity to the services that an elderly person may require. The average age of residents in this type of housing scheme is around 79 years. They are likely to have abandoned car ownership, be of lower mobility and/or rely on close proximity to public transport. For this reason, the major retirement housing developers will not consider land more than 0.4 miles level walk away from a town centre or local centre that has a post office, pharmacy, doctor's surgery and a good array of shops for the flat owner's likely daily needs. This should be understood as housing for the active elderly – care homes can theoretically be sited further from town as the residents of these types of accommodation typically do not rely on their own mobility to access doctor/medical care and food shops. Care and services are bought in onto these sites to a greater degree. In coastal areas this effectively halves the available land within walking distance of the town centres of the district, and therefore means that sites suitable for retirement apartments are scarce.

The result is that the retirement housing product can only be built on a limited range of sites. If the CIL schedule sets the charging rate at a level that means retirement housing schemes cannot compete in land value terms with other uses for these sites (which by nature could be reasonably built elsewhere), then no retirement housing will come forward since no suitable sites will be secured. Retirement Housing cannot simply be pushed out of town to sites with lower values. We are concerned that in some instances, charging schedules have been prepared that exempt C2 use class development from paying CIL but then put a large levy on C3 use class, under which Category 2 retirement housing falls. The upshot is that on any given site, a care home operator could benefit from paying £0 to CIL (and providing no affordable housing to boot), but a retirement housing developer will have to pay the full CIL rate AND make appropriate allowances for affordable housing contributions. A nuanced approach is therefore necessary and we encourage the authority to consider retirement housing accordingly.

In the context of Regulation 13 of the CIL regulations and paragraph 35 of the December 2012 Community Infrastructure Levy Guidance document produced by DCLG, this is an important point. Paragraph 35 states;

“Regulation 13 also allows charging authorities to articulate differential rates by reference to different intended uses of development provided that the different rates can be justified by a comparative assessment of economic viability of those categories of development. The definition of ‘use’ for this purpose is not tied to the

classes of development in the Town and Country Planning Act (Use Classes) Order 1987, although that Order does provide a useful reference point”.

We have seen two recent charging schedules that throw this into sharp relief in widely different geographical areas. In Central Bedfordshire the authority set the charging rate for retirement housing at £nil in light of the non-viability of these scheme types based on viability evidence. In The Royal Borough of Kensington and Chelsea, retirement housing has been identified as producing lower land values than general needs development and the schedule reflects this accordingly. The Three Dragons consultancy is currently working with the Retirement Housing Group on CIL appraisals and has also recognised this distinction.

It is also important to recognise that retirement housing sites, due largely to their location near to town and local centres, are typically built on brownfield land which in most cases is in current use (i.e. not derelict or abandoned). Paragraph 27 of the Guidance recognises that brownfield sites are those where the CIL charge is likely to have most effect.

There are a number of viability assessments that have informed charging schedules where the full policy requirement for affordable housing has not been reflected in the evidence. In particular the examiner’s report for the Mid Devon CIL charging schedule found this was not a robust position to take. There, the evidence had tested the viability of CIL against a lower affordable housing requirement, since that was the current development control experience of how planning policy was being applied in the context of viability. In the context of the Guidance (paragraph 4) this is a flawed methodology;

“Charging schedules should be consistent with and support implementation of up-to-date Local Plans”

Clearly any assumptions made in the evidence base that are not in line with planning policy cannot be said to be consistent with and supportive of the implementation of Local Plans. The question is also begged as to why the Local Authority is applying their affordable housing policy flexibly in the first place? If reduced levels of affordable housing are due to proven constraints on development viability crystallised during the planning application process, then automatically it suggests these sites are on the margins of viability before any CIL charges are accounted for. To reiterate, the Guidance states at Paragraph 30 that;

“Charging authorities should avoid setting the charge right up to the margin of economic viability across the vast majority of sites in their area. Charging authorities should show, using appropriate available evidence, including existing published data, that their proposed rates will contribute positively towards and not threaten delivery of the relevant Plan as a whole at the time of charge setting and through the economic cycle”

The implication of setting CIL in this manner is a further reduction in the delivery of affordable housing. Logic dictates that some sites will already be on the cusp of viability, delivering 0% affordable housing. The delivery of these sites, and the overall

level of affordable housing is jeopardised by the imposition of non-negotiable costs in the form of CIL.

In the experience of Churchill Retirement Living on recent planning application schemes throughout the country, viability is challenging at best. There is a ready supply of evidence to prove this in a Development Control setting.

Below at Table 2 is a summary of the agreed affordable housing and s106 provision secured at the 6 most recent Churchill planning applications throughout the country. This reflects the viability of schemes against the most up to date housing market conditions at the time of writing. As is shown, in the vast majority of cases, the provision of the full policy requirement for affordable housing was not possible because of its effect on the economic viability of the scheme.

Table 2 – Planning application decisions made in 2013 on developments by Churchill Retirement Living

Site	Units	Local Authority	Affordable Housing & s106 contributions	Viability Issue? (Yes/No)	Date	Existing Land Use
Bishop's Stortford, South Street	52	East Herts DC	£565,300 AH £32,209 s106	No	Mar '13	Redundant and vacant commercial centre. Low EUV
Worthing, Southey Road	29	Worthing BC	£89,547 AH	Yes	Mar '13	Existing Care Home use
Caterham, Station Road	35	Tandridge DC	£0	Yes	Feb '13	Car showroom, workshop and under-utilised offices
Orpington, High Street	50	LB Bromley	£211,500 AH £44,000 s106	Yes	Jan '13	Redundant Office Block
Dorchester, Fire Station	39	West Dorset DC	£150,000 AH	Yes	Jan '13	Fire Station and 2 residential properties
Penzance, Wharf Road	60	Cornwall	£300,000	Yes	Jan '13	Cleared development site, extant hotel permission.

The table above shows that at the majority of planning applications for retirement apartments decided in 2013, an independently agreed assessment of viability has demonstrated to the satisfaction of decision makers that the imposition of the full affordable housing requirement would have rendered these schemes economically unviable. The logical conclusion to this is that the imposition of any CIL onto these schemes would have at best reduced the amount remaining for affordable housing (thereby putting the delivery of the development plan in jeopardy), or at worst rendered these schemes wholly economically unviable, even with no affordable housing contributions. Aggregate floor space of the developments above is some 20,000 square metres, whilst the total s106 contributions (excluding AH) are some £76,209. This is some £3.80 per square metre of planning gain contributions. Additionally, there were some £65.80 per square metre of Affordable Housing contributions agreed. In the situations above, had any additional CIL have been

implemented then it cannot be said that these sites would have come forward as retirement housing developments. The conclusion to draw is that the proposed CIL rates in Thatcham and Newbury at £75 per sq m could not have been delivered by these sites, even when no affordable housing or other s106 contributions were assumed. Stripping out the Bishop's Stortford scheme altogether (where viability was not an issue) makes the figures look worse still.

Whilst only on an aggregate basis, the above figures demonstrate that even before affordable housing is taken into account, aggregate levels of CIL anywhere over c£70 per sq m applied to these developments would have rendered them unviable, jeopardising retirement housing delivery. When taken in the context of affordable housing planning policy, any CIL whatsoever would likely have constrained supply significantly.

In the context of the CIL viability study by Dixon Searle Partnership, the only development typology assumed solely for flatted development is the 15 unit apartment scheme. At £75 per square metre CIL, the per hectare residual land value of this development type does not exceed the upper employment land value benchmark until Value Point 4. Only at Value Point 5 & 6 does the scheme residual land value better the PDL/residential intensification value (see Table 1, Appendix IIa of the DSP study).

As previously asserted, the likely location for a retirement housing development is in Value Point 2-4. Therefore even were the cost profiles of a retirement housing scheme to be the same as general needs flats, the resultant residual land value would only allow a scheme to be delivered in Value Point 4 and only on previous employment land. Any site in previous residential use would not be viable in Value Points 2-4 when assuming the cost profile of general needs development. It is our contention that when the extra costs associated with the retirement housing product are accounted for (communal space, sales period and finance, marketing etc), this would be further exacerbated and this is therefore worth assessing at the draft CIL schedule stage.

The concern presented here is that this effect would be serious enough to constrain the supply of development sites for retirement apartments to such a degree that little or no development would come forward in Newbury or Thatcham, and therefore West Berkshire as a whole. Residential land assembly would be out of the question, employment land would not be viable, therefore there would be very few sites available in the right locations for retirement apartments.

Benefits of Retirement Housing

To further embed the notion that retirement housing is a distinct housing market type that deserves special consideration within the Development Plan, it is worth setting out the benefits of retirement housing to both residents and the wider community. Sheltered housing gives rise to many social benefits by providing specialized accommodation to meet a specific housing need. In summary, sheltered housing:

- provides purpose built specifically designed housing for local elderly people
- a recognised local housing need (according to the latest research by Churchill Retirement Living of their existing sheltered housing developments, over 50% of occupants of sheltered housing move from within a 10 mile radius of the development);
- helps to reduce anxieties and worries experienced by many elderly people living in housing which does not best suit their needs in retirement by providing safety, security and reducing management and maintenance concerns;
- provides companionship and a community which helps to reduce isolation, loneliness and depression;
- provides a form of housing which addresses the onset and increasing problems of mobility/frailty;
- is very well located in relation to shops and other essential services, being within easy walking distance or readily accessible by public transport which can reduce isolation and reduce the worry of depending on a car;
- helps to maintain an independent lifestyle; and
- helps to maintain health and general well-being.

There are also many planning benefits which include:-

- sheltered housing releases under-occupied housing and plays a very important role in the recycling of stock in general;
- there is a 'knock-on' effect in terms of the whole housing chain enabling the more effective use of the existing housing stock;
- sheltered housing maximises the use of previously-developed land;
- because of its location, sheltered housing reduces the need to travel by car (the elderly living in more remote locations will remain far more dependent upon the private car); and
- helping to introduce mixed land uses in town centres, revitalising such areas.

Private sheltered housing is a 'good neighbour' in all respects. There is a very low traffic generation, and the general lack of peak hour traffic movement ensures that conflict does not occur with other peak traffic movements such as school and work journeys. Residents tend to be relatively active in the local community, be a watchful eye on the local neighbourhood in terms of crime and safety, and are local shoppers/spenders.

In addition to the above retirement housing provides a number of key sustainability benefits including;

- Making more efficient use of land thereby reducing the need to use limited land resources for housing;
- Providing high density housing in close proximity to services and shops which can be easily accessed on foot thereby reducing the need for travel by means which consume energy and create emissions;
- Providing shared facilities for a large number of residents in a single building which makes more efficient use of material and energy resources.

Conclusions

Without properly assessing a retirement housing scheme against a range of existing and competitor uses, the implication of adopting a CIL rate based on general needs housing is that supply will be constrained in this important market sector. Paragraph 37 of the CIL Guidance should be noted here. Furthermore, the examples provided of the schemes where planning decisions were made in 2013 show that any CIL requirement for a retirement housing scheme is not justified if affordable housing is to be delivered.

We have recommended that the evidence base should have regard to spatial variations in land use and the competitive nature of a constrained and rationed market for land in close to town centre settings.

We are willing to work with the Council and their representatives to further inform and progress the evidence base prior to the examination in public of the CIL schedule. We request that we are invited to the examination to make and explain these concerns to the Inspector.

Yours sincerely

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