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[REDACTED]

East Hampshire District Council
Penns Place
Petersfield
Hampshire
GU31 4EX

12th December 2014

REPRESENTATION TO THE EAST HAMPSHIRE DISTRICT COUNCIL COMMUNITY INFRASTRUCTURE LEVY - DRAFT CHARGING SCHEDULE

This is a representation on behalf of McCarthy & Stone Retirement Lifestyles Ltd. the market leaders in the provision of retirement housing for sale to the elderly.

We previously provided commentary to the Preliminary Draft Charging Schedule in July 2014 in which we expressed our concern that the emerging CIL could 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.

In the proposed Draft Charging Schedule we note that the Council have amended the Schedules to include the following rates:

Residential other than class C2, C2A uses and Extra Care Housing

Residential C3A sheltered housing in self contained houses and flats with communal facilities and an age restriction - £40

All class C2, C2A, C3B, C3C and extra care housing uses -£nil

We commend the Council for its commitment to ensuring that specialist accommodation for the elderly remains viable under the emerging CIL regime. **We withdraw our objection to the Charging Schedule accordingly.**

Thank you for the opportunity for comment.

Yours faithfully,

Ziyad Thomas
Policy Planner
The Planning Bureau Ltd.



Planning Policy Team
By email: localplan@easthants.gov.uk

22 December 2014
Our Ref: 129/SHANLYGR/KC/b

Dear Sir/Madam,

CIL Draft Charging Schedule Consultation November - December 2014

These representations are made on behalf of our client Shanly Homes Limited in respect of the consultation on the Council's Community Infrastructure Levy Draft Charging Schedule (November 2014).

The housing market of East Hampshire is identified in the Council's Strategic Housing Market Assessment (SHMA, January 2008) as comprising the authorities of Basingstoke and Deane and Winchester; known as the Central Hampshire market area. The southern part of the district falls within a housing market area comprising and Test Valley and New Forest Councils. Other peripheral local authorities, including the Blackwater Valley are also identified.

We consider that CIL charging rates across these Boroughs should be broadly similar to ensure that housing provision is not skewed in favour of one area; inappropriate CIL charging rates will negatively impact on the housing market of East Hampshire. To illustrate this, the table below shows a comparison with CIL rates in those authorities within East Hampshire's housing market area:

| Authority | Status | Charging Rates |
|--|------------------------------|----------------|
| East Hants | Draft (November 2014) | £0-£180 |
| <i>Central Hampshire Market Area</i> | | |
| Winchester | Adopted (January 2014) | £0-£120 |
| Basingstoke and Deane | Draft (November 2014) | £0-£150 |
| <i>PUSH Area and New Forest West and Central</i> | | |
| New Forest (outside of National Park) | Adopted (April 2014) | £80 |
| Test Valley | Draft (July 2014) | £90-£225 |

Centaur House, Ancells Business Park, Ancells Road, Fleet, Hampshire GU51 2UJ

T: [REDACTED] F: [REDACTED] M: [REDACTED]
E: [REDACTED]

| <i>Peripheral Local Authorities</i> | | |
|-------------------------------------|---------------------------------------|-----------|
| Wiltshire | Further modifications (December 2014) | £0-£85 |
| West Berkshire | Adopted (March 2014) | £75-£125 |
| Hart | Draft (October 2014) | £0-£250 |
| Rushmoor | Not progressing at this time | |
| Waverley | Preliminary draft (November 2012) | £160 |
| Chichester | Draft (November 2014) | £120-£200 |
| Bournemouth | Preliminary draft (August 2014) | £0-£70 |
| East Dorset | Draft (May 2014) | £0-£70 |

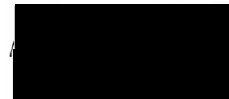
Reviewing the table above, the rates proposed to be charged within East Hampshire are amongst the highest within the housing market area only falling below Hart, Test Valley and Chichester in terms of the proposed top rate. It is worth noting that only three authorities have adopted their charging schedules and the top rates of CIL in these authorities are all below that of East Hampshire.

Overall, we consider the proposed charging rates for East Hampshire (especially the top rate covering the northern parishes) is too high when compared with the rates proposed in other authorities within East Hampshire's housing market area. These excessively high rates indicate a lack of consideration of the housing market in which the District operates and suggests that the Council's understanding of viability is flawed.

This is exacerbated for developments in the north of the Borough which are required to make additional payments, over and above CIL, towards the new Alton Leisure Centre with a further impact on the East Hampshire housing market and overall viability of developments. Such a large additional contribution per dwelling (£10,000) is 'hidden' in terms of its impact on viability by not being included in the CIL rates and supporting assessments. This further emphasises our point, especially, for developments in the north of the District that the Council do not properly understand the impact of these additional costs on viability of the operation of the housing market.

I trust that these representations are acceptable, if you have any queries do not hesitate to contact me.

Yours sincerely



Kay Collins BSc (Hons), MPhil, MRTPI
Chartered Town Planner



Jennifer Howard

From: Ross Anthony <[REDACTED]>
Sent: 19 December 2014 14:31
To: EHDC - Local Plan
Subject: Community Infrastructure Levy

19 December 2014

Principal Policy Planner
East Hampshire District Council
Penns Place
Petersfield GU31 4EX

Our Ref.: A/6245

Thank you for consulting The Theatres Trust on the CIL Draft Charging Schedule.

The Theatres Trust is The National Advisory Public Body for Theatres. The Theatres Trust Act 1976 states that *'The Theatres Trust exists to promote the better protection of theatres.* It currently delivers statutory planning advice on theatre buildings and theatre use through the Town & Country Planning (General Development Procedure) (England) Order 2010 (DMPO), Articles 16 & 17, Schedule 5, para.(w) that requires the Trust to be consulted by local authorities on planning applications which include *'development involving any land on which there is a theatre.'*

We support the setting of a nil rate for 'Any other non-residential development' as D1, D2 and some sui generis uses (e.g. theatres) often do not generate sufficient income streams to cover their costs. Consequently, they require some form of subsidy to operate and this type of facility is very unlikely to be built by the private sector, particularly if CIL is charged.

Regards,

Ross Anthony
Planning Adviser
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The Theatres Trust
Protecting Theatres for Everyone
National Advisory Public Body for Theatres

**East Hampshire District Council
Consultation on Community
Infrastructure Levy Draft Charging
Schedule**

Representations submitted on behalf of:

**Martin Grant Homes & Persimmon South
Coast**

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Contact

Matt Spilsbury MRTPI MRICS
Associate Director – Economics

December 2014

1. Introduction

- 1.1 This document is submitted on behalf of Martin Grant Homes and Persimmon Homes South Coast Limited ('the representors') and has been prepared by Turley Economics.

Martin Grant Homes

- 1.2 Established in 1978 Martin Grant Homes deliver premium specification homes in prime locations throughout the Home Counties and are now recognised as one of the leading house builders in the South of England.

Persimmon Homes

- 1.3 Building around 10,000 new homes a year in more than 400 prime locations nationwide, Persimmon is one of the UK's leading housebuilders, committed to the highest standards of design, construction and service.
- 1.4 Founded in 1972 and with headquarters in York, the group comprises a North, South and Central Division with a number of regional offices throughout the UK including Persimmon Homes South Coast, based in Fareham.

Purpose of this Document

- 1.5 As two of the UK's most prominent house builders, with land interests for residential development within East Hampshire, the representors have a substantial interest in working with East Hampshire District Council ('EHDC' or 'the Council') to ensure that the proposals for a Community Infrastructure Levy (CIL) charging regime will be fair, effective and lawful in operation.
- 1.6 The representors have set out the considerations viewed as highly relevant for EHDC to consider in proceeding with the preparation of a final CIL Draft Charging Schedule following this consultation process.

Previous Representations to CIL Consultation

- 1.7 This representation document follows the representation document submitted to the consultation on the EHDC CIL Preliminary Draft Charging Schedule (PDCS) in July 2014. A full copy of this representation document is attached within Appendix 1.

Structure of this Document

- 1.8 This representation document is structured as follows:
- Chapter 1: Introduction
 - Chapter 2: Representations to the CIL DCS Consultation – This provides the representor's comments upon EHDC's published CIL DCS and makes recommendations to EHDC as to the required modifications to the CIL DCS prior to its' submission to the Planning Inspectorate (PINS) for Examination.

Right to be heard

- 1.9 The representors request the right to be heard before the Examiner at the EHDC DCS Examination.

2. Representations to the EHDC CIL DCS Consultation

- 2.1 This section of the document presents the views of the representors regarding EHDC's published CIL DCS and the updated accompanying viability evidence base.
- 2.2 Where issues raised through the CIL PDCS consultation remain unresolved, clarity is provided regarding the representor's on-going concerns.
- 2.3 The representor's views on the inadequacy of EHDC's response to such issues within the EHDC CIL PDCS Stage 1 Consultation Responses Report (November 2014) ('the Consultation Report') are highlighted.
- 2.4 Where further evidence is required to justify, substantiate or reinforce the representor's representations on relevant matters, this is provided.

Residential CIL DCS Rates

- 2.5 The representors do not believe that EHDC's proposed approach to residential CIL charging rates as set out in the CIL DCS has been prepared in accordance with, or meets the requirements of, either the CIL Regulations 2010 (as amended) or the CIL Guidance (2014) contained within PPG.
- 2.6 Despite representations being made by Martin Grant Homes, Persimmon South Coast and other industry stakeholders to the CIL PDCS consultation, EHDC has continued to proceed with the approach proposed in the PDCS.

Benchmark Land Values

- 2.7 Both the representors and other commentators set out their concerns regarding the robustness of benchmark land value evidence utilised within the assessment, within representations submitted to the EHDC CIL PDCS consultation.
- 2.8 The representors do not see the responses provided by EHDC and Adams Integra as sufficient in resolving these concerns.
- 2.9 It appears that the benchmark land values have been arrived at based on the consultant's own internal views and by reference to the values utilised by neighbouring authorities in their own viability evidence.
- 2.10 When challenged, EHDC has not been forthcoming in transparently presenting any local transactional or other market evidence to support the benchmark values incorporated in the assessment.
- 2.11 Given that the approach taken by Adams Integra uses land value thresholds as a fundamental viability consideration (including reference to 'buffers' which are discussed in more detail in subsequent sections), the benchmark land values must be based on robust local evidence.

- 2.12 How can EHDC demonstrate that an 'appropriate balance' has been struck under CIL Regulation 14, if the evidence underpinning the generation of the point of balance (i.e. the point at which sites are judged to be viable or unviable) is either absent and based on pure opinion, or based on second hand evidence external to the local market?
- 2.13 It is the express view of the representors that the land value benchmarks utilised are artificially low, and hence overstate viability. It is an absolute necessity for EHDC to substantiate the benchmarks used drawing on market evidence as is required by both PPG and NPPF prior to submitting the EHDC CIL DCS to the Planning Inspectorate for Examination.

Residential Value Points & CIL Charging Zones

- 2.14 The representors set out their specific concerns regarding EHDC's approach to utilising residential value points as a basis for setting differential CIL charging zones within representations submitted to the EHDC CIL PDCS consultation.
- 2.15 These representations remain valid, are replicated within Appendix 1, and should be read in conjunction with this section of this document.
- 2.16 Specifically, the representors continue to strongly disagree with EHDC's continued inclusion of Alton within VP4 within Appendix 2 of the CIL Viability Assessment (March 2014)¹ and the subsequent CIL Addendum Report (November 2014)².
- 2.17 The impact of EHDC assuming Alton is representative of VP4 is that it continues to be included within the EHDC CIL DCS at a rate of £180 psm.
- 2.18 As submitted within the representation to the CIL PDCS, the representors utilised EHDC's own market evidence to demonstrate that Alton is representative of VP3, rather than VP4.
- 2.19 As a result, EHDC's consultants Adams Integra has reviewed this position, and published conclusions within the subsequent CIL Addendum Report (November 2014)³.
- 2.20 However, Adams Integra states on page 4 of the CIL Addendum Report (November 2014)⁴:
- 'It would appear that certain house types would be closer to VP3 than VP4. We do not believe that the evidence would suggest conclusively that Alton should be in VP3, so we have made no change.'*
- 2.21 However, as previously, it appears Adams Integra's conclusion is completely at odds with the underpinning market evidence to support the value points.

¹ Adams Integra (March 2014) Viability Report to support a Preliminary Draft Charging Schedule for Community Infrastructure Levy

² Adams Integra (November 2014) East Hampshire District Council Addendum Report following Consultation into Preliminary Draft Charging Schedule

³ Adams Integra (November 2014) East Hampshire District Council Addendum Report following Consultation into Preliminary Draft Charging Schedule

⁴ Ibid

- 2.22 The updated market evidence to support Adams Integra's position is contained within Tables 1, 2 and 3 of the CIL Addendum Report (November 2014)⁵. A review of these tables demonstrates that the values included in VP4 within Table 3 are clearly substantially in excess of the market value evidence for Alton contained within Table 1.
- 2.23 As Table 1 informs both Table 2 and Table 3, it appears that Adams Integra has simply assumed higher values for Alton in both Table 2 and Table 3, which ultimately inform the VP rates, than can be substantiated by the market evidence.
- 2.24 Clearly, overstating the values achievable in Alton presents a risk to the deliverability and viability of sites in the settlement. It is therefore wholly unclear how EHDC and Adams Integra can defend this approach as robust.
- 2.25 Moreover, EHDC has not provided a consistent response to the concerns raised by stakeholders on this matter, leaving the representors highly concerned that the CIL rate proposed for Alton has not been robustly and transparently assessed.
- 2.26 For example, within the Consultation Report, EHDC clearly state the following on page 11:
- 'In connection with Alton, we have looked separately at the evidence and would agree that it should be in VP3, not VP4.'*⁶
- 2.27 However, EHDC subsequently states on page 15:
- 'We have looked at the values for Alton again. Whilst there are some housetypes that could relate more to VP3 than to VP4, we have kept Alton in VP4.'*⁷
- 2.28 A further major flaw is that EHDC's evidence base fails to adequately test the viability implications of the cost of meeting the Alton Sports Centre contribution via Section 106 financial contribution alongside CIL. This has not been factored into the CIL Viability Assessment (March 2014)⁸ or CIL Addendum Report (November 2014)⁹.
- 2.29 This issue was highlighted by the representors within the representation document submitted to the consultation on the EHDC CIL PDCS, which is attached within Appendix 1.
- 2.30 Despite this representation, no evidence is available to demonstrate that market conditions, deliverability and viability have been considered by EHDC as is required by the NPPF in applying planning obligations to development proposals.
- 2.31 Independent viability assessment conducted by Turley Economics has demonstrated the cost of the Alton Sports Centre contribution is highly onerous – adding substantially to the overall cost burden – which has a significant impact on development viability.

⁵ Ibid

⁶ EHDC (November 2014) CIL PDCS Stage 1 Consultation Responses Report, p.11.

⁷ Ibid

⁸ Adams Integra (March 2014) Viability Report to support a Preliminary Draft Charging Schedule for Community Infrastructure Levy

⁹ Adams Integra (November 2014) East Hampshire District Council Addendum Report following Consultation into Preliminary Draft Charging Schedule

- 2.32 A failure to test the implications of costs means that the present position proposed within the EHDC CIL DCS cannot represent an 'appropriate balance' under CIL Regulation 14, and will preclude an Examiner finding as such.
- 2.33 In summary, the CIL viability evidence utilised by EHDC to underpin the proposed CIL rates in the published CIL DCS has not applied the market evidence for Alton in a consistent manner in undertaking viability assessment. The result is that, at present, the proposed rate for Alton remains inconsistent with EHDC's own viability evidence base and the approach risks the viability of development in this location.
- 2.34 It remains the view of the representors that EHDC's approach would not stand up to challenge at CIL Examination. EHDC has clearly been unable to justify retaining Alton at VP4, when all evidence points to its inclusion in VP3. Therefore, it remains the express recommendation of the representors that the proposed CIL rate for Alton is reduced to the rate for VP3.

Build Costs

- 2.35 It is noted that Adams Integra has run a sensitivity assessment utilising the build costs recommended by the representors and incorporated this within the CIL Addendum Report (November 2014)¹⁰.
- 2.36 However, taking into account the above comments, this incorporates a Section 106 cost of just £3,000 per unit. Assuming the additional Section 106 cost of £10,000 per unit for Alton as a result of the Alton Sports Centre contribution, this would require a cost of circa £13,000 per unit S106 to be tested.
- 2.37 As a result, the build cost sensitivity is inadequate when applied to development within Alton.

Other Valuation Inputs

- 2.38 Within representations made to the EHDC CIL PDCS, the representors highlighted their concern that several key valuation inputs had been underprovided for. The risk associated with this is that a failure to fully account for the costs associated with development will overstate viability.
- 2.39 It remains unclear whether land agent's fees have been incorporated within the viability assessment. These should represent 1-2% of the benchmark land value as an additional cost.
- 2.40 Professional consultants fees have been retained at 7% of build cost. It is the view of the representors that this should be increased to 10%. The cost of insurances (e.g. Zurich / NHBC), as now separated from professional fees, should be set out in addition to professional fees.

Absence of Defined 'Buffer'

- 2.41 Various stakeholders submitted representations to the EHDC CIL PDCS stating concern regarding the apparent lack of a transparent and consistent buffer drawing back from the margins of viability in the application of CIL rates.

¹⁰ Adams Integra (November 2014) East Hampshire District Council Addendum Report following Consultation into Preliminary Draft Charging Schedule

- 2.42 The concerns of the representors are set out within representations made to the EHDC CIL PDCS, which are contained within Appendix 1.
- 2.43 EHDC and Adams Integra have advocated that buffers are inherently applied within the approach taken to viability testing. This position is stated within both the EHDC Consultation Report and the CIL Addendum Report (November 2014)¹¹.
- 2.44 However, several examples are drawn out, which are both unclear and lack consistency. Moreover, it is considered odd that no mention of this was presented in the EHDC evidence base prior to receipt of representations.
- 2.45 It is therefore the explicit request of the representors that:
- The methodology applied to establish buffers is clearly explained and expanded upon. At present it appears piecemeal and partial, and lacks clarity; and
 - The level of buffer for all viability assessments undertaken is transparently presented in a tabulated format. As it stands the scale of buffer is not discernible without additional calculation.

Discretionary Matters

- 2.46 EHDC has welcomed comments on a range of discretionary matters facilitated by the CIL Regulations.
- 2.47 The representors have already set out their views on a wide range of discretionary matters, inclusive of the majority of those referenced by EHDC in the published CIL DCS.
- 2.48 These comments continue to stand, and the representors would advocate that EHDC refer to the representation document submitted to the consultation on the EHDC CIL PDCS, which is attached within Appendix 1.

Instalment Policy

- 2.49 Despite the representations made to the EHDC CIL PDCS, which advocated the transparent publication of an Instalment Policy, EHDC has published the CIL DCS for consultation without an accompanying Instalment Policy for consideration and comment by stakeholders.
- 2.50 Instead EHDC propose to publish any Instalment Policy alongside the adopted CIL Charging Schedule.
- 2.51 The representors are disappointed with EHDC's decision to proceed in this manner. It would be considered good practice, and transparent, for EHDC to publish a draft Instalment Policy for stakeholder consideration and comment prior to adopting the CIL Charging Schedule.

¹¹ Adams Integra (November 2014) East Hampshire District Council Addendum Report following Consultation into Preliminary Draft Charging Schedule

- 2.52 By holding back publication of the Instalment Policy until adoption, this removes the opportunity for any stakeholders to comment on the Instalment Policy. Moreover, the CIL PDCS fails to state whether EHDC intends to commit to introducing an Instalment Policy. This, in the view of the representors, is an evasive position for EHDC to adopt.
- 2.53 The representors have set out both their views, and a recommended Instalment Policy, within representations made to the EHDC CIL PDCS, which are replicated within Appendix 1 for reference.
- 2.54 It is strongly recommended that EHDC review, and introduce, the structured Instalment Policy advocated by the representors and contained within Appendix 1.

Relief for Exceptional Circumstances

- 2.55 Despite the representations made to the EHDC CIL PDCS, which advocated the introduction of discretionary relief from CIL in exceptional circumstances, EHDC has stated within the published CIL DCS that it does not intend to introduce discretionary exemptions.
- 2.56 The representors are both surprised and disappointed that EHDC has adopted this stance, despite EHDC's own recognition within the CIL DCS that *'offering this relief would provide the Council with some flexibility to deal with complex sites which are proved to have exceptional costs or other requirements which make them unviable'¹²*.
- 2.57 EHDC has failed to substantiate the grounds for adopting this stance. The representors see this as inadequate and would request that EHDC appropriately justifies the position adopted. If this is not possible, EHDC should reverse this decision.
- 2.58 It is the view of the representors that failure to introduce discretionary exemptions will result in EHDC being forced to accept reductions in the provision of affordable housing on sites with demonstrable viability challenges. This is clearly not acceptable position for a local authority with a high backlog and demonstrable need for the provision of an increased supply of affordable housing.
- 2.59 It is critical for EHDC to boost housing supply to meet the need for market and affordable housing, rather than placing this at further risk by introducing an overly ambitious CIL regime.
- 2.60 Further details, with regards to the representors views on the necessity for the introduction of discretionary relief from CIL in exceptional circumstances, are contained within representations made to the EHDC CIL PDCS. These should be read in conjunction with the above points, and are contained in Appendix 1.

Land and Infrastructure-in-kind

- 2.61 As stated in representations made to the EHDC CIL PDCS, the representors would welcome the introduction of a payment in kind mechanism for payment of CIL liability via land and/or infrastructure.

¹² EHDC (November 2014) CIL PDCS, paragraph 16

2.62 In particular, the representors consider this as a potentially useful method of providing greater certainty over the timescale for the delivery of infrastructure. It is therefore requested that EHDC introduces this discretionary measure alongside the adoption of the CIL Charging Schedule.

Relief for Low-cost Market Housing

2.63 The representors stated in representations made to the EHDC CIL PDCS that the introduction of discretionary relief from CIL liability for low-cost market houses that are to be sold at no more than 80% of their open market value would be welcomed.

2.64 The representors consider this as an important mechanism to assist in improving viability and therefore delivery of a range of affordable housing within the district.

2.65 The representors are therefore both surprised and disappointed that EHDC has proposed not to introduce this relief. EHDC has failed to substantiate the grounds for adopting this stance, which appears counter-intuitive given the high requirement for affordable housing across the district.

2.66 The representors see this as inadequate and would request that EHDC appropriately justifies the position adopted. If this is not possible, EHDC should reverse this decision.

Draft Regulation 123 List

2.67 The representors note that EHDC has now published a draft Regulation 123 list and accompanying Infrastructure Delivery Plan (IDP)¹³.

2.68 However, the IDP stipulates that EHDC proposes to continue to meet the £20 million (est.) cost of the Alton Sports Centre

2.69 Several respected stakeholders including Savills and the representors highlighted to EHDC that they believe the Alton Sports Centre contribution inappropriate and unlawful to collect via Section 106. Others including WYG (HCA) have stated concerns regarding the proposals.

2.70 The representors gained legal opinion on this matter from Patrick Clarkson QC of Landmark Chambers, and submitted this with the representations made to the EHDC Guide to Developers' Contributions consultation in June 2014. It is recommended that EHDC refer to this representation and associated legal opinion.

2.71 It is reiterated to EHDC that CIL Regulation 122 introduces three key tests, which a planning obligation must meet, in order to be lawful. The representors do not believe that EHDC can provide any robust evidence to substantiate that the proposed Alton Sports Centre contribution meets any of the Regulation 122 tests on planning obligations.

2.72 EHDC has simply stated that these representations have been 'noted' within the Consultation Report, but no amendments or action has been proposed. This is wholly inadequate, as is deemed evasive.

¹³ EHDC (October 2014) Infrastructure Delivery Plan Interim Statement and Infrastructure Schedule

2.73 The representors remain of the view that the Alton Sports Centre contribution must be charged via the CIL regime, and would request that EHDC make this amendment.

Appendix 1: Representation submitted to EHDC CIL PDCS

**East Hampshire District Council
Consultation on Community
Infrastructure Levy Preliminary
Draft Charging Schedule**

Representations submitted on behalf of:

**Martin Grant Homes and
Persimmon Homes South Coast**

July 2014

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Contact

Matt Spilsbury
Associate Director - Economics
July 2014

1. Introduction

- 1.1 This document is submitted on behalf of Martin Grant Homes and Persimmon Homes South Coast Limited ('the representors') and has been prepared by Turley.

Martin Grant Homes

- 1.2 Established in 1978 Martin Grant Homes deliver premium specification homes in prime locations throughout the Home Counties and are now recognised as one of the leading house builders in the South of England.

Persimmon Homes

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- 1.4 Founded in 1972 and with headquarters in York, the group comprises a North, South and Central Division with a number of regional offices throughout the UK including Persimmon Homes South Coast, based in Fareham.

Purpose of this Document

- 1.5 As two of the UK's most prominent house builders, with land interests for residential development within East Hampshire, the representors have a substantial interest in working with East Hampshire District Council ('EHDC' or 'the Council') to ensure that the proposals for a Community Infrastructure Levy (CIL) charging regime will be fair, effective and lawful in operation.
- 1.6 This document represents the representor's response to EHDC in relation to the publication of the EHDC CIL Preliminary Draft Charging Schedule (PDCS) for consultation on 30th May.
- 1.7 The representors consider that it is important that EHDC reflect upon the comments and recommendations within this document in preparing a Draft Charging Schedule (DCS) for consultation.

2. Representations

- 2.1 This section presents the views of the representors regarding the Council's published PDCS, the viability evidence base, and specific questions raised by the Council. These issues are dealt with in turn.

PDCS Rates

- 2.2 The Council is aware that the proposed CIL rates set out in the PDCS must be informed by appropriate available evidence, as required by the CIL Regulations 2010 (as amended).
- 2.3 Moreover, the CIL Guidance (2014) is clear in setting out what is meant by an '*appropriate balance*', which under CIL Regulation 14 is central to the CIL rate-setting process.
- 2.4 It states that the introduction of CIL should '*have a positive effect on development*' and that Charging Authorities must be able to '*show and explain how their proposed levy rate (or rates) will contribute toward implementation of their relevant plan and support development across their area*'.
- 2.5 Hence, CIL should not be set at a rate that risks threatening the ability to develop viably the sites and scale of development identified in the relevant Plan, and instead the Council must be able to demonstrate at Examination that the proposed CIL rate(s) will have a positive, rather than a negative, effect to support development across the borough.
- 2.6 With these pivotal Examination tests in mind, the representors have conducted a thorough review of the Council's evidence base. In particular, this has focused upon the CIL Viability Assessment (March 2014)¹, and specifically relate to the setting of residential CIL rates.

Benchmark Land Values

- 2.7 The representors have extensive experience negotiating with landowners across the district, and wider region, and have a robust knowledge of the values that therefore constitute an acceptable and realistic return to incentivise a landowner to release land for residential development.
- 2.8 Whilst the values of specific sites unfortunately must remain commercially confidential due to on-going sensitivities, and each site / landowner does differ in reaching this position, it is the view of the representors that the benchmarks set within the CIL Viability Assessment (March 2014)² do not adequately reflect the current land market across the district, with landowner expectations rising.

¹ Adams Integra (March 2014) Viability Report to support a Preliminary Draft Charging Schedule for Community Infrastructure Levy

² Ibid.

- 2.9 It is not for the representors to prepare the Council's evidence base. Neither were the representors engaged by the Council or its advisors when preparing the CIL Viability Assessment (March 2014)³, as is recommended by Government as good practice.
- 2.10 Given the representors activity within the District, and wider experience, clarification is sought as to the following:
- (a) Which organisations were consulted in the preparation of the CIL Viability Assessment (March 2014)⁴, and specifically the land value benchmarks, as set out in paragraph 4.7.10 of the document?
 - (b) What evidence was submitted, and how is this representative of benchmark land values across the District?
- 2.11 The PPG (2014) elaborates further upon the latter question within the Viability section. It states that, in considering the viability of planning obligations in plan-making, '*values should be based on comparable, market information*' and wherever possible '*specific evidence from existing developments should be used*'. This includes reference to the preparation of CIL charging regimes.
- 2.12 Paragraph 4.7.15 of the CIL Viability Assessment (March 2014)⁵ makes reference to 'competitive returns', as stipulated in the NPPF, and the application of a premium over existing use value (EUV) to account for this. The consultants state that the '*...amount of premium should be set locally and, in our experience, this is usually set at around 20%*'.
- 2.13 The representors therefore have the following questions:
- (a) What constitutes local within the assessment, and how has this been defined and evidenced?
 - (b) What is the experience of the consultants in purchasing land within the district?
 - (c) What examples of transactional evidence can the consultants provide to justify both the benchmark land values set and the 20% premium applied across the district?
- 2.14 Moreover, no mention is made of recent appeal decisions that have added further clarification to the appropriate basis for establishing a 'competitive return'.
- 2.15 The Shinfield Appeal (January 2013)⁶ established that a competitive return to the willing owner of a previously developed site is the CUV plus an incentive to sell. This was set at 50% of the uplift from the grant of planning consent, before applying any planning obligations.

³ Adams Integra (March 2014) Viability Report to support a Preliminary Draft Charging Schedule for Community Infrastructure Levy

⁴ Ibid.

⁵ Ibid.

⁶ APP/X0360/A/12/2179141 (Land at The Manor, Shinfield, Reading RG2 9BX)

- 2.16 Further clarification was also added at the Oxenholme Road Appeal (October 2013)⁷, which established that greater weight should be attached to the residual valuation method of determining site value for greenfield sites. The Inspector acknowledges EUV plus a margin can be useful, but notes the weaknesses of this approach when dealing with greenfield sites. Concurrently, the Inspector places greater weight on the use of specific comparable market evidence in determining site value for the purpose of establishing a 'competitive return'.
- 2.17 It is therefore recommended that the Council provides further evidence to support the benchmark land values used in the CIL Viability Assessment (March 2014)⁸. The current approach does not constitute 'appropriate' nor 'available' evidence. In fact, it does not constitute evidence at all. It would not stand up to scrutiny at Examination.

Build Costs

- 2.18 The CIL Viability Assessment (March 2014)⁹ refers to a review of the BCIS build cost index in setting revised residential build costs. It subsequently takes forward the build costs applied within a previous report published in March 2013. This is stated as making allowance for Code Level 4 and 5 and is set out in the following table.

Table 2.1: Residential Build Costs – CIL Viability Assessment

| Code Level | Unit Type | £psm |
|--------------|-----------|------------|
| Code Level 4 | Houses | £1,141 psm |
| | Flats | £1,321 psm |
| Code Level 5 | Houses | £1,308 psm |
| | Flats | £1,488 psm |

Source: Adams Integra, 2014

- 2.19 The representors have separately consulted BCIS to review residential build costs weighted to East Hampshire as at 28 June 2014. The mean (average) costs are set out in the following table for comparison.

Table 2.2: Residential Build Costs – BCIS June 2014 – East Hampshire

| Unit Type | £psm (mean) |
|--------------------|-------------|
| Houses (Generally) | £1,072 psm |
| Flats (Generally) | £1,278 psm |

Source: RICS BCIS, 2014

- 2.20 Crucially, the BCIS build costs in Table 2.2 do not reflect Code Level 4 or 5, but current building regulations, and also do not make allowances for the following:

⁷ APP/M0933/ A/13/ 2193338 (Land to the west of Oxenholme Road, Kendal, Cumbria)

⁸ Adams Integra (March 2014) Viability Report to support a Preliminary Draft Charging Schedule for Community Infrastructure Levy

⁹ Ibid.

- external (structural and local site) works such as roads and sewers, provision of mains services, and setting out public open spaces;
- site abnormalities;
- S278 highway improvement works;
- sustainable urban drainage schemes (SUDS), flood protection, etc.; and
- communal areas for flat / apartment developments.

2.21 Despite these exclusions, there exists just a 6% difference, and a 3% difference, respectively for houses and flats (£psm) between the updated BCIS costs in Table 2.2 and the proposed Code 4 build costs in the CIL Viability Assessment (2014) as set out in Table 2.1.

2.22 The Council and its consultants should refer to the document “*DCLG Cost of Building to Code for Sustainable Homes (CfSH) Updated Cost Review 2011*”. Table 4 of this document shows that the cost of building to Code 4 represents an increase on base build costs of circa 4% - 6% dependant on the type of site and its location. The cost increases on larger and greenfield sites.

2.23 Taking Code into account, the costs are similar. However, this is before any cost has been allowed for external works. External works typically account for an additional 10% on top of base build costs, and should be incorporated into viability assessment. As a result, a set of recommended base build costs are presented in Table 2.3.

Table 2.3: Recommended Residential Build Costs –East Hampshire

| Unit Type | BCIS £psm (mean) | Code 4 Uplift (average) | External Works (on base) | Recommended Build Cost at Code 4 |
|--------------------|------------------|-------------------------|--------------------------|----------------------------------|
| Houses (Generally) | £1,072 psm | 5% | 10% | £1,231 psm |
| Flats (Generally) | £1,278 psm | 5% | 10% | £1,470 psm |

Source: RICS BCIS, 2014

2.24 The revised costs and approach should be utilised for viability testing by the Council, and consultants, in preparing the draft Charging Schedule for consultation. At present, the build costs utilised in viability evidence are misrepresentative, outdated and risk significantly underestimating the cost of development.

2.25 The representors would also seek to question why the Council has opted not to examine the impact of site abnormalities, highways works and SUDS etc. on viability? It is recommended that the Council make additional evidenced costs allowances for these factors when revisiting the viability evidence.

Other Valuation Inputs

- 2.26 The representors are of the view that the CIL Viability Assessment (March 2014)¹⁰ fails to make adequate allowance for several further valuation inputs, which are reflective of the current market.

Professional Fees

- 2.27 Professional fees are allowed for at 7% of the build cost. This is grossly inadequate, with professional fees averaging 10%-12% in the experience of the representors in the current market. Allowance of 10% is also reinforced by recent Appeal Decisions¹¹, and has been accepted at various CIL Examinations nationally.
- 2.28 The representors recommend that professional fees are increased to a minimum of 10% of build costs.

Sales & Marketing Costs

- 2.29 Sales and marketing costs are allowed for at 3%. In the experience of the representors this is too low and should be increased to between 3.5% and 5% of sales revenue in the current competitive market.

Build Cost Contingency

- 2.30 A build costs contingency of 3% is incorporated in viability testing. The representors believe this is not representative of the contingencies required in the current market. A figure of 5% of build cost should be incorporated.
- 2.31 This is particularly important given the approach taken, which at present fails to allow for site abnormalities, highways works and SUDS etc.

Site Acquisition Costs

- 2.32 There does not appear to be any allowance for site acquisition costs such as land agents fees (1 - 2% of land value), legal fees (about 0.75% - 1.5%) and stamp duty (4% of site value plus VAT for values over £500,000). These should be included transparently within viability assessment.

Residential Value Points

- 2.33 The representors have reviewed the approach to assigning value points for residential development disaggregated by Parish.
- 2.34 The CIL Guidance (2014) clearly states that charging authorities should undertake '*fine grained*' sampling of sites to help estimate the boundaries for setting differential rates. Moreover, differentiation should only be introduced where there is '*consistent economic viability evidence to justify this approach*'.
- 2.35 The representors have specific concerns regarding the inclusion of Alton within VP4 within Appendix 2 of the CIL Viability Assessment (March 2014)¹². The effect of

¹⁰ Adams Integra (March 2014) Viability Report to support a Preliminary Draft Charging Schedule for Community Infrastructure Levy

¹¹ APP/X0360/A/12/2179141 (Land at The Manor, Shinfield, Reading RG2 9BX)

¹² Adams Integra (March 2014) Viability Report to support a Preliminary Draft Charging Schedule for Community Infrastructure Levy

assuming Alton is representative of VP4 is that it is included within the PDCS at a CIL rate of £180 psm.

- 2.36 However, analysis of the market evidence included within the CIL Viability Assessment indicates that the market values (for both new build and re-sale properties) fall significantly below VP4, and are far more closely matched with VP3 across all dwelling types. This is presented in a consolidated format in Table 2.4.

Table 2.4: Analysis of CIL Viability Assessment Evidence – Alton Settlement

| Type | Viability Assessment Value Points | | Alton | |
|-------------|-----------------------------------|--------|---------------------------------|--------------------------------|
| | VP3 | VP4 | New Build Evidence (Appendix 1) | Re-sales Evidence (Appendix 1) |
| | £psm | £psm | £psm | £psm |
| 1 bed flat | £3,261 | £3,478 | | £3,043 |
| 2 bed flat | £2,692 | £2,923 | | £2,488 |
| 2 bed house | £3,092 | £3,487 | | £3,291 |
| 3 bed house | £3,167 | £3,556 | £3,131 | £2,257 |
| 4 bed house | £3,306 | £3,554 | | £3,121 |
| 5 bed house | £2,938 | £3,438 | £2,400 | £2,346 |

Source: Adams Integra, 2014

- 2.37 The CIL Guidance (2014) advocates the use of appropriate, available evidence for use in viability assessment, which should be consistently used to justify proposed CIL rates.
- 2.38 The representors recommend that the Council reconsiders the inclusion of Alton within the proposed VP4 at a CIL rate of £180 psm. The evidence presented in this document demonstrates clearly that this settlement generates sales values more akin with VP3 (or even VP2), which is recommended for a CIL rate of £100 psm.
- 2.39 The CIL Viability Assessment (March 2014)¹³ has not applied the market evidence for Alton in a consistent manner in undertaking viability assessment. The result is that, at present, the proposed rate for Alton is inconsistent with the Council's own viability evidence base and the approach risks the viability of development in this location.
- 2.40 The Council's approach would not stand up to challenge at CIL Examination. Therefore, unless the Council can present additional evidence to prove that the CIL rate applied is consistent with the evidence base, it is the express recommendation of the representors that the proposed CIL rate for Alton is reduced to the rate for VP3.

¹³ Adams Integra (March 2014) Viability Report to support a Preliminary Draft Charging Schedule for Community Infrastructure Levy

- 2.41 This is without prejudice to the wider concerns raised with regard the approach to viability assessment, which may reduce this rate further.

Absence of Defined 'Buffer'

- 2.42 The CIL Guidance (2014) requires that charging authorities do not set their CIL rates at the margins of viability. It states that *'it would be appropriate to ensure that a buffer or margin is included so that the levy rate is able to support development when economic circumstances adjust. In all cases, the charging authority should be able to explain its approach clearly.'*
- 2.43 As a result, the introduction of an appropriate 'buffer' has become a crucial element of consideration at CIL Examinations, playing a vital part in the Examiner's deliberation of the Council's interpretation and evidencing of Regulation 14 (i.e. 'appropriate balance').
- 2.44 It has become widely accepted practice by Examiners to advocate, and accept, a buffer of between 30% and 50% on maximum CIL rates. Examples of both include the London Borough of Merton (30%) and Bristol City Council (50%). It is crucial at Examination that the charging authority can explain what buffer has been applied, and justify this appropriately.
- 2.45 There is no mention within the Council's CIL Viability Assessment (March 2014)¹⁴ of the application of any buffer drawing back from the margins of viability. The recommendations set out within the CIL Viability Assessment (March 2014) have subsequently been directly incorporated into the PDCS published for consultation. It therefore appears that there has been no robust or measured buffer applied.
- 2.46 The representors advocate that the Council clarifies its approach to defining an appropriate 'buffer' to demonstrate rates are not set at the margins of viability.
- 2.47 If the Council cannot adequately do so, it is recommended that rates are reduced by a minimum of 30% from the current proposed rates.

Payment by Instalments

- 2.48 The PDCS does not confirm whether the Council will introduce an Instalments Policy as enabled by Regulation 69B of the CIL Regulations 2010 (as amended).
- 2.49 In the view of the representors that it is essential that the Council prepare and adopt a robust and effective instalment policy if CIL is not to affect the viability of development projects, which are critical to the successful delivery housing supply, and therefore to the relevant Plan.
- 2.50 The Council will already be aware that for large developments it is often essential that Section 106 financial payments required to mitigate the effects of development are paid in stages rather than as a single payment prior to or upon commencement.
- 2.51 This is driven by the implications on project cash flow as income from development is often not realised until residential/commercial units are sold or let and this maybe

¹⁴ Adams Integra (March 2014) Viability Report to support a Preliminary Draft Charging Schedule for Community Infrastructure Levy

several years after commencement of works on site. It may not be financially viable to pay large sums at such an early stage in the development process. In addition, many larger developments which are dependent on bank funding would need to secure further bank finance to make such early payments resulting in further upfront costs and charges having to be paid.

- 2.52 It is often the case that the infrastructure for which the sums are to be paid is not required to be tendered and constructed until much later in the development process when the associated need arises. In recognition of this, Section 106 agreements for larger developments are negotiated so as to provide for contributions to be paid either on occupation of a certain number or percentage of dwellings, completion of sales or certain time periods after commencement or by reference to phases.
- 2.53 It is the view of the representors that CIL liability should be treated in the same way if an instalments policy is to have a meaningful positive impact on cash flow and, concurrently, on viability and development delivery.
- 2.54 The representors consider that an Instalment Policy set by reference to the amount of CIL liability would form the most straightforward approach for calculation and subsequent management by the Council. A structured payment policy has been proposed to assist the Council. The following table would comply with the requirements of Regulation 69B.

Table 2.5: Proposed Instalment Policy

| Proposed Instalment Policy | |
|--|--|
| Where the chargeable amount is less than £50,000 | Full payment will be required within 90 days of the commencement date. |
| Where the chargeable amount is between £50,000 and £100,000 | First instalment representing 25% of the chargeable amount will be required within 90 days of the commencement date. |
| | Second, third and fourth instalments each representing 25% of the chargeable amount will be required within 120, 180 and 260 days of the commencement date respectively. |
| Where the chargeable amount is over £100,000 but below £250,000 | First instalment representing 25% of the chargeable amount will be required within 120 days of the commencement date. |
| | Second, third and fourth instalments each representing 25% of the chargeable amount will be required within 180, 260 and 320 days of the commencement date respectively. |

| | |
|--|--|
| Where the chargeable amount is over £250,000 but below £500,000 | <p>First instalment representing 25% of the chargeable amount will be required within 120 days of the commencement date.</p> <p>Second, third and fourth instalments each representing 25% of the chargeable amount will be required within 180, 320 and 360 days of the commencement date respectively.</p> |
| Where the chargeable amount is £500,000 or above | <p>First instalment representing 25% of the chargeable amount will be required within 180 days of the commencement date.</p> <p>Second, third and fourth instalments each representing 25% of the chargeable amount will be required within 260, 320 and 380 days of the commencement date respectively.</p> |

Relief for Exceptional Circumstances

- 2.55 The PDCS does not confirm whether the Council will introduce discretionary relief from CIL liability in exceptional circumstances as enabled by Regulations 55 and 57 of the CIL Regulations 2010 (as amended).
- 2.56 The CIL (2014) Amendment Regulations included specific provisions in Regulation 55(3)(c) to improve the flexibility of the use of discretionary relief in exceptional circumstances in response to industry and Government concern of the predominantly non-negotiable nature of CIL in the face of viability issues on a scheme-specific basis.
- 2.57 The Government's Planning Policy Guidance (PPG) (March 2014) emphasises that planning obligations and other contributions should not threaten the viability of development identified in the relevant Plan. Specific reference is made to the need for Local Planning Authorities (LPAs) to fully consider the viability implications of delivering development. It is advised that LPAs should recognise this issue when setting policies on planning obligations and CIL rates in order to promote viable delivery.
- 2.58 In addition to the setting of well-considered CIL rates, the inclusion of an exceptions mechanism would provide further comfort to developers that CIL will not render sites with exceptional cost burdens undeliverable.
- 2.59 The representors are therefore strongly in favour of the Council introducing discretionary relief from CIL liability in exceptional circumstances and request that the Council makes a firm commitment to introducing this. This is vital to ensure that there is a mechanism by which the viability of schemes with specific and considerable challenges can be taken into account in setting CIL liability.
- 2.60 Crucially, use of this mechanism remains at the discretion of the Council, and requires evidenced justification upon application by the CIL liable party. The introduction of relief from CIL in exceptional circumstances, as is set out in the CIL 2014 (Amendment) Regulations therefore provides an important tool for the Council, as well as confidence for developers and investors. It provides a mechanism whereby the Council can opt to

alter CIL liability on the grounds of viability. Without such a policy being put in place, the Council cannot apply any flexibility to adopted CIL rates.

- 2.61 Nevertheless, the Council cannot simply activate and deactivate the policy for the benefit of a specific scheme (or schemes), as this would risk giving rise to a state aid.
- 2.62 For reasons of transparency and fair consultation, the representors request that the Council prepares a draft statement of intent and publishes this for comment alongside consultation on the CIL draft Charging Schedule.

Land and Infrastructure in Kind

- 2.63 The representors would welcome the introduction of a payment in kind mechanism for payment of CIL liability via land and/or infrastructure. In particular, the representors consider this as a potentially useful method of providing greater certainty over the timescale for the delivery of infrastructure.

Relief for Low Cost Market Housing

- 2.64 The representors would welcome the introduction of discretionary relief from CIL liability for low-cost market houses that are to be sold at no more than 80% of their open market value. The representors consider this as an important mechanism to assist in improving viability and therefore delivery of a range of affordable housing within the district.

Procedural Inadequacies

- 2.65 The representors are of the view that the Council has failed to adequately follow the CIL Guidance (2014) and CIL Regulations 2010 (as amended) in publishing the CIL PDCS for consultation. The reasons for this are set out within the following sub-sections, along with recommendations to resolve these shortcomings.

Interaction of S106 and CIL

- 2.66 The representors have previously submitted representations to the consultation on the EHDC Guide to Developers' Contributions in January 2014 and subsequently to the publication of the Consultation on Developer Contribution Details for the Alton Sports Centre on 19th May 2014.
- 2.67 Within these representations the representors recommended that EHDC should not pursue introduction of the EHDC Guide to Developers' Contributions and instead prepare for introduction of the CIL regime.
- 2.68 It is the view of the representors that the Alton Sports Centre contribution in particular inappropriate and unlawful. CIL Regulation 122 introduces three key tests, which a planning obligation must meet, in order to be lawful. The representors do not believe that EHDC can provide any robust evidence to substantiate that the proposed Alton Sports Centre contribution meets any of the Regulation 122 tests on planning obligations.
- 2.69 Moreover, no evidence is available to demonstrate that market conditions, deliverability and viability have been considered by EHDC as is required by the NPPF in applying

planning obligations to development proposals. Independent viability assessment conducted by Turley Economics has demonstrated the cost of the Alton Sports Centre contribution is highly onerous – adding substantially to the overall cost burden – which has a significant impact on development viability. This does not appear to have been factored into the CIL Viability Assessment (March 2014)¹⁵. It is the view of the representors that this is due to an acknowledgement by the Council and its advisors that this would contravene the CIL Regulations 2010 (as amended).

- 2.70 Whilst pleased that EHDC has progressed preparation of a CIL regime, the representors are disappointed that EHDC has gone ahead and published the amended EHDC Guide to Developers' Contributions in May 2014.
- 2.71 The CIL Guidance (2014), now subsumed within national Planning Practice Guidance (PPG) (2014), requires charging authorities to set out at Examination how their section 106 policies will be varied, and the extent to which they have met their section 106 targets.
- 2.72 PPG advocates that the approach set out should be based on evidence. It is recommended that this is presented, for testing and consideration by stakeholders, alongside publication of the PDCS. The proposals for the scaling back of section 106 obligations will be required to be compliant with CIL Regulations 122 and 123 of the CIL Regulations 2010 (as amended).
- 2.73 The Council has not presented its proposed policy for the associated scaling back of section 106 agreements alongside the PDCS, and neither has it set out the extent to which section 106 targets have been met.
- 2.74 Notwithstanding the representors concerns regarding the lawfulness of the EHDC Guide to Developers' Contributions, the lack of information published makes it challenging for stakeholders to consider the extent of the financial burden that developments will be expected to bear and whether the proposed CIL, and residual section 106 in combination, is representative of planning consents granted in the current market.
- 2.75 The Council has, in this respect, clearly not followed the CIL Guidance, or acted in following best practice. For reasons of transparency and fair consultation, the representors requests that stakeholders are provided with the opportunity to comment on how relevant S106 policies will be amended upon adoption of a CIL Charging Schedule prior to Examination, and evidence of recent section 106 obligations.
- 2.76 The representors consider that this will help to aid the understanding of how CIL and S106 Agreements will work alongside each other upon adoption without actual or perceived instance of 'double dipping' or unlawfulness, and hence providing additional clarity for investors, developers and landowners.
- 2.77 The representors insist that the Council prepares and publishes this information for comment alongside consultation on the CIL draft Charging Schedule, and it is

¹⁵ Adams Integra (March 2014) Viability Report to support a Preliminary Draft Charging Schedule for Community Infrastructure Levy

recommended that the proposal by EHDC to introduce a contribution towards Alton Sports Centre should be revoked with immediate effect.

Absence of Regulation 123 List

- 2.78 The Council has failed to prepare, or make reference to, a draft Regulation 123 List.
- 2.79 The CIL Guidance (2014) states that the Regulation 123 List '*should be based on the draft list that the charging authority prepared for the examination of their charging schedule*'. Moreover, it advises that it '*is good practice for charging authorities to also publish their draft infrastructure lists and proposed policy for the associated scaling back of section 106 agreements at this stage, in order to provide clarity about the extent of the financial burden that developments will be expected to bear so that viability can be robustly assessed*.'
- 2.80 The absence of this evidence suggests that the Council has failed to adhere to the CIL Guidance (2014) in publishing the PDCS for consultation, is not providing an example of 'good practice', and has failed to present the necessary evidence for stakeholders to understand the proposed burden of CIL and other obligations on development.
- 2.81 As referenced earlier in this representation document, this makes it very challenging for developers and landowners undertaking a full and robust assessment of the proposed approach to CIL charging published in the PDCS.
- 2.82 As such, the representors are firmly of the view that the Council needs to produce a full draft Regulation 123 List. The current list of priorities set out within the Draft Infrastructure Delivery Plan (2013) fails to provide the information that stakeholders require if they are to fully understand what is being proposed and to come to a considered view as to whether the proposed charges will have an adverse impact on development viability.
- 2.83 This results in a disjoint, which continues to create uncertainty around what is to be funded by CIL, and critically the appropriate setting of a 'ceiling' for CIL rates limited by the cost of identified infrastructure to be funded by CIL (i.e. identification of a CIL funding gap).
- 2.84 The publication of a full draft Regulation 123 List will allow proper scrutiny of the infrastructure proposed to be paid for by CIL, and will enable appropriate feedback of information from the development industry into the charging authority's rate setting process.
- 2.85 The representors insist that the Council prepares and publishes a full draft Regulation 123 List for comment alongside consultation on the CIL draft Charging Schedule.

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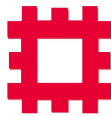
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ENGLISH HERITAGE

SOUTH EAST

CIL Project Manager
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Your ref:

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Fax

12th December 2014

Dear Sir or Madam,

**East Hampshire District Council Community Infrastructure Levy:
Draft Charging Schedule Consultation**

Thank you for your e-mail of 11th November advising English Heritage of the consultation on your Council's Draft Community Infrastructure Levy Charging Schedule. As the Government's Statutory Advisor on the Historic Environment, English Heritage is pleased to make the following comments.

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.

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:

- 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.

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.

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*Please note that English Heritage operates an access to information policy.
Correspondence or information which you send us may therefore become publicly available*



Historic buildings may offer opportunities for business or employment use – infrastructure to support economic development. Investment in heritage assets (e.g. listed buildings at risk) and the wider historic character of a place (e.g. conservation areas at risk) may also serve to stimulate and support the tourism offer and attractiveness of a place to retain and attract economic development, which may be particularly important in supporting the viability of town centres. Conversely, vacant or underused heritage assets not only fail to make a full contribution to the economy of the area but they also give rise to negative perceptions about an area and discourage inward investment.

We therefore suggest that the District Council should consider whether any heritage-related projects within East Hampshire district would be appropriate for CIL funding. The Local Plan's evidence base may demonstrate the specific opportunities for CIL to help deliver growth and in so doing meet the Plan's objectives for the historic environment.

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).

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.

We consider it essential, therefore, that the rates proposed in areas where there are groups of heritage assets at risk are not such as would be likely to discourage schemes being put forward for their re-use or associated heritage-led regeneration. In such areas, there may be a case for lowering the rates charged.

In addition, we are encouraging local authorities to assert in their CIL Charging Schedules their right to offer CIL relief in exceptional circumstances e.g. where development which benefits heritage assets and their settings may become unviable if it was subject to CIL. We also urge local authorities to then offer CIL relief where these circumstances apply.

We therefore welcome the Council 's recognition of its power to offer discretionary relief and whilst we note that the Council does not anticipate that there will be any discretionary exemptions, we trust that the Council will consider the above possible circumstances as a potential candidate for such discretionary exemption

We would recommend that if such exceptional circumstances are recognised, 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 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.

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.

English Heritage strongly advises that the District 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.

If you have any queries on the points raised in this letter, please contact me.

Thank you again for consulting English Heritage.

Yours faithfully,



Martin Small
Principal Adviser, Historic Environment Planning
(Bucks, Oxon, Berks, Hants, IoW, SDNP and Chichester)

E-mail: 

Jennifer Howard

From: clerk Farringdonpc <[REDACTED]>
Sent: 18 December 2014 11:35
To: EHDC - Local Plan
Cc: Farringdon Parish Councillors
Subject: EHDC Community Infrastructre Levy (CIL) Draft Charging Schedule Consultation

Dear Valerie

At their meeting last week, Farringdon Parish Council considered the draft CIL Consultation documents sent under cover of Hannah's email of 11 November 2014. They asked that I forward their grave concern in general with what appears to be a split between the policy of the EHDC and the SDNP and, more specifically, with what is being proposed.

First and foremost for a village which sits astride the boundary of EHDC and the SDNP, and despite earlier assurances to the contrary and a huge effort being put into a Joint Core Strategy, the latest CIL documents indicate that the authorities are drawing apart and that there is a fundamental lack of communication, coherence and cohesion especially in terms of key planning and development policies and strategies. This pulling apart makes life very difficult for Farringdon with, in essence, only agricultural land to the east of the Parish outside of the Park boundary and all else within the National Park. It is this fundamental higher coherence and co-ordination level issue which is our major cause for concern and one which will affect all aspects of our dealings, not only detailed issues such as the CIL.

As for the specific CIL issue we would wish to register the following key concerns:

- That neither EHDC or the SDNPA will be prepared to take the lead on any issue leaves our village running the risk of falling between the cracks in terms of planning and CIL benefit.
- That the SDNPA have no timetable for introducing a CIL system which potentially will lead to further incoherence and dis-benefit.
- There is no indication yet how Interim Development Plans (IDP) will be scrutinised nor how the authorities plan to spend CIL, let alone in partnership with the SDNPA. This despite the pressure from developers and, presumably, ongoing negotiations over CIL levels based to some extent on the 'cat's cradle' of infrastructure requirements which in themselves are further complicated by the complexities of the "partnership" system.

We are members of the Alton and Local Area Community Forum which we had understood would be the means by which CIL would be agreed and apportioned yet the participation of the SDNPA in this arena is unclear and, as far as we are aware, to date no representative from the Park has attended our local meetings.

We are aware of the influence of endorsed Neighbourhood and Village Plans in the apportionment of CIL yet that in future deliberations it is unclear how a level playing field will be achieved when Parishes and towns of different planning status (apples v pears argument) are considered.

It is essential that we receive clear guidance on how a village such as Farringdon should best approach this issue in a way which ensures we are able to work efficiently and effectively and avoid sub-optimisation. Concurrently, we also need clear guidance from the SDNPA on their approach and some

reassurance that coherence, especially in the sensitive boundary areas, will be achieved. The more recent guidance note from EHDC, under an email of 8 December 2014, on Developer Contributions further illustrates the incoherence between the EHDC and SDNPA areas of jurisdiction (11 v 5 net threshold of new homes for affordable housing etc.) and the potential complexity of boundary areas.

As drafted, the Parish Council remain to be convinced that these EHDC CIL plans will actually help deliver better outcomes but rather they will serve to confuse and delay progress.

With kind regards.

Emma Dillnutt
Clerk to Farringdon Parish Council



Jennifer Howard

From: Heidi Clarke <[REDACTED]>
Sent: 17 December 2014 14:47
To: EHDC - Local Plan
Subject: East Hampshire District Council Community Infrastructure Levy- Draft Charging Schedule Consultation
Attachments: East Hampshire Infrastructure Deliver Plan Update Sept 2014

Dear Sir/Madam,

Thank you for the opportunity to comment on East Hampshire District Council Community Infrastructure Levy- Draft Charging Schedule

In order to provide an informed response Sport England has considered the following documents which will be referenced in the response: Draft Charging Schedule, Draft Regulation 123 List and the Draft Infrastructure Delivery Plan (2014).

For ease of reference I have attached comments which Sport England made of the Draft IDP. At the time of commenting, Sport England advised the Council of its need to update its evidence base which has been used to inform the development of policy. The IDP was based on an Open Space, Sport and Recreation Study, Playing Pitch Strategy and Built Sports Facilities Study all undertaken in 2008 which are considered out of date. The Council commissioned a Leisure Facilities Strategy in 2012 to develop a strategy for safeguarding and enhancing built facilities, but as it only assessed 'Council owned' facilities it is not considered a comprehensive assessment of the needs and opportunities across East Hampshire. Sport England has previously recommended the Council to undertake a district wide playing pitch strategy (PPS) as well as assessing the needs and opportunities for sporting provision. Sport England provides guidance on how to undertake both pieces of work <http://www.sportengland.org/facilities-planning/planning-for-sport/planning-tools-and-guidance/playing-pitch-strategy-guidance/> and <http://www.sportengland.org/facilities-planning/planning-for-sport/planning-tools-and-guidance/assessing-needs-and-opportunities-guidance/>

At present the Council does not have a robust evidence base for sport which is inconsistent with Paragraph 73 of the National Planning Policy Framework (NPPF), which states

"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".

The IDP lists the following sports infrastructure to be delivered between 2017- 2022

- **Critical** Alton Sports Centre costing £20,000,000 funded by S106 contributions. Subject to detailed on-going work
- **Priority** Provision of junior football pitches in Alton: No costings. Funded through CIL
- **Priority** Improvements to War Memorial recreation ground, Liphook including toilet facilities in Bramshott & Liphook: £150,000. Funded through CIL
- **Priority** Improvements to playing pitches, Grayshott: No costings. Funded through CIL

It is understood that the infrastructure needed to support the Whitehill and Bordon Eco-Town (including 4,000 new dwellings, a new town centre, employment areas, green spaces and community facilities) will be delivered through a package of S106 contributions. It is accepted by the Council that some of the development may require key strategic infrastructure outside the Eco-Town allocation. Therefore the Council have commissioned an independent IDP for Whitehill and Bordon. This independent IDP needs to be based on the PPS undertaken by Strategic Leisure. It must also be based on an up to date district wide assessment of need and opportunities for built sports facilities.

'Sporting and recreation facilities' are included within the definition of Community Infrastructure Levy (CIL) infrastructure in the 2008 Planning Act (section 216) which means money raised can be used to fund the provision of sports facilities. The CIL Reg 123 list sets out the infrastructure projects that the Council intend to either wholly or partly fund by CIL. Currently the Council's Reg 123 Lists advises the following will be funded by CIL:

- *Outdoor sports pitches*
- *Indoor Leisure Facilities & Centres*

Whilst it is good that the Council are seeking CIL to fund sports pitches, indoor leisure facilities and centres, Sport England would recommend that the CIL Reg 123 list should state specifically what is needed. Without an up to date assessment of the needs for sport the Council are unable to do this. At present the Reg 123 does not echo the sports infrastructure listed in the IDP as 'Priority'.

Sport England would recommend the Council first assess the needs for sports (outdoor and indoor) and then only seek CIL to fund 'big ticket', items which are high priority strategic facilities or improvements to existing strategic facilities. Such will increase the likelihood of delivery. Other 'small scale sport provision' (e.g new pitches) may better be funded by S106 contributions. At present the wording is considered very generic and as there is not an up to date assessment of the need for outdoor sports pitches or indoor leisure facilities and centres, it is very unlikely any new sports provision will be delivered.

If you wish to discuss either doing a playing pitch strategy or assessment of built sports facilities, please do not hesitate to contact me.

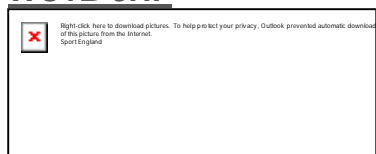
Kind regards

Heidi Clarke

Planner

T: [Redacted]
M: [Redacted]
F: [Redacted]
E: [Redacted]

Sport England's London office has moved to 1st Floor, 21 Bloomsbury Street, London, WC1B 3HF



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5 December 2014
Hart CIL Reps



Planning Policy Project Manager

Sent by email to: localplan@easthants.gov.uk

David Wilson

E: [REDACTED]
DL: [REDACTED]
M: + [REDACTED]

Ground Floor, Hawker House
5-6 Napier Court
Napier Road
Reading RG1 8BW

savills.com

Dear Sir/Madam

EAST HAMPSHIRE – CIL – DRAFT CHARGING SCHEDULE CONSULTATION – COMMENTS ON BEHALF OF THAMES WATER

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.

As you will be aware, Thames Water are the statutory sewerage undertaker for the majority of the East Hants District and are hence a “**specific consultation body**” in accordance with the Town & Country Planning (Local Planning) Regulations 2012.

We have the following comments on the CIL Draft Charging Schedule:

Thames Water provide essential sewerage/wastewater [and water] infrastructure in order to support growth and deliver environmental improvements. That infrastructure provision can incorporate the provision of buildings such as a new sewage pumping station or a new sewage 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. Thames Water therefore consider that sewerage/wastewater [and water] infrastructure buildings should be exempt from payment of the Community Infrastructure Levy and this appears to be the case in the draft schedule where “Any other development”, has a Nil charge which Thames Water support.

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.

I trust the above is satisfactory, but please do not hesitate to contact me if you have any queries.

Yours faithfully

[REDACTED]

David Wilson BA (Hons), BTP, MRTPI
Associate Director Planning

Error! AutoText entry not defined. Error! AutoText entry not defined.

Jennifer Howard

From: Atiq, Nawal <[REDACTED]>
Sent: 17 December 2014 12:12
To: EHDC - Local Plan
Subject: FW: Consultation, Community Infrastructure Levy (CIL) Draft Charging Schedule

To whom it may concern,

Thank you for your email dated 7 November 2014 asking the Highways Agency for comments on your Council's CIL draft charging schedule.

The Highways Agency on behalf of the Secretary of State for Transport, is responsible for managing and operating a safe and efficient Strategic Road Network (SRN), i.e. the Trunk Road and Motorway Network.

I have reviewed the documents and we have no comments with regards to the Draft Charging Schedule, but we reserve the right to make representations about monies pertaining to the national/strategic transport matters as and when they arise in the development process and on a case by case basis.

Kind regards

Nawal Atiq

Highways Agency | Federated House | London Road | Dorking | RH4 1SZ

Tel: [REDACTED]

Web: <http://www.highways.gov.uk>

GTN: 3904 8364

Safe roads, reliable journeys, informed travellers
Highways Agency, an executive agency of the Department for Transport.

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Jennifer Howard

From: Chris Youngs <[REDACTED]>
Sent: 16 December 2014 10:42
To: EHDC - Local Plan
Subject: CIL consultation November 2014

Hi there

The Town Council considered the consultation last night and would like to comment as follows:

Cllrs commented that: We need to make it more attractive for Hotels and out of centre retail; we don't want areas such as Viking Park left vacant; charges should be discounted; There will be significant developers contribution in the main development in the town and we do not want to lose out to other towns nearby.

They therefore suggested that the Whitehill/Bordon Area should have a lower CIL for Hotels and Out of centre retail to attract investment in such areas as Viking Park which has remained partially vacant for many years.

Regards

Chris Youngs

Town Clerk

Whitehill Town Council, Council Offices, Forest Community Centre, Pinehill Road, Bordon GU35 0BS

Tel [REDACTED], Mob: [REDACTED]

website: www.whitehilltowncouncil.gov.uk



Economy, Transport and Environment Department
Elizabeth II Court West, The Castle
Winchester, Hampshire SO23 8UD

Planning Policy Manager,
East Hampshire District Council,
Penns Place,
Petersfield,
Hampshire,
GU31 4EX

Tel: 0845 603 5638 (General Enquiries)
0845 603 5633 (Roads and Transport)
0845 603 5634 (Recycling Waste & Planning)
Textphone 0845 603 5625
Fax 01962 847055
www.hants.gov.uk

Enquiries to

Mr P Drake

My reference

PLAN/PD

Direct Line

01962 847362

Your reference

Date

8 December 2014

Email



Dear Sir,

Community Infrastructure Levy Draft Charging Schedule Consultation

Thank you for consulting the County Council on your Draft Charging Schedule (DCS). As you are aware, the County Council is keen to work in partnership in order to ensure that the infrastructure required to support development continues to be funded and delivered in the most appropriate way in future.

Extra Care Housing

The County Council is pleased to see that Extra Care Housing has been excluded from the Residential Use charge. This will ensure that this type of use does not attract a CIL charge more appropriate to open market housing. This type of specialist accommodation provision for older people is not the same as an institutional care home, and schemes can combine a range of tenures and are likely to have different, potentially complex funding arrangements than other residential developments, and will need to be assembled from a range of public and private sources. This exclusion from the charge will ensure that their viability is not threatened.

Land- and infrastructure in-kind

Whilst the County Council is supportive in principle of payment-in-kind as a way for landowners to satisfy a charge arising from the levy, there may be very limited opportunities to do so, primarily due to the overall cost of delivering infrastructure compared to the likely CIL liability. Regulation 73A(12) of the amendment regulations (2014) means that in-kind payments are also limited to the provision of 'relevant infrastructure' i.e. items on the Regulation 123 list, which further constrains the potential use of land- and infrastructure-in-kind.

Director of Economy, Transport and Environment
Stuart Jarvis BSc DipTP FCIHT MRTPI

Whitehill and Bordon Eco-Town

The County Council welcomes the commissioning of a stand alone Infrastructure Delivery Plan for Whitehill and Bordon Eco-town. This will provide further detail on the full type and quantum of necessary infrastructure required to deliver the Eco-Town. The IDP Interim Statement and Infrastructure Schedule states that the current intention is for the infrastructure to support this substantial 'free-standing' development to be delivered through a comprehensive package of section 106 (s106) contributions and direct investment, without the need for CIL expenditure.

The County Council is generally in favour of utilising s106 where possible in order to secure key necessary infrastructure (such as primary schools) to be provided on site. However, the County Council continues to have some concerns about the risks of relying on s106 to secure infrastructure for the Eco-Town, mainly related to the pooling restrictions and inability to collect contributions for the wider, cumulative impacts of a development. There is a risk that the intention to fund the substantial and phased infrastructure requirements through a s106 regime will be prevented as no more than five planning obligations may be entered into for any one type of infrastructure or project, and it is feasible that developers of future phases of the Eco-Town will submit separate applications and associated s106 agreements.

The Infrastructure Delivery Plan for Whitehill and Bordon Eco Town will need to reflect the more recent restrictions on the use of obligations and the scenario post April 2015 whereby the pooling of s106 obligations will be restricted, and clearly set out the direct investment sources and the role they will play.

Next Steps – What The Levy Will Be Spent On

The County Council has been assisting Hampshire authorities in preparing Regulation 123 lists to support the examination of their draft charging schedule. The County Council is keen to collaborate on these matters in particular; we are strongly encouraging charging authorities to include specific schemes on their Regulation 123 lists rather than generic types, in order to avoid overly restricting the potential use of section 106 agreements in future. Paragraph 97 of the revised CIL guidance (12.6.14) states:

“Where the Regulation 123 list includes a generic type of infrastructure (such as 'education' or 'transport'), section 106 contributions should not be sought on any specific projects in that category. Site-specific contributions should only be sought where this can be justified with reference to the underpinning evidence on infrastructure planning which was made publicly available at the charging schedule examination”.

Paragraph 95 of the guidance states: “There should be no actual or perceived 'double dipping', with developers paying twice for the same item of

infrastructure". The County Council therefore has concerns that developers may challenge authorities, where Regulation 123 lists contain both generic types of infrastructure and exclusions or exceptions to this. To avoid the risk of challenge the County Council is encouraging charging authorities to include specific schemes on their Regulation 123 lists to make it transparent and clear how s106 contributions will be used.

The County Council is working with authorities to agree the transport items included on Regulation 123 lists to ensure lists do not inadvertently rule out the use of section 278 agreements for highway schemes that are already planned or underway, or where it is advisable for developers to still be able to contribute towards specific local highway works through section 278 agreements. Officers will be happy to discuss this issue with you further.

Any Other Comments

The County Council would welcome the opportunity at the appropriate time to discuss the arrangements for the governance of proportioning CIL receipts to the County Council to ensure the timely delivery of highways, education and other forms of infrastructure.

I trust that these comments are of assistance to you and I would reiterate that the County Council is keen to continue to work closely with you on all forms of infrastructure funding. If you have any queries or concerns regarding the above please do not hesitate to contact me on (01962 847362).

Yours faithfully,

A black rectangular redaction box covering the signature of Peter Drake.

Peter Drake
Project Manager (Infrastructure)
Strategic Planning

Jennifer Howard

From: EHDC - Local Plan
Subject: RE: CIL Consultation November 2014

From: Steve Parkinson [mailto:]
Sent: 23 December 2014 10:17
To: Simon Jenkins
Cc: 'Peter Hicks'; EHDC - admin_at_alton.gov.uk
Subject: CIL on smaller developments

Dear Simon,

Alton Town Council has already responded to EHDC's CIL consultation. However, it has been brought to my attention that the Government introduced changes to the Planning Practice Guidance for developments of 10 dwellings or less, removing the requirement to provide affordable housing contributions or "tariff style" contributions. This will obviously put slightly greater pressure on larger developments to provide affordable housing. Is there any mechanism whereby CIL can address this change or does CIL also count as a "tariff style" charge?

Regards

Steve Parkinson
Town Clerk
Alton Town Council
Town Hall
Market Square
Alton GU34 1HD
01420 83986

From: Pat Harris [mailto:]
Sent: 11 December 2014 08:51
To: EHDC - Local Plan
Cc: Cllr Robert Saunders
Subject: RE: CIL Consultation November 2014

Dear Hannah,

Further to the e-mail received below I would advise that the CIL Draft Charging Schedule was on the Agenda and discussed by members of the Planning & Transport Committee at their meeting held on 10th December, who noted the Schedule and had no further comment to make on its content.

However members in wishing to have a more in-depth understanding of CIL (with its wider scope and implications) wish to extend an invitation for a member of the Policy Team to come along and give a Presentation to them on CIL which it is proposed could take place prior to a future meeting of the Committee. Committee meetings commence at 7.00 p.m. and they would welcome a 6.00 p.m. pre-meeting presentation. The Committee meet every 3 weeks (on a Wednesday) and I detail below dates for the first quarter of 2015.

January 7th & 28th
February 18th
March 11th
April 1st and 22nd

I look forward to hearing from you as to whether you are able to accede to the request which is extended by the Committee Chairman, Councillor Robert Saunders.

Kind regards,
Pat

From: EHDC - Local Plan [<mailto:LocalPlan@easthants.gov.uk>]

Sent: 11 November 2014 15:13

To: undisclosed-recipients:

Subject: CIL Consultation November 2014

To: All Consultees

East Hampshire District Council is now consulting on its Community Infrastructure Levy (CIL) Draft Charging Schedule. Copies of the relevant documents are attached to this email and copies are also available on our website. We are currently consulting on the CIL Draft Charging Schedule until **5.00pm on Monday 22nd December 2014**.

If you wish to make any comments then please send them to us either by email to localplan@easthants.gov.uk or by letter to :

Planning Policy

East Hampshire District Council,
Penns Place Petersfield GU31 4EX

If you have any queries concerning either the document or the process then please do not hesitate to call the Planning Policy team on 01730 234280.

Regards,

Valerie Dobson - Principal Policy Planner
East Hampshire District Council
Penns Place Petersfield GU31 4EX

Hannah Collier
Local Plan Officer

01730 234280

Planning Policy

East Hampshire District Council, Penns Place Petersfield GU31 4EX

Email: hannah.collier@easthants.gov.uk

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Ms. Valerie Dobson
Principal Policy Planner
East Hampshire District Council
Penns Place
Petersfield
GU31 4EX

Your Ref:

Our Ref:

Date:
9th December 2014

Contact:

Fax:

Dear Ms. Dobson,

Community Infrastructure Levy (CIL) Draft Charging Schedule

Thank you for consulting us on the above. Southern Water believes that CIL is not designed to include utility infrastructure, such as local sewers and associated facilities (e.g. pumping stations). On this basis, it is not appropriate for the company to comment on the specifics of the CIL proposals.

However, we would like to comment on the Infrastructure Delivery Plan that forms part of the CIL consultation. We welcome the recognition given to wastewater treatment and sewerage infrastructure but take this opportunity to point out that the Water Resources Management Plan (WRMP) is not directly relevant to the delivery of these services. (In any event, this plan has now been superseded by the Water Resources Management Plan for 2015-40). Also it would be useful if a clearer distinction could be made between strategic infrastructure, such as extensions to wastewater treatment works (that is planned and funded through the price review process) and local infrastructure, such as local underground sewers (that should be funded by the development if specially required to service individual development sites). For the sake of clarity please find following our suggested amendments to paragraphs 3.21 and 3.22:

Southern Water – ~~Final Water Resources Plan 2010-2035~~

3.21 Southern Water provides wastewater services to a number of settlements across central and southern East Hampshire. ~~Its Resources Plan (October 2000) states that Investment in infrastructure to provide additional capacity will be required in parallel with new development. Recent improvement schemes have been undertaken in plant at Budds Farm (serving Hordean, Clanfield and Rowlands Castle), Petersfield and Liss. The company confirmed (June 2013) that no additional specific schemes have currently been identified at its wastewater treatment works, and that investment will be planned to meet demand from new development in parallel with it. The adopted Joint Core Strategy will inform this investment planning, with adoption providing the certainty to support proposals to Ofwat through the five yearly price review process. The next price review is in 2014, with Ofwat's price determination~~

funding the investment programme up to 2020 (another price review in 2019 will cover the investment period 2020-2025).

- 3.22 *Investment ~~to~~ in the local sewerage ~~infrastructure~~ network is funded differently to ~~that~~ at wastewater treatment works. Ofwat takes the view that enhancements required to the local ~~infrastructure~~ sewerage system as a result of new development should principally be paid for by the developer. Off-site infrastructure may be required if capacity of the system immediately adjacent to the site is insufficient to meet the anticipated demand. The precise investment required to provide new or improved local infrastructure can only be assessed on a site-by-site basis when proposed development sites come forward.*

Likewise please find following our suggested amendments for the table for 'Central and Northern Parishes (excluding National Park and Eco Town):

CENTRAL AND NORTHERN PARISHES (EXCLUDING NATIONAL PARK AND ECO TOWN)

| Infrastructure | Parish | Core Strategy Policy Link | Level of priority | Timing of Delivery | Cost (estimated or actual) | S106 | Direct | CIL | Funding gap (£) | Source |
|---|---------|---------------------------|-------------------|--------------------|----------------------------|------|--|-----|-----------------|---|
| Water and Drainage | | | | | | | | | | |
| Improvements to wastewater treatment works | Various | CP24 and CP30 | Critical | On-going | | Tick | Developer contributions and Southern Water | | | Southern Water and Ofwat's price review process |
| Site specific improvements to local sewerage infrastructure | Various | CP24 and CP30 | Critical | On-going | | Tick | Developer contributions and Southern Water Tick | | | Southern Water |

I hope that you find this response useful and if you require any further clarification, please do not hesitate to contact me.

Yours sincerely,

Clare Gibbons
Development Manager

Jennifer Howard

From: Young, David <[REDACTED]>
Sent: 05 December 2014 13:13
To: EHDC - Local Plan
Cc: [REDACTED]
Subject: RE: CIL Consultation November 2014

Good afternoon,

Thanks you for your recent correspondence regarding the area covered by East Hampshire District Council.

While information obtained through the provision of Local Authority Development Plans is important to our analysis, it only acts to identify potential development areas. Our principle statutory obligations relevant to the development of our gas network, arise from the Gas Act 1986 (as amended), an extract of which is given below:-

Section 9 (1) and (2) which provides that:

9. General powers and duties

(1) It shall be the duty of a gas transporter as respects each authorised area of his:-

(a) to develop and maintain an efficient and economical pipe-line system for the conveyance of gas; and

(b) subject to paragraph (a) above, to comply, so far as it is economical to do so, with any reasonable request for him -

- (i.) to connect to that system, and convey gas by means of that system to, any premises; or***
- (ii.) to connect to that system a pipe-line system operated by an authorised transporter.***

(1A) It shall also be the duty of a gas transporter to facilitate competition in the supply of gas.

(2) It shall also be the duty of a gas transporter to avoid any undue preference or undue discrimination -

(a) in the connection of premises or a pipe-line system operated by an authorised transporter to any pipe-line system operated by him; and in the terms of which he undertakes the conveyance of gas by means of such a system.

We would not, therefore, develop firm extension or reinforcement proposals until we are in receipt of confirmed developer requests and/or sites identified, by the Local Authority, for development.

As SGN is the owner and operator of significant gas infrastructure within the East Hampshire area and due to the nature of our licence holder obligations; should alterations to existing assets be required to allow development to proceed, such alterations will require to be funded by a developer. Should major alterations or diversions to such infrastructure be required to allow development to proceed, this could have a significant time constraint on development and, as such, any diversion requirements should be established early in the detailed planning process. We would, therefore, request, that where the Council are in discussions with developers, via the Local Plan, there early notification requirements are highlighted.

Additionally, SGN are aware of the advances being made in renewable technologies, especially those related to the production of biomethane. Should any developer be proposing to include such technology within their development, then we would highlight the benefits of locating these facilities near existing gas infrastructure. Again, where the Council are in discussions with developers via the Local Plan, we would hope that these early notifications requirements are highlighted.

We hope that the above information is sufficient for your requirements at present.

If, however, you require any further information and/or require any additional information pertinent to particular development sites, please do not hesitate to contact us.

Regards

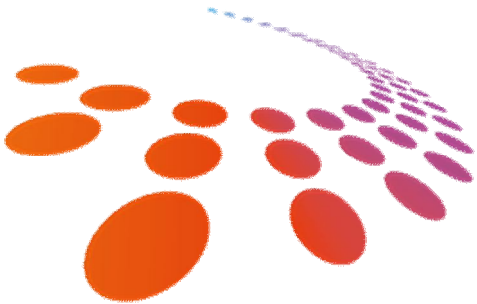
David Young
Network Assistant

T: + [REDACTED]
E: [REDACTED]

SGN, Axis House, 5, Lonehead Drive, Newbridge, Edinburgh, EH28 8TG
sgn.co.uk

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.....
Smell gas? Call 0800 111 999
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From: Wardlaw, James
Sent: 21 November 2014 16:24
To: Young, David
Subject: FW: CIL Consultation November 2014

David

Could you please review and respond to the attached.

Thanks,

Jim

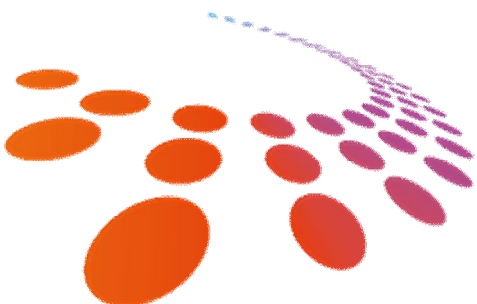
Jim Wardlaw
Network Officer

T: [REDACTED]
E: [REDACTED]

SGN, Axis House, 5 Lonehead Drive, Newbridge, Edinburgh, EH28 8TG
sgn.co.uk

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.....
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[Find out how](#) to protect your home from carbon monoxide



From: Nairn, Colin
Sent: 14 November 2014 09:15
To: Wardlaw, James
Subject: FW: CIL Consultation November 2014

Jim,

I suspect this is at least partly in your patch, if so could you have someone review and provide an appropriate response.

Regards,

Colin Nairn

T: [REDACTED] | M: [REDACTED] | E: [REDACTED]

From: Allison, Stephen
Sent: 14 November 2014 08:52
To: Nairn, Colin
Subject: FW: CIL Consultation November 2014

From: EHDC - Local Plan [<mailto:LocalPlan@easthants.gov.uk>]
Sent: 11 November 2014 15:34
Subject: CIL Consultation November 2014

To: All Consultees
East Hampshire District Council is now consulting on its Community Infrastructure Levy (CIL) Draft Charging Schedule. Copies of the relevant documents are attached to this email and copies are also available on our website. We are currently consulting on the CIL Draft Charging Schedule until **5.00pm on Monday 22nd December 2014**. If you wish to make any comments then please send them to us either by email to localplan@easthants.gov.uk or by letter to :

Planning Policy
East Hampshire District Council,
Penns Place Petersfield GU31 4EX

If you have any queries concerning either the document or the process then please do not hesitate to call the Planning Policy team on 01730 234280.
Regards,

Valerie Dobson - Principal Policy Planner
East Hampshire District Council
Penns Place Petersfield GU31 4EX

Hannah Collier
Local Plan Officer

01730 234280

Planning Policy
East Hampshire District Council, Penns Place Petersfield GU31 4EX
Email: hannah.collier@easthants.gov.uk

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Planning Policy Team,
East Hampshire District Council,
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Petersfield,
HAMPSHIRE. GU31 4EX

22352/A3/SL/dw

BY EMAIL & POST: localplan@easthants.gov.uk

22nd December, 2014

Dear Sir/Madam,

**EAST HAMPSHIRE DISTRICT COUNCIL: CONSULTATION ON COMMUNITY
INFRASTRUCTURE LEVY (CIL)
REPRESENTATIONS ON BEHALF OF HALLAM LAND MANAGEMENT LTD.**

Thank you for providing us with the opportunity to comment on the Council's Community Infrastructure Levy (CIL) Draft Charging Schedule (DCS). The following representations to the DCS are submitted on behalf of our client Hallam Land Management Ltd. (HLM).

HLM, in partnership with Winchester College, is currently working with EHDC in respect of planning application reference 55222/001 which seeks the residential development of land to the east of Will Hall Farm, Alton ('the Site') to provide up to 200 homes with associated infrastructure including public open space. The Site forms a logical extension to the built up extent of Alton, bordering the existing settlement boundary to the east and south, and being the closest Site in sustainability terms to Alton Town Centre and its associated services and facilities. As such, it is a suitable location for residential development and would substantially contribute to the achievement of new homes in the District in the short to medium term.

As you are aware, our client objected to the Council's CIL Preliminary Draft Charging Schedule (PDCS) in July this year. As with the first round of consultation, HLM still requests that the Council provides a transparent, clear and fair CIL which will enable the necessary infrastructure to be delivered without compromising housing delivery throughout the East Hampshire District. It is in this context that we make the following representations on the DCS.

The DCS and Supporting Evidence

The process for the preparation, consultation, examination and adoption of CIL Charging Schedules is set out in Part 3 of the Community Infrastructure Levy Regulations 2010 (as amended) ('the Regulations'). Regulation 14 sets out that in setting rates in a charging schedule, a charging authority must inter alia strike the balance between:

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



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

The Regulations have been supplemented with guidance from the Department for Communities and Local Government (CLG), most recently as part of the web-based Planning Practice Guidance ('the PPG') resource (Section 25).

There is a requirement to justify the Charging Schedule with evidence of viability (PPG ID: 25-018-20140612), and it is recommended that an "*area based approach*" is taken with "*differential rates*" applied where appropriate to accommodate local market characteristics (PPG ID: 25-019-20140612 and 25-021-20140612). Furthermore, the guidance requires that rates be reasonable, with some judgement applied to avoid setting a rate at the margins of viability (PPG ID: 25-019-20140612).

In order for Development Plans to be deliverable, they must be flexible and responsive to changing economic cycles or circumstances (paragraph 174) and owing to this, the rate of CIL must be ascertained based on a viability buffer (PPG ID: 25-019-20140612) and not at the margins.

HLM believes that these key principles have not been upheld in this instance.

Proposed Rates

As currently drafted in the DCS, the Council is still proposing a CIL rate of £180 per sqm across the Northern Parishes which includes Alton. This rate excludes Whitehill/Bordon however where a rate of £60 per sqm is sought (referred to as Value Point 1, or VP1 within the viability assessment).

As outlined in previous representations, and as a general observation, the residential levy afforded to the Northern Parishes, excluding Whitehill/Bordon, appears very high and without significant reduction, has the potential to act as a policy restraint tool. As explained previously within our representations to the Council's PDCS (dated 11th July, 2014), this rate is predominantly greater than those being sought by neighbouring authorities such as Winchester City Council who have a maximum levy of £120 (zone 2), Basingstoke and Deane Council who have a maximum levy of £160 per sqm (Zone 3), Havant Borough Council who have a maximum levy of £100 per sqm in Emsworth and Hayling Island, with the remainder of the Borough being subject to a levy of £80 per sqm and Waverley Borough Council who have a proposed Borough-wide levy of £87 per sqm. The median house price in East Hampshire (£250,000 in 2012; Source: CLG Live Table 586) is significantly lower than in Waverley (£335,000) and Winchester (£292,250).

When viewed within the context of neighbouring authorities, the rate of £180 per sqm within the Northern Parishes, excluding Whitehill / Bordon, is considered to be excessively high, especially in the context of average house prices. Whilst it may be a cultural aspiration and seen as a positive objective to extract as much value from "developers" as possible, this is often (and indirectly) passed on to the purchaser through an increase to the property prices being sold. This then has a counter-productive effect upon house prices, making them even less affordable for those wishing (or needing) to buy in the local area. Typically, when assessing housing needs for local authority / housing market areas within Strategic Housing Market Area Assessments (SHMA's), housing costs are sought to be no more than 25% of income. Those households falling outside of this target are identified as those with need for some form of "affordable" or sub-market housing.

By placing onerous and inflated CIL obligations upon households and purchasers, it may be that a higher proportion of households are forced to stretch beyond the typical 25% housing costs, placing a higher proportion in need of affordable housing. In addition, some households may be forced to look elsewhere for housing, travelling further to work or family where they would otherwise have preferred to live, with consequential impacts upon trip patterns and climate change. **This combination of effects must be assessed through a robust study before the CIL rates are taken forward.** If they are not, the rates proposed will have a counter-productive effect on affordable housing needs and travel patterns, which will only become apparent over time, but then will need to be addressed through increasing housing provisions and paying for further transport infrastructure improvements in the next development plan review.

Setting rates too high will also have an adverse impact on the viability and deliverability of much needed residential development across the District. This is supported by national planning policy which seeks to ensure the planning system "...does everything it can to support sustainable economic growth" (para. 19, the NPPF). Moreover, paragraph 173 of the NPPF makes clear that the fundamental principle of ensuring development is not constrained by the burdens of obligations of policy and with specific regard to CIL, it states the need for "competitive returns" to a willing landowner and developer to facilitate deliver development. In order for Development Plans to be deliverable, they must be flexible and responsive to changing economic cycles or circumstances (paragraph 174) and owing to this, the rate of CIL must be ascertained based on a viability buffer and not at the margins.

Viability Assessment - Key Issues

In response to issues raised during the consultation on the PDCS, a number of revisions and clarifications were made to the viability assessment underpinning the DCS in the form of an addendum. Although the viability appraisal follows a recognised methodology, HLM has significant concerns over some of the input assumptions made, and considers that these issues could have significant viability implications for Alton in particular.

- Sales Values:** The Viability Assessment Addendum (November 2014) indicates that sales values for Alton have been re-assessed following comments made at the PDCS stage. The effect of this is that certain housing typologies would not be able to support CIL at the VP4 level (£180 per sqm). It should be noted that Table 1 of the Addendum (p.17) suggests that the price applied within the assessment for a 3-bed house in Alton is £275,000 (which would equate to VP3), yet in Table 2 3-bed houses are shown at VP4. At a typical sale value of £275,000 it is highly unlikely that 3-bed houses (one of the key house types for families) could viably support CIL at £180 per sqm. The addendum suggests at p.4 that as the evidence was not considered conclusive Alton remains in VP4. However, in the schedule of responses to the PDCS consultation (at p.11) the Council's response states that: "*In connection with Alton, we have looked separately at the evidence and would agree that it should be in VP3, not VP4*". HLM believes that Alton, based on the Council's evidence is, at the very least, a marginal case. On that basis, the Council should reduce the rate of CIL to promote sustainable development.
- Section 106 Assumptions:** Allowances of £2,000 and £5,000 were made within the original (March 2014) Viability Assessment for Section 106 contributions, without providing details of how these figures were derived. Although CIL would become the primary mechanism by which many community infrastructure needs would be funded, HLM considers the allowance made to be a significant under-estimate, especially in Alton where £10,000 per unit is currently being sought to fund the development of Alton Sports Centre. If more realistic assumptions were made, it is likely that viability would become even more marginal.

HLM considers that these issues undermine the robustness of the viability assessment, which in turn has implications for the soundness of the DCS. The evidence provided by the Council appears to suggest that Alton should have been assessed as VP3, as opposed to VP4, and the under-estimation of Section 106 contributions that would continue alongside CIL may also threaten the viability of developments in other locations at the rates of CIL suggested.

Exceptional Circumstances Relief (including Low Cost Market Housing) and Payments in Kind

The Regulations recognise the need for flexibility and provide for social housing and charitable relief. In addition, there is provision for a charging authority to introduce further discretionary advice for exceptional circumstances (Regulation 55). Whilst the Council note within the DCS that such relief can be "...activated and deactivated at any time subject to a notice of intention to be published by the Council", there is no commitment or intent at this stage to factor any relief (such as Exceptional Circumstances Relief, Payments in Kind and Low-Cost Market Housing Relief) into the

Charging Schedule. Whilst HLM appreciate that the application of such mechanisms is discretionary, to ensure flexibility, such relief should be factored into CIL to avoid rendering sites with specific and exceptional cost burdens unviable should exceptional circumstances arrive. Such relief will be crucial in some instances to assist with the delivery of those schemes capable of delivering local objectives, including much needed affordable housing, but which are subjected to delivery costs which, in addition to CIL, would render the development unviable.

Key provisions such as Exceptional Circumstances Relief and payments in kind are entirely appropriate, and measures such as these will serve to act as incentives for the development industry, helping to deliver much needed development, local infrastructure and community facilities, for example, public open space schemes. These provisions are therefore considered vital if development proposals are to be considered commercially worthwhile. The need for such flexibility is set out within the NPPF at paragraph 205 where it notes that Local Planning Authorities should, when seeking planning obligations, *"...take account of changes in market conditions over time, and where appropriate, be sufficiently flexible to prevent planning development being stalled"*. This is echoed within the PPG where it requires flexibility within Local Plans to *"...allow for a buffer to respond to changing markets and to avoid the need for frequent plan updating"* (paragraph 008 Reference ID: 10-008-20140306).

Summary

HLM is concerned that larger and more complex developments, required to meet local housing targets and objectively assessed housing need, will be put at risk by the Council's proposed CIL charges. In Alton in particular, the evidence suggests that rate of CIL payable should be reduced at least as low as VP3 (£100 per sqm). In addition, the onerous costs could have a counter-productive impact upon affordability, with knock-on effects to affordable housing need and travel patterns, which must be assessed before the CIL charges are taken forward.

Furthermore, should the Council continue to exclude Exceptional Circumstances Relief, Payments in Kind and Low Cost Market Housing Relief within the Charging Schedule, the viability of schemes, and overall delivery of sustainable economic growth, will be seriously compromised.

HLM recommends that subject to the further studies needed, the Council adopts more realistic rates which are more comparable to neighbouring authorities (some of which have substantially higher average house prices). The highest rate of £180 per sqm, as currently proposed, has the potential to stifle the delivery of much needed housing schemes across the District in direct contradiction to the Government's aim of *"...significantly boosting the supply of housing"*.

We trust that the above representations are acceptable and await confirmation of their receipt. In the meantime, should the Council have any queries or require any further clarification on the above matters, please do not hesitate to contact me.

Yours faithfully,



SOPHIE LUCAS
Senior Planner

cc. R. McKeown - Hallam Land Management
C. Penny - Hallam Land Management
R. Chute - Winchester College
R. Jones - Planning Perspectives

Planning Policy
East Hampshire District Council
Council Offices Penns Place
Petersfield
Hampshire
GU31 4EX

Our ref: HA/2006/000141/PO-
06/SB1-L01

Your ref:

Date: 22 December 2014

Dear Sir/Madam

Community Infrastructure Levy Draft Charging Schedule

Thank you for giving the Environment Agency the opportunity to comment on your draft CIL charging schedule. Having reviewed this document and the relevant supporting information we can confirm we have no comments to make.

If you have any specific queries please do not hesitate to contact me using the details below.

Yours faithfully

Mrs Laura Lax
Senior Planning Advisor

Direct dial [REDACTED]

Direct e-mail [REDACTED]

Environment Agency
Canal Walk, ROMSEY, Hampshire, SO51 7LP.
Customer services line: 03708 506 506
www.gov.uk/environment-agency

End

Jennifer Howard

From: Guy Shepherd
Sent: 22 December 2014 15:33
To: EHDC - Local Plan
Cc: Sara Schillemore; Dorothy Denston; David Evans (EHDC Cllr); Lynn Evans; Julia Potter; Angela Glass; Elaine Tickell
Subject: CIL Consultation

Dear sirs,

Please find enclosed some feedback on the CIL consultation which closes tonight.

I am concerned the proposed tariffs for CIL are too low for the area known as South of Butser (VP3) and note the following for your consideration:

1 I would like to see the rate applied to CIL to be at the same level as S106 contributions. Taking a 80SM flat as an example the CIL generated South of Butser would be £8,000.00 in this area primary school provision is required which comes at a cost of £5,057 per household (figure sullied by HCC). For the houses required to meet Horndean's allocation a new primary school is required so every home will need to make this contribution to HCC through CIL. This will only leave 2,943 per home to fund every other infrastructure need. This is quite simply not enough. On face value the S106 contributions seem to attract twice the level of funding for the community so CIL being levied at £100 PSM will not generate adequate funds to match the current arrangement. Before setting the CIL for the southern parishes I would ask that the land East of Horndean application which is currently at East Hants, and could be determined by either S106 or CIL be measured under both S106, and the proposed CIL charging schedule. To ensure this community grows sustainably we must ensure the CIL charge is equal or greater to the current S106 Charge.

2 the details provided note that the level of CIL must be pitched at affordability to allow development to take place. The current s106 provision is not deterring the onslaught of developer interest in East Hants as a whole, and especially south of butser. On the basis of this unprecedented interest, there can be no argument that the current levels of S106, or a CIL charge of an equal or greater sum is making schemes unaffordable. CIL must be at least the level of S106 and if not, then more to reflect the growing market.

3 I see no reason why the levy for the northern parishes (£180 PSM) should be any different to the southern parishes (£100 PSM) and the southern parishes rate should be increased accordingly.

4 Horndean is a major settlement, however it is widely recognised that it has poor infrastructure and facilities. It is essential that the forthcoming development in Horndean is used to enable improvements in this region. Again, the sheer volume of applications and pre application interest make it clear there is more than enough developer interest in the area and setting CIL at the same level as the northern parishes seems reasonable.

5 relief for low cost market housing. If there is relief for low cost market housing then the low cost housing will be matched with poor quality facilities and infrastructure. This will serve to make the community less sustainable.

6 is there a mechanism to reflect the growing market. For example does CIL increase year on year at the same rate as the RICS tracker for annual house property changes? If not then the

value of CIL would seem to quickly become out of date along with the cost required to deliver some of the infrastructure which will also only rise from now.

Best wishes,

Guy shepherd

Cllr, downs ward, Horndean.

Sent from my iPad

Jennifer Howard

From: jeremy.heppell [REDACTED] >
Sent: 22 December 2014 16:05
To: EHDC - Local Plan
Subject: RE: CIL Consultation November 2014

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Valerie/Hannah

I would like to submit the following comments on the CIL Draft Charging Schedule. I note that your email invites comments by 5pm today whilst your website indicates a deadline of 5pm on 19th December. I have assumed your email is correct.

We act for Linden Homes, who are promoting the site at Bartons Road in Havant, which straddles the boundary between East Hampshire and Havant, and is included in both East Hampshire's draft Allocations Plan and Havant's adopted Allocations Plan.

We are concerned by two points:-

- 1) The disparity between East Hampshire's proposed rate for the southern parishes (£100/sq m) and Havant's adopted rate for the Rest of the Borough (£80/sq m). Property prices in the southern parishes are on average slightly higher than those in Havant, but are certainly not 25% higher, and we therefore query how a viability-assessed CIL rate can be set in East Hampshire which is so much higher than Havant's.
- 1) The draft Regulation 123 List excludes *"financial contributions or in-kind provision to extend a local school unless it is considered essential for a contribution to be made from the wider community"*. This will add a significant financial burden to housing projects in areas where local schools are at capacity. We don't dispute that new development should pay its share towards local facilities which it impacts; but the point of CIL is that such provision should be made through the levy. Given that in the case of primary education, the County Council typically seeks around £5,000 per new dwelling, the contribution taken through CIL (when brownfield discounting is taken into account) is effectively doubled by taking a separate education contribution. Given that the CIL charging schedule has to be viability-tested before being adopted, the exclusion of education contributions from CIL significantly distorts the viability testing process.

I would be grateful if these comments could be given careful consideration.

Kind regards

Jeremy Heppell
 Associate Director

Please [Click Here](#) for our Autumn 2014 edition of the Planning & Environment newsletter.

WYG

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.....



From: EHDC - Local Plan [<mailto:LocalPlan@easthants.gov.uk>]
Sent: 11 November 2014 15:23
Subject: CIL Consultation November 2014

To: All Consultees

East Hampshire District Council is now consulting on its Community Infrastructure Levy (CIL) Draft Charging Schedule. Copies of the relevant documents are attached to this email and copies are also available on our website. We are currently consulting on the CIL Draft Charging Schedule until **5.00pm on Monday 22nd December 2014**. If you wish to make any comments then please send them to us either by email to localplan@easthants.gov.uk or by letter to :

Planning Policy

East Hampshire District Council,
Penns Place Petersfield GU31 4EX

If you have any queries concerning either the document or the process then please do not hesitate to call the Planning Policy team on 01730 234280.

Regards,

Valerie Dobson - Principal Policy Planner
East Hampshire District Council
Penns Place Petersfield GU31 4EX

Hannah Collier
Local Plan Officer

01730 234280

Planning Policy
East Hampshire District Council, Penns Place Petersfield GU31 4EX
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www.gladman.co.uk

Planning Policy Team
 East Hampshire District Council
 Penns Place
 Petersfield
 Hampshire

(Representations submitted by email to localplan@easthants.gov.uk)

22nd December 2014

RE: Community Infrastructure Levy – Draft Charging Schedule Consultation

Introduction

Gladman Developments has considerable experience in the development industry in a number of sectors including residential and employment land. Gladman are aware that East Hampshire District Council adopted its Local Plan: Joint Core Strategy in May 2014 and is currently consulting on its Community Infrastructure Levy (CIL) Draft Charging Schedule. This representation follows our previous comments on the Council's CIL Preliminary Draft Charging Schedule submitted in July this year.

CIL is intended to have a positive effect on development. The latest CLG guidance notes that *"The levy is expected to have a positive economic effect on development across a local plan area. When deciding the levy rates, an appropriate balance must be struck between additional investment for infrastructure to support development and the potential economic effect on the viability of developments...This balance is at the centre of the charge setting process"* (Section 2.2, CLG Guidance, 2014).

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

Setting the levy at the appropriate rate will be key to ensure that development comes forward in your local authority area and subsequently that the Local Plan is implemented. These representations address some key areas that local planning authorities must consider when preparing their CIL charging schedule, drawing on recent guidance produced by the CLG.

Funding gap / evidence base

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

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

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

The CLG guidance notes that: *"Charging authorities should be able to show and explain how their proposed Community Infrastructure Levy rate or rates will contribute towards the implementation of the relevant Plan, and support development across their area. Charging authorities will need to summarise their economic viability evidence. This evidence should be presented in a document (separate from the charging schedule) that shows the potential effects of the proposed levy rate or rates on the economic viability of development across the authority area"* (Section 2:2:2:3, CLG Guidance, 2014).

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

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

The Council needs to ensure that they have a full understanding of the potential costs of infrastructure projects needed to meet the infrastructure needs. Gladman believe that it is

inappropriate to set the levy based on a partial understanding of these infrastructure costs and in particular if the total money needed for infrastructure is unknown.

Differential charging rates

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

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

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

Discretionary Relief

Regulation 55 of the CIL Regulations allows local authorities to grant relief for exceptional circumstances from liability to pay CIL. Such provision should be factored into the Council's CILs and will avoid rendering sites with specific and exceptional cost burdens unviable should exceptional circumstances arise.

Payments in Kind

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

Requirement to consult

As with Local Plans, local planning authorities have an obligation to consult at various stages of the CIL preparation process. Public consultation on the preliminary draft charging schedules is required. However, the guidance does not provide details as to the format that this consultation must take or length of the consultation period. Gladman echo the CIL guidance and would urge your local authority to engage with local developers and others in the property industry early and throughout the process. This will help your authority to gain opinions from the market to feed into the preparatory work.

Examination

As outlined in Section 2:2:5:1 of the 2014 CLG guidance the charging authority must appoint the examiner. The examiner must be independent and have the appropriate qualifications and experience. The guidance confirms that a Planning Inspector would fulfil these criteria.

Conformity with Framework

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

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

The Council's CIL charging rates must not threaten the overall delivery of the Local Plan, by making sites unviable. This point is reiterated in the CLG guidance, which states that *"Charging authorities should set a rate which does not threaten the ability to develop viably the sites and scale of development identified in the relevant Plan"* (Section 2:2, CLG Guidance, 2014). When testing the impact of CIL it is vital that the assumptions that underlie the standard residual valuation approach used to test the impact on viability of CIL are realistic and accurate. This should include abnormal costs, contingency costs, preliminary costs, and developer profit, which should reflect the current level of risk perceived in the market.

Gladman would urge the Council to adopt an instalments policy for CIL payments as this will give developers the flexibility to pay contributions in line with development phasing schemes and will facilitate cash flow and therefore development viability. With this in mind, in accordance with Regulation 8(3A) of the CIL Regulations the Council should also accept the phasing of planning permissions, with each phase treated as a separate chargeable development.

Gladman also remind the Council of the need to review CIL tariffs once these have been set. The economic climate will inevitably change over the course of the plan period and as such the levy rates that can be set whilst ensuring development remains viable will also change. In accordance with the CLG guidance *"Charging authorities must keep their charging schedules under review and should ensure that levy charges remain appropriate over time. For example charging schedules should take account of changes in market conditions, and remain relevant to the funding gap for the infrastructure needed to support the development of the area"* (Section 2:2:6:3, CLG Guidance, 2014).

Gladman believe that the Council needs to have a clear understanding of the level of residential development to be brought forward in the plan period when preparing its charging schedule as this will directly influence the scale of CIL that will be generated. Without this the charging schedule will not reflect the relevant and true infrastructure needs of the area.

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

Yours faithfully,

Peter Dutton
Strategic Land Team
Gladman Developments

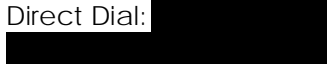
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22nd December 2014

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Valerie Dobson
Principal Planner
Planning Policy Team,
East Hampshire District Council,
Penns Place,
Petersfield,
Hampshire
GU31 4EX

Direct Dial: 

By e-mail

Dear Valerie,

**East Hampshire District Council's Proposed Community
Infrastructure Levy Draft Charging Schedule
Consultation Draft – November 2014**

We refer to your email on 11th November 2014 inviting comments regarding EHDC's Proposed Community Infrastructure Levy Draft Charging Schedule.

We note that many of our previous comments submitted (on 9th July 2014) to the previous EHDC Proposed Community Infrastructure Levy Preliminary Draft Charging Schedule consultation stage remain relevant to the current consultation.

On behalf of Defence Infrastructure Organisation (DIO), we have the following comments to make regarding the current consultation:

1. There remain confusing references to the extent of the 'Whitehill & Bordon' (W&B) area being defined in the draft Charging Schedule i.e. the Table at para 9 identifies W&B as a 'Green Town', whilst para 13 refers to the 'W&B Eco-town', and also the 'W&B Eco-town growth area'. These three references have no formal 'status' i.e. they are not grounded in any formally adopted EHDC document such as the recently adopted Joint Core Strategy (2014).

DIO is supportive of a zero CIL charge for residential development in the Whitehill & Bordon Strategic Allocation Area as designated in the EHDC Joint Core Strategy (2014).

However, whilst the draft Charging Schedule W&B Inset map helpfully identifies the area within which a zero residential CIL charge is applicable in W&B (i.e. zone 4), this does not relate to the whole of the designated W&BSAA area (JCS Map 4) in which up to 4,000 dwellings is supported by the JCS.

EHDC has not provided any evidence to substantiate why parts of the W&BSAA that fall within Zone 3 (such as the Forest Centre, Viking Park, land at Hogmoor Road for example) are subject to a residential CIL charge, whilst other parts of the W&BSAA in Zone 4 are subject to a zero charge.

It is also confusing that references in the Table at para 9 refer to VP locations when para 13 relates to 4 zones.

In the absence of any evidence to substantiate EHDC's position as above, **DIO objects** on the basis that the proposed Zone 4 residential CIL charge area must relate to the whole of the designated W&BSAA.

2. In relation to the proposed CIL draft charges for retail and hotel development, DIO strongly believes that such charges should not apply to development in the adopted (2014) JCS W&B Strategic Allocation Area boundaries (as defined in JCS Map 4) and **objects to the draft Charging Schedule** on that basis. The JCS is encouraging a new town centre to come forward in Whitehill & Bordon as an integral part of the regeneration of the town. The application of a retail/hotel CIL charge will add to the already over-burdened infrastructure requirements and exacerbate viability concerns to a detrimental level and will deter investment, and equally importantly deter job creation, in Whitehill & Bordon.

In the Adams Integra Addendum Report (November 2014) for EHDC, it is stated at page 10 (4th para under the heading Single Retail Rate) that:

"The provision of infrastructure in Whitehill & Bordon will be provided by specific s106 contributions so new retail development in this area will not be affected by the CIL charge and it has not been necessary to test this scenario."

There is some ambiguity in the use of the word "affected" as one interpretation is that retail development in Whitehill & Bordon will not be subject to the CIL charge, which clearly contradicts the draft Charging Schedule.

As the EHDC/SDNPA Local Plan: Joint Core Strategy progressed through its examination stage, a Statement of Common Ground (SoCG) was prepared on behalf of the major W&BSAA landowners, including DIO (dated October 2013 – see JCS Core Documents reference SOCG06). This SoCG highlighted the viability (and marketability/delivery) challenges facing the delivery of the SAA and in particular Appendix 1 to that SoCG set out a series of steps necessary to help improve the viability of the overall project.

DIO has recently submitted a planning application proposing redevelopment of Bordon Garrison (LPA ref 55587/001). A key part of the proposals includes a new town centre of up to 23,000 sq.m. The Retail Impact Assessment submitted in support of the HPA supports around 19,000 sq.m of retail floorspace in the new town centre – should this quantum be delivered in full then based on the draft CIL Charging Schedule, CIL charges of some £1,900,000 would accrue. The new town centre is proposed to contain a range of uses, including hotel development(s) – a 100 bed hotel (c. 2,787 sq.m floorspace) would generate a further CIL charge of c. £195,000.

Previous viability assessments undertaken, including on behalf of EHDC in relation to the 2012 EHDC Masterplan, have not factored in any CIL charges being applicable to any form/type of development in W&BSAA. In taking a W&BSAA wide approach to regeneration EHDC has not demonstrated in its evidence base why specific elements that form part of the overall regeneration package (i.e. retail and hotels) can viably withstand a CIL charge in isolation to consideration of the viable delivery of the whole W&BSAA project.

On the one hand EHDC is actively encouraging a new town centre in W&B through its JCS but on the other it is putting obstacles in place that detrimentally affect its delivery with the proposed draft CIL charge on retail and hotel development in W&B.

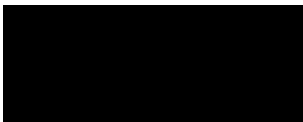
Furthermore, given the draft Regulation 123 list excludes CIL payments being used towards key infrastructure in the W&BSAA then this reinforces **DIO's objection** to the draft retail/hotel CIL charge in W&BSAA as it will reduce overall project viability further, with the unintended result that

CIL payments from W&B development will be used to enhance infrastructure outside the W&B area. DIO notes that this situation would also arise in respect of the residential draft CIL charge in Zone 3 in the W&BSAA where CIL charges collected from new housing developments would not be used towards new infrastructure in the W&BSAA. An alternative option is to focus CIL receipts collected from development in the W&BSAA to be solely applied towards infrastructure provision in the W&BSAA.

DIO notes that it is unfortunate that EHDC's Infrastructure Delivery Plan (IDP) – Interim Statement and Infrastructure Schedule (October 2014) identifies, at para 2.4, that EHDC has commissioned a stand-alone IDP for the "Eco-town Strategic Allocation" but that it is not available as part of the current CIL consultation stage. Para 2.4 of this IDP also identifies that EHDC views the "Eco-town" as a "free-standing" in terms of infrastructure required to support this development which should not require CIL expenditure. This view reinforces DIO objection above that in order to deliver the W&BSAA, any development therein should not be subject to any CIL charges. Without this further W&B IDP work it is unclear how EHDC currently justifies a retail/hotel CIL charge in W&B. If EHDC maintains its proposed retail/hotel CIL charge in W&B then this will impact on the overall S.106 package that DIO can viably propose as part of its current planning application to support the regeneration of Whitehill & Bordon. This package currently includes contributions towards other town centre development (including a replacement swimming pool) but will require review in the light of EHDC's updated W&B IDP and the Submission CIL Charging Schedule that EHDC will shortly put forward.

We trust the above comments/objections will be taken into account as the CIL Charging Schedule progresses to its examination stage.

Yours sincerely



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Associate – Planning, Development and Regeneration
For and on behalf of GVA Grimley Ltd

11 July 2014
140711 East Hampshire Consortium CIL Rep

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Dear Sir/Madam,

**East Hampshire District Council (EHDC) CIL Preliminary Draft Charging Schedule
Representation submitted on behalf of Cala Homes, Crest Nicholson and Persimmon Homes**

1. Introduction

- 1.1 This representation has been submitted to influence the emerging Community Infrastructure Levy (CIL) Charging Schedule proposed by East Hampshire District Council (EHDC). It is made on behalf of Cala Homes, Crest Nicholson and Persimmon Homes, hereafter known as 'the Consortium'.
- 1.2 Savills, as part of the Home Builders Federation CIL Initiative, is representing house builders and landowners nationwide on emerging CIL Charging Schedules, to scrutinise available evidence, notably in respect of infrastructure provision and the testing of viability against both the emerging planning policy requirements and the housing land supply. The objective is to ensure a reasonable rate of CIL, which allows for the policy requirements for sustainability and affordable housing, and also importantly, the level of Section 106/278 and other site specific infrastructure anticipated.
- 1.3 The representation is made in respect of the Preliminary Draft Charging Schedule (PDCS) published for public consultation in the period May to July 2014. Our clients' particular comments relate to the proposed rates for residential development which range from £0 to £180 per sq m, depending on the area of the District. Our clients also wish to question the proposed Alton Sports Centre tariff of £10,000 per dwelling for schemes of 10 or more dwellings within 10 minutes driving time of the sports centre in so far as it relates to the CIL Regulations 122 and 123 regarding limitations on the use of planning obligations.
- 1.4 The Consortium has come together to outline best practice and monitor the emerging EHDC PDCS, notably regarding the viability of the proposed rate for residential development. The Consortium's land holdings across the EHDC area will likely contribute to the maintenance and delivery of the housing land supply (to meet identified housing needs). The rate of CIL is therefore of critical importance to our clients.
- 1.5 No alternative viability appraisal has been prepared at this stage, owing in part to the fact that the Consortium's position reflects the planning interpretation of the evidence. Some comment is made on the Viability Report prepared by Adams Integra (March 2014).

1.6 Following a thorough review of the PDCS, the Consortium wish to make the following key observations:

- The three tiers of Section 106 contributions used in the viability testing require close scrutiny against the levels previously achieved. There is a risk that the proposed levy rate and 'actual' Section 106 costs when factored in, as opposed to the low figure adopted in the viability report, will render many schemes unviable.
- Clarification is sought on the status of the Council's published Infrastructure Delivery Plan (IDP) (July 2013) and whether this forms the appropriate evidence base in the form of a Regulation 123 list as per Regulation 14 (5) of the CIL (Amendment) Regulations 2014.
- The data used to inform the house prices are not accurately refined due to the inclusion of the South Downs National Park within the sales values assumptions as well as a mix of new and resale stock. We would request that a refined and fully analysed market evidence is provided in supporting the values adopted.
- There are concerns about how the threshold or benchmark land value (BLV) has been obtained, and how these relate to the identified market areas. Evidence of the levels quoted are therefore requested.
- In addition to the limited market evidence provided for land values and house prices, there are concerns as to the evidence and appropriateness of the construction cost assumptions.
- Regard must be had to large site typologies, including large consented sites, in so far as they contribute to the overall strategy and land supply. The viability study has omitted assessments above 75 units where an element of off-site infrastructure might be required.
- Based upon the findings in the Viability Report and the Savills research (CIL – Getting it Right, January 2014) the CIL rate combined with the emerging affordable housing policy will render some schemes unviable, impacting upon the deliverability of the Local Plan. There is a clear trade off between the provision of affordable housing and the CIL rate.
- The approach to net: gross development ratio is not clear. It appears from the Viability Report that varied levels of dwellings per hectare (25 to 60 dph) are assumed per dwelling size. This risks a misleading result, as this approach pays no attention at all to the interrelationship between gross and net land, which has an impact on the land value assumptions.
- It is also not clear whether the housing mix assumptions included in the viability report are reflective of schemes that have come forward in recent years and whether they are compliant with the adopted Core Strategy policy on housing tenure, type and mix.
- The Viability Report adopts a 20% profit on private accommodation, with an 6% profit on affordable housing, instead of the industry standard 20% on Gross Development Value (GDV).

1.7 The representation is structured in three parts. The first part of the representation outlines commentary on the proposed CIL charging rates and the adopted Joint Core Strategy. The second provides commentary on the Viability Report prepared by Adams Integra. The final part addresses infrastructure and Section 106 contributions.

2.0 The Proposed CIL Charges and the adopted Joint Core Strategy

2.1 This representation is made in the context of the Community Infrastructure Levy (CIL) (Amendment) Regulations 2014 and relevant statutory guidance (February 2014). These Regulations and associated guidance came into force on 24 February 2014. It should be noted that the standalone CIL guidance has since been added to the Government's Planning Practice Guidance (PPG) web based resource, as of 12 June 2014. The publication of the PDCS for consultation from June 2014, after the date that the 2014 Amendments to the Regulations came into force, means that the PDCS will be subject to the requirements of these latest set of Regulations and Guidance.

'Striking an Appropriate Balance'

2.2 A key change in the Regulations is in the onus within Regulation 14(1) regarding the balance between the funding of infrastructure from CIL and the impact on the economic viability of development across the area. The Regulation previously required the Charging Authority to '*aim to strike what appears to the Charging Authority to be an appropriate balance...*' (emphasis added), but the amendments now mean that the Charging Authority is required to 'strike an appropriate balance'. The onus has therefore shifted away from being a matter of opinion to a matter of fact. This should be considered by EHDC further, in the context of the representations received, prior to producing a Draft Charging Schedule for Consultation.

2.3 Essentially CIL must not threaten the delivery of the development plan. The National Planning Policy Framework (NPPF) notes that for local plans to be found 'sound' the plan should be deliverable over the plan period¹. The rate of CIL is therefore a significant consideration and should be set to facilitate development.

Affordable Housing

2.4 The 2014 CIL Guidance (now contained within the PPG) states that '*Development costs include costs arising from existing regulatory requirements, and any policies on planning obligations in the relevant Plan, such as policies on affordable housing and identified site-specific requirements for strategic sites.*'²

2.5 This is supported by the NPPF³ which notes that local planning authorities should assess the likely '**cumulative impacts**' of the entire existing and proposed local and national standards. Meeting these standards should not therefore put implementation at risk.

2.6 EHDC's policy position is set out in the Local Plan: Joint Core Strategy which was adopted on 8 May 2014. The CIL rates are based on an affordable housing policy of 40% for all areas outside of the Whitehill & Bordon Eco-Town and 35% for Whitehill & Bordon.

¹ Paragraph 173 NPPF

² Paragraph 020 PPG

³ Paragraph 174, NPPF

- 2.7 It is welcome that CIL and affordable housing viability have been tested at the same time in the Viability Report; however, it should also be added that it is best practice to incorporate a viability ‘buffer’ when setting the rate of CIL (discussed further below) to ensure that the delivery of both private and affordable housing is not adversely affected.

Savills Research

- 2.8 Savills has recently published research which assesses the impact of CIL on development viability, notably the delivery of affordable housing⁴. This research, which is attached to this letter, demonstrates the trade off required to enable a deliverable five year housing land supply, in respect of the level of CIL against affordable housing provision.
- 2.9 The research notes that the ability of large Greenfield sites to support CIL, Section 106 and affordable housing provision is largely driven by the strength of the local housing market. Where the housing market is stronger (higher £ per sq ft) the total ‘pot’ available for these contributions increases. In contrast, lower value areas see reduced viability and subsequently a reduced ‘pot’. It therefore becomes a question for local authorities to consider what the appropriate trade-off should be, taking into account adopted affordable housing policies.

The CIL Rates & Viability Study

- 3.1 Section 211 (7a) of the Planning Act 2008 (as amended) which established CIL, requires EHDC to use ‘**appropriate available evidence**’ to inform the Charging Schedule, which in the case of the PDCS is a Viability Report produced by Adams Integra (March 2014).
- 3.2 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 NPPF⁵ and is certainly ‘in-built’ within the CIL Regulations (as amended). It is also the basis of the definition of viability with the Local Housing Delivery Group report, Viability Testing of Local Plans⁶.
- 3.3 Owing to the key test of Regulation 14(1)⁷ it is important that the viability appraisals prepared are fit for purpose. In addition, at Examination the Charging Schedule will need to be supported by ‘relevant evidence’⁸. Within the CIL Regulations (as amended), Local Planning Authorities (LPA) must strike an appropriate balance and justify that balance with evidence at the examination, showing and explaining how the rates will contribute towards the implementation of their relevant Plan⁹.
- 3.4 At this stage no alternative viability evidence has been prepared, although Savills or our clients may do so at the Draft stage if it is felt this is required. We offer below some initial thoughts on the assumptions within the viability assessments and outline our concern about the interpretation of the viability evidence when setting the proposed CIL rates.

⁴ CIL – Getting it Right, Savills (UK) Ltd, January 2014

⁵ Paragraph 174

⁶ Section One

⁷ CIL Regulations 2010 (as amended)

⁸ Ibid. Regulation 11(1) (f) / 19(1) (e)

⁹ See PPG

3.5 Savills wishes to make the following broad comments:

- All methods used in the Viability Report assume a Section 106 contribution at three tiers £0, £2,000 and £5,000 per dwelling. These figures will require scrutiny against the levels of Section 106 previously achieved, which has not been included in the viability report. £0 is an unrealistically low figure and in practice this figure can vary between £5,000 - £10,000 per dwelling, depending on the site specific constraints (notably for strategic sites). There is a risk that the combination of the proposed levy and the 'actual' S106 costs will render many schemes unviable. We would therefore ask that more detailed historic information on Section 106 costs in the EHDC area be made available. This will ensure that the combined total cost of Section 106 and CIL is not in excess of historically delivered Section 106 costs and will not adversely impact the deliverability of any sites coming forward.
- The data used to inform the house prices are not accurately refined due to the inclusion of the South Downs National Park within the sales values assumptions as well as a mix of new and resale stock. From our review of the viability assessment, the information sources used for gathering information on the value of completed residential values has been mainly internet based research with no confirmation of findings. The residential values adopted in assessing the viability of projects have been assessed on quoting prices less a 5% discount, this we see as not being an acceptable practice in establishing the true market revenues. Due to market variances and incentive packages that developers offer, we would ask that analysis of completed sales are undertaken using confirmed prices and floor areas with full allowance for any incentive packages in forming a robust approach and establishing an accurate picture of residential sales values in a geographical context.
- Paragraph 4.13.4 of the Viability Report states that second hand market modern houses and flats have also been looked at and the relevant tables are included in appendix 1. The inclusion of this data source has the effect of distorting the assumptions and overall assessment; CIL is not charged on resale units as it would not be classed as 'new' residential development.
- The sales data listed in appendix 1 includes values from settlements within the South Downs National Park, principally the settlements of Liss and Petersfield. Again, the inclusion of such data has the effect of distorting the assumptions and overall assessment as for example in the resale average prices tables at the end of appendix 1, Petersfield is amongst the most expensive areas with resale prices. We therefore request that a refined and fully analysed market evidence is provided in supporting the values adopted.
- The Viability report proposes a series of viability threshold figures (also referred to as Benchmark Land Values – BLV) to indicate the point at which a land value per hectare exceeds the value of alternative uses. Paragraph 4.7.15 of the Viability Report refers to the Viability Testing Local Plans (2012), also known as the 'Harman guidance' and that a threshold land value should be based on an appropriate premium above current use value and in line with the NPPF, provide a 'competitive return' to a willing landowner. The Viability Report provides a 20% premium.

- The resulting figures range from £450,000 per hectare for existing Greenfield agricultural use, to £2,772,000 for higher residential value. There appears to be no evidence of how the figures were obtained and to what extent they reflect different market areas across EHDC.
- We would therefore ask that Adams Integra provide further market evidence and commentary to explain, in relation to each market typology tested, which BLV is most appropriate. Clarification should also be provided on how the threshold land values have taken account of future plan policy requirements, to the extent that they will impact on land values and landowner expectations¹⁰. This will ensure that the analysis of the viability appraisals is appropriate given the nature of the sites coming forward for development.
- We understand that the build costs adopted have been taken from the Build Cost Information Service (BCIS) with the information dating back to 2013. Although the Viability Report states that only a 0.4% rise has been recorded in the index, market evidence would suggest rising build costs for base materials which is reflective of the increase in house building. A review of more recent figures should therefore be undertaken and evidenced.
- We have assumed that all costs are based on a Gross Internal Area (GIA) basis, although this is not stated in the Report and we would ask this to be clarified.
- We would also comment that we would expect variations in build cost to be adopted in the identified typologies to reflect the geographical and development specific variances proposed and the difference between lower density Greenfield sites and higher density previously developed lands. We would ask this is considered in revised appraisal work.
- Within the Viability Report it is assumed that the 15% costs for external works have been included in the build costs per sq m as per the previous Adams Integra reports undertaken for EHDC.
- We consider this too low having regard to the lack of a five year housing land supply¹¹ and suggest that scaled external costs are considered for the identified typologies. According to the HCA, analysis completed by BCIS for the Housing Corporation in 2007 indicated that the average cost of external works and infrastructure on residential schemes started since 2003 was equivalent to an additional 27% of building costs, including a wide range of site specific circumstances. Savills would therefore ask that appraisals are reconsidered with higher external costs factored into the typologies reflecting the proposed development typologies appraised.
- Only four development scenarios have been progressed (5, 10, 25 and 75 units) with the additional testing of 1 and 3 units on the assumption of commuted payments in lieu of on-site provision. The Viability Report states that these numbers are designed to reflect the range of developments that might arise across the plan area, although they are not intended to include more strategic sites where an element of off-site infrastructure might be required.¹² A greater range, including larger site typologies should also be progressed. Regard must be had to large site typologies, including large consented sites, in so far as they contribute to the

¹⁰ Viability Testing Local Plans - Page 29

¹¹ East Hampshire Interim Housing Policy Statement (27 February 2014)

¹² Viability Report - Paragraph 4.5

overall strategy and land supply; for example, a number of larger strategic sites have been identified in the Council's Strategic Housing Land Availability Assessment.¹³

- The approach to net: gross development ratio is not clear. It appears from the viability appraisal that a varied level of dwellings per hectare (25 to 60 dph) is assumed per dwelling size. This risks a misleading result, as this approach pays no attention at all to the interrelationship between gross and net land, which has an impact on the land value assumptions. This is an important issue as highlighted in the 'Harman guidance' at Appendix B:

'Many viability studies model housing schemes assume a housing and plotting density per unit area. Such an analysis is a legitimate starting point and, provided the assumptions in relation to sales revenue and build cost are correct, produces a fully serviced land value per net developable area.'

However, the assumption is then made that the net developable area (ie. Income generating land) equates to the area of land that is to be acquired following the grant of planning permission.

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.

The net area can account for less than 50%, and sometimes as little as 30% on larger sites, of the site to be acquired (ie. the size of the site with planning permission). Failure to take account of this difference can result in flawed assumptions and inaccurate viability studies.'

- It is accepted that for the 5 and 10 unit schemes tested, 100% site coverage is not an unreasonable assumption. However, for the reasons outlined in the guidance, the 25 and 75 site unit schemes should be tested at reduced site coverage, below 100%.
- It is not clear whether the housing mix assumptions included in appendix 3 of the Viability Report are reflective of schemes that have come forward in recent years and whether they are compliant with the adopted Core Strategy policy CS11 on housing tenure, type and mix. Criterion c of policy CS11 states that new residential development will be required to provide a range of dwelling tenures, types and sizes to meet housing needs. It is vital that the assumptions tie in with both recent market evidence of what has been delivered on sites of varying densities in locations across EHDC and the adopted policy requirements.
- The viability report adopts a 20% profit on private accommodation, with an 6% profit on affordable housing. This equates to a weighted average profit margin of 17.5% on Gross Development Value. The minimum profit margin that the lending institutions are currently prepared to accept, on residential development, is 20% on Gross Development Value. This profit level was endorsed via the Manor appeal decision in Shinfield decision (Ref: APP/X0360/A/12/2179141, 8 January 2013).

¹³ EHDC SHLAA – Included sites outside of the South Downs National Park (as of June 2013)

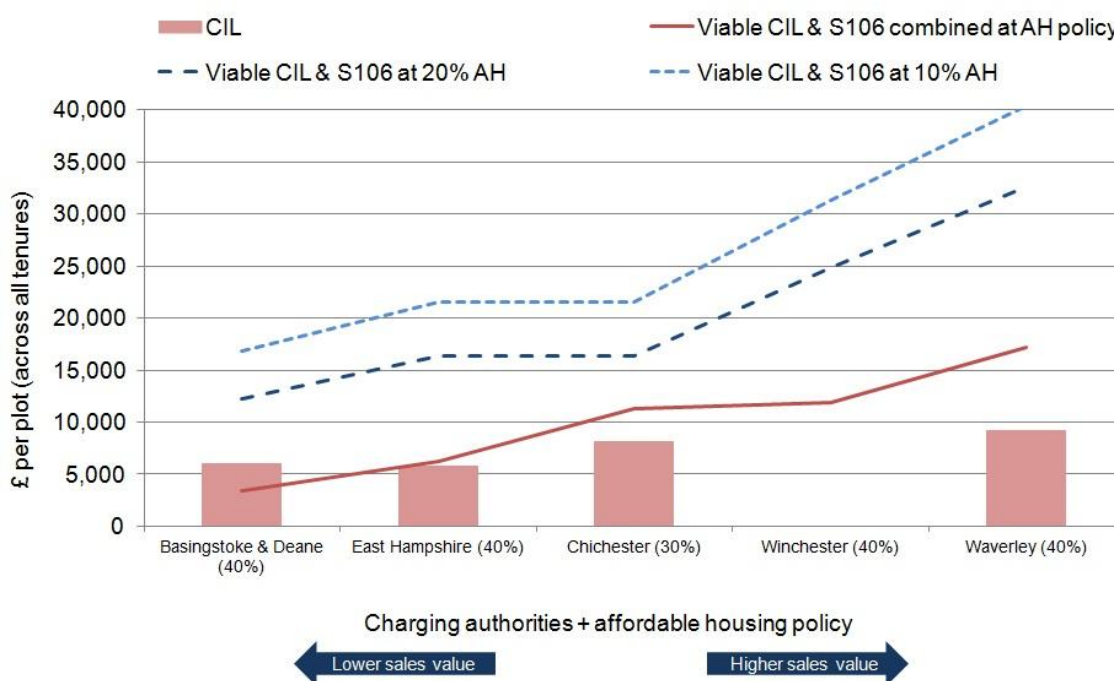
- Savills are of the opinion that profit levels in the appraisals do not offer competitive returns and are too low to promote sustainable development. In addition, Savills are also of the opinion that the profit margin should not be split to reflect the affordable elements within the scenario appraisals, in particular, if developers are to accept reduced contractual margins on the build cost associated with the affordable housing development as suggested by PBA's report.
- We would therefore ask that the typologies are re-assessed considering a revised profit level that is more reflective of the scale of development proposed.
- The Viability Report states that an allowance has been made for site surveys, which might include soils, topographical and ecology and take the view that a degree of site preparation is inevitable before construction of individual units can commence. No figure has been quoted in the Report and this should be included and evidenced as required.
- It is the view of the Consortium that the contingency element of 3% of build costs is too low and a higher contingency would be more reflective of the risks associated with the development pipeline within EHDC, the majority of which are complex large Greenfield developments. It is noted that the South Downs National Park Authority, along with many other Viability Reports, allow for a 5% contingency on build costs.

Other Development Costs

- 3.6 Large, strategic sites require a significant amount of land to enable them to deliver certain items of on-site infrastructure, such as public open space and educational facilities. Consequently the reduction from gross land area to net developable area can range substantially with reductions ranging from 40 – 60%.
- 3.7 In the recent examination of the East Devon District Council CIL Draft Charging Schedule the Inspector refers to the Harman report (Viability Testing Local Plans Advice for planning practitioners 'LHDG' Guidance 2012), identifying that "*failing to take into account that the net developable area on all but the smallest sites is likely to be significantly smaller than the gross area can result in flawed assumptions and inaccurate viability studies*". The Inspector acknowledges that the Harman report identifies that the net to gross ratio of around 50% is not untypical for strategic sites.
- 3.8 The LHDG Guidance (2012) suggests in order to factor in strategic infrastructure such as utilities, sustainable urban drainage etc. typical costs might be in the range of £17,000 - £23,000 per dwelling. This equates to £510,000 - £690,000 per hectare assuming 30 dwellings per hectare. This range has been confirmed with several local developers who are undertaking cost assessments within the borough.
- 3.9 It does not appear that EHDC has had any regard to the net:gross ratio in their appraisals and as previously stated, there have been no assessments of strategic sites above 75 dwellings where the greater infrastructure land take up is likely to be required. We would therefore ask that appraisals are revised and/or clarified to reflect increased site servicing costs.

Application of a Viability Cushion

- 3.10 Site specific circumstances mean that the economics of the development pipeline will vary from the typical levels identified via analysis of the theoretical typology. This is inevitable given the varied nature of housing land supply and costs associated with bringing forward development. We therefore recommend that a viability cushion be incorporated either into the benchmark land value or elsewhere through the CIL assessment process to ensure delivery of sufficient housing to meet strategic requirements.
- 3.11 This is supported by the CIL Guidance which highlights the importance of a charging authority recognising the need for an appropriate balance when determining CIL rates - *“The authority will need to be able to show why they consider that the proposed levy rate or rates set an **appropriate balance**...between the need to fund infrastructure and the potential implication for the economic viability of development across their area.”*¹⁴
- 3.12 Based upon the findings in the Viability Appraisal and the Savills research (CIL – Getting it Right, January 2014) the CIL rate combined with the emerging affordable housing policy will render some schemes unviable, notably larger Greenfield sites, and hence impacting upon the deliverability of the Development Plan. There is a clear trade-off between the provision of affordable housing and the CIL rate, but also the need for a robust and credible appreciation of site specific Section 106 (scheme mitigation).



- 3.13 Utilising the Savills CIL Getting it Right report it can be seen from the above chart that based on the policy compliant 40% affordable housing, the proposed rate of CIL in zone 1 (£180 per square metre) is marginal at best. It would create no headroom for additional scheme mitigation or enabling costs, which would affect scheme delivery of larger sites (100 dwellings plus). In comparable locations (Chichester and Waverley) more headroom is proposed in the CILs. In Winchester, three strategic sites have no CIL charge, it is noted that a similar approach to taken for Whitehall / Bordon in EHDC

- 3.14 EHDC will have to be confident that the range of typologies tested in the viability appraisal are sufficient enough analysis from which to judge whether the proposed CIL rate pays a sufficient buffer to the maximum theoretical viable level. The result may well be the need to apply further differential rates.
- 3.15 In our experience, a **minimum** viability cushion of 30% should be adopted to minimise risk to the housing supply, particularly when EHDC is not achieving a five year housing land supply. We would therefore ask that the proposed CIL rates are reviewed to include an appropriate viability cushion once the above recommendations are taken in to account.

Instalments Policy

- 3.16 The PDCS states that the Council can offer the payment of CIL by instalments to provide flexibility and support for more complicated developments. An 'instalment policy' stating the parameters of this process would be published alongside the adopted Charging Schedule. The Adams Integra report does not introduce an Instalments Policy. The introduction of this policy is vital on larger sites specifically.
- 3.17 The need for significant upfront costs would suggest that both timescale and occupation triggers should be considered. We would therefore recommend that the initial contribution (%) payable at the commencement of development should vary depending on the scale of the total CIL payment due, with the remaining payments linked to occupations. This will have a positive impact on the cashflow of the development and ensure that sites continue to come forward.
- 3.18 We would also recommend that there is an overriding mechanism which allows CIL instalment payments to be negotiated on a one-to-one basis in the event that CIL payments threaten the viability, and thus the deliverability, of the scheme proposed.

4.0 Infrastructure & Section 106/278 & Absence of an Emerging Regulation 123 List

- 4.1 The CLG CIL Guidance (now contained within the PPG) places a strong emphasis on the need for local authorities to demonstrate, when setting their charging schedule that they have been realistic, when testing viability, about what residual Section 106 and 278 requirements will remain. They should provide confidence in these assessments through a draft list of relevant infrastructure (so called 'Regulation 123 List') and revised policy on planning obligations that demonstrate how obligations will (or will not) be scaled back. It is now widely accepted that Regulation 123 permits the differentiation of infrastructure (as defined by the 2008 Act) by 'type' or 'project'. This permits EHDC (in liaison with Hampshire County Council) a large degree of flexibility to outline what is and is not to be infrastructure delivered by CIL, notably for larger scale sites.
- 4.2 The CIL Guidance states that *"When a charging authority introduces the levy, section 106 requirements should be scaled back to those matters that are directly related to a specific site... For transparency, charging authorities should have set out at examination how their section 106 policies will be varied, and the extent to which they have met their section 106 targets"*¹⁵.

¹⁵ See PPG

- 4.3 The new Community Infrastructure Levy (Amendment) Regulations 2014 require the Regulation 123 List to form part of the evidence base (Regulation 14 (5)). EHDC has produced an Infrastructure Delivery Plan (IDP) to support the Joint Core Strategy. Whilst paragraph 2.23 of the IDP states that it forms part of the published evidence for the PDCS, and an updated version will be prepared for submission with the Draft Charging Schedule in anticipation of the CIL examination, paragraph 2.24 then states that IDP evidence does not, in its current form, provide a clear steer as to how the authority intends to spend CIL. Clarification is therefore sought on the status of the IDP and whether this document with its date of July 2013 forms the appropriate evidence base in the form of a Regulation 123 list as per Regulation 14 (4) of the CIL (Amendment) Regulations which were issued in February 2014 and subsequently added to the web based PPG.
- 4.4 Subject to clarification on this important point and further to the related comments raised below, a significant amount of comment from the Consortium shall have to be reserved for the Draft Charging Schedule consultation.

Infrastructure Delivery Plan (July 2013)

- 4.5 An infrastructure list is provided in IDP Appendix 1, which defines infrastructure needs by Parish, and outlines whether this infrastructure may be funded by CIL or S106. The IDP outlines an estimated overall cost of identified infrastructure requirements for £41,940,000 with a funding gap of £19,440,000. This includes a funding gap of £8,650,000 within the South Downs National Park Authority area.
- 4.6 With regard to Culture and Leisure infrastructure category, one of the critical requirements is the refurbishment work at Alton Sports Centre. The costs are estimated at £12,000,000 and are to be sought by continuing S106 contributions. This is evidenced and supported by the Alton Sports Centre Feasibility Report (2013).
- 4.7 The Council approved a 10 minute drive time from Alton Sports Centre in which contributions would be sought towards improvements of the Centre, with £10,000 per dwelling¹⁶ sought on schemes of 10 dwellings or more. Whilst it is appreciated that consultation has recently closed on whether the threshold area should be extended to a 15 minute drive time, which based on survey data would capture 87% of members as opposed to 60% in a 10 minute drive time, there is still a concern that this threshold would not comply with Regulations 122 and 123 of the CIL Regulations, principally that a planning obligation may only constitute a reason for granting planning permission for a development if the obligation is:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.¹⁷
- 4.8 There are also concerns that the infrastructure contribution sought would fail to meet Regulation 123 (3) which states that a planning obligation (“obligation A”) may not constitute a reason for granting planning permission to the extent that:

¹⁶ Guide to Developer Contributions (2014) – paragraph 2.12

¹⁷ CIL Regulations 2010 – Regulation 122 (2)

- (a) obligation A provides for the funding or provision of an infrastructure project or type of infrastructure; and
- (b) five or more separate planning obligations that -
 - (i) relate to planning permissions granted for development within the area of the charging authority; and
 - (ii) which provide for the funding or provision of that project, or type of infrastructure, have been entered into before the date that obligation A was entered into.¹⁸

4.9 It is therefore considered that the contribution per dwelling is contrary to the CIL Regulations and this has implications on the IDP and subsequently the PDCS and Viability Report. EHDC should review the infrastructure evidence in advance of publishing a fully compliant Regulation 123 list. It should also review the relationship between CIL and S106 as it moves forward to the April 2015 date for CIL implementation where the ability to seek S106 contributions will be significantly scaled back thereafter. Clarification should also be provided on the proposed policy for scaling back S106 agreements. As stated earlier in this representation, more detailed historic information on S106 costs in the EHDC area should also be made available.

Payments In Kind

- 4.10 The CIL (Amendment) Regulations 2014 recently came in to force and have made changes to the operation of Payments in Kind. Intended as a remedy for site specific development/infrastructure costs, the revised 'Payments in Kind' mechanism enables developers to provide on-site infrastructure that is included on the Regulation 123 List, in lieu of a levy payment, provided that the said infrastructure is not required to mitigate the impact of the development (i.e. secured by a planning condition or section 106 provision).
- 4.11 It is Savills opinion that this will significantly reduce the application of this mechanism and it is therefore essential that the CIL rate is set correctly, as the application of Payment in Kind will be limited.
- 4.12 EHDC should also consider providing details of how, in practice, the operation of Payments in Kind may work, notably for infrastructure provision. This might be a useful mechanism to avoid the risk of 'double counting' Section 106/infrastructure provision, with CIL.

Reviewing CIL

- 4.13 The CIL Guidance outlines that Charging Authorities '*must keep their Charging Schedules under review*'¹⁹ 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.
- 4.14 Our clients consider that EHDC 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

¹⁸ CIL Regulations 2010 – Regulation 123 (3)

¹⁹ Paragraph 2:2:6:3, CIL Guidance, DCLG, 2014

published, for example on the Councils website. Regular monitoring is key to ensure that CIL does not stifle development in the right locations.

5.0 **Conclusion**

5.1 Three of the key tests of the examination of a Charging Schedule are that:

- i. “the charging authority’s charging schedule is supported by background documents containing appropriate available evidence”;
- ii. “the proposed rate or rates are informed by and consistent with, the evidence on economic viability across the charging authority’s areas”; and
- iii. “evidence has been provided that shows the proposed rate would not put at serious risk overall development of the area”.

5.2 The assessment of planned development and its viability is therefore an inherent test of the Examination. It is important therefore for the CIL to adequately reflect the land supply (both consented and emerging). It must have adequate regard to strategic development sites (existing and proposed).

5.3 Given the above, it is clear that the proposed CIL rates for residential developments would affect the delivery of all residential developments. The approach must accord with NPPF paragraphs 173-177 and not put at risk the delivery of the adopted Joint Core Strategy.

5.4 Moving forward, we welcome the opportunity to liaise and open dialogue in respect of the key inputs to the Viability Appraisal, a meeting to discuss aspects listed below would be worthwhile:

- Levels of Section 106 likely on strategic sites / influence on a draft Regulation 123 List, including research on historic levels of S106 sought
- Benchmark Land Values – providing fully analysed market evidence
- Viability Assumptions – house prices, construction costs, net:gross site coverage, housing mixes and development costs
- Operation of the Payment in Kind for Infrastructure
- Operation of the Instalments Policy
- Inclusion of a viability buffer to the proposed CIL rates
- Amendments to the Viability Appraisal

5.5 If you have any questions related to this representation please do not hesitate to ask.

Yours sincerely,

Charles Collins
Savills Planning

Encl. Savills CIL – Getting it Right Publication

22 December 2014
cil221214is

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Dear Sir / Madam

**East Hampshire District Council (EHDC) Draft Charging Schedule
Representation Submitted on Behalf of Cala Homes and Taylor Wimpey**

1. Introduction

- 1.1. This representation is submitted by Savills (UK) Ltd on behalf of Cala Homes and Taylor Wimpey to influence the emerging Community Infrastructure Levy (CIL) proposed by East Hampshire District Council (EHDC). The representation is made in respect of the Draft Charging Schedule (DCS) published for public consultation in the period 11 November to 22 December 2014. The Consortium's particular comments relate to the proposed rates for residential development.
- 1.2. It should be noted that this representation is made in the context of the Community Infrastructure Levy (Amendment) Regulations 2014 ("the Regulations") and relevant statutory guidance.¹ These Regulations and associated guidance came in to force on 24 February 2014. The DCS will therefore be subject to the requirements of these latest set of Regulations and Guidance.
- 1.3. Savills has been asked on behalf of the Consortium to scrutinise the available evidence, notably in respect of infrastructure provision and the testing of viability against both the planning policy requirements and the identified housing land supply. The objective is therefore to ensure a reasonable rate of CIL, which allows for the policy requirements for sustainability and affordable housing, and also importantly, the level of anticipated residual Section 106/278 and other site specific infrastructure.
- 1.4. The objective of this representation is therefore not to oppose CIL; it merely seeks to ensure a reasonable rate is proposed, which will ensure that the planned development in the area will come forward.
- 1.5. This representation builds on comments previously submitted during the Council's Preliminary Draft Charging Schedule (PDCS) consultation stage earlier this year. Savills' representations at the PDCS stage on behalf of a developer consortium are enclosed with this letter.
- 1.6. This representation covers the following particular areas:

¹ April 2014 (as amended)

- The proposed DCS residential rates;
- The relationship between Section 106 and CIL;
- The draft Regulation 123 list; and
- The effective operation of CIL.

2. The Proposed CIL Charges and the East Hampshire District Joint Core Strategy

- 2.1. This representation is concerned with the proposed CIL rates for open market residential development. EHDC propose differential rates by geographic locations – a £180 per sq m rate for higher band areas north of the South Downs; a £100 per sq m rate for the South Hampshire sub-region; £60 per sq m for the Whitehill and Bordon area and finally a zero rate at the Whitehill and Bordon Green Town. These rates are the same as those proposed at the Preliminary Draft Charging Schedule (PDCS) consultation stage earlier this year.
- 2.2. In submitting this representation, comment is provided on particular key areas of the evidence base. The lack of reference to other parts of the evidence base cannot be taken as agreement with them and Savills, on behalf of Cala and Taylor Wimpey, reserves the right to make further comments upon the evidence base at the Examination stage.

“Striking an Appropriate Balance”

- 2.3. Viability is at the forefront of Local Plan and CIL testing. It is therefore important that the Council fully understands the trade-off that occurs between affordable housing, Section 106 contributions and CIL when assessing the potential for charging a CIL rate in the District.
- 2.4. The fundamental premise is that to enable delivery, sites must achieve a competitive land value for the landowner and provide developers the required return on investment, otherwise development will be stifled. This is recognised by the National Planning Policy Framework (NPPF) and is ‘in-built’ within the CIL Regulations (as amended). It is also the basis of the definition of viability within the Harman report.²
- 2.5. Regulation 14(1) of the CIL Regulations sets out the key test that the Charging Schedule is measured against:

“In setting rates (including differential rates) in a charging schedule, a charging authority must strike an appropriate balance between –

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 in to account other actual and expected sources of funding; and

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

² Section One, Viability Testing Local Plans, Chaired by Sir John Harman, June 2012

- 2.6. The CIL Regulations previously required the Charging Authority to ‘*aim to strike what appears to the Charging Authority to be an appropriate balance...*’ (emphasis added), but the amendments now mean that the Charging Authority is required to ‘**strike an appropriate balance**’. The onus has therefore shifted away from being a matter of opinion to a matter of fact.
- 2.7. It is therefore of paramount importance that the proposed CIL rates are supported and consistent with the viability evidence and that the Council has undertaken sufficient work to demonstrate that the proposed rates will not put their housing supply at risk.

The Duty to Co-operate – Sub Regional Dynamics

- 2.8. The Duty to Co-operate does not apply specifically to the preparation of CIL Charging Schedules, however, it is a fundamental requirement of Local Plan making and hence planning policy, which clearly has a bearing on CIL (notably owing to the tests of CIL Examinations). The requirements for the Duty are outlined in the NPPF³.
- 2.9. Local Authorities are subsequently required to take a strategic approach to local planning. It is therefore entirely relevant to view the proposed East Hampshire CIL within its local context. We have therefore outlined the emerging residential CIL rates in surrounding Local Authorities, which demonstrates that the highest CIL rate proposed in East Hampshire (£180 per sq m) is significantly higher than those in neighbouring authorities. Given values in the proposed development areas within East Hampshire this is concerning and raises the question of whether these rates will meet the tests set out in the statutory guidance – “Charging Authorities should set a rate which does not threaten the ability to develop viably the sites and scale of development identified in the relevant Plan”⁴.

Table 1 – Comparison of East Hampshire CIL Rates with Neighbouring Authorities

| Local Authority | Current CIL Stage | Max. Residential CIL Rate | Comparison to EHDC (£180psm) |
|-----------------------------|-------------------|---------------------------|------------------------------|
| Winchester City | Implemented | £120 | 150% |
| Havant District | Implemented | £100 | 180% |
| Waverley Borough | Preliminary Draft | £160 | 113% |
| Chichester District | Preliminary Draft | £200 | 90% |
| Basingstoke & Deane Borough | Draft | £150 | 120% |
| Portsmouth | Implemented | £105 | 171% |
| Fareham Borough | Implemented | £105 | 171% |
| Hart District | Draft | £250 | 72% |
| AVERAGE | | £149 | 133% |

Source: Savills Analysis (December 2014)

- 2.10. Despite a few exceptions, this analysis clearly demonstrates that the CIL rates proposed by EHDC are higher than those proposed locally. The following is worth particular note:

³ Paragraphs 178 – 181, NPPF

⁴ Paragraph 008, Reference ID: 25-008-20140612, PPG, October 2014

- **Maximum CIL Rates** - Only two authorities have proposed higher CIL rates than East Hampshire (Chichester and Hart District), both of which have met with substantial objection from the development industry;
- **Implemented CILs** – Those CIL rates that have been through examination and subsequently approved (Winchester, Havant, Portsmouth and Fareham) are lower than those proposed in East Hampshire.

2.11. We would therefore ask that the Council considers the proposed CIL rates in light of the analysis above, as adopting a CIL rate that is higher than neighbouring authorities may result in housebuilders choosing to develop in other areas.

Savills Research

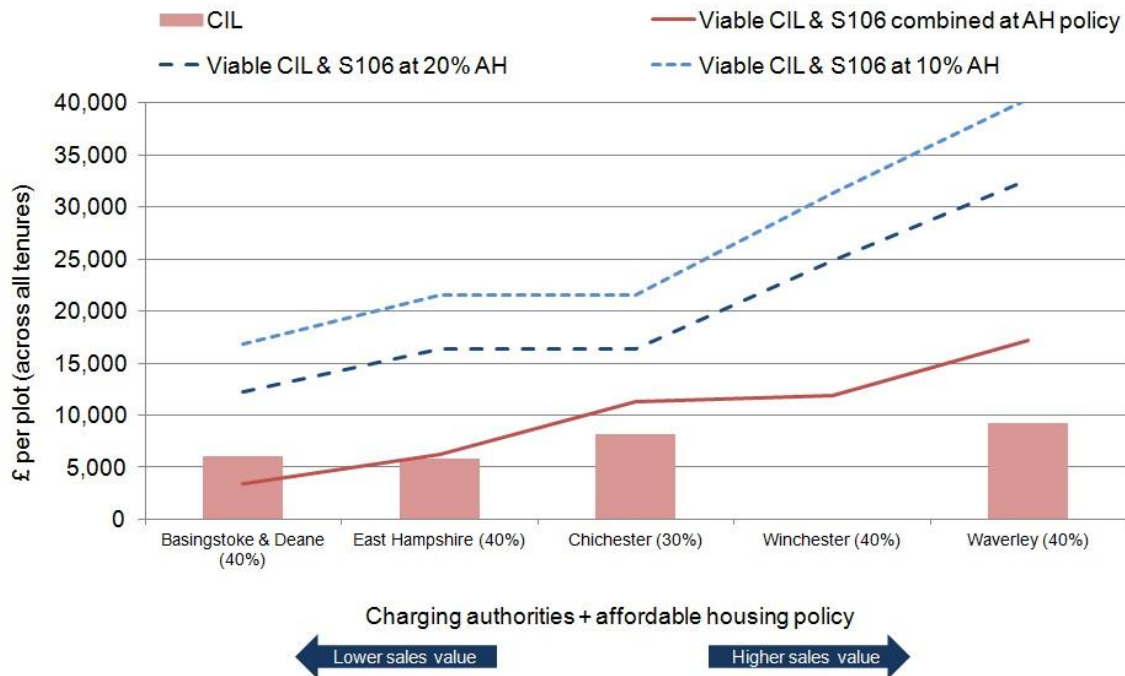
2.12. Savills has published research that assesses the impact of CIL on development viability, notably the delivery of affordable housing.⁵ This research, which is enclosed, demonstrates the trade off required to enable a deliverable five year housing land supply, in respect of the level of CIL against affordable housing provision. The key finding of the report is that *“For local planning policies to be viable, there is a three way trade-off between the costs of CIL, Section 106 funding of infrastructure and affordable housing policy, with the costs of local standards and the move to zero carbon being additional costs to be factored into the trade-off.”* (emphasis added).

2.13. The research notes that the ability of large greenfield sites to support CIL, Section 106 and affordable housing provision is largely driven by the strength of the local housing market. Where the housing market is stronger (higher £ per sq m) the total “pot” available for these contributions increases. In contrast, lower value areas see reduced viability and subsequently a reduced “pot”. It therefore becomes a question for local authorities to consider what the appropriate trade-off should be, taking into account adopted affordable housing policies.

2.14. In the figure overleaf, we have applied the Savills benchmarking model to EHDC’s maximum residential CIL rate (£180 per sq m) alongside a number of Local Authorities that have also published CIL rates; to assess the viability of this proposed rate.

⁵ CIL – Getting it Right, Savills (UK) Ltd, January 2014

Figure 1 - Savills CIL Benchmarking Model, assuming 40% Affordable Housing and £180 per sq m CIL



Source: Savills Analysis (July 2014)

How to interpret the Savills Benchmark Land Model

- The **pink bars** indicate the cost of CIL per unit (across all tenures);
 - The **red line** illustrates the maximum viable combined 'pot' for Section 106 and CIL assuming policy compliant affordable housing provision;
 - The dotted **blue lines** show how the 'pot' for Section 106 and CIL increases as the affordable housing requirement is reduced to 10 and 20%.
- ✓ **Viable CIL rate** - a proposed CIL rate is therefore viable where the **pink bar** is **below** the **red line**, leaving headroom for residual Section 106 and 278 costs.
- ✗ **Unviable CIL rate** – where the **pink bar** is **above** the **red line**, the proposed CIL rate is unviable.
- ? **Marginal CIL rate** – where the **pink bar** is **level** with the **red line**, the proposed CIL rate is viable, but there will be no additional capacity for Section 106 or 278 contributions.

2.15. This analysis indicates the following:

- **Viable Rates** – East Hampshire's CIL rate is marginal at best based on policy compliant levels of affordable housing, as it sits alongside the red line on the model;

- **Affordable Housing** - Lower levels of affordable housing (indicated by the blue dotted lines) suggest that the level of affordable housing would have to be reduced on large sites if they are to come forward for development; and
- **Headroom** - at the current proposed CIL levels the benchmark model indicates that Chirchester, Winchester and Waverley CIL rate leaves sufficient headroom for residual 'site specific' Section 106 obligations.

2.16. This comparison exercise therefore indicates that the higher band CIL rate (£180 psm) risks rendering large sites (100 dwellings plus) unviable in EHDC, as the proposed rate is at the margins of viability with regard to the total 'pot' that sites can support. This takes into account the policy compliant affordable housing requirement of 40% provision.

2.17. We would therefore ask that the Council revisits their proposed CIL rates to ensure that rates are adopted that will not threaten the delivery of sites anticipated to come forward in the District over the Plan period.

Delivery of the Development Plan

2.18. As discussed above it is critical for the adequate delivery of housing that CIL does not threaten the delivery of the development plan. The NPPF confirms and supports this by highlighting that for Local Plans to be found 'sound', the identified housing supply should be deliverable within the plan period. Paragraph 137 of the NPPF states:

"Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable."

2.19. The introduction of CIL represents an additional obligation and therefore must be assessed holistically to establish the combined impact of CIL and existing planning obligations to ensure that the delivery of development would not be threatened by the introduction of CIL. We have therefore reviewed the identified housing supply for the District to determine whether the proposed CIL rates would threaten the delivery of development during the Plan period. This is contained in the East Hampshire District Local Plan: Joint Core Strategy (adopted June 2014). Reference is also made below to the Council's five year housing land supply position.

2.20. The CIL Guidance⁶ confirms that Local Authorities must have an "up-to-date" development strategy for the area in which they propose to charge CIL. In addition, it states that a Charging Authority must be able to demonstrate how the proposed levy rates will contribute towards the implementation of the Local Plan. This is not exclusive in approach and stems from the contents of Paragraph 137 of the NPPF highlighted above.

⁶ Paragraph 010, Reference ID: 25-010-20140612. PPG Guidance on CIL. Accessed 22 December 2014

- 2.21. Policy CP10 of the Joint Core Strategy states that 10,600 dwellings will be delivered across East Hampshire and South Downs National Park during the period 2011 – 2028, with 8,366 dwellings to be delivered in East Hampshire at a rate of 492 dwellings per annum. The strategic site at Whitehill & Bordon will deliver approximately 2,725 dwellings; large urban potential sites could deliver approximately 313 dwellings and new allocations could deliver approximately 3,200 dwellings.
- 2.22. Given the recent record of under delivery in housing supply against the overall requirement, the annualised residual requirement increases from the base figure of 492 dwellings per annum to 569 dwellings per annum over the next five years' requirement. As of 1 October 2014, the Council can only demonstrate a 4.86 year housing land supply, below the five year requirement which, under paragraph 47 the NPPF, local planning authorities should:

“...identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land.”

- 2.23. Based on this above analysis, it is therefore vital that all identified sites in the District come forward. The Council should therefore take steps to ensure that the CIL charges are set well below the margins of viability to ensure that they do not threaten the delivery of the identified housing need. An argument supported by the CIL Guidance, which states that *“charging authorities should set a rate which does not threaten the ability to develop viably the sites and scale of development identified in the relevant Plan”*.⁷

3. The CIL Rates & Viability Report

- 3.1. Section 211 (7a) of the Planning Act 2008 (as amended) requires EHDC to use *“appropriate available evidence”* to inform the Charging Schedule. In the case of the DCS, we have assumed for the purpose of this representation that the Council has relied on the Adams Integra CIL Viability Report (March 2014) and Addendum Report (November 2014).
- 3.2. Owing to the key test of Regulation 14(1)⁸ it is important that the viability appraisals prepared are fit for purpose. In addition, at Examination the Charging Schedule will need to be supported by **“relevant evidence”**.⁹
- 3.3. At this stage no alternative viability evidence has been prepared, although Savills may do so prior to the Examination if it is felt this is required. We offer below some thoughts on the assumptions within the viability assessments and outline our concern about the interpretation of the viability evidence when setting the proposed CIL rates.

Typologies

- 3.4. The CIL Guidance states that *“A charging authority should directly sample an appropriate range of types of sites across its area....The exercise should focus on strategic sites on which the relevant Plan relies, and those sites where the impact of the levy on economic viability is likely to be most*

⁷ Paragraph 008, Reference ID: 25-008-20140612. PPG Guidance on CIL. Accessed 22 December 2014

⁸ CIL Regulations 2010 (as amended)

⁹ Ibid. Regulation 11(1) (f) / 19(1) (e)

*significant.*¹⁰ It is therefore essential that the typologies tested in the Viability Report reflect those included in the Plan and anticipated to come forward in the District.

- 3.5. Given the District's reliance on the delivery of new allocations outlined in the Core Strategy, we are concerned that the Viability Report only models four site typologies:
- Scenario 1 – 5 units
 - Scenario 2 – 10 units
 - Scenario 3 – 25 units
 - Scenario 4 – 75 units
- 3.6. Additional testing of 1 and 3 unit schemes was undertaken on the assumption of commuted payments in lieu of on-site provision. The Council stated in response to the representations made on this point that the range of unit numbers was agreed with the Council from the outset, reflecting those sites that were most likely to form the housing supply, outside Whitehill and Bordon.
- 3.7. We maintain the position that a greater range of site typologies should be progressed, to better reflect the supply of sites expected to come forward. The evidence in both the Council's SHLAA and Five Year Housing Land Supply (As of 1 October 2014), should be reviewed, in particular the inclusion of larger site typologies, including large consented sites (between the 25 and 75 unit typologies and larger sites above the 75 unit typology) as identified in the appendices to the Five Year Housing Land Supply statement.
- 3.8. Whilst typology and scenario testing need not be overcomplicated, it is essential that those selected are fairly representative of developments that have, and will be, coming forward in EHDC. We therefore seek clarification from EHDC on this matter, particularly as there is still a significant proportion of the housing supply to be delivered which is not built or already committed.¹¹
- 3.9. We would also ask that an indication of the % of housing supply attributed to each Scenario is provided. This will help highlight which viability results are of most importance for the District and ensure that the proposed rates take account of this.

Benchmark Land Values (BLV)

Values

- 3.10. The importance of testing a range of "*appropriate range of types of sites*" has already been highlighted. However, this is also important in relation to the assumptions made in terms of BLVs as this determines the level at which land will be released for development.
- 3.11. In the Viability Report, Adams Integra propose a series of viability threshold figures (also referred to as Benchmark Land Values – BLV) to indicate the point at which a land value per hectare exceeds the value of alternative uses. The existing use land values applied in the viability testing subsequently range from £450,000 per ha for agricultural land to £2,772,000 per ha for higher value current residential uses.

¹⁰ Paragraph 019, Reference ID 25-019-20140612. PPG Guidance on CIL. Accessed 22 December 2014

- 3.12. Whilst we welcome the inclusion of different BLVs across the different value areas, we would ask that EHDC provide further market evidence and commentary to explain, in relation to each market area, which BLV is most appropriate and how this relates back to the land supply coming forward in these areas (i.e. which BLV is most appropriate in each market area). Adams Integra refers to basing their existing values on their own knowledge and experience of such values in the area; yet, despite previous representations on this point, no evidence has been forthcoming. Providing this evidence will ensure that the analysis of the viability appraisals in each area is appropriate given the nature of the sites coming forward for development.
- 3.13. It is also unclear whether the BLVs are per gross or net developable area. We would therefore ask that the Council provide clarification on this point to enable a full review of the viability testing results to be undertaken.

Application – Density and Site Coverage

- 3.14. Large, strategic sites require a significant amount of land to enable them to deliver on-site infrastructure, such as public open space, suitable alternative natural green space and education facilities etc. Whilst the development density on the net site area may be in the realms of the assumptions within the Viability Assessment, the gross land take is particularly important when comparing the Residual Land Value (RLV) with the BLV.
- 3.15. This point was highlighted in the Harman report¹² which comments - *“One error that has a very large impact on the outcome of viability testing is overlooking the distinction between the gross site area and the net developable area (i.e. the revenue-earning proportion of the site that is developed with housing).”* Consequently the reduction from gross land area to net developable area can range substantially with reductions ranging from 40 – 60%.
- 3.16. If the BLV is reported on a per net acre basis, it is therefore important that the RLV is applied to the correct net area. Similarly, if the BLV is on a gross basis then the RLV should be applied to the total (gross) site area.
- 3.17. In our representations to the Preliminary Draft Charging Schedule we raised concerns over the appropriateness of the site coverage and density assumptions used in the Viability Report. For the reasons previously explained, the proposed approach pays no attention at all to the interrelationship between gross and net land, which has an impact on the land value assumptions.
- 3.18. Development density, alongside site coverage, defines the amount of land required for development and will impact therefore upon the price that a developer would need to pay for the land to deliver a specified number of dwellings. It was therefore suggested that the 25 and 75 site unit typology schemes should be tested at reduced site coverage, below 100%.
- 3.19. In response, Adams Integra state in their Appendix update to the Viability Assessment that they have increased the area of the 75 unit sites by 10%; that is, adding 10% to the net area that was calculated from the proposed densities. They conclude that there is no significant impact upon viability as a result of adopting the larger gross area for 75 unit sites.

¹¹ Furthermore, there is no guarantee that all committed residential sites will come forward as anticipated and sites could be subject to re-submission or amended schemes at which point CIL could be levied.

¹² Viability Testing Local Plans (2012)

3.20. Notwithstanding the amendment to the 75 dwelling typology, we note that the Council’s methodology for its Strategic Housing Land Availability Assessment (September 2014) contains a table on page 9 of the gross to net ratios. This is replicated in Table 2 below. The figures used appear to provide a reasonable basis for assessing site capacity in East Hampshire. They are also similar to those in the former daughter document to Planning Policy Guidance Note 3 – Tapping the Potential. Whilst the guidance has since been revoked, the basis for the site coverage calculation provides a reasonable basis upon which to validate the assumptions used in a Viability Report of this kind.

Table 2: Site Coverage Assumptions in the East Hampshire SHLAA

| Site Size (ha) | Developable Area of Site | Max. CIL Rate |
|----------------------|--------------------------|---------------|
| Less than 0.4 | 100% | £196 |
| 0.4 to 2 | 85% | £181 |
| More than 2 | 65% | £281 |

Source: East Hampshire Strategic Housing Land Availability Assessment (2014)

3.21. In addition the Council’s SHLAA states that:

“In the majority of instances a density of 30 dwellings per hectare has been used. This was considered appropriate as the majority of the District is relatively low density and this figure is likely to provide a realistic number of potential dwellings as a high proportion of sites would be likely to achieve between 30 and 35 dwellings per hectare. In some locations the surrounding areas are even lower densities, and building at 30 dwellings per hectare would cause significant harm to the character and appearance of the locality.”

3.22. The application of a standard density assumption of 30 dwellings per hectare is, we consider, a more appropriate broad density assumption for an authority area such as East Hampshire where the evidence indicates that the majority of completed developments achieve a density of lower than 30 dph.

3.23. For the reasons explained in our representations to the Preliminary Draft Charging Schedule, we do not consider that the assumptions used are reasonable and believe that they will inevitably distort the outcome of the viability appraisals and consequently undermine the evidence supporting the maximum chargeable level of CIL.

3.24. We therefore urge the Charging Authority to revise the evidence base and use those adopted in the SHLAA methodology for East Hampshire. This represents a far more appropriate basis on which to establish the CIL rates.

Professional Fees

3.25. We are concerned that the level of professional fees adopted is too low (10% across all typologies). In our experience, the level of professional fees do not vary across location or market areas but depend on the size and complexity of the site in question. We would therefore advocate that large greenfield

and complex brownfield sites are likely to attract higher professional fees on account of enabling works and additional abnormal costs (i.e. remediation, demolition).

- 3.26. We would therefore request that a minimum allowance of 12% for professional fees be adopted across all typologies to reflect the nature of the five year land supply coming forward.

Sales Values

- 3.27. It is contended in the Viability Report that the sales values are based on an analysis of comparable sites / developments which have sold recently in East Hampshire District. This includes a sample of resale stock.
- 3.28. Previous representations raised concern as to the accuracy of the evidence given the inclusion of the South Downs National Park within the sales values assumptions as well as a mix of new and resale stock. Significantly, CIL is not charged on resale units as it would not be classed as 'new' residential development. It was suggested that analysis of completed sales are undertaken using confirmed prices and floor areas with full allowance for any incentive packages.
- 3.29. These concerns are maintained at the DCS stage given the information provided and suggested 'no change proposed' to the viability testing in this area. We would welcome the opportunity to review this evidence prior to the Examination of the DCS and provide comments which can feed into revisions to the Viability Evidence. We therefore request that this evidence is made available as soon as possible and, in any event, prior to submission for examination.

Developer Profit

- 3.30. The NPPF states that to ensure viability developments should provide competitive returns to a willing land owner and willing developer. A competitive return to a developer is one that provides a sufficient return for the developer to continue a successful business through the economic cycle, taking account of the risk profile of the business.
- 3.31. Shareholders are principally institutional investors - pension funds, insurance companies and private equity funds. They have a wide range of companies and sectors to choose from, including retail, housebuilding, mining, transport, energy and telecommunications, all with different risk and return profiles. If shareholders' hurdle rates are not achieved then they will invest in other sectors, reducing the development capacity of the housebuilding sector.
- 3.32. The key measures are Operating Margin and Return on Capital Employed (ROCE). For a development to be viable, both measures need to meet acceptable target levels. ROCE and Internal Rate of Return (IRR) are closely related; IRR is the projected compound annual rate of return on capital employed across the life of the scheme, compared with ROCE which is the return on capital employed in any one year.
- 3.33. The operating margins (based on Earnings or Profit before Interest and Tax) of the Plc house builders are shown in Figure 2. The average margin has recovered from a low of 4.3% in 2009 to 14.6% in 2013. Within this, Berkeley has maintained a margin of between 15% and 20% throughout the cycle, as has Crest Nicholson since 2010. All other house builders are rebuilding margins towards that level.

Figure 2 – Net Operating Margins 2006 - 2013



- 3.34. We are therefore concerned that the profit margin included in the Viability Report is 20% on GDV for the private housing and 6% on GDV for the affordable housing, reflecting a blended rate of approximately 17.5% on GDV. This assumption is too low and does not take account of the minimum returns required by shareholders of quoted Plc house builders.
- 3.35. The key focus therefore is the distinction between gross (site level) margin and net operating margin. A point discussed in the Harman Report, which suggests that *“Overheads for house-building typically lie in the range of 5%-10% of gross development value”*. This is particularly relevant for large Greenfield sites and regeneration areas, where large up-front costs have an impact on a developer’s required Return on Capital Employed (ROCE), as a higher margin is required to reflect the higher risk.
- 3.36. In these instances, the profit margin and ROCE become much more important as highlighted by the Harman Report – *“Developments of large flatted blocks on previously used land in urban areas with high cash requirements will demand significantly higher levels of profit to achieve an acceptable ROCE than developments of a more standard, less cash intensive nature on virgin ground. Likewise, projects with significant up-front infrastructure may also require higher levels of profit to generate an acceptable ROCE.”*
- 3.37. A minimum developer margin of 20% of Gross Development Value was supported by the appeal decisions relating to The Manor, Shinfield and Lydney.
- 3.38. In summary, we would therefore ask that a minimum profit level of 20% on GDV (blended) plus 25% ROCE across all tenures, subject to consideration of the risk profile of the scheme, is adopted in the viability testing. The reference to ROCE is particularly important on large capital intensive schemes. In

these cases the relevant hurdle rate for site specific appraisal is an **Internal Rate of Return of at least 25%**.

Viability Buffer

- 3.39. Site specific circumstances mean that the economics of the development pipeline will vary from the typical levels identified via analysis of the theoretical typology. This is inevitable given the varied nature of housing land supply and costs associated with bringing forward development.
- 3.40. This is supported by the CIL Guidance which highlights the importance of a charging authority recognising the need for an appropriate balance when determining CIL rates - *“The authority will need to be able to show why they consider that the proposed levy rate or rates set an appropriate balance...between the need to fund infrastructure and the potential implication for the economic viability of development across their area.”*¹³
- 3.41. It is therefore important that when setting the CIL rates for EHDC that the Council applies an appropriate viability ‘buffer’ as discussed in the CIL Guidance: *“It would be appropriate to ensure that a ‘buffer’ or margin is included, so that the levy rate is able to support development when economic circumstances adjust.”*¹⁴
- 3.42. This is particularly important in the context of EHDC where the scale of the increase to the strategic housing requirement means that the Council can ill afford to render otherwise suitable and deliverable residential sites unviable through the introduction of CIL.
- 3.43. This approach has been supported in the Greater Norwich Development Partnership Examiner’s Report in relation to 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.”*¹⁵
- 3.44. We are concerned that certain results in the viability appraisals do not incorporate a sufficient viability cushion to ensure that the CIL rates are not set at the margins of viability. This point was previous raised at the Preliminary Draft stage and Adams Integra, together with the Council, responded to the representation with examples which in our view do not consistently apply an appropriate buffer.
- 3.45. We therefore ask that this is clarified. In our experience, **a minimum viability cushion of 40%** should be adopted to minimise risk to the housing supply, particularly given the recent record of under delivery in East Hampshire. We therefore ask that the proposed CIL rates are reviewed to include an appropriate viability cushion once the above recommendations are taken in to account.

4. Draft Regulation 123 List & Section 106/278

- 4.1. The new Community Infrastructure Levy (Amendment) Regulations 2014 require the Regulation 123 list to form part of the evidence base. We therefore welcome the publication of a draft Regulation 123 list of infrastructure for the District. Whilst we acknowledge that this is not the final version, nor will it

¹³ Ibid. Paragraph 020, Reference ID 25-020-20140612, CIL Guidance (2014) Accessed 22 December 2014

¹⁴ Ibid. Paragraph 020, Reference ID 25-020-20140612, CIL Guidance (2014) Accessed 22 December 2014

¹⁵ Paragraph 25, Greater Norwich Development Partnership Examiner’s Report

ever be exhaustive, it does serve as a useful guide as to the direction that the Council envisages taking in providing for the delivery of infrastructure to support the Plan.

4.2. The proposed Regulation 123 List includes the following:

- *Traffic Management measures in communities.*
- *Strategic Walking & Cycling Networks*
- *Bus services*
- *Community / Demand*
- *Primary School Places*
- *Secondary School Places*
- *Nursery Facilities*
- *Youth Facilities*
- *Community Meeting Spaces*
- *Libraries*
- *Health Facilities*
- *Outdoor sports pitches*
- *Post 16 training and education*
- *Upgrade and/or extension to household waste recovery centres*
- *Indoor leisure facilities and centres*
- *Museum or heritage asset*

4.3. Under the CIL Regulations, the Regulation 123 list should only include infrastructure necessary to deliver the objectives set out in the development plan. Infrastructure specific to a development therefore should not be included on this list, as set out in the CIL Guidance which states:

“Charging authorities should work proactively with developers to ensure they are clear about the authorities’ infrastructure needs and what developers will be expected to pay for through which route. There should be no actual or perceived ‘double dipping’, with developers paying twice for the same item of infrastructure.”¹⁶

4.4. EHDC list a number of exclusions on the Regulation 123 List which are expected be provided for by developer contributions or in-kind via Section 106 agreements and/or Section 278 agreements associated with the strategic site at Whitehill and Bordon; that is, the zero CIL-rated area in the District.

4.5. We would however ask that EHDC review their Draft Regulation 123 List in light of the above, particularly with regard to the statement that each infrastructure type on the Regulation 123 List will be excluded at the Whitehill and Bordon strategic site “unless it is considered essential for a contribution to be made from the wider community.” This statement, as currently worded, risks blurring the lines between infrastructure types sought via Section 106 and separately via CIL. This should be amended to ensure that those items anticipated to continue to be sought through Section 106 obligations are **not** included on the Regulation 123 list.

4.6. Separately, the Council sets out a list of infrastructure types which it expects to be funded through Section 106 contributions:

¹⁶ Paragraph 096, Reference ID 25-096-20140612, CIL Guidance 2014 (as amended)

- *Green Infrastructure, Public Open Space and landscaping scheme requirements*
- *local transportation & highway works*
- *Works or funding for the management and conservation archaeological interests where a development has an adverse impact.*
- *Works or funding for the restoration, conservation / enhancement of listed buildings, buildings of local importance and monuments.*
- *Works or funding for the diversion and or enhancement of Public Rights of Way*
- *Works or funding for the provision of public art*
- *Affordable Housing*
- *Works or funding required to mitigate the impact of development on Special Areas of Conservation and Special Protection Area.*

4.7. Having reviewed the above list, we do not believe that the operation of CIL and Section 106 has been clearly defined in the DCS and Draft Regulation 123 List and accompanying Section 106 / 278 List. We are subsequently concerned about the scale of Section 106 contributions that will continue to be sought alongside the proposed CIL rates on sites that are not strategic allocations.

4.8. It is also of paramount importance that the Council produces a draft Planning Obligations Supplementary Planning Document to set out how CIL and Section 106 will work alongside one another on all sites. This will provide certainty to the development industry and ensure that no 'double-dipping' occurs. This should be prepared in conjunction with the draft Regulation 123 list to ensure that no items included on the list are items that the Council anticipates wanting to collect through Section 106.

4.9. In preparing this document, we would advise that the Council has suitable regard to the provisions of Regulation 122 of the CIL Regulations which states:

"A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is –

(a) necessary to make the development acceptable in planning terms;

(b) directly related to the development; and

(c) fairly and reasonably related in scale and kind to the development."

4.10. We previously commented that the requirement for financial contributions via Section 106 towards refurbishment work at Alton Sports Centre would not meet the Regulation 122 and 123 tests for the continuing use of planning obligations alongside CIL.

4.11. The Council approved a 10 minute drive time from Alton Sports Centre in which contributions would be sought towards improvements of the Centre, with £10,000 per dwelling¹⁷ sought on schemes of 10 dwellings or more within a catchment area of 15 minutes drive time from the centre. We maintain our previous representation concern that this threshold would not comply with Regulation 122 as outlined in paragraph 4.9 above; such a figure would not meet the 'directly related' and 'fairly and reasonably related in scale and kind' tests.

¹⁷ Guide to Developer Contributions (2014) – paragraph 2.12

- 4.12. This currently proposal would also fail to meet Regulation 123 (3) which states that a planning obligation (“obligation A”) may not constitute a reason for granting planning permission to the extent that:
- (a) obligation A provides for the funding or provision of an infrastructure project or type of infrastructure; and
 - (b) five or more separate planning obligations that -
 - (i) relate to planning permissions granted for development within the area of the charging authority; and
 - (ii) which provide for the funding or provision of that project, or type of infrastructure, have been entered into before the date that obligation A was entered into.¹⁸
- 4.13. In their response to representations received at PDCS stage, EHDC only noted the comments and proposed no change. The objection is therefore maintained and EHDC should review the infrastructure evidence in advance of proceeding to examination in so far as this relationship between CIL and S106 impacts on the funding for schemes and cumulative impact of planning obligations on development.
- 4.14. The assumptions within the Viability Report include notional Section 106 contributions at three tiers £0, £2,000 and £5,000 per dwelling. However, no explanation has been given to determine how these figures were arrived at and in the absence of a Planning Obligations Supplementary Planning Document; it is unclear what precise infrastructure types will continue to be sought through Section 106 agreements which meet the national policy tests. Given the list outlined above it seems that £0 per unit is unrealistic for the purposes of viability testing. Furthermore, the £2,000 figure could be an underestimate of the likely level of Section 106 that will continue to be sought post-CIL.
- 4.15. In addition, it is not clear how the S106 / 278 assumptions have been factored in to the viability testing. This is particularly important on large developments where site specific “site mitigation” will continue to be sought through Section 106 agreements. We would therefore expect the level of Section 106 tested on the larger site typologies to be higher than the generic typologies.
- 4.16. We would therefore suggest that the Council needs to consider whether this is a suitable allowance (£ per unit) based on the level of Section 106 that will continue to be sought on developments of this scale. This is essential as failure to include this in the viability testing could result in inappropriate CIL rates being adopted, which in turn will threaten the delivery of the housing supply.

Historic Section 106 Levels

- 4.17. The CIL Guidance states that “*For transparency, charging authorities should have set out at examination ...the extent to which they have met their section 106 targets*”.¹⁹ This is important as it enables the Council to sense check the adopted values within the development appraisals. It also helps ensure that the combined total cost of Section 106 and CIL is not in excess of historically delivered Section 106 agreements and will not, therefore, adversely impact on the deliverability of any sites coming forward.

¹⁸ CIL Regulations 2010 – Regulation 123 (3)

¹⁹ Paragraph 098, Reference ID 25-098-20140612, PPG CIL Guidance (2014) Accessed 22 December 2014

4.18. This information has not been published as part of the DCS consultation and we would therefore ask that this be provided by EHDC. Furthermore, in conclusion we would request that more work is undertaken on the anticipated Section 106 contributions being sought post-CIL to ensure that a realistic figure is included in the viability appraisals.

5. Effective Operation of CIL

5.1. Despite the narrow Regulatory requirements of the Examination, our clients urge EHDC to make clear at the earliest opportunity the supporting documentation needed to operate CIL and to make it available for consultation. Practically, this needs to be done prior to the Examination so that participants and stakeholders are able to comment on the effective operation of CIL. Whilst this supporting information is not tested at Examination, this information is critical to allow for the successful implementation of CIL and to demonstrate that the CIL has been prepared positively and supports sustainable development.

5.2. The documentation should include:

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

Instalments Policy

5.3. An Instalments Policy is particularly important for larger sites, notably in respect of upfront infrastructure costs typically associated with strategic development that have a significant impact on the development’s cashflow. The Instalment Policy should aim to reflect, as closely as possible, the timing of delivery of the development, to ensure that the CIL does not put unnecessary pressure on cashflow and viability.

5.4. A proposed Instalment Policy should aim to reflect, as closely as possible, the timing of delivery of the development, to ensure that the CIL does not put unnecessary pressure on cashflow and viability.

5.5. We would therefore recommend that the Council publish an Instalments Policy based on the following:

Table 3 – Suggested Instalments Policy

| Sum | Number of Instalments | Payments |
|-------------------|-----------------------|---|
| Less than £25,000 | 1 | Full payment within 120 days of commencement of development |
| £25,000 - £74,999 | 3 | 10% of payment within 120 days of commencement 40% of payment within 180 days of commencement 50% of payment within 270 days of commencement, or remaining balance to be paid upon substantial completion should this date fall within 270 days |

| | | |
|-----------------|---|--|
| £75,000 or more | 4 | 10% of payment within 120 days of commencement 30% of payment within 360 days of commencement 40% of payment within 720 days of commencement 20% of payment within 900 days of commencement, or remaining balance to be paid upon substantial completion should this date fall within 900 days |
|-----------------|---|--|

Source: Savills

Relief

- 5.6. We understand from the consultation material that it is not the intention of the Council to offer discretionary charitable or social housing relief at present. We would remind the Council that such policies can only be applied if they are in force prior to an application being submitted, therefore the need for the policy will arise prior to it being made available.
- 5.7. We do not consider there to be any detriment arising from the Council making such reliefs available within policies as part of the Charging Schedule, as the Council will still retain control over the application of the policies. There are strict tests surrounding the availability and applicability of Exceptional Circumstances Relief. It would therefore only be applicable to those schemes that can justify the need for it and meet those strict tests.
- 5.8. There may well be instances where CIL (even with a buffer) would render development, which the Council may otherwise want to support, unviable. For example, there can be instances where enabling development is permitted to support the delivery of some other planning objectives, such as ensuring the future of listed buildings or to facilitate the relocation of particular uses. With the lack of flexibility under CIL compared to Section 106, it is likely that such developments will simply not happen and important policy objectives might be undermined. It is also the case that where residential development is rendered unviable, by the cumulative impact of CIL and Section 106, that the only option open to the Council will be to negotiate on affordable housing. That may not always be the most appropriate planning balance.
- 5.9. We urge therefore the Council to make available Exceptional Circumstances Relief from the adoption of CIL so that it may be available within the area should planning or other policy considerations indicate that would be the most desirable outcome.

Payment in Kind

- 5.10. The CIL Regulations now allow for Payment in Kind through the provision of infrastructure. However, there remain notable deficiencies in the operation of CIL, caused primarily by the CIL Regulations, which places MDC and the development industry in a difficult position.
- 5.11. The scope to reduce the CIL liability via utilisation of Payment in Kind is therefore restricted to those items of infrastructure which are not required to mitigate the impact of a development, which for strategic sites would exclude most (if not all) site-specific and ‘scheme mitigation’ infrastructure.
- 5.12. Payment in Kind is therefore not a credible option, which further emphasises the need to ensure that the Regulation 123 list does not include any items of infrastructure intended to be delivered through Section 106 agreements.

Reviewing CIL

5.13. The CIL Guidance outlines that Charging Authorities ‘must keep their Charging Schedules under review’ to ensure that CIL is fulfilling its aim and responds to market conditions. We maintain our recommendation that the Council 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. A review period of between 2-3 years from adoption, or sooner if there is a substantive change in market conditions or Central Government policy, should be publicly committed to by the Council.

6. Conclusion

6.1. Three of the key tests of the examination of a Charging Schedule are that:

- i) *the charging authority’s charging schedule is supported by background documents containing appropriate available evidence”;*
- ii) *“the proposed rate or rates are informed by and consistent with, the evidence on economic viability across the charging authority’s areas”;* and
- iii) *“evidence has been provided that shows the proposed rate would not put at serious risk overall development of the area”.*

6.2. The assessment of planned development and its viability is therefore an inherent test of the Examination. The following points are therefore significant:

- There are some background assumptions in the Viability Report that need to be re-tested. These include the sales values, Benchmark Land Values, gross: net site coverage and density assumptions, site typologies, developers profit and application of a viability buffer. Our clients would therefore like to see these changes incorporated in to the appraisals and re-run.
- Given the Council’s lack of a five year land supply (applying a 5% buffer) and recent evidence of housing under delivery there is a subsequent risk that the CIL rates could further threaten the housing delivery in the District. We would therefore recommend that a **minimum 40% buffer** is included on **all** CIL rates, as all identified sites and a significant number of windfall sites need to come forward for development.
- The Section 106 contributions should be reviewed and clarification provided on the nominal rates used, their evidence basis and the continued use of Section 106 alongside CIL.
- The Alton Sports Centre Section 106 obligation is contrary to Regulations 122 and 123 in its current draft and should be amended accordingly.
- A Planning Obligations SPD should be produced to ensure that the use of Section 106 contributions and CIL does not threaten the delivery of housing allocations and to ensure that no ‘double dipping’ will occur.
- Clarification on the operation of the Instalments, Relief and Payment in Kind for Infrastructure policies.



6.3. Moving forward, our clients are open to a meeting with EHDC and its advisors to discuss the approach taken and to discuss common ground in advance of the submission and plan Examination.

Yours faithfully

Ian Stevens
Senior Planner

Encl. Savills representation to the East Hampshire CIL Preliminary Draft Charging Schedule (11 July 2014)