CIL

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SUMMARISED:

Mid Devon
DISTRICT COUNCIL

Draft Community Infrastructure Levy Charging Schedule – Form for Representations

Please enter your personal details below

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Representations on the draft Community Infrastructure Levy (CIL) Charging Schedule should relate to either the level of the charge or its variance across Mid Devon, or to the supporting evidence.

What aspect of the draft CIL Charging Schedule does this representation relate to? (Fill in one box).

Paragraph	See attached representations
Omission, General, Other (please specify)	See attached representations

Please explain below why this part of the draft CIL Charging Schedule is incorrect or inappropriate
See attached representations

Please explain, as clearly as possible, how the draft CIL Charging Schedule should be altered to make it correct or appropriate
See attached representations

If you are unsatisfied with the supporting evidence to the draft CIL Charging Schedule please explain, as clearly as possible, why the evidence is unsatisfactory
See attached representations

Please indicate whether you:

☑ Wish to appear at the Examination

☑ Wish to be notified that the draft charging schedule has been submitted to the Examiner in accordance with section 212 the Planning Act 2008

☑ Wish to be notified of the publication of the recommendations of the Examiner and the reasons for those recommendations

☑ Wish to be notified of the adoption of the charging schedule by the charging authority.

Please return completed forms to Programme Officer, Forward Planning, Mid Devon District Council, Phoenix House, Phoenix Lane, Tiverton EX16 6PP or email to programmeofficer@middevon.gov.uk

Data Protection Act. Please note that this information on this form will be entered onto a database and the paper copies retained on file. The information will be used for the purposes of Town and Country Planning and may be viewed by any person for such purposes.

The text of the draft CIL Charging Schedule and the supporting evidence can be seen on the Council's website at www.middevon.gov.uk/cil

Mid Devon Community Infrastructure Levy

Draft Charging Schedule

Representations submitted by Savills

on behalf of Persimmon Homes

August 2012

savills

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Introduction

These representations have been produced by Savills on behalf of Persimmon Homes in response to the consultation on the Mid Devon Community Infrastructure Levy Draft Charging Schedule.

The objective and the raison d'être for these representations is not to dismiss CIL but to ensure that the level set in the Charging Schedule is robust, well evidenced and will not put at harm the overall delivery of housing. To that end, the Charging Schedule must be founded upon sound and credible evidence and the methodology used to establish the proposed charges should be reasonable and fit for purpose. These representations have been prepared in that context and with particular reference to Regulation 14 of the Community Infrastructure Levy Regulations 2010. In so doing, the representations address the principal test in the Regulations that requires the Charging Authority in setting the CIL rates "to strike an appropriate balance between the desirability of funding from CIL and the expected estimated total cost of infrastructure required to support development".

We welcome the opportunity to submit representations to the Mid Devon Draft Charging Schedule and to comment upon the supplementary viability evidence produced by Peter Brett Associates (PBA) on behalf of Mid Devon District Council. In very general terms we accept the methodology adopted by PBA in the viability evidence, however we have a number of concerns regarding the methodology and some of the assumption used which have in turn informed the conclusions on viability.

Savills

Savills is one of the largest property companies in the UK with considerable professional expertise in a wide range of technical disciplines including planning, valuation and land sales. Allied to this, the company has residential sales agencies across the country which, alongside the New Homes and Residential Investment team, deal with the sale of a considerable number of residential properties each year. The Residential and Commercial Research departments provide forecasts for a broad range of sectors and are highly regarded across the industry.

Savills has a substantial presence and range of expertise in a number of offices across the south west. The New Homes and Residential Investment team have a wealth of experience of sales values and sales rates. Both the Planning and Development teams have an in depth knowledge of the issues relating to housing delivery and economic viability. In addition to this the Development team have sold many sites in the south west area and have a good understanding of land values.

Structure of the Representations

The second section and main body of these representations addresses the methodology adopted in deriving the draft Mid Devon CIL and in particular the key assumptions used in the residual valuations of hypothetical development scenarios produced to calculate the proposed CIL charges.

The final section draws together our conclusions on the impact of our evidence on economic viability of development in Mid Devon. The implications of the work we propose in the concluding section are significant and we set out the next steps we consider appropriate in order to rectify the shortcomings we have identified.

Critique of Methodology and Valuation Assumptions

We have a number of concerns regarding the methodology adopted in the Viability Study and the assumptions used in the residual valuation produced to calculate the maximum CIL payable on residential development. These concerns are outlined in this section of the Representations along with the alternative assumptions we consider should be included.

Typologies

The PBA viability evidence uses a total of five typologies for hypothetical sites across the District in order to establish the proposed level of CIL. This does not in our view represent a sufficient sample size to provide a thorough understanding of economic viability and how this varies across the District based on different site sizes and characteristics.

In order to provide a better and deeper understanding of economic viability across the District we consider that the updated viability evidence should be expanded to include a larger number of site typologies. Once this has been completed the Council will have a far better understanding of the potential impact of CIL on development and will have the evidence available to set a reasonable CIL levy which will not put at risk the delivery of development. At present we do not believe the evidence is sufficient to determine with any certainty whether the proposed CIL rates will put at risk the delivery of housing.

Residential Valuation Assumptions

We have a number of specific concerns relating to the methodology and key assumptions used to establish the CIL charge. The primary areas of concern are as follows:

i) Residential Land Values

Paragraph 2.34 of the viability evidence explains the exclusion of the strategic infrastructure costs associated with the delivery of the large urban extensions at Tiverton and Collumpton. Whilst I do not doubt that the developers of these urban extensions would welcome the suggestion that the cost of all infrastructure will be borne by external funding (including CIL), this is highly unlikely to be the case. Indeed, there will be considerable infrastructure needed to support the delivery of these urban extensions which it is unlikely can be met in full through CIL and other sources.

It is extremely important that a reasonable assumption regarding the cost of strategic infrastructure is reflected in the relevant viability appraisals in order to ensure that these are realistic. In other CIL viability evidence reports, such as the recently published GVA Grimley appraisals for Swindon Borough Council, there is a clear recognition of the costs associated with the delivery of strategic infrastructure for major urban extensions and this has resulted in a zero CIL charge for such sites.

The exclusion of strategic infrastructure costs from the viability evidence in our view represents a major shortcoming and one which it is essential to rectify in order to determine the appropriate level of CIL. Unless this change is addressed, it will overinflate the viability of major urban extensions and as a consequence put in jeopardy their delivery and consequently also the delivery of the strategic housing requirement. We would therefore urge the Council and its viability consultants to reconsider this assumption and amend the evidence and related CIL charges accordingly.

ii) Developer Profit

The underlying assumption for profit level is based upon the contention in paragraph 2.60 that *"the most appropriate profit level is that which most developers currently assume when appraising sites for purpose for immediate development"*. We do not object to this approach in relation to site typologies where a developer is likely to purchase a site with planning permission for immediate development, however, the same approach to profit cannot be applied across the board to include the strategic promotions sites.

For immediate and available development sites a reasonable average assumption is that a developer will require a 25% profit on costs, which equates to approximately 20% profit on GDV. Whilst the figure of 20% contained in paragraph 2.61 is below this level, we do not object to strongly in this instance.

Where we do object however is to the relationship between profit and the assumed land values of certain typologies. For the strategic green field typologies it is necessary to reflect within the profit margin the costs and planning risk associated with site promotion through the planning process.

For simplicity we have split the development process in two; firstly the 'promotion' phase which includes land owner 'return' and promoter's profit, and then the 'delivery' phase from which the house builder derives their profit.

Firstly, the 'promotion phase' is a long and risky process and therefore the promoter seeks a higher level and different basis of profit; Return on Capital Employed (ROCE) and Internal Rate of Return (IRR) for example. This is very different to profit on GDV, and is a stance taken due to the increased risk of a 0% return on promotion costs (i.e. if planning permission is not secured a promoter cannot claim back the costs expended). Land promoters, whilst carefully choosing which sites to promote, often have to promote a number of sites to achieve a 'success' on one. We have spoken with a number of major house builders and promoters who promote land. Typically they seek a profit level on the promotion phase of between 20-30% ROCE/IRR.

Within this phase there also needs to be a sufficient level of return received by the land owner in possession of the land at the start of the planning process.

Secondly, the 'delivery' phase of a development requires a different approach to financial management due to different implications for development cashflow. A high level of profit is still required due to the risk associated with build cost inflation, house price deflation and supply and demand characteristics. It is worth noting that different house builders have differing perceptions of risk and their covenant strength will increase or decrease the cost of finance.

If a developer is merely purchasing land with the benefit of planning permission and building the units for sale, a profit level of 20-25% is required for the scheme to be attractive. However, the availability of finance is still very constrained with lenders only prepared to offer between 50-60% of total development costs. Therefore, the developer or an additional funder (mezzanine) will be required to provide the rest which will incur a higher rate of funding. Based on the unlikely scenario that the developer has this level of equity, they will seek an enhanced return on their equity in line with our suggestion above.

The assumed level of profit in the Viability Study is in our view flawed as it does not take into account an appropriate level of profit required to offset the full risks associated with house building.

As an alternative we suggest two alternative approaches which can be incorporated into the different typologies as appropriate. The first, which requires a two stage assessment of profit based on ROCE/IRR and then GDV, is relevant to the larger strategic sites promoted through the planning process. The second, based solely on GDV, is applicable to smaller sites where a developer is more likely to make an offer to buy land subject to gaining an appropriate planning permission.

iii) Affordable Housing

The PBA viability evidence is predicated on the assumption that residential developments will provide 22.5% affordable housing. There is no explanation as to why this figure has been selected by the Council nor any justification for why the figure is lower than the 30% required under Policy COR3 of the adopted Mid Devon Core Strategy.

The Council's approach is inconsistent with the principles established in the National Planning Policy Framework which, under the heading of 'Ensuring Viability and Deliverability' urges local planning authorities to assess the *"cumulative impact"* of the standards and policies.

As the affordable housing policy in the Core Strategy is a formally adopted policy in the statutory development plan, this must be taken as the Council's basis for the viability evidence. It is simply unacceptable in our view for the evidence base to produce a CIL charge predicated on a lower percentage of affordable housing than the adopted planning policy.

iv) Code for Sustainable Homes

We support the conclusion on paragraph 2.58 of the viability evidence that it is important to include within the build costs an inflation factor to take into account the future costs of housing building due to enhanced sustainability and energy requirements. Over the lifetime of the CIL Charging Schedule, build costs will increase to reflect the requirements of the

Code and it is correct therefore, in our view, to incorporate an allowance for this within the viability appraisal.

v) Additional or 'Abnormal' Development Costs

An allowance of £100,000 per net developable acre has been made for strategic infrastructure within the viability appraisals. We appreciate that at times it is necessary to incorporate reasonable assumptions regarding costs which can be applied across the authority area on a generic basis, however where this is the case it is nevertheless necessary to base the assumptions upon robust and transparent evidence. Not only does there appear to be no rationale or justification for the figure proposed in the viability evidence, for strategic sites which are reliant upon entirely new infrastructure and servicing, this allowance is, in our experience, a considerable underestimation of the actual cost.

The lack of evidence is particularly concerning given the disparity between the assumptions within the viability evidence and Savills experience of major strategic sites within the South West region. Based upon a number of examples of large sites, the average site servicing costs equate to approximately £250,000 per net developable acre. This is based upon evidence of current sites and, in the absence of alternative data, provides a more reasonable basis upon which to calculate viability than the apparently arbitrary £100,000 assumption within the viability evidence.

Furthermore, the figure of £250,000 per net developable acre is substantiated by research undertaken on behalf of the Home Builders' Federation. This found that average servicing costs per development plot equated to approximately £20,000 per dwelling. Based upon a density of 35 dwelling per hectare, this equates to £280,000 per net developable acre.

vi) Benchmark Land Values

Paragraph 2.26 of the viability evidence states that *"the typical minimum land value is about £100,000 per gross acre"*. No evidence of option agreements has been provided to substantiate this contention and thus there is no evidential basis for an important assumption in the viability modelling.

Notwithstanding, we note that the Council has in paragraph 2.30 made reference to residential land values in Mid Devon of between £700,000 - £900,000 per net developable acre. The minimum land value in an option agreement is a notional figure and is considerably lower than prevailing market conditions. The use of this as a benchmark assumes:

(i) the figure is accurate and supported by evidence;
(ii) all landowners would be willing to accept this as a minimum land value; and
(iii) all strategic greenfield land comes forward under Option agreements.

These considerations in our view limit the significance of 'minimum land value' as a benchmark figure against which to assess viability. Greater weight should be placed upon actual market transactions as these provide a true representation of the transacted value of land based on the economic realities of a willing vendor and a willing purchaser.

vii) CIL and Community Gain Package

The viability evidence concludes in paragraph 2.70 that 'other planning obligations, such as contributions towards education provision, and public open space, are part of the CIL contribution initially tested at £90 per sq m'. This would appear to imply that the Council and its viability consultants have assumed that there would be no residual Section 106 requirements and that all costs associated with development would be addressed through CIL.

If the Council are proposing that there should be no residual Section 106 then this will be welcome to many of the developers involved in house building within the District. However, in our experience it is unrealistic to assume that the Council will no longer need to use Section 106 in order to ensure that unacceptable development, in planning terms, is made acceptable through works required by Section 106. It is for this reason that the vast majority of viability evidence reports produced in support of CIL Charging Schedules include an allowance for residual Section 106 costs on a per dwelling basis. It is important that the Council review this omission from the viability evidence with great care and examine previous residential developments to establish an appropriate residual Section 106 cost.

viii) Viability Buffer

The viability evidence draws its conclusions based upon evidence which uses average assumptions. Very few development sites will however ever come forward with the exact mean average costs or sales revenues. It follows therefore that only those sites where the assumptions are equal to or more profitable than the average will the CIL rates identified within the viability evidence be achievable.

There will inevitably be a large number of sites which come forward within Mid Devon where the average figures are not achievable and thus the CIL rates proposed present a significant risk to the delivery of the strategic housing requirement. In order to overcome this it is necessary to build into the methodology a 'viability buffer' which reduces the residual land value to be tested against the benchmark figures. This approach has been adopted in other CIL viability methodologies including that used by BNP Paribas for the Bristol CIL Charging Schedule.

We strongly advocate the inclusion of a suitable viability buffer within the methodology used in the viability evidence to ensure that the CIL charging rates are not set at the maximum achievable for an average scheme within the District. There is no industry-wide standard but a figure of 30% has been used elsewhere and appears to represent a reasonable starting point in the absence of a locally derived figure.

Assessment and Conclusions on Viability

We have highlighted in these representations a number of fundamental concerns regarding both the methodology and assumptions used in the viability evidence. These issues must be addressed in order for the Council to produce a legitimate CIL Charging Schedule which is founded upon robust and credible viability evidence and is thus consistent with the CIL Regulations.

In light of the number of differences between the assumptions used in the viability evidence and Savills, we consider it is essential that the residual valuations of the typologies are re-run to reflect our alternative / corrected inputs. Once the residual valuations have been corrected it will be possible to accurately establish the maximum level of CIL chargeable on residential development in the District.

Conclusion

There are a number of shortcomings with the viability evidence identified within these Representations which would significantly impact upon the residual valuations contained within Appendix 1 and hence the conclusions regarding the inclusion of appropriate level of CIL. Unless these shortcomings are rectified then there is a significant risk that the introduction of an additional charge on residential development will put in jeopardy delivery of the strategic housing requirement. Many of the more fundamental shortcomings relate specifically to the strategic urban extension sites which have an extremely important role to play in delivering the housing requirement during the plan period. It is particularly important therefore for the Council to address the charges which relate to these sites and ensure that they represent a reasonable balance between securing infrastructure and the delivery of residential development.

For the reasons provided we strongly urge the Council to review the CIL Charging Schedule for Mid Devon and in so doing we advocate a thorough review of both the number of typologies and the assumptions used. Once the viability work has been reappraised we believe there are grounds to amend the Charging Schedule to reflect the situation as it relates to Mid Devon.

Given the constraints regarding viability which we identify in our representations, we consider that a more realistic and pragmatic solution would be to reduce the aspiration for contributions through CIL to enable negotiations to take place regarding the delivery of affordable housing and site mitigation measures through Section 106. This approach would not only ensure that infrastructure delivery is not unduly prioritised over the delivery of affordable housing, but it would enable flexibility to negotiate where the delivery of development on an otherwise appropriate site is currently unviable.

Next Steps

These representations have been produced to assist the Council in setting a CIL charge for residential development which strikes the appropriate balance required by the CIL Regulations and will not put the overall delivery of development at serious risk.

We recognise that the findings of our research and the evidence presented in our representations have significant consequences for the rate of CIL proposed in the Draft Charging Schedule. The inevitable consequence of our findings is that the CIL charge for residential development must be reduced as failure to do so would have a significant detrimental impact on the economic viability of delivering housing in the District.

We would welcome the opportunity to meet with the Council in order to review the evidence and how this should be interpreted into the CIL Charging Schedule for Mid Devon. This would provide an opportunity to review our concerns regarding the assumptions used in the viability evidence and ensure that the shortcomings are addressed as soon as possible.

Savills
NM
20 August 2012