

CIL - Received Late 22 Aug -

ID NO: 3623
REP NO: 23
ACK:
SUMMARISED



Draft Community Infrastructure Levy Charging Schedule – Form for Representations

Please enter your personal details below

	Personal Details	Agent Details (if applicable)
Title		Mr
First Name		Jamie
Last Name		Sullivan
Job Title		Associate Director
Organisation	South West Housing Association Registered Providers	Tetlow King Planning
Address 1		Unit 2, Eclipse Office Park
Address 2		High Street
Address 3		Staple Hill
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Post Code		BS16 5EL
Telephone		
Email		
Signature		

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	
Omission, General, Other (please specify)	Affordable Housing

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

See attached letter

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

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 letter

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

Paragraph	
Omission, General, Other (please specify)	Lack of variance in CIL on geographic zones

Please explain below why this part of the draft CIL Charging Schedule is incorrect or

inappropriate

See attached letter

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

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(Fill in one box).

Paragraph	
Omission, General, Other (please specify)	Instalments policy

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See attached letter

Paragraph	
Omission, General, Other (please specify)	Public Open Space and Air Quality

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See attached letter

Paragraph	
Omission, General, Other (please specify)	Viability Report Assumptions

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See attached letter

Paragraph	
Omission, General, Other (please specify)	<i>Rural Exception Schemes</i>

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See attached letter

Paragraph	
Omission, General, Other (please specify)	<i>Specialist Housing for Older People</i>

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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



Unit 2 Eclipse Office Park High Street Staple Hill Bristol BS16 5EL

Forward Planning
Mid Devon District Council
Phoenix House
Phoenix Lane
Tiverton
EX16 6PP

Date: 20 August 2012
Our Ref: JAS M5/0105-11
Your Ref:

By Email and Post:
programmeofficer@middevon.gov.uk

Dear Sir / Madam

RE: COMMUNITY INFRASTRUCTURE LEVY – DRAFT CHARGING SCHEDULE – JULY 2011

We represent the **South West HARP Planning Consortium** which includes all the leading Housing Associated Registered Providers (HARPs) across the South West. Our clients' principal concerns are to optimise the provision of social / affordable housing and to ensure the evolution and preparation of consistent policies throughout the region.

Our representations are as follows:

We welcome the opportunity to comment on the Draft Charging Schedule. We consider that the amendments made from the Preliminary Draft Charging Schedule have improved the Charging Schedule, but we still have some significant concerns about the impact of this policy on the delivery of affordable housing.

We set out in detail our concerns below:

Affordable Housing

We are very disappointed to note that the Council are using 22.5% as the assumed delivery rate for affordable housing in the viability report. This is well below the development plan target of 30%. Calculating an appropriate CIL charge using this assumption will put the affordable housing target at risk, as affordable housing will then be 'locked in' to this level of delivery. Protecting the delivery of affordable housing is central to CIL as stated by Lord Attlee in the House of Lords during a debate on the Localism Bill:

'The statutory framework for CIL provides for protection for affordable housing. This was, no doubt, in the minds of the previous Administration when they implemented the levy. However, we acknowledge that the guidance does not set this out as clearly and robustly as it could. We will revisit the guidance to make it clear that the imposition of a levy must not harm the delivery of affordable housing or other local policies set out in the local plan. I have asked my officials to work with the National Housing Federation to develop appropriate changes and we will reflect on the outcome in updated guidance from the Secretary of State.'

The need to protect the provision of affordable housing point was also emphasised by Greg Clark MP, Minister for Decentralisation and Cities when he stated on 20 April in an article in Inside Housing that:

'A key point of the viability test for CIL [charge setting] is that it doesn't make socially important development unviable, including social housing. I would expect that to be at the forefront of examiners' minds.'

We understand that revised CIL Guidance will be issued this Autumn, reflecting the Government's views as set out above. If the Council pursue the present approach then it is likely that the CIL charging schedule will conflict with the Guidance when the examination takes place. Unless there are good reasons for the conflict that could lead to the charging schedule being rejected.

Neither the viability assessment, nor the Draft Charging Schedule explain why the Council is using a 22.5% affordable housing target as its starting point. However, we understand that this figure has been used, because this is the amount of affordable housing that the Council are currently achieving on average. The use of this average as an assumption in the viability assessment will only serve to ensure continued under delivery of affordable housing at this level. Furthermore, developers will use 22.5% affordable housing as their starting point for negotiation with the Council.

The 30% affordable housing target was consulted upon and deemed appropriate by an Inspector at examination given the overwhelming need to deliver much needed affordable housing in the District. This proposed CIL rate would circumvent the democratic planning process by ensuring a lower level of delivery of affordable housing than envisaged in the Core Strategy.

We strongly urge the Council to re-run their viability assessment assuming a 30% affordable housing requirement as per the adopted development plan. Failure to do so would mean the proposed CIL rate fails to accord with Regulation 14 of the CIL Regulations. These state that the Council will need to ensure that development is not put at risk when setting a CIL charge. Affordable housing is a key component of development by the Core Strategy. The provision of 30% affordable housing is a policy requirement. The proposed CIL rate would put this at risk, including the Council's numerical development plan target of 100 affordable dwellings per annum to be delivered. The Council are already falling behind this target with only 53 and 54 affordable units delivered in the past two monitoring years respectively.

3. Proposed CIL Rate

Geographical Split

We note that the Council state that the housing market in Mid Devon is homogenous and as such there is no basis for a differential rate based on geographical locations. However, the Draft Charging Schedule states that brownfield sites in the District can not support the proposed CIL charge. The Council have justified not investigating a separate brownfield CIL charge, because the vast majority of sites are greenfield and allocated. They state that there will only be a small number of windfall brownfield sites. This is at odds with the Core Strategy, which sets a policy (COR7) target of delivering 30% of all new dwellings on previously developed land. Putting approximately 30% of development 'at risk' with this new CIL charge would appear to be contrary to Regulation 14.

We strongly urge the Council to examine the potential of a clearly defined geographical split for CIL, with a lower CIL charge for sites on previously developed land. These areas would need to be shown on a map attached to the final charging schedule, but a second tier of charging need not be complex. In fact, a geographical split of CIL is extremely common in the emerging charging schedules we have commented on.

In addition, the Viability Report states that if the larger urban extensions need to pay for major urban infrastructure required to bring the sites forward, that level of CIL would no longer be viable. We therefore urge the Council to clarify its approach as soon as possible and that they consider including as much site-specific infrastructure as feasible within CIL, to ensure that the sites can deliver as much affordable housing as possible. If this is not possible then a separate geographic zone, with a different CIL rate, should be set for the strategic sites.

Instalments Policy

We strongly support the use of an instalments policy, however this needs to be set out and consulted upon alongside the Draft Charging Schedule. Our recommendation would be to split the payments in to thirds, with the final payment being linked to occupancy. This will ensure that the spread of payments is linked to the build out of the site, rather than being set after an arbitrary time period.

4 Next Steps

Retaining CIL for Local Communities

We recommend that where a local community has produced a neighbourhood plan, the 'meaningful proportion' of CIL is used to fund objectives set out in this plan.

Public Open Space and Air Quality

The Council state that when CIL is introduced they will no longer be able to collect contributions in relation to Open Space and Air Quality. The Council should out their intentions for all types of contributions, as the level of contributions they intend to collect in addition to CIL will have a significant impact on the viability of schemes and the amount of affordable housing that will be delivered. Currently the Draft Charging Schedule makes no reference to a Regulation 123 List. The provision of a Regulation 123 List will offer more certainty to developers over what the Council will consider as site specific infrastructure not covered by CIL.

Viability Report

We have a number of concerns about the methodology and the assumptions set out in the viability report. We have recommendations for amendments or further work which would require an update to the report. These will ensure that the viability report is considered to be a robust evidence base on which to base the proposed CIL rates.

Use of a 'Buffer'

It is unclear if the £90 per m² CIL rate proposed for residential uses has been subject to a buffer. It is best practice to avoid setting CIL at the edge of viability. Most authorities set a 30% to 50% buffer. This is required because a viability report cannot be considered any more than a guide based on averages. It will also help to protect further erosion to affordable housing delivery.

Site Appraisals

We strongly welcome the testing of the largest sites in the District within the viability report. This allows us to ascertain the impact of CIL on affordable housing delivery from the sites that are the largest source of affordable housing delivery. However, we note that there are only five generic site appraisals in the viability report. This is the lowest number we have seen on any viability report in the region and we would expect the number of appraisals to be around 15 to 20. Currently this is insufficient to be considered representative sample, notwithstanding the Council's views on the homogenous nature of the District's housing market.

We would like to see the Council test more brownfield sites and ensure that there is a full range of different site sizes in each of the largest settlements. At the current time there has been no testing of scheme of less than five units for the proposed rate of CIL. This must be rectified to ensure that the CIL rate can be considered justified for smaller schemes.

Tenure mix

It appears as though the Council have used affordable rent instead of social rent on all the appraisals. Whilst affordable rent, may be used in many cases it is not representative of all schemes to use it on every scenario. Social rented affordable housing is expected to play an important part of the tenure mix where Central Government funding is not being used. The use of affordable rent will make a higher rate

of CIL appear viable as it offers higher returns to developers. We therefore urge the Council to recalculate their viability appraisals using a more realistic tenure mix.

Other Considerations

Specialist Housing for Older People

We welcome the £0 CIL charge for C2 Use Class development, which will cover older person care and accommodation which falls within this use class. However, that does not assess the impact on accommodation that falls in to the C3 Use Class and does not qualify as affordable housing. In an era when public subsidy is limited, housing associations are looking to use cross-subsidy from open market elements on these schemes to make them viable. A higher rate of CIL would threaten the delivery of these schemes by reducing the amount of cross-subsidy available. Alternatively, the Council could consider whether older person accommodation could be considered as a separate use, with characteristics sufficiently different from mainstream residential use, for a separate CIL charging category to be identified. We consider that this differential rate is justified by the CIL Regulations, in the same way that a separate CIL rate for student housing has been on other adopted CIL Charging Schedules.

Rural Exception Schemes

The Council will need to think carefully about what impact the CIL charge will have on rural exception schemes where an element of cross-subsidy from market housing is required to bring the scheme forward. Charging CIL at £90 per m² could significantly reduce the subsidy available for the affordable units and may put these schemes at risk. In a very rural authority such as Mid Devon, the impact on affordable housing delivery could be significant.

Despite making representations on the Preliminary Draft Charging Schedule, we were not notified of the consultation of the Draft Charging Schedule. Please ensure that the **South West HARP Planning Consortium** is retained on the LDF database, with **Tetlow King Planning** listed as their agents. However, given our concerns over the use of an affordable housing target of 22.5% in the assumptions, we would like to reserve the right to appear at the examination.

Yours faithfully

JAMIE SULLIVAN
For and On Behalf Of
TETLOW KING PLANNING

Enc Representation Form

Cc: Devon & Cornwall Housing Association
Aster Group
Spectrum Housing Group
Yarlington Housing Group

Hedley Steele

Guinness Hermitage
Sovereign Housing Association
Sanctuary Group

Cathrine Simmons