

### Summary

We are seeking to ensure that the delivery of affordable housing is protected. We consider that the use of 22.5% affordable housing as an assumption within the viability appraisal will 'lock in' this level of affordable housing delivery as an average across the District. Affordable housing is an important element of development, however the CIL Charging Schedule will put this development at risk. The CIL Charging Schedule is therefore contrary to Regulation 14 of the CIL Regulations. We are seeking the recalculation of the C3 Residential CIL charge based on a viability appraisal using the development plan target of 35%. There are number of other assumptions used in the viability appraisal that we do not consider to be accurate. These are set out below.

CIL

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SUMMARISED

## Issue 1 - Evidence Base

### *Economic viability evidence*

- i. *Are the CIL Viability Reports and the CIL Viability Supplementary Evidence based on appropriate and sound data?*

We consider that some of the inputs used in the viability reports are not appropriate and we have highlighted these below. Given the different approaches and inputs for the two viability studies, the Council should clarify whether or not it still considers that weight can still be attached to the May 2011 Fordham Research Viability Report to support the £90 per m<sup>2</sup> for residential development.

- ii. *Are the various elements, including residential land values, sale prices, development costs (including infrastructure costs), fees and profit levels up-to-date and reasonable?*

We are concerned about the use of affordable rent in the viability report assumptions. The assumptions over the type of affordable housing product will have a very significant impact on the final value of the development scenarios. It is important that the viability appraisal is clear on whether affordable rent, social rent or a mix of the two has been used as the input in the appraisal. It would appear from Appendix 1 of the PBA (May 2012) Viability Report (CIL/11) that affordable rent has been used as a substitute for social rent as a blanket approach, however this is not accurate reflection of development on the ground.

Affordable rent is only required as a substitute for social rent on schemes where there is some degree of funding from the HCA; outside of this it is matter for the local authority to decide. The LDF appears to be silent on the use of affordable rent in the District, so the Council will need to clarify its approach on the use of affordable rent as it would appear unlikely that affordable rent would be expected instead of social rent on every scheme. The most common approach across the South West is that affordable rent is used as a substitute for social rent where there are concerns about the viability of the site.

The implication of the inappropriate use of affordable rent in the appraisal is that it would inflate the level of CIL that was deemed viable and the appraisal will need to be re-run to accurately reflect the provision of affordable rent.

In addition, whilst the Fordham Research (May 2011) Viability Report (CIL/09) used a 'cushion' to ensure that CIL was not fixed at the edge of viability, the PBA (May 2012) Viability Report

(CIL/11) does not appear to have used a 'cushion'. The Council should set out why this is approach has not been adopted for the second viability report.

*iii. Are the assumptions in the appraisals based on realistic scenarios?*

We are concerned that the number of scenarios is not large enough to be considered representative and therefore the evidence base can not be considered robust. The PBA Viability Report (CIL/11) only tests five different sites; this is clearly insufficient. The Fordham Research (May 2011) Report (CIL/09) tests 21 sites. However, we are concerned that it is will be difficult to argue that this report supports the proposed level of CIL given that it uses different assumptions to the PBA (May 2012) Report (CIL/11). This underlines the importance of the Council clarifying the weight that should be attached to this evidence.

*iv. Does the evidence satisfactorily assess the potentially different consequences for the imposition of the charge on greenfield and previously developed sites?*

The PBA (May 2012) Viability Report (CIL/11) assesses only 5 sites so it is difficult to ascertain the impact of the lower £90 per m<sup>2</sup> CIL charge on brownfield sites. However, it is clear from the Fordham Research (May 2011) (CIL/09) that there are significantly different viability constraints on brownfield sites compared to greenfield sites. The PBA Report (CIL/11) only tests two brownfield sites; neither of these is in Tiverton or Cullompton where around 70% of development will come forward.

Notwithstanding the subsequent changes to the inputs for the viability report, the report still concluded that a £0 CIL charge was viable on brownfield sites. The Council's Core Strategy target is for 30% of development to be on brownfield land. The imposition of a £90 per m<sup>2</sup> would therefore put at risk a significant amount of development contrary to the CIL Regulations. We therefore recommend a £0 charge within the built up areas of Tiverton and Cullompton unless further viability evidence can be provided.

## Issue 2 - Is the Charging Rate for Residential Informed and Consistent with the Evidence?

- (i) *Does the CIL charge take appropriate account for the need to provide affordable housing? What is the justification for the 22.5% target for affordable housing?*

In our previous representations we have highlighted the importance the Government attaches to ensuring the delivery of affordable housing is not put at risk by the imposition of CIL. This is underlined by the following statement by Lord Attlee in the House of Lords during a debate on the Localism Bill on 17 October 2011:

*'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 was further 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.'*

The target for affordable housing on site in the LDF is 35%. This was the figure tested in the Fordham Research (May 2011) Viability Report (CIL/09) and that shown to be viable in the evidence underpinning the Core Strategy. However, the Council are now arguing that this target is '*seldom achieved*' and is likely to be amended in the upcoming Local Plan review. They also state that the 35% target if included would represent '*an artificially inflated development cost that bears no relation to those being experienced on the ground*'. Apart from the worrying signals that this sends to developers and landowners when they open affordable housing negotiations, the development plan affordable

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housing target is a fixed parameter for the CIL examination; its appropriateness is not a matter for consideration in this context.

The affordable housing target in the plan is a hugely important part of the overall housing target for the District. By bringing forward a policy tool that may undermine the delivery of the planned affordable housing target the Council is also undermining the overall housing strategy for the District. Had the Council set its overall housing target in the Core Strategy for the District using an average of 22.5% affordable housing coming forward then have a higher overall housing target for the District would have been justifiable.

If the Council wishes to set a 22.5% affordable housing target then the correct forum for this is through the Local Plan Review where the implications of a new affordable housing target and how that necessitates a higher overall housing target can be fully examined.

We note the Council's assertion that using the 22.5% affordable housing assumption in the viability assessment does not constitute a new target. However, the implication is that it will lock in affordable housing delivery at this level as an average. The Council state that there is nothing to stop them negotiating higher levels of affordable housing than this where viability allows, however this figures represents the average that will be delivered and much lower proportions of affordable housing will also be delivered.

Affordable housing is an important element of 'development', however the Council would put the delivery of this development in line with development plan policy at risk. The Council's approach to affordable housing is therefore contrary to Regulation 14 of the CIL Regulations.

It is also important to remember that one of the main purposes of CIL is to provide more certainty to developers when they negotiate a price for land. Once the Charging Schedule is adopted, developers will make offers for land based on a variety of factors, but they should be feeding in known policy requirements, including a £90 per m<sup>2</sup> charge of CIL (if adopted) and a 35% affordable housing requirement from the LDF. However, the proposed £90 per m<sup>2</sup> CIL charge is based on only 22.5% affordable housing. This will cause unnecessary uncertainty and tension in negotiations between landowners and developers; and pressures on scheme viability with the result that schemes may be delayed or not come forward at all. This is contrary to Regulation 14 of the CIL

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Regulations as the detrimental impact on the availability of land would put development at risk in the District.

- (ii) *What is the Council's position regarding retirement housing, agricultural workers dwellings and holiday accommodation in terms of the implementation of CIL?*

We are very interested to hear the Council's response to the Inspector's question. It is important that there is proper consideration of older person's housing that falls in to the C3 Use Class. There does not appear to have been any consideration of this issue in the viability reports. This is particularly important given the ageing demographic profile of the District and the need to ensure that the housing stock is appropriate to the changes over the plan period. The 2010 DCLG household demographic projections show that 73% of household growth between 2008 and 2033 will come from households aged 65 and above.

- (iii) *Does the CIL rate take into account reasonable assumptions about site specific S106 requirements? Is the relationship between CIL and S106 requirements clear?*

We would also be very interested to hear what site-specific infrastructure the Council will continue to charge following the implementation of CIL, e.g. open space and education provision. Site Allocations Policy AL/IN/5 states that a review of the use of Section 106 contributions for education provision will be necessary when CIL is implemented. We consider that given the effect that requiring additional education contributions could have on viability, this needs to be made clear now.

- (iv) *Was consideration given to applying different rates in different geographical areas of the District and if so why was this option rejected?*

We continue to seek a separate CIL charge for sites within the built up areas of Tiverton and Cullompton.

**Issue 3 – Will the rate put the overall development of the area at risk?**

- (i) *Would the charge be a reasonable proportion of the overall development costs of a scheme? Is there any evidence that it would suppress housing growth?*

As set out above, we consider that the implementation of CIL at this level would suppress affordable housing delivery which is an important element of housing growth in the District.

- (ii) *What will be the effect on affordable housing provision?*

As set out above, the implementation of CIL will 'lock-in' a new average rate of CIL. This will make it very difficult to achieve the levels of affordable housing set out in the LDF. Setting a lower level of CIL that uses the affordable housing targets in the LDF as the assumption in the Charging Schedule will provide the opportunity to meet these targets.

- (iii) *Has an appropriate balance between helping to fund new infrastructure and the potential effects on economic viability been achieved?*

We consider that the potential effect on the delivery of affordable housing has not been properly weighed when trying to find the balance between the impact on economic viability and the need to fund infrastructure.

We comment on all CIL Charging Schedules in South West and West Midlands, as shown below Mid Devon's charge is high, even in comparison to stronger housing markets.

NB – Many of these CIL Charging Schedules are still emerging, many are only at Preliminary Draft Charging Schedule stage. There is frequently a downward pressure on these figures as they progress through the consultation process as was the case in Mid Devon.

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**West of England**

BANES (PDCS)	Bath Rural/Bathavon	£200
	All other areas	£100

Bristol (Adopted)	Inner Zone	£80
	Outer Zone	£50

**Devon**

Exeter (PDCS)	All Areas	£80
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Mid Devon	All Areas	£90
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Plymouth (Examination)	City Centre	£0
	All Areas	£30

Torbay (PDCS)	All Areas	£100
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**Somerset**

Sedgemoor (PDCS)	Bridgwater/Burnham-on Sea	£50
	All Other Areas	£150

South Somerset (PDCS)	Yeovil Urban Extension	£32
	Chard Eastern Devel Area	£100
	All other areas	£150

Taunton Deane (PDCS)	Wellington	£0
	Wellington Urban Extension	£25
	Taunton inc. Urban Extension	£80
	All other areas	£125

**Dorset**

Poole (Adopted)	Zone A	£150
	Zone B	£100
	Zone C	£50

Purbeck (PDCS)	Residential Swanage & The Coast	£180
	Residential Wareham & Purbeck Fringe	£100



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	Residential Purbeck Central & Purbeck Fringe	£40
West Dorset/ Weymouth & Portland (PDCS)	All areas – General Market	£93
	All areas – Holiday Use	£65
	All areas – Rural Workers	£46
<b>Wiltshire</b>		
Wiltshire (PDCS)	All areas	£70
Swindon (PDCS)	Strategic expansion areas (850 dwellings or more)	£0
	Rest of Borough	£55
<b>Shropshire</b>		
Shropshire (Adopted)	Shrewsbury and the key market towns	£40
	Rural Shropshire	£80