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**From:** Neal Jillings <  
**Sent:** 27 April 2015 18:37  
**To:** CIL Consultation  
**Subject:** JHP\_Devonshire Homes\_CIL\_270415  
**Attachments:** JHP\_Devonshire Homes\_CIL\_270415.pdf

Dear Sir/Madam

Please find brief representations relating to the Draft Charging Schedule.

Regards

Neal





Local Plan Review Consultation  
Forward Planning  
Mid Devon District Council  
Phoenix House  
Phoenix Lane  
Tiverton  
EX16 6PP

27 April 2015

Dear Sir/Madam

**CIL – on behalf of Devonshire Homes**

I write on behalf of the above in relation to the Draft Charging Schedule.

The NPPG states (Paragraph: 021 Reference ID: 25-021-20140612) that *“the regulations allow charging authorities to apply differential rates in a flexible way, to help ensure the viability of development is not put at risk. Differences in rates need to be justified by reference to the economic viability of development. Differential rates should not be used as a means to deliver policy objectives.*

*Differential rates may be appropriate in relation to*

- *geographical zones within the charging authority’s boundary*
- *types of development; and/or*
- *scales of development”.*

The same paragraph states that *“in all cases, differential rates must not be set in such a way that they constitute a notifiable state aid under European Commission regulations (see ‘State aid’ section for further information). One element of state aid is the conferring of a selective advantage to any ‘undertaking’. A charging authority which chooses to differentiate between classes of development, or by reference to different areas, should do so only where there is consistent economic viability evidence to justify this approach. It is the responsibility of each charging authority to ensure that their charging schedules are state aid compliant”.*

Furthermore, Paragraph: 023 Reference ID: 25-023-20140612 states that *“charging authorities may also set differential rates by scale. Rates can be set by reference to either floor area or the number of units or dwellings in a development. Again, any differential rates must be justified by reference to economic viability.”*

We do not consider that the case has been made with regard to the differential rates set out in the draft charging schedule. The £100 per sq m rate for instance is counter intuitive in that the whole raison d’être for the guidance in Paragraph: 012 Reference ID: 23b-012-20150326 of the NPPG is that the guidance relating to planning obligations is changed to facilitate and encourage greater delivery of housing from small scale developers. The

NPPG includes a link to a written Ministerial statement on small scale developers stating *“due to the disproportionate burden of developer contributions on small-scale developers, for sites of 10-units or less, and which have a maximum combined gross floor space of 1,000 square metres, affordable housing and tariff style contributions should not be sought. This will also apply to all residential annexes and extensions”*. So, what the Government seeks in terms of greater delivery from small scale developers, the proposed CIL rate in Mid Devon seeks to recover under different means; a zero sum game that actively acts against what the NPPG and the Government seek. As noted in guidance above, Differential rates should not be used as a means to deliver policy objectives. This could be, for instance, seeking to encourage development in towns and to limit development in rural areas. This same point arises in relation to the £40 and £60 rates.

We intend on appearing at the examination to explore the issues set out above in greater detail.

Yours faithfully

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Director – Jillings Hutton Planning