

17 April 2014
140417 Worthing Draft HBF Reps



CIL Draft Charging Schedule
Planning Policy
Worthing Borough Council
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Dear Sir/Madam,

Worthing Borough Council CIL Draft Charging Schedule
Representation submitted on behalf of the Home Builders Federation and Members

1.1 These representations are submitted in respect of the above, on behalf of the Home Builders Federation consortium, which comprises:

- The Home Builders Federation
- Barratt Developments Plc
- Bloor Homes Ltd
- Bovis Homes Group Plc
- Crest Nicholson
- Galliford Try Plc
- Gladedale Group Ltd
- McCarthy and Stone Retirement Lifestyles Ltd
- Persimmon Plc
- Redrow Plc
- Taylor Wimpey Plc
- The Miller Group Ltd

hereafter known as 'the Consortium'.

1.2 This representation has been submitted to influence the emerging Community Infrastructure Levy (CIL) Charging Schedule proposed by Worthing Borough Council (WBC). The representation is made in respect of the Draft Charging Schedule published for public consultation in the period March to April 2014. Our clients' particular comments relate to the proposed rates for residential development.

1.3 The Consortium has come together owing to certain concerns with the approach proposed by WBC, notably regarding the viability of the proposed rate for residential development. The Consortium's members have land holdings across the WBC area which 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.

1.4 The Consortium previously submitted a representation to the Preliminary Draft Charging Schedule Consultation. We acknowledge that our representations were considered and the following points addressed by WBC:

- A Developer Contributions Draft Supplementary Planning Document has been published for consultation alongside the Draft CIL Charging Schedule, providing guidance on the intended use of Section 106 after adoption of CIL. Further comment on this is provided below.
 - A summary of historical Section 106 costs has been included and an element of Section 106 (£500 per unit) has been incorporated into the viability assessment.
 - It has been confirmed that professional fees have been included at 8% of construction costs.
 - WBC has confirmed it intends to accept payment in kind both in the form of land and infrastructure.
 - An instalments policy has now been proposed.
- 1.5 In submitting this representation, the Consortium is only commenting 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 the Consortium reserves the right to make further comments upon the evidence base at the Examination stage.
- 1.6 We have five key concerns, in the following areas:
- The relevant Regulations and Guidance;
 - Benchmark Land Values;
 - Section 106 Contributions;
 - Exceptional Circumstances Relief; and
 - Reviewing CIL.
- 1.7 We will address these areas in turn.

Regulations and Guidance

- 1.8 We note that the updated Viability Assessment¹ refers to the CIL Regulations 2010 and the Amendment Regulations 2011². The publication of the Draft Charging Schedule for consultation from March 2014, after the date that the 2014 Amendments to the Regulations came into force, means that the Draft Charging Schedule will be subject to the requirements of these latest set of Regulations. In addition, revised CIL Guidance was published in February 2014 which also applies.
- 1.9 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 a balance...*' (emphasis added), but the amendments now mean that the Charging Authority is required to just '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 WBC further, in the context of the representations received, prior to submitting the Draft Charging Schedule for Examination.

Benchmark Land Values

- 1.10 Having reviewed the revised Viability Assessment, it is apparent that the assumptions relating to the Benchmark Land Value have been altered since the publication of the original Viability Assessment, so as to reduce the land value benchmark by 15% (from 60% of the uplift in land value, to 50% of the uplift in land value). There is no explanation as to why this alteration has been made. The impact of this change is to increase the viability of the scenarios being tested. We are concerned that this change has not been justified and materially alters the viability evidence without explanation. We would welcome clarification of the basis for this change so that the evidence supporting the proposed Charging Schedule is robust.

¹ WBC CIL Viability Assessment, Nationwide CIL Service, October 2013

² Paragraph 2.5

Section 106 Contributions

1.11 It is imperative that throughout the preparation of CIL due regard is had to the CIL Regulations that state that Section 106 planning obligations must be:

- ***'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.***³

The power to seek Section 106 contributions remains under CIL. Our clients are concerned about the scale of Section 106 contributions which will continue to be sought which, alongside the proposed CIL rates, will render the delivery of the allocated sites difficult.

1.12 We have reviewed the Developer Obligations Draft Supplementary Planning Document⁴ that has been published for consultation. This document provides an element of guidance as to what 'residual' planning obligations may be applicable at the site specific level once the CIL has been implemented. However, it is clear that the potential items for which Section 106 contributions may be sought are broad ranging, as stated within the Draft SPD:

- "Transport requirements
- Site specific flood risk/sustainable drainage
- Public open space/children's play area/formal sport
- Health facilities
- Crime prevention
- Education"⁵

1.13 Whilst an allowance of £500 per dwelling has now been allowed within the appraisals⁶, we believe this is insufficient to cover even the most basic residual Section 106 requirements, such as the ongoing maintenance cost of on site public open space, or the cost of installing sustainable urban drainage systems. The Draft SPD suggests that planning obligations will be negotiated on a site specific basis based on viability in light of CIL. However, we are concerned that in not making a sufficient allowance within the appraisals at the rate setting stage, the burden of CIL will place the delivery of development at risk as development will not be able to afford to meet the minimum planning obligations required to make the development acceptable in planning terms. The level of Section 106 allowed for within the viability appraisals should therefore be reviewed; a minimum of £3,000 per dwelling is standard within other CIL viability assessments as a minimum.

Exceptional Circumstances Relief

1.14 We note that WBC do not intend to allow exceptional circumstances relief but that they acknowledge the opportunity to implement an exceptional relief policy at any time. For an exceptional relief policy to be applied to a specific development, it must be in place before the application is made. It will therefore be difficult for WBC to foresee the need to introduce such a policy until it is too late. We therefore suggest that a policy should be implemented alongside the CIL, as it will only be called into use where the cause is exceptional and relief is required in any event.

³ Regulation 122, CIL Regulations 2010 (as amended)

⁴ WBC, March 2014

⁵ Page 16, Developer Contributions Draft Supplementary Planning Document, WBC, March 2014

⁶ Paragraph 4.19, WBC CIL Viability Assessment, Nationwide CIL Service, October 2013

Reviewing CIL

- 1.15 The CIL Guidance outlines that Charging Authorities '*must keep their Charging Schedules under review*'⁷ 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.
- 1.16 Our clients consider that WBC 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. Regular monitoring is key to ensure that CIL does not stifle development in the right locations.

Conclusion

- 1.17 As discussed within this submission, we are concerned that the supporting evidence has not shown that the proposed CIL rates will not put at risk the delivery of the relevant Plan as a result of changes to the benchmark land values and the minimal allowance for residual Section 106 contributions. WBC has selected to charge a rate at the margins of viability, allowing no flexibility for site specific circumstances of viability or the appropriate costs of Section 106 contributions or abnormal costs.
- 1.18 The Consortium is open to meeting with WBC and its advisors to discuss the approach taken and to discuss common ground in advance of the Examination.
- 1.19 We would like to reserve the right to be heard at Examination and to be notified when:
- The Draft Charging Schedule has been submitted to the examiner in accordance with section 212 of the PA 2008;
 - The recommendations of the examiner and the reasons for these recommendations are published, and
 - The Charging Schedule is approved by the charging authority.

Yours faithfully,



Melys Pritchett BSc (Hons) MRICS
Associate Director

⁷ Paragraph 2:2:6:3, CIL Guidance, DCLG, 2014