
Worthing Borough Council CIL Examination

Main Issues & Questions for the Examination



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Response to Examiner's Main Issues & Questions

Savills on behalf of the Home Builders Federation



Introduction

This statement is submitted by Savills (UK) Limited in respect of the Worthing Borough Council ("WBC") Community Infrastructure Levy ("CIL") Examination, on behalf of the Home Builders Federation ("HBF").

The purpose of this statement is to set out our responses to the specific questions in the Main Issues and Questions for the Examination document¹. It is intended to supplement the comments previously submitted to WBC and does not reiterate our representations submitted to the Draft Charging Schedule consultation².

Our clients' particular comments relate to the proposed rates for residential development.

¹ July 2014

² CD04-9 Savills representation the HBF Consortium, April 2014

Main Issues & Questions

1.1. Question 1

1.1.1. The WBC CIL Viability Assessment (VA)³ was produced prior to the amended CIL Regulations, the evidence and analysis of the land supply below demonstrates that the CIL rates will impact on the implementation of the development plan. Given this, the HBF do not consider that an 'appropriate balance' has been struck.

1.2. Question 2

1.2.1. The fundamental premise of viability is that, to enable delivery, sites must achieve a competitive land value for the landowner and provide developers the required return on investment, otherwise development will be stifled. It is therefore of paramount importance that the Benchmark Land Value (BLV) used to assess the capacity of sites to support a CIL rate is set at an appropriate level.

1.2.2. The VA⁴ correctly makes reference to paragraph 173 of the NPPF which highlights the importance of taking into account local policy requirements. We therefore question why the uplift in land has been amended from 60% to 50%, particularly as no changes in local policy requirements or market conditions have occurred that would result in a lower land value being acceptable to a landowner. It is therefore our opinion that this assumption (50% of uplift in value) is low when considered in a market context and would not result in land being released for development.

1.2.3. WBC makes reference to the Shinfield Manor appeal decision as the justification for a 50:50 uplift split. However, this was based on the site specifics of that case and we would caution WBC from applying this case to a range of typologies without supporting market evidence. A view supported in the Southwark CIL Revised Draft Charging Schedule Examination where the Examiner made the following observation –

*"Nevertheless, where RLV is used to determine viability, the results need to be sense checked against market evidence"*⁵

³ WBC CIL Viability Assessment, Nationwide CIL Service, October 2013

⁴ Paragraph 3.18, Viability Assessment, NCS, October 2013

⁵ Paragraph 28, CDEIP13, Interim Findings by the Examiner, B J Sims, August 2014

1.2.4. The VA states that the resulting threshold values have been checked against comparable evidence⁶, however, this has not been made available. We would therefore ask that WBC make this supporting evidence available. This is essential as the adoption of an incorrect BLV for comparison against the viability testing will over-estimate the capacity for CIL.

1.3. Question 3

The HBF is concerned that £500 per dwelling is insufficient to cover the most basic of residual “site mitigation” Section 106 requirements. This is important and needs to be considered by WBC, as in some locations the proposed CIL rate combined with policy costs and elevated Section 106 contributions (in excess of that tested) would render schemes unviable; which, as CIL is non-negotiable, will put the delivery of affordable housing at jeopardy.

Is the first Draft Regulation 123 List consistent with the Development Contributions Draft SPD?

1.3.1. The CIL Guidance states that “*When a charging authority introduces the levy, section 106 requirements should be scaled back to those matters that are directly related to a specific site*”⁷. It is therefore important that WBC considers the combined total impacts of CIL, Section 106 agreements and Section 278 agreements to ensure that the proposed CIL rates do not threaten the viability of the sites and scale of development identified in the development plan.

1.3.2. We welcome the publication of a Developer Contributions Draft SPD⁸. However, the SPD does not appear to scale back contributions. For example, it notes that if a major housing development took place where there is no capacity for additional school places a planning obligation may be required to secure funding (page 16). However, the Modified Draft Regulation 123 list includes ‘state education facilities’. As such, WBC would be prevented from using Section 106 contributions to secure ‘education’. WBC should therefore review both documents to ensure that this potential for ‘double dipping’ and uncertainty is removed.

⁶ Page 16, Viability Assessment, NCS, October 2013

⁷ Paragraph 097, Reference ID 25-097-20140612, CIL Guidance (2014)

⁸ March 2014

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1.3.3. The items currently listed on the Modified Draft Regulation 123 list (CD05-3) are broad ranging and indicate types of infrastructure rather than specific projects. This raises two points:

- i) A number of site specific items are excluded. It is therefore anticipated that these items will be delivered through Section 106;
- ii) Any projects that are within those 'types' of infrastructure on the list will not be able to be funded via Section 106 contributions, where five or more are required to be pooled or have already been secured since April 2010.

1.3.4. We would therefore recommend that WBC ensure that they understand the implications of Section 106 pooling post-CIL and its impact on their intended delivery mechanism for infrastructure.

Historic Section 106 Information

1.3.5. The PPG confirms that a Charging Authority's approach to Section 106 contributions should be set out at examination and that background evidence on funds collected in recent years should be provided⁹. To date no evidence has been provided by WBC. We have therefore reviewed a number of recent approvals (1st April 2013 – 31st August 2014) and the related Section 106 agreements:

Table 1 – Review of Section 106 costs on approved applications

Application Reference	Description	Affordable housing	Total S106 Costs	S106 costs per dwelling
AWDM/0501/12	132 dwellings, 1265sqm foodstore	27%	£285,329 + Section 278 agreement	£2,161
AWDM/0184/14	42 dwellings	16%	£276,901	£6,592
AWDM/0055/13	38 dwellings and day care unit	23.7%	£354,537	£9,329
AWDM/1483/12	16 dwellings	0%	£101,738	£6,358
AWDM/0518/12	154 dwellings 2,38sqm retail unit	30%	£335,998	£2,181

Source: WBC Website

1.3.11. Based upon the above, it is recommended that a minimum of £3,000 per dwelling is included for Section 106 costs and the ambiguous nature of the draft Regulation 123 list is reconciled.

⁹ Paragraph 018, Reference ID 25-018-20140612, PPG CIL Guidance, September 2014

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1.4. Question 4

1.4.1. Whilst we broadly agree with the land values stated on a price per hectare analysis, we disagree with the application of this in calculating the site value on a pro-rata basis as this dilutes the value per plot on the higher value scenarios.

1.5. Question 5

- 1.5.1. Given the essentially urban nature of Worthing, it is likely that brownfield and regeneration areas will deliver a significant proportion of new residential housing. A view confirmed in Appendix 2 of examination document CD06-02. We are therefore concerned that no abnormal costs associated with developments of this nature have been included in the viability testing.
- 1.5.2. The HBF is concerned to note that the VA, prepared by NCS acknowledges that abnormal costs associated with brownfield development have **not** been modelled¹⁰.
- 1.5.3. The PPG Guidance makes it clear that viability testing *“should reflect a selection of the different types of sites included in the relevant plan...the focus should be in particular on strategic sites on which the relevant Plan relies and those sites (such as brownfield sites) where the impact of the levy is likely to be most significant.”*¹¹ It is therefore essential that finer-grain analysis is undertaken of brownfield sites to ensure that the impact of CIL has been appropriately tested. This is particularly important as the list of sites at Appendix 2 (CD06-02) are primarily brownfield.
- 1.5.4. We note that in their response WBC comment that the *“value ascribed to existing use for the purpose of benchmarking in brownfield development situations use a low value brownfield use”*. However the list at Appendix 2 demonstrates that not all sites are low value brownfield sites. We would therefore ask that this is reviewed by WBC.

¹⁰ Paragraph 4.17, WBC CIL Viability Assessment, October 2013

¹¹ Paragraph 019, Reference ID 25-019-20140612, PPG CIL Guidance, September 2014

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1.6. Question 6

1.6.1. We believe that the proposed CIL would make the redevelopment of land in residential use unviable, with the value of this type of land likely to be above the adopted benchmarks within the district. WBC acknowledge that “*given the very tightly drawn boundary around Worthing and the lack of available land for development it is inevitable that there will be many competing demands placed on land that may be available*”. WBC agree that some development would involve redevelopment of existing residential land. The VA shows that out of the 15 examples of this type of development, only 4 are viable (not allowing for any abnormal costs) this clearly demonstrates that implying the CIL rate on residential development on land currently in residential use is unviable.

1.7. Question 10

1.7.1. The PPG CIL Guidance clearly states that “*if the evidence shows that the areas includes a zone, which could be a strategic site, which has low, very low or zero viability, the charging authority should consider setting a low or zero levy rate in that area. The same principle should apply where the evidence shows similarly low viability for particular types and/or scales of development.*” The HBF is therefore concerned that despite the VA clearly indicating that there is limited capacity to pay CIL in the low value areas that a flat residential rate of £100 per sq m has been proposed.

Table 2 – VA Results

Maximum Residential CIL Rates per Sqm					
Charging Zone/Base Land Value	Mixed Residential Development	High Rise Apartments	Low Rise Apartment Block	Executive Housing	Suburban Housing
1 Low					
Greenfield	£96	-£1,144	-£256	£137	£73
Brownfield	-£48	-£1,199	-£310	-£9	-£62
Market Comparable	-£64	-£1,205	-£315	-£25	-£77
2 Medium					
Greenfield	£292	£397	£208	£309	£275
Brownfield	£132	£321	£131	£146	£124
Market Comparable	-£32	£244	£55	-£39	-£32
3 High					
Greenfield	£302	£360	£611	£271	£419
Brownfield	£142	£286	£538	£105	£268
Market Comparable	-£17	£211	£464	-£59	£117

Source: WBC CIL VA, October 2013

1.7.2. We would also draw attention to the fact that the viability evidence shows that using ‘Market Comparable’ BLVs significantly reduces the ability of sites to support a CIL rate in all value areas. We would therefore ask WBC to explain why this evidence has been disregarded in the setting of the CIL rates.

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1.8. Question 11

- 1.8.1. In respect of the housing supply identified in the Borough, we note that WBC's response (CD06-02) highlighted that a full review of the SHLAA needs to be undertaken. There is subsequently a risk that development in the low value areas that would otherwise have come forward for development will be stifled by the proposed CIL rates. Furthermore, the need to review the SHLAA and make further formal housing allocations indicates that the CIL rates **must** be set at a level that is viable across all value areas. The HBF is therefore of the view that the present "appropriate available evidence" does not enable WBC to "explain how their proposed levy rate or rates will contribute towards the implementation of the relevant Plan and support development across their area."¹²
- 1.8.2. The proposed CIL rate (£100 per sq m) combined with Section 106 and policy costs would render some schemes unviable. There is subsequently a real threat that both total housing numbers and the delivery of affordable housing will be threatened. A point that is further highlighted by the recent evidence of affordable housing delivery provided by WBC in CD06-02:

Table 3 – Affordable Housing Delivery

Ref	Total dwellings approved	Affordable housing approved	Affordable Housing as % of total
11/275/OUT	700	210	30%
AWDM/363/11*	265	53	20%
AWDM/365/11*	36	0	0%
AWDM/521/12	117	17	14%
AWDM/680/11	29	11	38%
AWDM/55/13	38	9	24%
TOTAL	1,185	300	25%

* Note – these two applications are linked.

Source: CD06-02

- 1.8.3. This evidence highlights that WBC is already struggling to achieve its affordable housing policy (30%) in the Borough, with an average of 25% agreed using evidence of viability and/or consideration of the wider community benefits. This demonstrates that even prior to implementation of CIL some schemes are unable to meet both Section 106 and policy costs. The proposed CIL rate of £100 per sq m would further threaten the delivery of affordable housing.

¹² Paragraph 018, Reference ID 25-018-20140612, PPG CIL Guidance, September 2014

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1.8.4. Essentially, our comments above refer to a number of different aspects that individually could impact upon the deliverability of a number of sites, but when combined represent a significant proportion of sites coming forward over the plan period. Clearly the proposed CIL rates for residential developments would affect the delivery of residential development. WBC's approach puts the whole delivery of the Borough's plan at risk and does not accord with NPPF paragraphs 173-177.