Hayley Anderson

From: [redacted]
Sent: 08 September 2014 11:51
To: Hayley Anderson
Cc: [redacted]
Subject: CIL and the JQ

Hayley,

Following on from our conversation, two quick things on this:

a) I'd appreciate your thoughts on the idea of an exception for the Townscape Heritage area in the Jewellery Quarter. The whole purpose of the TH is to bridge a viability gap that is preventing Listed buildings from coming forward and it seems illogical to be levying potentially large CIL contributions from marginal schemes which will be heavily dependent on grant funding. [redacted]

b) Could you clarify how the residential value zones work please? The map in the charging schedule only shows two value zones, but the text refers to seven zones. Apologies if I've missed something obvious but I can't reconcile the two and the plans I have seen have significantly different implications for the JQ.

Many thanks,

[redacted]
Senior Development Planning Officer
City Centre Development
[redacted]

From: Hayley Anderson
Sent: Monday, September 08, 2014 10:04 AM
To: [redacted]
Cc: [redacted]
Subject: Community Infrastructure Levy Draft Charging Schedule

All,

Re: Community Infrastructure Levy Draft Charging Schedule.

The Community Infrastructure Levy (CIL) is a charge on new buildings in England and Wales. It is a mechanism to ensure certain types of new development contribute to the infrastructure needed to support that development. This infrastructure will support the growth aspirations for Birmingham as outlined in the Birmingham Development Plan which includes proposals for over 50,000 new homes and 100,000 new jobs. This infrastructure could include new schools, roads, parks and public transport improvements.

Please find attached a link to our Democracy pages, and the suite of papers which will be presented to Cabinet on Monday 15th September. We are seeking approval from Cabinet to commence public consultation on our CIL Draft Charging Schedule for a period of six weeks.

As these charges have not yet been approved by Cabinet, please consider them draft. The charges and charging maps are contained within Appendix 3 (attached separately for ease).

I will email again with information regarding the consultation dates when they have been finalised.

Should you have any queries, please do not hesitate to contact me.

http://www.birmingham.gov.uk/democracy/Pages/Index.aspx
(please click "more" through the forthcoming meetings to page 4 and Cabinet on the 15 September 2014)

Thanks, Hayley

Planning Contributions | Planning and Regeneration

Contact: hayley.anderson@birmingham.gov.uk
Call: 0121 303 4820
Click: www.birmingham.gov.uk/cil
www.birmingham.gov.uk/s106
Visit: Birmingham City Council | 1 Lancaster Circus Queensway| Birmingham | B4 7DJ
Postal: Birmingham City Council | Planning and Regeneration | PO Box 28 | Birmingham | B1 1TU

Birmingham friends of the earth

Birmingham Friends of the Earth
The Warehouse
54-57 Allison Street
Digbeth
Birmingham
B5 5TH

Tel: [redacted]
Fax: [redacted]
Email: [redacted]
Web: www.birminghamfoe.org.uk

Hayley Anderson
Birmingham City Council
CIL Draft Charging Schedule
PO Box 28
Birmingham
B1 1TU

10th November 2014

Dear Hayley

Re: Community Infrastructure Levy Consultation

Please find below Birmingham Friends of the Earth's response to the consultation on the council's proposed Community Infrastructure Levy:

Principle of CIL:
We generally support the principal of the CIL and believe that as many planning gain payments from development should be channeled through CIL in preference to S106. The CIL is a much more transparent process, with both communities and the local authority able to be fully aware of the benefits and mitigations they are to receive as a result of new development. In addition, developers will be able to clearly see the contributions they will be expected to make, giving greater certainty to their development plans and budgets, which will in turn affect the price they pay for the land they wish to develop.

We feel that S106 arrangements have in the past been very obscure due to the nature of them being negotiated between the local authority and developers largely behind closed doors. This has left communities uninformed as to what benefits they will receive from development, and a general feeling of mistrust from all parties regarding their signing. This mistrust, obscurity and uncertainty gives further favour towards transferring as much as possible of planning gain from S106 to CIL.

123 List:
We would like to see specific inclusion of city wide walking and cycling infrastructure within the 123 list. Birmingham has very poor walking and cycling infrastructure, although the Birmingham Cycle Ambition Grant has help inject £30m into improvements over three years. However, this level of funding needs to be maintained to extend and enhance provision, and a significant contribution from CIL should be put towards the comparatively modest figure of £10 per person per year being spent on walking and cycling infrastructure and support. More detailed information on this can be found in our report: 'How Birmingham City Council could fund annual investment in Active Travel of £10 per person', which is included with this response.

Sustainable Urban Extension:
We would question why the Sustainable Urban Extension has been left out of the CIL, especially given the fact that this housing would be located in the 'high value' area and would be significantly cheaper for housing developers to build due to the land being greenbelt land with none of the issues and costs associated with brownfield development.

Birmingham friends of the earth

[redacted]

Birmingham Friends of the Earth
The Warehouse
54-57 Allison Street
Digbeth
Birmingham
B5 5TH

Tel: [redacted]
Fax: [redacted]
Email: [redacted]
Web: www.birminghamfoe.org.uk

Whilst there will obviously be significant S106 contributions gained from this development, we feel that such a significant number of new homes will undoubtedly have an impact on the rest of the city's infrastructure, and therefore a CIL contribution should be sought to address these impacts, even if this is a lower figure than asked for outside of the Sustainable Urban Extension areas.

Viability:
Whilst we recognise that flexibility may be required with CIL payments to take account of costs outside of developers' control (such as high development costs associated with redeveloping Listed Buildings), this should not extend to developers who have clearly paid too much for the land or buildings, or have expectations of unreasonably large profits (i.e in excess of 12-15%). The open and transparent nature of CIL should mean that developers are fully aware of the costs that they will incur, and they can therefore take these into account when they are preparing their development costings. Increased development costs resulting from CIL should affect land values as a first step, so that land values are reduced in response to these extra development costs. We feel that the protection of high land values and unreasonably large profits should not take preference over CIL, S106, energy efficiency targets, and other social and environmental obligations.

We hope you find these comments useful and look forward to a strong and well implemented CIL to contribute to the much needed community infrastructure that Birmingham requires.

Yours sincerely

[redacted]

On behalf of Birmingham Friends of the Earth

Hayley Anderson

From: CPRE National Office <[redacted]
Sent: 02 October 2014 15:03
To: Hayley Anderson
Subject: RE: Birmingham City Council Community Infrastructure Levy – Draft Charging Schedule Consultation

Dear Ms Anderson,

Thank you for your email, I have today forwarded it to our CPRE branch in West Midlands as local issues are dealt with by them, they will get back to you as soon as possible. I have included their details should you wish to contact them directly. Please also visit our planning help website: http://www.planninghelp.org.uk/

NOTE: National office have a planning hotline that operates every Thursday 1.30 - 3.30, Tel. 020 7981 2868 - this line has been set up primarily for our members to speak to National Office Planning Team on specific planning queries or issues, however we are more than happy to deal with planning queries from non-members. If you would like to take advantage of this privilege time please call on Thursday between 1.30-3.30 for help.

Also you may wish to contact Planning Aid: http://www.rtpi.org.uk/planning-aid/contact-us/

Your local branch details follow:

West Midlands

Contact: [redacted]

Email: [redacted]
Web: www.cprewm.org.uk

Charity Number: 1089685

Local Branches within this Region: Herefordshire, Shropshire, Staffordshire, Warwickshire & Worcestershire

Kind Regards,

[redacted]

Take action: Help us spot wasted spaces near you #WasteOfSpace

Campaign to Protect Rural England
Standing up for your countryside

CPRE National Office |5-11 Lavington Street, London, SE1 0NZ|Tel: 020 7981 2800| www.cpre.org.uk/

From: Hayley Anderson [mailto:Hayley.Anderson@birmingham.gov.uk]
Sent: 30 September 2014 14:43
To: Hayley Anderson
Subject: Birmingham City Council Community Infrastructure Levy – Draft Charging Schedule Consultation

Dear Sirs

Re: Birmingham City Council Community Infrastructure Levy – Draft Charging Schedule Consultation

The Community Infrastructure Levy (CIL) is a charge on new buildings in England and Wales. It is a mechanism to ensure certain types of new development contribute to the infrastructure needed to support that development. This infrastructure will support the growth aspirations for Birmingham as outlined in the Birmingham Development Plan which includes proposals for over 50,000 new homes and 100,000 new jobs.

The charge provides a greater level of certainty for developers and land owners regarding their contributions and will be charged per square metre on net, new development.

We are now seeking views on our proposed charges for the CIL and all the information can be found at www.birminghambeheard.org.uk/development/community-infrastructure-levy-draft-charging-sched

In addition, we will also be holding two drop in sessions at the Council House, Victoria Square, Birmingham, B1 1BB (http://www.birmingham.gov.uk/council-house) should you wish to speak to an officer regarding the CIL proposals.

- Thursday 16th October from 09:00 until 12:30 (Committee Room 2)
- Friday 17th October from 13:00 until 17:00 (HMS Daring Room)

The consultation will close at 5:00pm on Monday 10th November 2014.

Subject to the results of the consultation, we will progress to Examination in Public and adopt our CIL by April 2015.

Details of the Birmingham Development Plan can also be found at
www.birmingham.gov.uk/plan2031

Should you require any further information, please do not hesitate to contact me.

Kind regards, Hayley

Planning Contributions | Planning and Regeneration

Our Community Infrastructure Levy Draft Charging Schedule consultation will run from Monday 29th September to Monday 10th November and can be found at www.birminghambeheard.org.uk/development/community-infrastructure-levy-draft-charging-sched

Contact: hayley.anderson@birmingham.gov.uk
Call: 0121 303 4820
Click: www.birmingham.gov.uk/cil
www.birmingham.gov.uk/s106
Visit: Birmingham City Council | 1 Lancaster Circus Queensway| Birmingham | B4 7DJ
Postal: Birmingham City Council | Planning and Regeneration | PO Box 28 | Birmingham | B1 1TU

****

Hayley Anderson

From: Correspondence <Correspondence@equalityhumanrights.com>
Sent: 03 October 2014 13:46
To: Hayley Anderson
Subject: EHRC-CU02726 Anderson 20141003: Your email dated 29 September 2014

Equality and Human Rights Commission

Hayley Anderson
Planning Contributions
Planning and Regeneration

Our ref: **EHRC-CU**

Date: 03 October 2

Email: Hayley.Anderson@birmingham.gov.uk

Dear Hayley

Subject: Birmingham City Council Community Infrastructure Levy – Draft Charging Schedule Consultation

Thank you for your email dated 29 September 2014.

The Commission does not have the resources to respond to all consultations, but will respond to consultations where it considers they raise issues of strategic importance.

Local and other public authorities have obligations under the Public Sector Equality Duty (PSED) in the Equality Act 2010 to consider the effect of their policies and decisions on people sharing particular protected characteristics. We provide advice for public authorities on how to apply the PSED, which is an on-going legal obligation and must be complied with as part of the planning process. Thus, the PSED is the mechanism through which public authorities involved in the planning process should consider the potential for planning proposals to have an impact on equality for different groups of people. To assist, you will find our technical guidance here.

Yours sincerely

Corporate Communications Officer

Correspondence Unit
Equality and Human Rights Commission

Arndale House
The Arndale Centre
Manchester
M4 3AQ

Telephone: [redacted]
Textphone: [redacted]

http://www.equalityhumanrights.com/

From: Hayley Anderson [mailto:Hayley.Anderson@birmingham.gov.uk]
Sent: 29 September 2014 10:19
To: Hayley Anderson
Subject: Birmingham City Council Community Infrastructure Levy – Draft Charging Schedule Consultation

Dear Sirs

Re: Birmingham City Council Community Infrastructure Levy – Draft Charging Schedule Consultation

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Details of the Birmingham Development Plan can also be found at
www.birmingham.gov.uk/plan2031

Should you require any further information, please do not hesitate to contact me.

Kind regards, Hayley

Planning Contributions | Planning and Regeneration

Contact: hayley.anderson@birmingham.gov.uk
Call: 0121 303 4820
Click: www.birmingham.gov.uk/cil

Hayley Anderson

From: [redacted]
Sent: 11 October 2014 10:52
To: Hayley Anderson
Subject: RE: Advice Email - Hayley Anderson - Birmingham City Council Community Infrastructure Levy – Draft Charging Schedule Consultation

Thank you for your email.

HSE do not have any comments regarding this consultation.

Kind Regards

[redacted]
Advice Officer
HSE
Merton Road
Bootle
Liverpool L20 7HS

From: Hayley Anderson [mailto:Hayley.Anderson@birmingham.gov.uk]
Sent: 29 September 2014 10:19
To: Hayley Anderson
Subject: Advice Email - Hayley Anderson - Birmingham City Council Community Infrastructure Levy – Draft Charging Schedule Consultation

Dear Sirs

Re: Birmingham City Council Community Infrastructure Levy – Draft Charging Schedule Consultation

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www.birmingham.gov.uk/plan2031

Should you require any further information, please do not hesitate to contact me.

Kind regards, Hayley

Planning Contributions | Planning and Regeneration

Contact: hayley.anderson@birmingham.gov.uk
Call: 0121 303 4820
Click: www.birmingham.gov.uk/cil
www.birmingham.gov.uk/s106
Visit: Birmingham City Council | 1 Lancaster Circus Queensway| Birmingham | B4 7DJ
Postal: Birmingham City Council | Planning and Regeneration | PO Box 28 | Birmingham | B1 1TU

The Coal Authority

Birmingham City Council Community Infrastructure Levy - Draft Charging Schedule (Consultation)

Consultation Deadline – 10 November 2014

Contact Details
Planning and Local Authority Liaison Department
The Coal Authority
200 Lichfield Lane
Berry Hill
MANSFIELD
Nottinghamshire
NG18 4RG

Planning Email: planningconsultation@coal.gov.uk
Planning Enquiries: 01623 637 119

Person Making Comments
Anthony B Northcote *HNCert LA(P), Dip TP, PgDip URP, MA, FGS, ICIOB, MInstLM, MCMI, MRTPI*
Consultant Planning Advisor to The Coal Authority

Date of Response
13 October 2014

Thank you for consulting The Coal Authority on the above CIL document.

Having reviewed the document, I confirm that we have no specific comments to make at this stage.

Should you require any assistance please contact a member of Planning and Local Authority Liaison at The Coal Authority on our direct line (01623 637 119).

Yours sincerely

[redacted]

[redacted]
Chief Planner / Principal Manager

Hayley Anderson

From: [redacted]
Sent: 16 October 2014 17:29
To: Hayley Anderson
Subject: Draft Community Infrastructure Levy.

A/6146

Thank you for the email consulting the Theatres Trust on the draft Community Infrastructure Levy.

The Theatres Trust is The National Advisory Public Body for Theatres. The Theatres Trust Act 1976 states that '*The Theatres Trust exists to promote the better protection of theatres.* It currently delivers statutory planning advice on theatre buildings and theatre use through the Town & Country Planning (General Development Procedure) (England) Order 2010 (DMPO), Articles 16 & 17, Schedule 5, para.(w) that requires the Trust to be consulted by local authorities on planning applications which include '*development involving any land on which there is a theatre.*'

We support the setting of a £0 rate for 'Leisure' uses. Cultural facilities, including theatres are generally unable to bear the cost of CIL for viability reasons, yet make a positive net contribution to that area's infrastructure and the health and well being of the local community.

Regards,

[redacted]
Planning Adviser
The Theatres Trust
22 Charing Cross Road, London WC2H 0QL
[redacted]
[redacted]
www.theatrestrust.org.uk

The Theatres Trust
Protecting Theatres for Everyone
National Advisory Public Body for Theatres

Hayley Anderson
CIL Draft Charging Schedule
PO Box 28
Birmingham
B1 1TU

hayley.anderson@birmingham.gov.uk

By Email and by Post

Our ref: PPG/CD/RB/45119238
Your ref:

16 October 2014

Dear Sirs

Community Infrastructure Levy Regulations 2010 (as amended)
Draft Charging Schedule Consultation closing 16 October 2014
Response to Consultation on behalf of Asda Stores Limited

We act for Asda Stores Limited ("Asda") and are writing on behalf of Asda to make representations in respect of the Council's Draft Charging Schedule.

Asda previously responded to the Council's Preliminary Draft Charging Schedule, which proposed large retail rates for supermarkets of £380 per square metre. Whilst we are pleased to see that these rates have been reduced significantly, we remain concerned by the level of contribution proposed by the Council.

Under Regulation 14 of the Community Infrastructure Levy Regulations 2010 ("CIL Regulations") the Council's primary duty when setting the level of Community Infrastructure Levy ("CIL") charge is to strike an appropriate balance between the desirability of funding the cost of infrastructure required to support development from CIL and its potential effects on the economic viability of development.

In our view, the approach taken to assessing the Draft Charging Schedule does not achieve an appropriate balance between these two objectives.

We wish to object to the approach taken to assessing the Draft Charging Schedule on the following grounds:

1. The fact that the consultation study fails to take adequately take account of changes introduced by the Community Infrastructure Levy (Amendment) Regulations 2014/385;

2. the impact on policies concerning enhanced economic performance;

3. the financial assumptions and viability assessments contained in the Council's Viability Study;

4. issues relating to State Aid; and

5. concerns about the Council's approach to setting CIL charges generally.

1 Impact of Community Infrastructure Levy (Amendment) Regulations 2014/385

As the Council will be aware, the Community Infrastructure Levy (Amendment) Regulations 2014/385 came into effect in February.

These regulations have made a number of wide-reaching changes to the CIL regime, the most important of which, for the purposes of this letter, are summarised below:

- Regulation 14 has been amended so as to strengthen the obligations on the Council objectively to justify the adopted charging rates. Reg 14 now states that a Council "*must strike an appropriate balance*" as opposed to simply aiming to do so;

- Examiners are now being asked to assess whether an appropriate balance has, in fact, been struck;

- The Regulations governing payment in kind have been amended to allow local authorities to accept items of infrastructure as well as the transfer of land;

- Draft Regulation 123 lists should now be made available much earlier in the rate-setting process and these will be capable of being examined at inquiry; and

- There have been significant changes to the various CIL exemptions; which will significantly affect the Council's expected levels of receipts.

Although the Draft Charging schedule, and the viability report on which it is based, considers the impact of these amendments it does not include any analysis of the cost or types of infrastructure that are likely to require funding through s.106 Agreements. The viability study states that for the study 'CIL' reflects CIL only and does not include an allowance for any off site S.106 costs.

As a result, the 'balancing exercise' carried out by the viability study is flawed, as it does not include all of the likely costs of bringing forward development. This in turn casts doubt on the level of 'headroom' available out of which CIL can be paid.

2 Impact on policies enhancing economic performance

We will not repeat the Council's strategic objectives in full here, but in order to achieve its overall objectives, it will be important for the Council to set an appropriate CIL charge to encourage new development to come forward.

Two of the Council's strategic objectives are:

- To create a prosperous, successful and enterprising economy with benefits felt by all; and
- To make provision for a significant increase in the City's population.

To this end, the Council has identified prospective need for convenience retail in the following locations: Sutton Coldfield, Handsworth and Western Belt, Eastern Belt, Birmingham City Centre South, Longbridge and Southern Belt and Woodgate.

An appropriate CIL charge will encourage new development and promote redevelopment to create employment and ensure a range of shopping choices for consumers and enhance the vitality and viability in district and local centres.

The proposed retail CIL rates would discourage larger retail developments and would not ensure that the relevant retail and employment aims of the local plan are met. This could have the effect of reducing the range, variety and choice of retail shopping and, if no redevelopment or regeneration schemes are put forward, then existing buildings are unlikely to be refurbished and re-used.

It is our view that if the retail charges set out in the Draft Charging Schedule are adopted, there will be several consequences across the Borough that will put the Council's ability to achieve its key objectives at risk. For example:

- All other forms of development will receive a significant subsidy at the expense of retail schemes; and
- There will be a corresponding disincentive (and market distortion accordingly) to investment in this sector of the local economy.

The Government is keen to encourage the creation of additional employment across the economy and the retail sector as a whole is one of the largest employers and the largest creator of new jobs at the present time as well as being one of the most dynamic and innovative sectors within the UK economy.

Asda example 1

ASDA has a proven track record of investing in local communities and of creating jobs within these areas. For example, of the 123 colleagues recruited for the ASDA store in Tunbridge Wells, 76 colleagues (71%) were previously unemployed.

The supporting papers do not acknowledge this trend nor do they fully assess the role of retail within the national economy. They simply assert that large scale retail is performing stronger in comparison to the other aspects of the retail sector and accordingly, it implies that large scale retail establishments have the capacity to pay potentially very large sums of CIL, whereas the Town Centre comparison and small convenience retail rates are much lower.

Any CIL schedule that imposes a substantial CIL charge on superstores or supermarkets and a very low or nil rate on all other uses could effectively undermine the retail function of local and town centres, detracting from their viability and vitality as large scale retail developers would be discouraged by the imposition of CIL.

Asda example 2

Asda stores regularly rejuvenate and regenerate existing centres, and the surrounding areas, and draw new shoppers to them, which benefits the existing retailers, and those who open stores in Asda-anchored centres in their wake. For example in 2006, Asda opened a store in Romford, transforming a derelict brownfield site through an extension of an existing retail mall and creating 347 jobs. This helped to propel Romford into the top 50 UK retailing cities. Indeed, due to the success of the store in attracting more footfall to that part of the town's Primary Shopping Area, the local authority redrew the town centre boundary to include the edge of centre Asda store into the heart of the Romford town centre.

3 The financial assumptions and viability assessments contained in the Council's Viability Study

We also have a number of concerns about the study GVA conducted in October 2012 (the "Viability Study").

The Viability Study contains retail development assumptions that in our view may not make sufficient allowance for the costs involved in obtaining planning permission for a development scheme.

By underestimating the true cost of residual planning obligations commercial developments, the Council is at risk of artificially inflated the residual land values used for the financial viability models. This will, in turn, have inflated the amount of CIL proposed for these uses.

As stated above, the Viability Study does not make an allowance for residual s106 / s278 agreements for non-residential development. It is our view that the retail development assumptions are inadequate as they do not make allowance for s.106 contributions which need to be paid by developers in addition to CIL payments. We urge you to look again at the allowances for such residual s.106/s.278 contributions for non-residential schemes.

Although the Council will not be able to pool section 106 contributions once CIL is adopted, the types of commonly pooled contributions tend not to make up a large proportion of the contributions sought from commercial schemes – which are usually focussed on site specific highways and access works, employment and training contributions, environmental mitigation works and other, site specific, requirements.

The draft Regulation 123 list makes it clear that any site specific infrastructure or network improvements, that are needed to mitigate the impact of the development and to make it acceptable in planning terms, are likely to be funded through section 106 and section 278 agreements.

Taking the example of a 5,000 sqm convenience supermarket used in the Viability Report, this sized store, would be expected to bear a CIL payment of £1,300,000 and potentially fund all of the following costs:

- demolition, remediation and on site highways works
- the cost of any off-site highways works required to make the development acceptable in planning terms including junction improvements, road widening schemes, new access roads, diversion orders and other highways works;
- the cost of extending the Council's CCTV or public transport network to include the scheme (including the costs of creating new bus stops, real time information and providing new bus services to serve the site);
- monitoring costs of compliance with employment/apprenticeship schemes and travel plans;
- environmental off-set contributions to mitigate the loss of habitat or greenery caused by the scheme;
- The cost of any remediation and decontamination works to be carried out by the council on the developer's behalf;
- payments for town centre improvements intended to mitigate the impact of the development on the town centre or neighbouring areas; and
- the costs incurred by the Council of maintaining any site specific infrastructure required by the development.

To put this in context:

- the section 106 Contributions incurred in relation to a c.3,000 sqm food store in Ware, Hertfordshire amounted to £871,800. These sums related to bus service contributions; development of a community centre, nursery; education contributions; various highway safety improvements; youth service contribution; residents parking schemes and open space contribution. In addition to these Contributions, green travel plan contributions, monitoring fees and architectural lighting on pedestrian routes between the store and city centre were also incurred.

- the section 106 Contributions incurred in relation to a c.6,700 sqm food store in Newhaven, East Sussex amounted to £1,345,544. These sums related to contributions for improvements to and an extension of the local bus network; economic initiatives; contributions for relocating local habitats; improvement of recreational space; recycling contributions; residential and retail travel plan auditing; transportation and town centre contributions.

With this in mind, we again, suggest that the Council has significantly underestimated the impact of CIL on the viability of such developments. We request that the underlying viability evidence be revised accordingly.

4 State Aid

We wish to bring it to your attention that there will be EU State Aid issues arising out of the setting of differential rates for different types of commercial entity within the same use class. Introducing such differential rates confers a selective economic advantage on certain retailers depending on the size of the shop they operate out of, or their type of business. For example, setting the levy for comparison retail schemes at a lower rate than an equivalent convenience retail scheme provides an economic advantage to comparison retailers. Alternatively, basing rate differentials on the size of a store favours smaller retailers over their larger competitors.

As far as we are aware, the UK government has not applied for a block exemption for CIL. CIL charges do not form part of the UK's taxation system and there does not appear to be an exemption in place to cover any State Aid issues that may arise. With this in mind, we would be grateful if the Council adopted a flat levy rate for comparable sectors of the economy/use classes or, if it is not prepared to do so, providing an explanation as to why State Aid issues are not engaged by the setting of differential rates within use classes to the Inspector at the Inquiry.

5 Concerns about the Council's approach to setting CIL charges generally

The stated purpose of CIL is to raise revenue for infrastructure necessary to serve development. CIL is intended to address the imbalance of raising funds for infrastructure under the section 106 route, where larger schemes have effectively subsidised minor developments. However, CIL does not replace the section 106 revenue stream – it will simply provide additional revenue for infrastructure.

In light of this, we have some further concerns:

Concerns relating to change of use and conversion projects

The Council appears only to have taken the economics of regeneration projects into account when considering the strategic development areas as otherwise the viability assessments

do not appear to have given any weight to this consideration (particularly for retail developments).

As you will be aware, Regulation 40 of the CIL Regulations only permits developers to deduct pre-existing floor space from the CIL calculation if it is 'in lawful use.' Lawful use is defined in Regulation 40 (10) and essentially requires part of a building to have been in use for a six month continuous period in the three years before the date of the planning permission permitting the development.

However, many regeneration projects on brownfield land or town centres involve demolishing, converting or redeveloping buildings that have lain vacant for some time. This is particularly true of schemes which involve changes of use from employment land, where the fact that a unit has been vacant for a considerable time is often a key factor in the Council's decision to grant planning permission for the scheme.

The Viability Study does not acknowledge that the economics of conversion schemes are very different to those of new build schemes. It is difficult to see how the Council can assess whether the imposition of CIL will put the majority of these schemes at risk without having considered its impact on their viability.

ASDA's SUGGESTIONS

1. Instalment Policy

We note that the Council are proposing to introduce an instalments policy for CIL which will take effect when the CIL is adopted. Managing cash flow during development is often key in determining whether a scheme will be successfully delivered. We would strongly encourage the Council to adopt a realistic instalment policy that spreads the cost of CIL over a number of months or years (depending on the size of the development scheme proposed).

We would recommend that any instalment policy should link the instalments to the pace of the actual development; and should not link the instalments to an arbitrary time frame following on from the date the development is commenced.

2. Exceptional Circumstances Relief

We note that the Council has indicated that at present it will provide discretionary relief from CIL.

We would encourage the Council to adopt an Exceptional Circumstances Relief Policy. By doing so, the Council will have the flexibility to allow strategic or desirable, but unprofitable, development schemes to come forward, by exempting them from the CIL charge or reducing it in certain circumstances.

Given the rigid nature of the CIL regulations, which operate in a similar manner to a development land tax, this is a necessary and worthwhile safeguard that the Council will be able to use in appropriate circumstances.

3. Flat Rate Levy

Accepting for the purpose of this argument the premise that CIL is necessary for the purpose of funding Borough-wide infrastructure, a much fairer solution would be to divide the Council's estimate of total infrastructure costs over the charging period (and in this connection, it is important to remember that the Government's guidance as recorded in the National Planning Policy Framework is that only deliverable infrastructure should be included) by the total expected development floor space and apply a flat rate levy across

the Borough and across all forms of development. That will have the least possible adverse effect upon the market for land and for development, and yet the greatest possible opportunity for the economy to prosper and thrive and for jobs to be created.

The potential impact of a flat rate levy on the viability of those types of development which are not currently identified as viable could be balanced by the Council's implementation of Exceptional Circumstances Relief, as mentioned above.

Consequently, reducing the levy proposed per square metre on retail and residential floor space would not result in a proportionate increase in the levy required on other forms of commercial or other development. However, applying the current proposed levy could run the risk of diminishing substantially the number of such retail stores built, with a consequential loss of employment opportunities and investment.

4. Provision of Infrastructure as Payment in Kind

As stated above, the latest set of amendments to the CIL Regulations have now made it lawful for authorities CIL contributions to be paid by the provision of infrastructure in certain circumstances. Given that the provision of infrastructure is often key to unlocking unimplemented planning permissions and enabling developments, we would urge the Council seriously to consider adopting a policy to allow payment in kind in this manner.

CONCLUSION

For these reasons, we would ask that the Council undertakes a rethink of its position and substantially alters its Charging Schedule in so far as it relates to retail development.

Accordingly, we would request that the Council:

- Revisits its viability assessments for retail development, to address the concerns set out above;
- Adopts a staged payments policy;
- Adopt an Exceptional Circumstances Relief Policy;
- Considers the allowing developers to pay their CIL Liability through the provision of infrastructure; and
- Adopts a single flat rate levy across all development within its boundaries.

Yours faithfully

Thomas Eggar LLP

Email: [redacted]
Direct Dial: [redacted]
Direct Fax: [redacted]

Hayley Anderson

From: [redacted]
<[redacted]
Sent: 04 November 2014 17:44
To: Hayley Anderson
Cc: [redacted]
Subject: RE: Birmingham City Council Community Infrastructure Levy – Draft Charging Schedule Consultation

Dear Hayley,

Thank you for your email consulting Solihull MBC on Birmingham's Draft CIL Charging Schedule.

We have no comments to make at this time, but would like to be kept informed of future progress.

Kind regards,

[redacted]
Planning Officer
Policy and Spatial Planning

Solihull MBC ◈ Council House ◈ Manor Square ◈ Solihull ◈ B91 3QB
[redacted]

From: Hayley Anderson [mailto:Hayley.Anderson@birmingham.gov.uk]
Sent: Monday, September 29, 2014 10:18 AM
To: Hayley Anderson <Hayley.Anderson@birmingham.gov.uk>
Subject: Birmingham City Council Community Infrastructure Levy – Draft Charging Schedule Consultation

Dear Sirs

Re: Birmingham City Council Community Infrastructure Levy – Draft Charging Schedule Consultation

The Community Infrastructure Levy (CIL) is a charge on new buildings in England and Wales. It is a mechanism to ensure certain types of new development contribute to the infrastructure needed to support that development. This infrastructure will support the growth aspirations for Birmingham as outlined in the Birmingham Development Plan which includes proposals for over 50,000 new homes and 100,000 new jobs.

The charge provides a greater level of certainty for developers and land owners regarding their contributions and will be charged per square metre on net, new development.

We are now seeking views on our proposed charges for the CIL and all the information can be found at www.birminghambeheard.org.uk/development/community-infrastructure-levy-draft-charging-sched

In addition, we will also be holding two drop in sessions at the Council House, Victoria Square, Birmingham, B1 1BB (http://www.birmingham.gov.uk/council-house) should you wish to speak to an officer regarding the CIL proposals.

- Thursday 16th October from 09:00 until 12:30 (Committee Room 2)

- Friday 17th October from 13:00 until 17:00 (HMS Daring Room)

The consultation will close at 5:00pm on Monday 10th November 2014.

Subject to the results of the consultation, we will progress to Examination in Public and adopt our CIL by April 2015.

Details of the Birmingham Development Plan can also be found at
www.birmingham.gov.uk/plan2031

Should you require any further information, please do not hesitate to contact me.

Kind regards, Hayley

Planning Contributions | Planning and Regeneration

Contact: hayley.anderson@birmingham.gov.uk
Call: 0121 303 4820
Click: www.birmingham.gov.uk/cil
www.birmingham.gov.uk/s106
Visit: Birmingham City Council | 1 Lancaster Circus Queensway| Birmingham | B4 7DJ
Postal: Birmingham City Council | Planning and Regeneration | PO Box 28 | Birmingham | B1 1TU

Hayley Anderson

From: [redacted]
Sent: 07 November 2014 11:27
To: Hayley Anderson
Subject: Birmingham City Council CIL - Draft Charging Schedule
Attachments: image001.jpg

Good morning Hayley

On behalf of the Coventry and Warwickshire Local Enterprise Partnership (CWLEP), thank you for the opportunity to review the Birmingham City Council Community Infrastructure Levy Draft Charging Schedule and provide feedback.

The CWLEP Planning Business Group have undertaken a review of the documentation and consider that the Draft Charging Schedule provides a well justified and reasonable response to the issue of charging for community infrastructure.

We look forward to working with Birmingham City Council on the development of the Birmingham Development Plan and associated documents. Please do not hesitate to contact me if you have any queries.

Regards

Chris

[redacted]

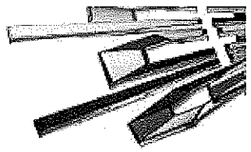
Planning Adviser
Coventry and Warwickshire Growth Hub - a Clearing House for Business

Cheylesmore House
5 Quinton Road
Cheylesmore
Coventry CV1 2WT

[redacted]

www.cwgrowthhub.co.uk
@CW_GrowthHub on Twitter

Coventry and Warwickshire
Growth Hub
A clearing house for business



Ms Hayley Anderson
Birmingham City Council
Lancaster House
Lancaster Circus
Queensway
BIRMINGHAM
B4 7DJ

Our ref: UT/2006/000217/OR-08/PO1-L01
Your ref:

Date: 10 November 2014

Dear Ms Anderson

BIRMINGHAM CITY COUNCIL COMMUNITY INFRASTRUCTURE LEVY

DRAFT CHARGING SCHEDULE

Thank you for referring the above consultation which was received on 29 September 2014.

The Environment Agency have no specific comments to make on the CIL Draft Charging Schedule (dated 15 Sept 2014), however can provide comment on the CIL Draft Regulation 123 List (Appendix 7) and Infrastructure Delivery Plan (June 2014).

We welcome that 'city wide schemes to address flooding' is included on the Reg. 123 List, however feel that this should be broken down further to make reference to the specific flood risk management schemes outlined in the IDP e.g.

- River Rea and Tributaries
- Hockley Brook
- River Tame at Perry Bar and Witton
- River Tame at Bromford

We hold detailed costing estimates within our recently consented 6-year programme, however this information is not yet in the public domain. We will be able to provide this additional details after it is released in the autumn statement, and recommend that that when available it is included in the IDP and 123 List future updates.

We would like to remind you of the modifications to the IDP previously recommended as part of the Birmingham Development Plan consultation. The following changes

should be made to Flood Risk Management under section 2.0 of the City-wide Infrastructure Issues:

Evidence Base – the final bullet point should read 'Humber River Basin Management Plan', not 'Humber Basin River Management Plan'.

The background section should include 'designated' before 'main rivers' and provide definition of 'local flood risk' as 'all other sources of flooding in their area, including ordinary watercourses, surface water and groundwater'.

Impact of growth proposals on infrastructure requirements - A sequential approach should be taken to the allocation and layout of sites. If there is a shortage of development sites within Flood Zone 1 in Birmingham then neighbouring local authorities should be approached to make up the shortfall first and further extension of the green belt – this would provide an overall more sustainable distribution of growth.

The Exception Test will be required for certain vulnerable uses in accordance with Table 3, NPPF Technical Guide. Although there may be occasions where development in flood risk areas may be acceptable where wider benefits to existing properties at flood risk can be provided. We consider this section needs re-wording to emphasise that development in flood risk areas where flood mitigation measures are required should only be considered where it can be demonstrated that the development will be safe and provide wider flood risk management benefits i.e. providing a measurable flood risk reduction to existing properties at risk. In such cases, developer contributions should be sought towards flood risk management schemes. Where raised defences are proposed, then the residual risk of a breach/over topping must be considered in a Flood Risk Assessment in line with BCC SFRA level 1.

Under the section 'Impact on growth proposals' the second paragraph states that 'they do not increase flood risk elsewhere'. As discussed within Policy TP6, this should be revised to state that development will reduce flood risk overall.

The second bulletpoint in this section should add 'Local Levy' as source of funding.

River Rea and Tributaries – The following locations should be included for the River Rea – Northfield, Calthorpe, Selly Oak, Kings Norton. In addition The Bourn should be added.

Hockley Brook – We recommend that the following paragraph 'this catchment offers a great deal of opportunity to alleviate flood risk during the planning process' in accordance with Birmingham's SWMP.

River Tame at Witton – the third section should be retitled as 'River Tame at Perry Bar and Witton'. The 2nd para should be amended as the construction costs of the wall option are currently being estimated above our budget and as such the Project Team are investigating alternative options, including the potential for upstream storage. We suggest this paragraph is re-worded as follows: 'The Environment Agency is proposing to repair existing defences, build new defences and are investigating other options such as upstream storage. This will significantly reduce flood risk in the area for flood events with between a 1 in 100 and 1 in 200 chance (1% - 0.5% annual probability) of occurring in any one year.'

River Tame at Bromford – We suggest that 'Developer contributions will be required towards the scheme' is added to the end of the paragraph.

Cont/d..

Yours faithfully

[redacted]
Planning Specialist

Direct dial [redacted]
Direct fax [redacted]
Direct e-mail [redacted]

End

Turley

10 November 2014
Delivered by email and post

Hayley Anderson
CIL Draft Charging Schedule
PO Box 28
Birmingham
B1 1TU

Dear Hayley

Community Infrastructure Levy - Draft Charging Schedule

On behalf of Calthorpe Estates, we are instructed to make comments on the Draft Charging Schedule for the Birmingham Community Infrastructure Levy currently out for consultation.

Calthorpe Estates submitted representations to the Preliminary Draft Charging Schedule consultation held in January 2013 raising concerns over the timing of CIL and its imposition on employment generating uses.

In light of the concerns previously raised, the reduced CIL rates now proposed in the Draft Charging Schedule for retail, commercial and residential schemes is welcomed.

Notwithstanding the support for the overall reduction in rates, Calthorpe Estates is concerned that in some areas of the City the precise boundary of the high value residential rate areas (as drawn on the Residential Market Areas Vector Map) is unclear. It is considered that differential charging rates cannot be based on a map drawn at this scale, and which could lead to issues of uncertainty and complication for the future calculation and agreement of CIL charges.

The sections of the boundary unclear include the areas of the Cathorpe Estate fronting Hagley Road and Bristol Road. In these areas the boundary of the high value residential area has been drawn to exclude properties immediately fronting the road. This correctly reflects the lower value / viability of these areas which front major arterial routes, with lower market value areas opposite. However, as currently drawn the boundary bisects buildings making it impossible to determine whether they are within or outside of the high value residential rate area.

To rectify this issue the boundary should be accurately plotted on a lower scale map and in some areas (as highlighted on the enclosed plan) amended slightly to ensure that the high value areas are consistent with local viability.

The required amendments shown on the enclosed plan are described in the table below:

9 Colmore Row
Birmingham
B3 2BJ

[redacted]urley.co.uk

Table 1 - Market Value Area Boundary Amendments

Area	Amendment Sought
Hagley Road	• Accurately plotted at a lower scale to exclude buildings currently bisected by the boundary. • Continuation of the set back to the high value rate area (south of the Hagley Road) to the administrative boundary with Sandwell. • Removal of the wedge bound by Hagley Road and Sandon Road from the high value residential area.
Bristol Road	• Accurately plotted at a lower scale to exclude buildings bisected by the boundary. • Extension of the set back of the high value area to the north of Bristol Road.
Lee Bank Middleway	• Boundary of high value area amended to exclude properties fronting the south of the Lee Bank Middleway.

Conclusion

In our client's view, the draft charging schedule should not be submitted for examination without clarification and amendments to the boundary of the high value residential rate areas. The changes sought are considered necessary to ensure that the rates proposed will not threaten delivery of the proposals contained in the Birmingham Development Plan (BDP).

Calthorpe Estates retains the right to appear at the CIL examination and standby its previous representations as necessary.

Yours Faithfully

Turley

Turley
Enc.

Calthorpe Estates – Representation to BCC CIL Draft Charging Schedule, November 2014

Proposed Amendments to Residential Market Areas Vector Map

Key

Areas to be excluded from high value rate zone

Tetlow King
PLANNING

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

[redacted]

Ms Hayley Anderson
CIL Draft Charging Schedule
Birmingham City Council
PO BOX 28
Birmingham
B1 1TU

Date: 7 November 2014

Our Ref: EB/CB M5/0505-10

By email only:
hayley.anderson@birmingham.gov.uk

Dear Ms Anderson

RE: CONSULTATION OF THE COMMUNITY INFRASTRUCTURE DRAFT CHARGING LEVY

We represent the **West Midlands HARP Planning Consortium** which includes all the leading Registered Social Landlords (RSLs) across the West Midlands. Our clients' principal concerns are to optimise the provision of social/affordable housing and to ensure the evolution and preparation of consistent policies.

Firstly, we are pleased that the Council has taken on board comments submitted on the Preliminary Draft Charging Schedule (PDCS). The new viability work and subsequent reduction in CIL will have resounding benefits in the delivery of market and affordable housing.

A major concern regards paragraph 5.5 related to the 'Birmingham Municipal Housing Trust'. Although we support the intention of the Council to promote further affordable housing delivery through the use of progressive policy, we do not feel a potential advantage should not be afforded to just one provider and believe that CIL is not a legitimate means to do this. Whilst the regulations do offer discretionary social housing relief to be applied, this should not be used to remove CIL obligations from market housing constructed by the Trust as the Council appears to be proposing in its Draft Charging Schedule and supplementary paper Appendix 2v. Perhaps you could clarify if we have misunderstood this?

This is exemplified by the NPPG (Paragraph: 122 Reference ID: 25-122-20140612) which states:

"A charging authority may offer further, discretionary, relief for ***affordable housing types*** *which do not meet the criteria required for mandatory social housing relief and are not regulated through the National Rent Regime"* (our emphasis)

As well as contravening the CIL Regulations and NPPG guidance, if this were to happen it would also give rise to practical implications. The intention of the proposed measures is to ensure the Trust has a viable developable model but in so doing it we feel it would put the Trust at an unfair advantage over the other providers in the City, many of whom are the RSLs we represent and who, like the Trust, also provide market housing as a permissible and effective means of cross-subsiding their own business models.

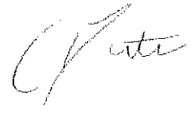
As there is no proposal to offer these RSLs CIL relief on their market housing they would automatically be placed as a financial disadvantage when accessing and developing sites, as their margins would be greater. Part of the rationale behind RSLs is to achieve market competiveness in the delivery of affordable housing; therefore allowing one provider (the Trust) to attain an advantage would be counter intuitive and could ultimately harm the delivery of affordable housing in the City.

We are also disappointed to note that no further viability testing has been undertaken regarding the testing of specialist housing in the C3 Use Class and take this opportunity to reiterate the points we made in our previous representation to the PDCS (M5/0505-08).

Whilst extra care schemes within the C3 Use Class do often share some characteristics with general market housing, such as provision of each unit with its own front door, the comparative differences in terms of their structure and funding are far greater. Many extra care schemes provide a very significant degree of care, indeed frequently to a level that is comparable with that offered in a traditional care home. Unlike general market housing which benefits from being sold 'off plan', all of these forms of care and accommodation are funded entirely upfront and at risk by the provider, with sales only able to occur after completion. Moreover, by their very nature, schemes also require dedication of a significant element of their floor space to care and communal facilities. Some recent research for the Retirement Housing Group found that in general market apartment blocks 16% will be non-saleable floor space but that this rises to 21% in sheltered housing schemes and 34% in extra care developments.

Once again, thank you for the giving us the opportunity to comment. We trust that you will give serious consideration to our concerns about the apparent favourable treatment being afforded to Birmingham Municipal Housing Trust which is not a proper use of CIL as prescribed by the regulations and will give that organisation a competitive advantage over other RSLs operating in the City. If it is simply a misunderstanding, then we suggest some substantial rewording to make the precise intentions for the Trust clear.

Yours sincerely



[redacted]
ASSISTANT PLANNER
For and On Behalf Of
TETLOW KING PLANNING

[redacted]

Cc: Accord Housing Association
Bromford Housing Group
Midland Heart Limited
Waterloo Housing Association Ltd
WM Housing Group

[redacted] Housing Department

Department for
Communities and
Local Government

Nick Boles MP
Parliamentary Under Secretary of State (Planning)

Department for Communities and Local Government
Eland House
Bressenden Place
London SW1E 5DU

Tel: 0303 444 3459
Fax: 020 7821 0635
E-Mail: nick.boles@communities.gsi.gov.uk

www.communities.gov.uk

Stephen Ladyman PhD
Retirement Housing Group
Manzano
St Mary's Lane
Pilton
Somerset
BA4 4BD

03 JUN 2013

Dear Stephen

Many thanks to you and your colleagues for meeting with me on Tuesday 9 May to discuss suggestions for increasing the quality and provision of housing for older people, and for your letter dated 14 May. I found our discussion very informative.

Local planning authorities are required to make provision for all household types, including older people. I strongly support this policy objective and consider that imaginative housing schemes for older people, as well as saving money for the NHS, can make it more attractive for older people to move out of their family homes, thereby helping to meet the needs of young families.

We have strengthened the revised Community Infrastructure Levy guidance. The revised guidance published in December 2012 is clear that "charging schedules should not impact disproportionately on particular sectors or specialist forms of development and charging authorities should consider views of developers at an early stage." (page 11, paragraph 37). The guidance does not specify that any form of housing should be treated any differently to other sectors but is clear that if you have evidence that your development would be made unviable by the proposed levy charge, this should be considered by the authority and by the examiner. The guidance supports early engagement in the Levy rate setting process and I would encourage you to work with local authorities consulting on Levy rates to ensure any viability issues are shared. I understand you have a meeting with my officials to discuss the Levy on 12 June.

Since receiving your letter I have received a number of suggestions from the RHG Secretariat for extra-care facilities which might be suitable for a visit. I would welcome such a visit jointly with the health minister and will be in touch with you shortly about finding a convenient date.

It was a pleasure meeting you and getting the opportunity to discuss such an important and pressing matter. It is great to see such commitment in seeking to ensure that the interests of older people are looked after.

With best wishes

Nick Boles

NICK BOLES MP

COMMUNITY INFRASTRUCTURE LEVY
AND
SHELTERED HOUSING/EXTRA CARE DEVELOPMENTS

A BRIEFING NOTE ON VIABIILITY
PREPARED FOR RETIREMENT HOUSING GROUP BY
THREE DRAGONS

MAY 2013

Three Dragons

RHG
Retirement Housing Group

Executive Summary

New provision of retirement housing (whether sheltered or extracare) is very patchy across the country and provision of sale housing in particular is focussed on the South East and South West with very limited delivery outside these locations.

In low to medium value areas it is already very difficult for retirement housing to compete with mainstream housing development. The introduction of CIL will have a negative impact on viability and further reduce supply. To date most local authorities have not carried out a viability appraisal of retirement housing as part of the evidence base which supports the CIL charging schedule. Those local authorities who have undertaken a viability appraisal have appraised extracare but not sheltered housing and have generally found that, like Care Homes and other C2 uses, newbuild sale extracare housing cannot support a CIL payment.

This paper seeks to provide evidence which will enable viability practitioners to appraise both types of retirement housing, even in those locations where no newbuild stock has recently been provided. It has been prepared by Three Dragons drawing on information provided by members of Retirement Housing Group.

Retirement housing schemes are generally less viable than general needs housing because of a range of factors including higher build costs per sq m, a higher proportion of communal space, lack of ability to phase development and longer selling periods. This will affect their ability to pay CIL and to provide affordable housing.

S106 obligations for retirement housing have generally been subject to negotiation to reflect both financial viability and the calls which the development makes on local facilities. CIL is a fixed charge which cannot take account of scheme viability. It is therefore important that CIL rates are set at a level which reflects the overall viability of particular types of development

Because retirement housing is higher density than general needs housing the introduction of CIL will increase the value of planning obligations sought from a development much more steeply for retirement housing than is the case for general needs family housing.

Local authorities and practitioners undertaking viability appraisal and assessing affordable housing need should therefore carry out specific case studies of older persons housing when setting CIL charging schedules and affordable housing targets. This will contribute to a robust analysis which will stand up at Enquiry.

This document deals specifically with viability appraisal and draws on general information provided by members of Retirement Housing Group (RHG) to provide broad guidelines on the costs and revenues associated with provision of sheltered and extra care housing. It will assist with viability appraisal where no locally specific information is available.

Three Dragons was commissioned by RHG to carry out specimen viability appraisals for high, medium and low value areas outside London using the cost and revenue data provided by RHG. The viability appraisal compared general needs family housing with specialist retirement housing, both sheltered and Extracare accommodation. The chosen specimen locations were

- Tunbridge Wells (high value area)
- Tewkesbury (medium value area)
- Coventry (low value area)

Schemes were modelled with the local authority's target percentage of affordable housing and no s106 obligations. In all locations general needs housing was more viable than retirement housing and sheltered housing was more viable than ExtraCare. In medium and low value areas it is not possible to provide retirement housing which meets the local authority affordable housing target even before the introduction of CIL. The introduction of CIL at £100 per sq m on market housing further reduces scheme viability when compared with general needs housing.

1. Recent delivery of retirement housing for sale and rent

We analysed unpublished data from the Elderly Accommodation Counsel which looks at provision of retirement housing by region. This shows that in the period from 2010 to 2012 207 schemes were developed of which 57% were for rent.

55% of all provision of retirement housing for sale was in the South East and 'South West (48 schemes). No other region had more than 9 schemes of retirement housing for sale.

	Sale schemes	Rental schemes	All schemes
EM	2	8	10
East	9	21	30
London	5	13	18
NE	3	0	3
NW	8	13	21
SE	27	29	56
SW	21	13	34
WM	8	10	18
Y+H	5	12	17
	88	119	**207**

2. Policy Context

This document is intended to provide background information to local planning authorities and their consultants when undertaking the viability analysis which informs a CIL Charging Schedule. It focuses specifically on retirement housing, including both sheltered and Extracare accommodation.

It draws on the experience of a wide range of retirement housing providers to summarise the key variables which determine viability and to demonstrate how these affect the viability of retirement housing provision compared with general needs housing.

Local planning authorities are required to make provision for all household types, including older people, when drawing up their Local Plan.

To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should:

- *plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes);*
- *identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand*

NPPF para 50

Ministers have repeated their support for this policy objective and it is a key feature of the National Housing Strategy

Half of all households in England are older 'established homeowners'. Some 42 per cent are retired and 66 per cent own their own home outright. As life expectancy increases, more of these households will need support to remain in their homes in later life. Limited choice in the housing market makes it difficult for older households to find homes that fully meet their needs.

Laying the foundations: a housing strategy for England p9

"Imaginative housing schemes for older people can save money for the NHS and social services. They can also make it more attractive for older people to move out of their family homes, thereby helping to meet the pressing housing needs of young families"

Nick Boles 17 December 2012

At present the majority of local planning authorities when setting their Community Infrastructure Levy do not differentiate specialist accommodation for older people from general needs housing and are applying the same CIL rate to both.

3. How retirement housing differs from general needs housing

There are several important differences between specialist retirement housing and general needs housing which make it inappropriate for a viability appraisal based on general needs housing to be applied to retirement housing.

Key differences between retirement housing and general needs housing include:

- Retirement housing is higher density than most general needs development: typically 100-120 dph compared with average densities of 30-70 dph for general needs housing
- Larger communal and non-saleable areas in retirement housing (eg common rooms, laundries, guest rooms, warden's office, dining room, special activity rooms)
- Higher build costs per sq metre for older persons housing than for general needs housing due to higher specifications of individual apartments and buildings.
- While revenue per unit is typically higher for specialist older person housing than for general needs flats, revenue per sq metre is not necessarily higher
- A slower return on investment as schemes need to be fully completed before sales are made as older people are less inclined to buy 'off plan' without seeing a dwelling, the communal facilities and/or meeting staff.
- Higher marketing costs to reach this older age group for whom a move is a discretionary choice often requiring consultation with extended family. Marketing costs are typically 6% of GDV compared to 3% of GDV for open market housing.
- Greater financial risk as phasing is not possible as with general needs housing as retirement developments are often built as a single block, meaning a development must be built out before any return is possible.
- Higher void costs as schemes take longer to sell than general needs housing and flats.
- Most schemes are on brownfield sites, which are often in short supply and have higher development costs.

- Higher land values as schemes work best when they are close to shops, services, GP practices and transport links, where older residents wish to live.

4. Standards of viability testing required by the CIL regulations

The Regulations that guide the setting of CIL allow charging authorities to set different rates for different **intended uses** of development. While the use class order[1] provides a useful reference point – CIL Charging Schedules do not have to be tied to it. The recent "Consultation Paper on Community Infrastructure Levy: further reforms" confirms that

Currently regulation 13 allows charging authorities to set different levy rates within their area. This can be done by reference to "zones" (regulation 13(1)(a)) and "different intended uses of development" (regulation 13(1)(b)). The revised Community Infrastructure Levy guidance has clarified that "uses" does not have the same meaning as "use class". (para 20)

Justification for setting different rates for different uses relies on a, "*comparative assessment of the economic viability of those categories of development.*" [2]

While local authorities will want to avoid overly complex patterns of CIL charges, it is important that their charging schedule does not, "*impact disproportionately on particular sectors or specialist forms of development*".[3]

The Regulations therefore permit local authorities to carry out a viability assessment of all likely types of development. Just as different types of retail and leisure uses will have separate viability appraisals so too should different types of residential development including sheltered and ExtraCare housing.

5. Density and its impact on CIL and S106 obligations

Both CIL and S106 obligations bear more heavily on specialist retirement housing than on general needs housing. This is because higher density development attracts higher levels of both CIL (based on £ per sq m of market housing) and S106 obligations (based on total number of dwellings). The chart below shows the relative costs per hectare of a standard S106 contribution of £5,000 per dwelling compared with CIL of £100 per sq m and £150 per sq m at both 100% market housing and 30% affordable housing.

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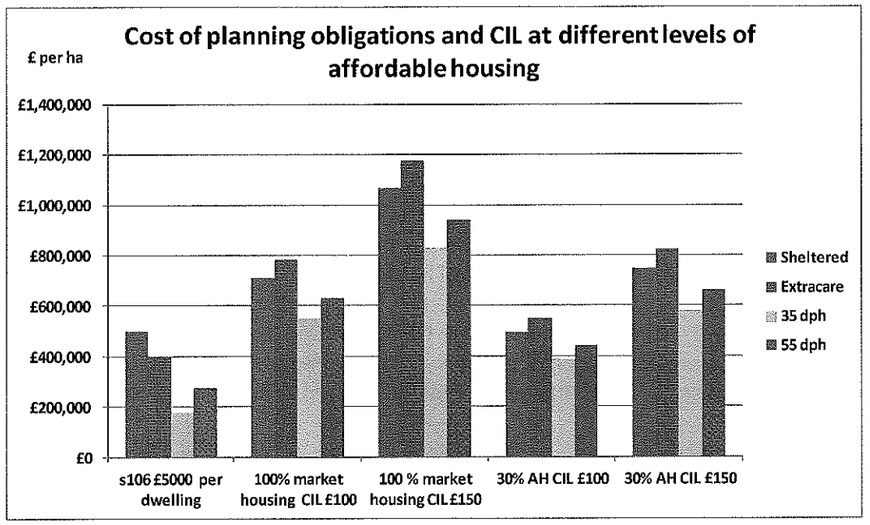
[1] Town and Country Planning Act (Use Classes) Order 1987

[2] Community Infrastructure Levy Guidance, DCLG Dec. 2012 (para 35)

[3] Ibid – para 37



In all circumstances retirement housing pays a higher level of planning obligation than general needs housing. The difference between CIL and S106 is that S106 was negotiable and related to the needs arising from the scheme in many cases retirement housing did not contribute to certain S106 requirements (eg education) and hence paid a lower rate per dwelling than general needs housing. That flexibility is lost with CIL.

6. Key variables affecting the viability of specialist older persons housing provision

Local Planning Authorities and their consultants need robust information on which to base any viability appraisal of retirement housing as distinct from general needs housing. This can be difficult to obtain at local level if there has been no recent development of retirement housing. RHG has therefore prepared the following generic examples of typical sheltered and extracare schemes which included key variables which can be applied in any area of the country.

Typical scheme size	(0.5 ha site)
General Needs	15-20 family houses @ 30-40 dph
	27-32 flats @ 55-65 dph
Sheltered	50-60 units @ 100 -120 dph
Extracare	40-50 units @ 80 -100 dph

Typical mix retirement housing
Ranges from 60:40 1 bed : 2 bed to 40:60 1 bed : 2 bed apartments

House prices: Practitioners should use local market values for newbuild retirement housing where they exist. Where they do not exist the following formula is an indicative guide to the price of lower value units which are likely to be affordable by most local home owners.

Methods of price setting for retirement housing vary by location.
In medium and low value areas the price of a 1 bed sheltered property = approx 75% of price of existing 3 bed semi detached house. A 2 bed sheltered property = approx 100% of price of existing 3 bed semi detached
In high value areas with a high proportion of flats the price of a 1 bed sheltered property is linked to the price of high value flats, normally with a 10-15% premium

ExtraCare housing is 25% more expensive than sheltered: if a sheltered 1 bed flat sells for £100,000 then an extracare 1 bed flat will sell for £125,000

Unit sizes (sq m)	Sheltered	ExtraCare
1 bed	50	65
2 bed	75	80

Non-chargeable/communal space	
General needs houses	nil
General needs flats	10%
Sheltered	20-30%
ExtraCare	35-40%

Build cost per sq m (Source BCIS),
Sheltered typically 9% above build costs for 1-2 storey flats
Extracare typically 13% above build costs for 1-2 storey flats
(defined by BCIS as "sheltered housing with shops, restaurants and the like")

Marketing costs are typically 6% of revenue compared with 3% of revenue for general needs houses and flats.

Sales periods are typically longer for retirement housing than for general needs housing. A rough guide is that 40% of unit will be sold at the end of the first year of sales, 30% during the second yesr of sales and 30$ during the third year. There is typically an 18 month build period before sales commence.

The economics of schemes which provide higher value (and cost) units will differ in detail from the example quoted but are unlikely to be significantly more viable when compared with general needs housing. Where the local authority believes that such schemes are likely to play a role in meeting local housing need a specific viability appraisal of this type of retirement housing will need to be carried out as part of the overall CIL viability appraisal.

Based on the parameters set out above Three Dragons was commissioned by RHG to carry out a viability appraisal of older persons housing compared with general needs housing development. Specimen sheltered and ExtraCare developments were modelled on a half hectare site in three locations:

- Tunbridge Wells (high value area)
- Tewkesbury (medium value area)
- Coventry (low value area)

and compared with the most viable form of general needs housing which could have been provided on the same site, family housing at 35 dph.. The three locations were chosen as typical of high, medium and low value locations outside London.

The output was a residual land value per hectare (ha) for each form of development. It was assumed that for retirement housing to compete in the land market residual land value must be equal to the residual land value achieved for general needs housing

The table below shows residual land values for the three different types of development in each of the three locations. All schemes were modelled with the target percentage of affordable housing.

Affordable housing at the LA target %age **No S106 obligations**	**residual land value per hectare (£)**		
	general needs housing	**sheltered housing**	**ExtraCare**
Tunbridge Wells – 40% AH	£4,000,000	£3,250,000	£2,000,000
Tewkesbury – 30% AH	£1,000,000	-£1,375,000	-£3,000,000
Coventry – 25% AH	-£300,000	-£3,250,000	-£3,500,000
Add CIL @ £100 per sq m on market housing			
Tunbridge Wells *CIL*	*£205,000*	*£430,000*	*£470,000*
Residual land value	£3,795,000	£2,820,000	£1,530,000
Tewkesbury *CIL*	*£240,000*	*£500,000*	*£550,00*
Residual land value	£760,000	-£1,875,000	-£3,550,000
Coventry *CIL*	£255,000	£535,000	£600,000
Residual land value	-£555,000	-£3,785,000	-£4,100,000

- In all locations general needs housing was more viable than sheltered or ExtraCare housing.
- Sheltered housing was more viable than ExtraCare housing.

- In Tunbridge Wells (high value area) all three schemes produced a positive land value at the local authority affordable housing target even with CIL at £100 per sq m, but residual land value was higher for general needs housing than for retirement housing.
- In Tewkesbury (medium value area) retirement housing produced a negative land value at the local authority affordable housing target both with and without CIL
- In Coventry all three schemes produced a negative land value at the local authority affordable housing target both with and without CIL..

7. Conclusions

The introduction of CIL has a more significant impact on retirement housing than on general needs housing because of the greater density (and hence higher sq metres) of development.

S106 requirements were also potentially more onerous for retirement housing than for general needs housing but because these were negotiable dependent on financial viability and specific requirements related to the development there was more flexibility to ensure that the planning obligations sought were related to the specific viability of the development.

The viability of older persons housing provision when compared with that of general needs housing varies by location. Local authorities and practitioners undertaking viability appraisal should therefore carry out specific case studies of older persons housing when setting CIL charging schedules. This is permitted by the CIL regulations and will contribute to a robust analysis which will stand up at Enquiry. The information provided in this document will assist with viability appraisal where no locally specific information is available.

Churchill
Retirement Living

McCarthy & Stone
Later Life. Greater Life

Retirement Housing and the Community Infrastructure Levy

This paper has been prepared on behalf of McCarthy & Stone Retirement Lifestyles Ltd and Churchill Retirement Living Ltd. The purpose of this briefing note is to address the particular issues for Community Infrastructure Levy setting with specific regard to the need, benefits and economic viability of retirement apartments[1]. McCarthy & Stone and Churchill Retirement Living are concerned that many charging schedules published across the country to date could disproportionately affect the viability of their developments given that they fail to properly consider the impact of CIL on the retirement housing market, which in turn will mean that local older home-owners will be denied the opportunity to live in specialist housing that better meets their needs and aspirations in later life. The paper makes a number of recommendations that should be taken into account by CIL practitioners and decision makers in the formulation of the evidence base, draft charging schedule and decision making process.

Specifically, it is recommended that;

1. The viability appraisal inputs referred to in Table 1 represent, as far as is possible, a "typical" retirement apartment development and should therefore be used as a basis for a development typology in the CIL viability evidence base;
2. The viability assessment to inform the draft Charging Schedule should include a consideration of the relative viability of retirement housing when set against both existing site values, and a range of alternative values for the land on which a retirement development might be situated;
3. The draft Charging Schedule should pay heed to the effect of CIL on the supply of housing for the elderly, including the wider benefits that the provision of this tenure in sufficient numbers can bring, as per the NPPF paragraphs 50 and 159;

The effect of the imposition of CIL, if not given due consideration, may be to constrain land supply. This is a significant threat to land with a high existing use value and therefore to the delivery of retirement developments, which by nature are limited to urban, centrally located previously developed sites. By following these recommendations it is hoped that the CIL schedule can be adopted in a way that does not constrain the supply of retirement housing for the elderly. The consequences of ignoring this evidence is the risk of putting the delivery of the

[1] Which can be referred to as Category II Sheltered Housing (less care) and use class C3, or Extra Care housing (Higher levels of care and therefore deemed use class C2).

development plan in jeopardy, a situation to be avoided, as Paragraph 29 of the 2012 CIL regulations published by DCLG makes it clear:

'In proposing a levy rate(s) charging authorities should show that the proposed rate (or rates) would not threaten delivery of the relevant Plan as a whole' (Paragraph 29).

The Developers

McCarthy & Stone Retirement Lifestyles and Churchill Retirement Living are leading providers of specialist retirement housing for older home owners in the United Kingdom. It is estimated that of the specialist housing providers currently active in this specific market (not including the out of town "retirement village" model), the two companies deliver over 80% of current supply between them. In response to the housing implications of the UK's ageing population, both companies have ambitious investment plans which rely on being able to secure sufficient land for development.

Retirement apartments offer accommodation for home owners aged over 60 years of age. Typical facilities within a development include a communal lounge for the use of all residents for socialising and events; a Manager working full time hours at the development; an emergency call system in every apartment; laundry facilities; a guest bedroom; communal landscaped gardens; plus electric scooter charging points, communal refuse areas and parking facilities. Given the nature of the resident, appropriately located retirement schemes are built within easy walking distance of town centre facilities to enable the resident to easily access all of their needs (public transport, shops, banks & post offices, cafes, community facilities, doctor, dentist etc) without reliance on a private car. Alongside companionship and security, this is one of the main reasons a purchaser of a retirement apartment will consider downsizing from properties that are less well located relative to the required facilities. It also allows a high development density to be achieved given the low requirements for parking on-site.

There is also an Extra Care model, which by including "care", (in not just staffing, but also within the design and specification including larger communal areas), is different from retirement housing both in its form and the costs associated with its delivery and occupation. Particularly where authorities seek to apply CIL charges to this form of development and where the Development Plan specifically seeks its delivery, it would be appropriate to specifically assess this form of development because of its different characteristics and consequent different viability factors associated with it.

Although the two companies are in direct competition with each other, the potentially serious implications to land supply of getting the CIL charging schedule wrong, and its potential for adverse impact on the delivery of retirement housing for which there is an acknowledged growing need, have spurred them into jointly preparing this paper.

A Growing Elderly Population

By 2026 older people will account for almost half (48 per cent) of the increase in the total number of households, resulting in the addition of 2.4 million older person households than there are today. The number of people aged 85 or over will increase by 2.3 million by 2036, a 184 per cent increase. The ageing of society poses one of our greatest housing challenges.

The need to address this is reflected in the NPPF at paragraphs 50 and 159. The thrust of these paragraphs is to ensure that Local Plans properly account for the need for older persons housing (amongst other housing types). Paragraph 50 states that the planning system should be;

'supporting strong, vibrant and healthy communities' and highlights the need to *'deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. Local planning authorities should plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community...such as...older people'* [emphasis added].

More recently, in March 2013, the House of Lords report entitled "Ready for Ageing?" concluded that;

"The housing market is delivering much less specialist housing for older people than is needed. Central and local government, housing associations and house builders need urgently to plan how to ensure that the housing needs of the older population are better addressed and to give as much priority to promoting an adequate market and social housing for older people as is given to housing for younger people"

The Role of CIL and setting an appropriate rate

When setting a CIL rate, Regulation 14(1) of the 2010 Community Infrastructure Levy Regulations states that *"an appropriate balance" between "a) the desirability of funding from CIL (in whole or in part)"* and *"b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development"* should be found.

It is recognised that this does not require CIL to be set at a rate that ensures every scheme is viable. However, specific types of housing should not be rendered unviable by CIL generally and particularly where they address a need.

Paragraph 30 of the April 2013 DCLG CIL Guidance states that;

"Charging authorities should avoid setting the charge right up to the margin of economic viability across the vast majority of sites in their area. Charging authorities should show, using appropriate available evidence, including existing published data, that their proposed rates will contribute positively towards and not threaten delivery of the relevant Plan as a whole at the time of charge setting and throughout the economic cycle"

The CIL Guidance then stresses the importance of this principle to individual market sectors that play an important role in meeting housing need, housing supply and the delivery of the Development Plan, such as specialist accommodation for the elderly. This is relevant in the context of Paragraph 37 of the Guidance:

"... However, resulting charging schedules should not impact disproportionately on particular sectors or specialist forms of development and charging authorities should consider views of developers at an early stage".

Not properly considering the effect of CIL on this form of development where the provision of specialist accommodation for older people plays a clear role in meeting housing needs in the emerging or extant Development Plan, would result in the Council putting the objectives of the Development Plan at risk in direct contravention of Government Guidance.

Additionally, it is of vital importance that the emerging CIL does not prohibit the development of specialist accommodation for the elderly given the existing and growing need for this form of development.

It is therefore imperative that the emerging CIL rate properly and accurately assesses the viability implications of the development of specialist accommodation for the elderly

Viability

With the onus on the CIL charging authority to set a rate that has regard to available evidence on the viability of development; it is considered that this paper represents just that type of evidence.

Any CIL viability assessment should consider the effect of the imposition of CIL on a retirement apartment scheme. This effect should be quantified using appraisal inputs specific to the retirement housing product. It is not correct to simply assume that a general needs apartment scheme is comparable to a retirement apartment scheme. There are a number of key differences which will affect the land value that can be produced by each. Table 1 below summarises the residual land appraisal inputs applicable to a typical scheme on a 0.4 hectare site, a 3 storey 40 unit retirement apartments scheme. These should be tested as a separate development typology by the CIL viability assessment. Also provided (for comparison purposes only) are the applicable inputs to a typical general needs apartment scheme on a similar size land plot, such that the differences can be noted and quantified. Whilst the retirement housing product is relatively standard (specification does not necessarily depend on location), a general needs scheme could of course offer various flat types and specifications, dependant on local markets and demand (e.g. commuter belt, first time buyers, buy to let, larger family size flats in urban locations).

Churchill Retirement Living

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Table 1 – Viability Appraisal Inputs for a typical retirement scheme, 0.4ha.	40 unit Category II Retirement Apartment scheme	Typical General Needs Flatted Scheme at 35 units
Housing Mix	1 bed @ 70% 2 bed @ 30%	1 bed @ 30% 2 bed @ 70%
GIFA 1 Bed (m^2)	50-60 sq m	45 sq m
GIFA 2 Bed (m^2)	70-80 sq m	70 sq m
Site area (ha)	0.4	0.4
Net to gross ratio (%) saleable/non saleable	70% saleable to 30 non-saleable/communal space	84% saleable to 16% non-saleable/ communal space
Residential Values (Revenue)		
Sales revenue 1BF (£/m2)	Local comparable rates	Local comparable rates
Sales revenue 2BF (£/m2)	Local comparable rates	Local comparable rates
Sales Rate	1 unit per month. Sales curve to front load a proportion of sales after build completion though final years sales less than 1 per month	2 per month, some sold off-plan to buy-to-let market
Ground rent per 1 bed/pa	£425	£150
Ground rent per 2 bed/pa	£495	£200
Yield - capitalised ground rent	7.0%	7.0%
Building Costs		
Building costs New Build (£/m^2)	Current BCIS Mean Generally Retirement Housing rate with location factor applied	Current BCIS rate for Mean Generally Flatted Development with location factor applied
Abnormal/Extra overs	Site by site	Site by site
External works	10% of basic build cost	10% of basic build cost
Allowance for Sustainability/ B. Regs changes to Part L 2013	Minimum 3% of basic build cost	Minimum 3% of basic build cost
Contingencies (%)	5%	5%
Building cost fees (%)	10%	10%
Empty property costs to cover Service Charge, Council tax, electricity	For a 40 unit site this is typically £ 220,000 over the sales period	Minimal

S106 Costs	As per Local Plan policy as cross referred to in the Charging schedule (removing the requirement for education, sports facilities etc)	As per Local Plan policy as cross referred to in the charging schedule
Affordable Housing Assumption	As per Local Plan Policy – typically a financial contribution off-site	As per Local Plan Policy
Sales & Marketing Costs		
Legal fees (per open market unit sale)	£600	£600
Sales/marketing (% GDV)	6%	3%
Finance and acquisition costs		
Arrangement fee (loan)	1% of max loan	1% of max loan
Interest rate (%)	7%	7%
Agents fees (%) of land	1.50%	1.50%
Legal fees (%) of land	0.75%	0.75%
Stamp Duty (%)	as per applicable rate	as per applicable rate
Developer's return for risk		
Profit as % of sales revenue	20% - 25%	17.5%
Site Benchmark land value	Existing Use Values could be - Hotel; Residential Land Assembly of 3-4 detached properties; 30,000 sq ft office. Alternative Site Value - 75 bed Care Home; Lower Density Housing Development; General Needs flatted scheme; Retail led Scheme all within or close to town centre location with likely higher general values	Site Specific
Timings	Month	Month
Planning permitted	0	0
Construction period	12 months	12 months
Construction start	7	7
Construction end	19	19
First sale	19	14
Last sale (legal completion)	58	33

Selling rate	1 per month. Sales curve at 18 units in initial 12 months, 12 units in next 12 months, final 10 units sold in next 16 months	2 per month, sales curve as per local experience
Freehold sale (ground rent payment)	57	33
Overall scheme end date	57	33
Empty Property Cost Timing	Commensurate with Sales	-
S106 payments	on commencement	on commencement

It is also helpful to specifically consider those inputs that are significantly different:

Communal Areas

Many forms of specialist accommodation for the elderly, such as retirement housing, provide communal areas for residents at an additional cost to developers. Specialist housing providers also have additional financial requirements as opposed to other forms of development that will only pay CIL based on 100% saleable floor space. This does not provide a level playing field for these types of specialist accommodation and a disproportionate charge in relation to saleable area and infrastructure need would be levied.

In comparison to open market flats the communal areas in specialist accommodation for the elderly are considerably larger in size, fulfill a more important function and are accordingly built to a higher specification in order to meet the needs of the elderly. Typically a mainstream open market flatted residential development will provide 16% non-saleable floor space, whereas this increases to 30% for sheltered accommodation and 40% for Extra Care accommodation.

This places providers of specialist accommodation for the elderly at a disadvantage in land acquisition as the ratio of CIL rate to net saleable area would be disproportionately high when compared to other forms of residential accommodation.

Sales Rate

In the case of retirement housing there is also a much longer sales period which reflects the specialist age restricted market and sales pattern of a typical retirement housing development. This has a significant knock on effect upon the financial return on investment. This is particularly important with Empty Property Costs, borrowing and finance costs, and with sales and marketing costs, all of which extend typically for a longer time period. Currently the typical sales rate for a development is approximately one unit per month, so a 40 unit retirement scheme (i.e. an average sized scheme) can take 3-4 years to sell out after the build phase is completed.

As a result of this, sales and marketing fees for specialist accommodation for the elderly are typically in excess of 6% of GDV, not 3% as ordinarily applied to conventional residential development.

Empty Property Costs

Properties can only be sold upon completion of the development and the establishment of all the communal facilities and on-site house manager. These communal areas cost additional monies to construct and are effectively subsidised by the developer until a development has been completely sold out. In a retirement development the staff costs and extensive communal facilities are paid for by residents via a management / service charge. However, due to the nature of these developments the communal facilities have to be fully built and operational from the arrival of the first occupant. Therefore to keep the service charge at an affordable level for residents, service charge monies that would be provided from empty properties are subsidised by the Company (these are typically known as Empty Property Costs). This is a considerable financial responsibility because, as previously mentioned, it usually takes a number of years to fully sell a development. For a typical 40 unit Retirement scheme, the Empty Property Costs are on average £225,000.

Build Costs

The Build Costs Information Services (BCIS) shows that the Mean Average Build Costs per m^2 for a region. This database consistently shows that build costs vary significantly between housing types, with the cost of providing sheltered housing consistently higher than for general needs housing and apartments.

While the BCIS figures are subject to fluctuation it is our experience that specialist accommodation for the elderly tends to remain in the region of 5% more expensive to construct than mainstream apartments, and generally between 15 to 20 % more expensive than estate housing.

Land Value Considerations

A crucial element of the CIL viability appraisal will be to ensure the baseline land value against which the viability of the retirement scheme is assessed properly, reflecting the local conditions within which any retirement scheme will be located.

As such, the viability of retirement development should be assessed against both existing site values, and just as importantly, of potential **alternative** (i.e. competitor) uses. Our concern is that CIL could prejudice the delivery of retirement housing against competing uses on the land suitable for retirement housing schemes.

As retirement housing is an age restricted housing type, it is important that it is located within close proximity to the services that an elderly person may require. The average age of residents in this type of housing scheme is around 79 years. They are likely to have abandoned car ownership, be of lower mobility and/or rely

on close proximity to public transport. For this reason, the major retirement housing developers will not consider land more than half a mile level walk from a town centre or local centre that has a post office, pharmacy, doctor's surgery and a good array of shops for the elderly occupier's likely daily needs. This should be understood as housing for the active elderly – care homes can theoretically be sited further from town as the residents of these types of accommodation typically do not rely on their own mobility to access doctor/medical care and food shops. Care and services are bought in onto these sites to a greater degree. In coastal areas this effectively halves the available land within walking distance of the town centres of the district, and therefore means that sites suitable for retirement apartments are scarce.

The result is that the retirement housing product can only be built on a limited range of sites. If the CIL schedule sets the charging rate at a level that means retirement housing schemes cannot compete in land value terms with other uses for these sites (which by nature could be reasonably built elsewhere), then no retirement housing will come forward since no suitable sites will be secured – to the detriment of the housing needs and aspirations of local older people. It is worth noting that Paragraph 27 of the April 2013 Community Infrastructure Levy Guidance recognises that brownfield sites are those where the CIL charge is likely to have the most effect, stating; *"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 on economic viability is likely to be most significant"*.

Any CIL Viability Assessment should therefore consider a development scenario for a typical flatted retirement housing scheme, located on a previously developed site within 0.5 miles of a town centre.

Emerging Practice

In the context of Regulation 13 of the CIL regulations and paragraph 35 of the April 2013 Community Infrastructure Levy Guidance document produced by DCLG, this is an important point. Paragraph 35 states;

> *"Regulation 13 also allows charging authorities to articulate differential rates by reference to different intended uses of development provided that the different rates can be justified by a comparative assessment of economic viability of those categories of development. The definition of 'use' for this purpose is not tied to the classes of development in the Town and Country Planning Act (Use Classes) Order 1987, although that Order does provide a useful reference point"*.

The Three Dragons consultancy is currently working with the Retirement Housing Group, (which represents a wide range of retirement housing providers, both public and private), on CIL appraisals and has also recognised this distinction.

We have seen a growing number of charging schedules that throw this into sharp relief. In Central Bedfordshire the authority set the charging rate for retirement housing at £nil in light of the non-viability of these schemes. In Dacorum Council, a

bespoke CIL Levy rate for retirement housing has been proposed in light of the differences between this form of housing and general needs residential. Dacorum Council also exempt Extra Care housing completely on the basis of non viability.

It is also important to recognise that retirement housing sites, due largely to their location near to town and local centres, are typically built on brownfield land which in most cases is in current use (i.e. not derelict or abandoned). Paragraph 27 of the Guidance recognises that brownfield sites are those where the CIL charge is likely to have most effect.

Conclusion

It is a requirement of the CIL regulations that the imposition of CIL does not prejudice the delivery of the development plan. For this reason alone, it is of the utmost importance that charging authorities consider this form of housing when drafting charging schedules. Retirement housing brings with it many environmental, economic and social benefits. These attributes further embed the notion that retirement housing is a distinct housing market type deserving of special consideration within the Development Plan. These are set out at Appendix 1 to this letter.

The experience of McCarthy and Stone and Churchill Retirement Living on recent planning application schemes throughout the country is such that, at best, viability is challenging. There is a ready supply of evidence to prove this in a Development Control setting.

Below at Table 2 is a summary of the agreed affordable housing provision secured via off-site affordable housing and s106 payments at recent (2013) Churchill and McCarthy and Stone planning applications throughout the country. This reflects the viability of schemes against the most up to date housing market conditions at the time of writing. As is shown, in the vast majority of cases, the provision of the full policy requirement for affordable housing was not possible because of its effect on the economic viability of the scheme;

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Table 2 – Planning application decisions made in 2013 on developments by Churchill Retirement Living and McCarthy & Stone

Site	Units	Local Authority	Affordable Housing & s106 contributions	Viability Issue? (Yes/No)	Date	Existing Land Use
CRL Bishop's Stortford	52	East Herts DC	£565,300	No	Mar '13	Redundant and vacant commercial centre. Low EUV
CRL Worthing	29	Worthing BC	£89,547	Yes	Mar '13	Existing Care Home use
CRL Caterham	35	Tandridge DC	Nil	Yes	Feb '13	Car showroom, workshop and under-utilised offices
CRL Orpington	50	LB Bromley	£255,500	Yes	Jan '13	Redundant Office Block
CRL Dorchester	39	West Dorset DC	£150,000	Yes	Jan '13	Fire Station and 2 residential properties
CRL Penzance	60	Cornwall	£300,000	Yes	Jan '13	Cleared development site, extant hotel permission.
M & S Kenilworth	22	Warwick BC	£250,000	Yes	Feb '13	2 houses
M & S Skipton	33	Craven DC	£73,350	Yes	Feb '13	Mill
M & S Folkestone	25	Shepway DC	£56,086	Yes	Feb '13	Nursing home
M & S Sidcup	50	LB Bexley	£78,979	Yes	Feb '13	6 storey office block
M & S Braintree	32	Braintree DC	£17,718	Yes	Mar '13	Govt offices
M & S Bembridge	40	IOW Council	£216,000	Yes	Mar '13	Garage and pfs
M & S Monton	48	Salford BC	Nil	Yes	Mar '13	Hotel
M & S Stroud	32	Stroud DC	Nil	Yes	Mar '13	Garage/car repairs

The table above shows that at the majority of planning applications for retirement apartments decided in 2013, an independently agreed assessment of viability has demonstrated to the satisfaction of decision makers that the imposition of the full affordable housing requirement would have rendered these schemes economically unviable. The logical conclusion to this is that the imposition of any CIL onto these schemes would have at best reduced the amount remaining for affordable housing (thereby putting the delivery of the development plan in jeopardy), or at worst rendered these schemes wholly economically unviable, even with no affordable housing contributions. Aggregate floor space of the developments above is some 45,000 square metres, whilst the total AH & s106 contributions are some £2.05m. This is scope to make some £45 per square metre of planning gain contributions. Therefore, had any CIL have been implemented then it cannot be said that these sites would have some forward as retirement housing developments.

Whilst only on an aggregate basis, the above figures demonstrate that even before affordable housing is taken into account, aggregate levels of CIL anywhere over £45 per sq m applied to these developments would have rendered them unviable, jeopardising retirement housing delivery. When taken in the context of affordable housing planning policy, any CIL whatsoever would likely have constrained supply significantly.

Without properly assessing a retirement housing scheme against a range of existing and competitor uses, the implication of adopting a CIL rate based on general needs housing is that supply will be constrained in this important market sector. Paragraph 37 of the CIL Guidance should be noted here. Furthermore, the examples provided of the schemes where planning decisions were made in 2013 show that any CIL requirement for a retirement housing scheme is not justified if affordable housing is to be delivered.

The paper recommends that any CIL evidence base should have regard to spatial variations in land use and the competitive nature of a constrained and rationed market for land in close to town centre settings.

Andrew Burgess BA (Hons) MRTPI
Managing Director - Planning Issues Ltd
Director - Churchill Retirement Living Ltd

Gary Day MRTPI MCIH
Land and Planning Director - McCarthy and Stone Retirement Lifestyles Ltd

Appendix 1

The Benefits of Retirement Housing

To further embed the notion that retirement housing is a distinct housing market type that deserves special consideration within the Development Plan, it is worth setting out the benefits of retirement housing to both residents and the wider community. Sheltered housing gives rise to many social benefits by providing specialized accommodation to meet a specific housing need. In summary, sheltered housing:

- provides purpose built specifically designed housing for local elderly people
- a recognised local housing need (according to the latest research by Churchill Retirement Living, of their existing sheltered housing developments, reinforcing previous findings of McCarthy & Stone, over 50% of occupants of sheltered housing move from within a 10 mile radius of the development);
- helps to reduce anxieties and worries experienced by many elderly people living in housing which does not best suit their needs in retirement by providing safety, security and reducing management and maintenance concerns;
- provides companionship and a community which helps to reduce isolation, loneliness and depression;
- provides a form of housing which addresses the onset and increasing problems of mobility/frailty;
- is very well located in relation to shops and other essential services, being within easy walking distance or readily accessible by public transport which can reduce isolation and reduce the worry of depending on a car;
- helps to maintain an independent lifestyle; and
- helps to maintain health and general well-being.

There are also many planning benefits which include:-

- sheltered housing releases under-occupied housing and plays a very important role in the recycling of stock in general;
- there is a 'knock-on' effect in terms of the whole housing chain enabling the more effective use of the existing housing stock;
- sheltered housing maximises the use of previously-developed land;
- because of its location, sheltered housing reduces the need to travel by car (the elderly living in more remote locations will remain far more dependent upon the private car); and
- helping to introduce mixed land uses in town centres, revitalising such areas.

Private sheltered housing is a 'good neighbour' in all respects. There is a very low traffic generation, and the general lack of peak hour traffic movement ensures that

conflict does not occur with other peak traffic movements such as school and work journeys. Residents tend to be relatively active in the local community, be a watchful eye on the local neighbourhood in terms of crime and safety, and are local shoppers/spenders.

In addition to the above retirement housing provides a number of key sustainability benefits including;

- Making more efficient use of land thereby reducing the need to use limited land resources for housing;
- Providing high density housing in close proximity to services and shops which can be easily accessed on foot thereby reducing the need for travel by means which consume energy and create emissions;
- Providing shared facilities for a large number of residents in a single building which makes more efficient use of material and energy resources.

Hayley Anderson

From: [redacted]
Sent: 10 November 2014 15:05
To: Hayley Anderson
Cc: [redacted]
Subject: Birmingham CIL consultation

Dear Hayley,

Thank you for the opportunity to comment on the Birmingham Community Infrastructure Levy (CIL). As you will be aware, the 7 Leaders of the Metropolitan Local Authorities now form the new WMITA.

To support the evidence base for the CIL, Birmingham City Council should therefore continue to work with the West Midlands Integrated Transport Authority (WMITA). This will help to ensure the supporting Infrastructure Development Plan (IDP) is up to date and in line with current proposals.

WMITA have previously been engaged in the development of the IDP (which informs the Draft CIL). These comments are still relevant and we would welcome continuing discussions on the IDP to ensure correlation with emerging thinking on policies and strategies.

In relation to CIL rates, WMITA considers that it would be beneficial for all development, particularly those that will have a significant impact to contribute to the ongoing development of the public transport network. This will help to ensure sustainable development which has good access to the public transport network. To support this, WMITA would welcome involvement in the prioritisation of CIL and schemes identified in the IDP.

We would welcome a meeting with Birmingham City Council officers at the earliest opportunity to and discuss our comments in more detail and ensure synergy in particular between the proposed CIL, the IDP and the West Midlands Local Transport Plan.

Kind regards,

[redacted]

[redacted]
Principal Economic Development Officer

West Midlands ITA Policy & Strategy Team

[redacted]

West Midlands ITA Policy & Strategy Team, c/o Council House Extension, 6 Margaret Street, Birmingham, B3 3BU

BY EMAIL ONLY (hayley.anderson@birmingham.gov.uk)

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Hayley Anderson
CIL Draft Charging Schedule
PO Box 28
Birmingham
B1 1TU

10 November 2014

Dear Sir

BIRMINGHAM CITY COUNCIL
COMMUNITY INFRASTRUCTURE LEVY (CIL)
DRAFT CHARGING SCHEDULE SEPTEMBER 2014 CONSULTATION

CgMs generally support the CIL rates proposed and in particular the recognition that many forms of development cannot support a CIL charge. However the list of uses provided is not exhaustive and for avoidance of doubt there should be a category indicating "all other forms of development" should be zero rated. In particular there are many forms of Sui Generis uses which could not support a CIL charge such as cash and carriers, membership warehouse clubs, petrol filling stations, car showrooms and multi-storey car parks.

Ancillary Car Parking Facilities

In addition the calculation example implies that basement car parking is potentially liable for CIL. However it is important to clarify that undercroft and ancillary decked car parking is zero rated.

In line with NPPF sustainable planning policies which promote the efficient use of land, developers are seeking to develop schemes which are flexible and make the best use of land. Many operators will therefore explore potential options for providing car parking and will seek to incorporate under-croft or decked car parking within their schemes. It would prejudice the best and efficient use of land if these forms of ancillary car parking were included within the Gross Internal Area (GIA) of commercial floorspace (employment, retail, sui generis uses) for CIL charging purposes, and would fundamentally impact upon the viability of potential schemes coming forward in Birmingham.

Indeed, a valuation/rateable value for car parking is not included within the valuation assessments for commercial schemes including under-croft/decked car parking. An Inspector in his report on the examination for the Draft Barnet Community Infrastructure Levy charging schedule acknowledged that significant areas of car parking within a multi-storey building could generate a contribution which would jeopardise the viability of schemes. The Inspector went on to recommend that CIL charges on car parking space should be excluded and this change was supported by London Borough of Barnet Council.

A copy of the Inspectors Report is appended at **Appendix 1** and a copy of the adopted Barnet CIL charging schedule is appended at **Appendix 2**.

Conclusion

In conclusion, we believe that, in accordance with prevailing guidance, the Council needs to make appropriate amendments to the CIL charging schedule.

We request to be notified at the address given within the letterhead of the following:

i) That the draft charging scheduled has been submitted to the examiner in accordance with Section 212 of the Planning Act 2008;

ii) The right to be heard by the appointed Examiner at the examination;

iii) The publication of the recommendations of the examiner and the reason for these recommendations; and

iv) The approval of the charging schedule by the Council.

If you have any queries on the points raised, or would like to discuss matters further please do not hesitate to contact me.

Yours faithfully,

[redacted]

Enc: Appendix 1 – Barnet CIL Examination Inspector's Report February 2013
Appendix 2 – Barnet CIL Charging Schedule May 2013

APPENDIX 1

BARNET CIL EXAMINATION INSPECTOR'S REPORT FEBRUARY 2013

The Planning Inspectorate

Report to London Borough of Barnet Council

by Geoff Salter BA (Econ) MRTPI

an Examiner appointed by the Council

Date: 12 February 2013

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

REPORT ON THE EXAMINATION OF THE DRAFT BARNET COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE

Charging Schedule submitted for examination on 5 November 2012

Examination hearing held on 21 December 2012

File Ref: PINS/N5090/429/7

Non Technical Summary

This report concludes that the Barnet Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the Borough. The Council has sufficient evidence to support the schedule and can show that, subject to the modifications identified in the attached schedule, the levy is set at a level that will not put the overall development of the area at risk.

Modifications are needed for the schedule to meet the statutory requirements. These can be summarised as follows:

- Restrict the categories of chargeable development to residential (Use Classes C1-C4) and retail (Use Classes A1-A5) floorspace.
- Clarify that car parking space within new development, including ancillary car parking, will not be subject to charge.

These modifications are based on representations received during the consultation periods on the draft schedules and the modified version and on the discussion during the public hearing session. Whilst they alter the basis of the Council's approach they would not have a major impact on the appropriate balance between the amount of levy received or the level of risk to development.

Introduction

1. This report contains my assessment of the London Borough of Barnet Community Infrastructure Levy (CIL) Charging Schedule in terms of Section 212 of the Planning Act 2008. It considers whether the schedule is compliant in legal terms and whether it is economically viable as well as reasonable, realistic and consistent with national guidance (Charge Setting and Charging Schedule Procedures – DCLG – March 2010). To comply with the relevant legislation the local charging authority has to submit a charging schedule which it considers achieves an appropriate balance between helping to fund necessary new infrastructure and the potential effects on the economic viability of development across the Borough.

2. The basis for the examination, which included one hearing session, is the submitted schedule of 5 November 2012. This is broadly the same as the one published for public consultation in July 2012.

3. The Council propose a flat rate charge of £135 per square metre (psm) on all types of chargeable development.

Is the charging schedule supported by background documents containing appropriate available evidence?

Infrastructure planning evidence

4. The Barnet Borough Local Plan Core Strategy (CS)[1], recently adopted in September 2012, sets out the broad land use strategy for the Borough. A key element of the CS is the housing trajectory, which responds to the significant housing challenge in London by proposing 28,000 new homes by 2026. Although the majority of new development will be residential there is also a major commercial proposal for the expansion of Brent Cross Cricklewood (BXC) to deliver a new metropolitan town centre. This already has planning permission and would not be subject to the CIL, unless major changes involving a new permission were required. Other CS proposals involve more retail floorspace concentrated in town centres at north Finchley and Edgware, among others.

5. To deliver the strategy, the Council has produced an Infrastructure Delivery Plan, which will be continually rolled forward following its original approval in November 2011. The projects contained in the IDP represent an accurate, up to date assessment of a range of needs which have generally been informed by service providers. The total estimated funding cost of all 'critical and necessary' infrastructure projects in Barnet over the CS plan period o support the population and housing growth up to 2016 is about £272m. It has not been disputed that even allowing for known funding mechanisms as shown in the IDP, including grant income, there will be a funding gap of about £92m. The CIL and income from Section 106 planning obligations are expected to generate about £30m in this period. Although what might happen to funding programmes cannot be predicted with accuracy, the level of income likely to be raised by the CIL would therefore make only a modest contribution towards filling the gap. The figures demonstrate the need to introduce the CIL.

Economic viability evidence

6. The Council commissioned an Affordable Housing and CIL Viability Study (VS) from BNP Paribas which was originally prepared in 2010 and updated in September 2011. The study analysed a number of scenarios based on a residual valuation approach, comparing existing use values that reflected up to date values for a range of sites that typically come forward for redevelopment in Barnet with their likely value after development. In general, there were few queries about the methodology and assumptions used in the residential appraisals. Values for completed developments were based on up to date information less than a year old; the Council and its consultant confirmed that sale prices and rentals had increased slightly (possibly by 2-3%) over the past year. It took account of variations in values across the Borough by postcode, and other relevant local data on housing densities and unit mix.

7. The VS employed a residual valuation method and used standard assumptions for a range of factors such as building costs (including Code for Sustainable Homes requirements) based on the industry standard RICS Building Cost

[1] ED01

Information Service (BCIS). Building costs had seen little change over the last year and the information was up to date. Other largely unchallenged assumptions for profit levels, finance costs, fees and developer's profit were included.

8. There were some objections to commercial scenarios, in particular those for retail development. These related to the omission of demolition costs and purchasers' costs, differences of opinion about professional fees rates and other minor factors such as the introduction of Mayoral CIL since the study was completed. I discuss the implications of these factors in my assessment of the justification for the levy below.

9. The VS tested the viability of CIL levels ranging from £0 to £250 psm on residential development at various densities taking account of affordable housing provision at 0%, 30% and 40%. It also tested a range of retail schemes offices in and out of town centres, industry/warehousing, a hotel, community and leisure uses and a residential institution.

Conclusion on the available evidence

10. The draft Charging Schedule is supported by detailed evidence of community infrastructure needs and a funding gap has been identified. Accepted information sources fed into the recognised valuation methodology which was informed by reasonable assumptions about local sale prices, rents and yields. The residential scenarios were robust. However, there were some acknowledged shortcomings with regard to the retail scenarios, which I consider in more detail below. While these may have had implications for some of the scenarios for commercial uses, in general the Council produced a sufficient amount of evidence to inform conclusions about the impact of the proposed CIL on the viability of a number of development scenarios. The evidence which has been used to inform the Charging Schedule is proportionate, appropriate and, in most instances, robust.

Is the charging rate informed by and consistent with the evidence?

CIL rates for residential development

11. The detailed evidence of house prices across the Borough was fed into a considerable number of affordable housing viability appraisals. The VS indicates that at the previously required affordable housing ratio of 30% a range of CIL rates at £210 to £350 per sq m could be applied across the Borough, depending on the location. The Council stated that the CIL rate had been set below the viability threshold in higher value areas deliberately, to be comparable with current Section 106 tariffs and so retain investor confidence in the housing market. Overall CIL would be a very small proportion of residential development costs (about 3.3%).

12. A key scenario (model 23) tested affordable housing provision at 40% on sites with more than 10 dwellings, in accordance with recently approved CS policy, split into 60% affordable rent and 40% intermediate housing, without grant but with appropriate allowances for Section 106 costs of £20 per sq m,

the Mayoral CIL and Code for Sustainable Homes standards. This showed that housing would generally remain viable across the Borough with the CIL rate proposed, albeit at reasonably high densities and with sales values at the higher end of the expected range.

13. There may be some parts of the Borough, such as the Regeneration Areas, one of which is BXC, where the viability of housing schemes supported by site specific Section 106 planning obligations is more marginal. Although not a subject for my examination, the Council has stated that it may consider granting 'exceptional circumstances' relief for certain key proposals. If the strict criteria of the CIL Regulations are met, critical development important for the success of the regeneration policy may is unlikely to be jeopardised. A review of necessary infrastructure funding at key sites should be informed by the Council's recently published draft guidance on Section 106 obligations. As far as CIL is concerned, the overall development of new housing in the Borough would not be put at risk, based on the VS.

Retail development

14. The justification for charging the rate on retail development was based on one scenario in the VS for a store of about 2650 sq m. The VS calculations showed that the development would be viable with CIL in most parts of the Borough, assuming medium or high rent levels. Objectors proposing a major mixed used development incorporating about 19,000 sq m of retail space in Edgware town centre argued that the appraisal was flawed, because it did not represent a realistic proposal through the omission of cost elements and the Mayoral CIL. It was agreed that the types of retail schemes likely to come forward would vary; small unit developments were improbable in the current and likely future economic climate but developments of between 1,500 and 3,000 sq m, as expansions of convenience stores or in mixed use schemes, were possible.

15. The Council acknowledged that demolition and purchasers' costs should have been included in the appraisal, but argued that assumptions about professional fee levels were realistic. The appraisals include a yield assumption of 7%, which would give substantial headroom to accommodate some extra costs. Certainly any convenience floorspace would be assessed at a much lower yield of 4.5% to 5% and would be viable with CIL at £135 per sq m. While I have some sympathy with the argument that the retail scenario should have been done more thoroughly, taken in the round the evidence about retail costs and values suggests strongly that schemes would be viable with CIL as proposed across the Borough as a whole.

16. The potential viability problems with the Edgware scheme arise principally because it involves a significant area of car parking within a multi storey building which would be liable to charge. Some 33,000 sq m of parking would generate a levy of just under £4.5m which I have no doubt would jeopardise the viability of the scheme. The Council accepted that in principle a scheme such as this which involved replacement car parking for an important town centre site, would comply with its policy for the regeneration of the centre. In these circumstances it is appropriate to consider the impact of CIL on an individual proposal of such significance to the Borough as a whole.

17. In order to secure its policy objectives, if satisfied with the viability case, the Council's suggested solution appeared to involve some legal commitment before development commenced to re-imburse the CIL charge in some form of payment for provision of the parking infrastructure or grant exceptional circumstances relief. The former would create considerable uncertainty while the latter would be unlikely to address viability concerns if a Section 106 obligation with a value at least equivalent to the CIL charge were required. I consider the more appropriate way forward would be to exclude CIL charges on car parking space in the Borough, whether ancillary or not, as there is no supporting viability evidence to underpin charging for this element of any new development. The Council now supports this change, which would not prejudice any party's interest and should be clarified in the schedule **[EM2]**.

Other commercial development

18. The VS states quite clearly that in broad terms, most office, industrial and warehouse development is not viable at present within Barnet. The office market in outer London has been stagnant for many years and sites often come forward for conversion to residential use. A similar picture is painted for industrial/warehouse sites. The VS recommends a nil rate for other commercial development. The Council's argument that introducing a CIL would have little impact on the very small revenues likely to b generated has little force. The balance could easily be tipped against the limited amount of development that might come forward in mixed use schemes if another cost were to be added. There is no justification for the CIL on these uses.

Community facilities

19. Similarly there was compelling evidence from the bodies responsible for providing facilities for policing and fire safety that charging CIL would prejudice the provision of buildings needed to maintain essential public services. These uses have to be supported through public subsidy in any event. The Council's stated commitment to reimburse CIL charges through some form of grant lacks certainty and would appear to add an unnecessary layer of bureaucracy to the funding of buildings for public services. Similar argument would apply to other publicly funded buildings for leisure uses. Not all educational or community facilities would be eligible for charitable relief. Similarly health facilities would have to go through a potentially cumbersome and uncertain process of negotiation with the Council to secure scarce CIL resources before committing to a development.

Other matters

20. In producing the schedule the Council include a considerable amount of additional material that was in essence supporting text justifying the charge and publicising procedural matters. Much of this material could be excised without detriment to the clarity of the main elements of the schedule, namely the classes of development to be charged and the rate per sq m. To limit the schedule in this way would enable a much simpler process if it needed to be reviewed in future years. I recommend the Council make a further change to the schedule to include only paragraphs 1.1.1 to 1.1.7, which should be subject to the removal of all classes of development from the levy except residential and retail.

Does the evidence demonstrate that the proposed charge rate would not put the overall development of the area at serious risk?

21. In setting the CIL rates the Council has had regard to detailed evidence of infrastructure planning derived from the Core Strategy and the updated IDP. It has balanced this with evidence in the VS, taking account of the characteristics and varying sales values in different parts of the Borough for residential property. It has also taken into account evidence of varying viability for retail development. However, the draft schedule disregards the evidence of the VS that other commercial development, such as offices and industry/warehousing, is not likely to generate rent levels or sales values that would sustain a CIL charge. The draft CIL is not justified by the evidence and a significant number of development categories would be put at risk across the Borough if it were to be levied. The lack of general viability of other types of commercial, industrial and community development leads me to conclude that a modification is essential, to ensure the CIL is charged on residential and retail development alone **[EM1]**. The proposed CIL rate on these two types of development is based on reasonable assumptions about development values and costs.

Conclusion

22. The evidence suggests that the overall development of the area will not be put at risk if the CIL is charged on residential and retail development at the rate of £135 per sq m. In setting the CIL charging rate the Council has had regard to detailed evidence on infrastructure planning and the economic viability evidence of the development market in Barnet Borough. In broad terms, because about 95% of income is expected to come from residential schemes, the Council has taken a realistic approach in terms of achieving a reasonable level of income to address the identified gap in infrastructure funding, while ensuring that the overall development of the area would not be at risk.

LEGAL REQUIREMENTS	
National Policy/Guidance	The Charging Schedule complies with national policy and guidance.
2008 Planning Act and 2010 Regulations (as amended 2011)	The Charging Schedule complies with the Act and the Regulations, including in respect of the statutory processes and public consultation, consistency with the adopted Core Strategy and the Barnet Infrastructure Delivery Plan and is supported by an adequate financial appraisal.

23. I conclude that subject to the modifications set out in Appendix A the Barnet Borough Community Infrastructure Levy Charging Schedule satisfies the requirements of Section 212 of the 2008 Act and meets the criteria for viability in the 2010 Regulations (as amended 2011). I therefore recommend that the Charging Schedule be approved.

Geoff Salter

Examiner

This report is accompanied by:

Appendix A (attached) – Modification that the Examiner specifies so that the Charging Schedule may be approved.

Appendix A

Modification recommended by the Examiner to allow the Charging Schedule to be approved.

Modification No	Modification
EM1	Re-draft the CIL to apply to residential (Use Classes C1-C4) and retail (Use Classes A1-A5) development only.
EM2	Clarify that car parking space within any development, whether ancillary or not, will not be subject to the charge

APPENDIX 2

BARNET CIL CHARGING SCHEDULE MAY 2013

Putting the Community First

BARNET
LONDON BOROUGH

Community Infrastructure Levy

Charging Schedule

May 2013

www.barnet.gov.uk

Putting the Community First

BARNET
LONDON BOROUGH

This Charging Schedule has been issued, approved and published in accordance with Part 11 of the Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (as amended).

Date on which the Charging Schedule was approved: 16 April 2013

Date on which the Charging Schedule takes effect: 1 May 2013

The Community Infrastructure Levy Charging Schedule

1.1 The London Borough of Barnet ("the Council") as Charging Authority has produced this Charging Schedule for adoption by resolution of Full Council on 16th April 2013. This will enable a Community Infrastructure Levy ("CIL") to be introduced under powers set out in Part 11 of the Planning Act 2008 ("the Act"), the CIL Regulations 2010 as amended ("the Regulations") and informed by the 'Community Infrastructure Levy Guidance' ("the Guidance"). The Charging Schedule has been delivered following public consultation and examination, with all recommendations by the examiner addressed included within this document.

1.2 CIL is a standardised non-negotiable levy on new development. It provides a consistent and transparent mechanism to secure financial contributions formerly sought using Planning Obligations tariffs. Revised Planning Obligations policy will be introduced to operate alongside this charging schedule.

1.3 The CIL applies to all 'chargeable development', defined by Regulations as buildings usually used by people where development delivers 100sqm or greater of gross internal floorspace or leads to the creation of additional dwellings.

The chargeable amount will be calculated in accordance with Regulation 40 of the Regulations.

1.4 The purpose of the Council's CIL is to secure capital funding to help address the gap in funding for local infrastructure. The money raised will be used to pay for infrastructure required to mitigate the impact of development in the Borough.

1.5 The definition of infrastructure is set out in section 216(2) of the Act and in Barnet's Infrastructure Delivery Plan. Barnet will publish its list of infrastructure that could be funded from CIL income in accordance with the requirements of Regulation 123; updates to this list will be provided on the website as required.

1.6 On 1 April 2012, the Mayor of London started charging CIL ("Mayoral CIL") on most development to help provide £300m towards the cost of delivering Crossrail. Chargeable development in Barnet will pay £35 per m^2, excluding facilities used wholly or mainly for educational / health purposes that have been zero-rated.

1.7 The Council has agreed to set its CIL as £135 per square metre on residential and retail development; with all other use classes, including car parking space deemed ancillary to retail or residential development, zero-rated.

Mayoral CIL	Barnet CIL
£0 Education uses (D1)	**£135 Residential (C1 - C4, Sui Generis HMOs) ***
£0 Health uses (D1)	**£135 Retail (A1 - A5) ***
£35 All other use classes	**£0 All other use classes**
	**** excluding ancillary car parking***

1.8 The Council has ensured the approach taken to CIL rates is affordable for most development proposals. It recognises that this approach may secure slightly less overall income than under Planning Obligation tariffs, but sees this change as part of its contribution towards ensuring growth in new housing can continue in Barnet. The justification for the Council's proposed CIL rate is set out in 'Charging Schedule Supporting Document'.

Hayley Anderson

From: [redacted]
Sent: 28 October 2014 17:39
To: Hayley Anderson
Cc: [redacted]
Subject: Regulation 123

Dear Hayley,

Great to meet you earlier at the Public Art Strategy meeting. I was interested in the Regulation 123 list you mentioned, and if it was possible to add a couple of potential projects onto the list? How do I go about doing that? We have two projects that I think should be candidates for support: The Birmingham Big Art Project for 2018 and also Birmingham Production Space which is being developed by Ruth Claxton. I think both projects support the growth of the city.

Be great to get them in the mix if that's the way it works.

best wishes
[redacted]

[redacted]
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www.eastsideprojects.org

SUSAN PHILIPSZ
Broken Ensemble: War Damaged Musical Instruments (brass section)
20 September – 6 December 2014

RAFAL ZAR
20 September – 6 December 2014

BLACK PLEASURE
HEATHER & IVAN MORISON
September 2013 - ongoing

OFFSITE

GUNILLA KLINGBERG: CHILTERN TIMETABLE COMMISSION
18 May – 13 November

PUPPET SHOW
Gävle Konstcentrum, Sweden
14 June – 28 September

GRACE SCHWINDT: ONLY A FREE INDIVIDUAL CAN CREATE A FREE SOCIETY
Co-Commission at The Showroom; Badischer Kunstverein; Site Gallery; Tramway; Contemporary Art Gallery, Vancouver.
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planning

Representation in respect of Birmingham City Council's Community Infrastructure Levy: Draft Charging Schedule

Client: Knightsbridge Student Housing Ltd

November 2014

1.1. This brief representation relates to Birmingham City Council's Draft Charging Schedule in respect of the Community Infrastructure Levy (CIL). It is made on behalf of Knightsbridge Student Housing Ltd and focusses entirely on the CIL rate proposed for student housing, although generic comments, such as state aid, for instance, apply more widely.

CIL Guidance

1.2. The CIL Regulations (as amended), along with Part 11 of the 2008 Planning Act and the relevant sections of the National Planning Practice Guidance, set the framework within which the City Council will have to operate in setting the charge. The relevant text from Regulation 14 is set out below.

"14.—(1) In setting rates (including differential rates) in a charging schedule, a charging authority must aim to strike what appears to the charging authority to be an appropriate balance between—

(a) the desirability of funding from CIL (in whole or in part) the actual and expected estimated total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and

(b) *the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area".*

1.3. Part 6 of the CIL regulations addresses exemptions and relief from the rates. Regulation 55 deals with discretionary relief for exceptional circumstances. This is set out in full below.

"55.—(1) A charging authority may grant relief ("relief for exceptional circumstances") from liability to pay CIL in respect of a chargeable development (D) if—

(a) it appears to the charging authority that there are exceptional circumstances which justify doing so; and
(b) the charging authority considers it expedient to do so.

(2) Paragraph (1) is subject to the following provisions of this regulation.
(3) A charging authority may only grant relief for exceptional circumstances if—

(a) it has made relief for exceptional circumstances available in its area;
(b) a planning obligation under section 106 of TCPA 1990(1) has been entered into in respect of the planning permission which permits D; and
(c) the charging authority—

(i) considers that the cost of complying with the planning obligation is greater than the chargeable amount payable in respect of D,
(ii) considers that to require payment of the CIL charged by it in respect of D would have an unacceptable impact on the economic viability of D, and

(iii) is satisfied that to grant relief would not constitute a State aid which is required to be notified to and approved by the European Commission.

(4) The Mayor may not grant relief for exceptional circumstances in respect of a chargeable development unless a claim for that relief is referred to the Mayor by a London borough council in accordance with regulation 58(3)".

1.4. The NPPG replaces previous guidance on CIL. This is referenced comprehensively below where relevant. It states that *"The evidence base for a charging schedule is examined in public prior to the adoption of the levy. Care must be taken to ensure that it is robust"*. (ID: 25-015-20140612)

1.5. NPPG ref. ID: 25-016-20140612 states that *"charging authorities must identify the total cost of infrastructure they wish to fund wholly or partly through the levy. In doing so, they must consider what additional infrastructure is needed in their area to support development, and what other sources of funding are available, based on appropriate evidence"* and that *"the Government recognises that there will be uncertainty in pinpointing other infrastructure funding sources, particularly beyond the short-term. Charging authorities should focus on providing evidence of an aggregate funding gap that demonstrates the need to put in place the levy"*.

1.6. In respect of the 2011 IDP *"where infrastructure planning work which was undertaken specifically for the levy setting process has not been tested as part of another examination, it will need to be tested at the levy examination. The examiner will need to test that the evidence is sufficient in order to confirm the aggregate infrastructure funding gap and the total target amount that the charging authority proposes to raise through the levy*

1.7. We note the viability evidence published in support of the preliminary schedule and highlight NPPG text stating that *"a charging authority should be able to explain how their proposed levy rate or rates will contribute towards the implementation of the relevant Plan (the Local Plan in England, Local Development Plan in Wales, and the London Plan in London), and support development across their area. Charging authorities will need to summarise their economic viability evidence"*. In addition the NPPG states that *"as set out in the National Planning Policy Framework in England (paragraphs 173 – 177), the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened"*.

1.8. The NPPG states that *"it is good practice for charging authorities to also publish their draft infrastructure lists and proposed policy for the associated scaling back of section 106 agreements at this stage, in order to provide clarity about the extent of the financial burden that developments will be expected to bear so that viability can be robustly assessed. The list now forms part of the 'appropriate available evidence' for consideration at the examination"*.

1.9. Reference ID 25-009-20140612 states that "*the levy is expected to have a positive economic effect on development across a local plan area. When deciding the levy rates, an appropriate balance must be struck between additional investment to support development and the potential effect on the viability of developments*" and that, in ID: 25-020-20140612, "*a charging authority should take development costs into account when setting its levy rate or rates, particularly those likely to be incurred on strategic sites or brownfield land. A realistic understanding of costs is essential to the proper assessment of viability in an area*".

1.10. Reference ID: 25-021-20140612 relates to the setting of differential rates, clearly stating that "d*ifferences 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*". It goes on to state 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*".

Local policy

1.11. The Birmingham Development Plan document was submitted to the Secretary of State and is currently being examined. Paragraph 2.5 notes the importance of the tertiary education sector to the city acknowledging that "*the local economy is supported by five universities and six major colleges. They provide world class learning environments, reflecting recent and ongoing investment programmes, supporting over 73,000 undergraduate and postgraduate students*". Supporting text goes on to state, in paragraph 8.31 that "*the City Council wishes to ensure that there is sufficient supply of good quality accommodation which meets the needs of all members of the student community which is provided in a suitable and sustainable location, is well designed and provides a high quality living experience in attractive buildings which enhance the local area*". Policy TP32 states that;

> "*Proposals for purpose built student accommodation provided on campus will be supported in principle subject to satisfying design and amenity considerations. Proposals for off campus provision will be considered favourably where:*
>
> - *There is a demonstrated need for the development.*
> - *The proposed development is very well located in relation to the educational establishment that it is to serve and to the local facilities which will serve it, by means of walking, cycling and public transport.*
> - *The proposed development will not have an unacceptable impact on the local neighbourhood and residential amenity.*

- *The scale, massing and architecture of the development is appropriate for the location.*
- *The design and layout of the accommodation together with the associated facilities provided will create a positive living experience*".

1.12. Further to the policy support for purpose built student accommodation, there is a supply of purpose built accommodation of 18,448 bed spaces, roughly split in half between University owned and private schemes. At present there is a significant (at least 17,000) number of students without access to purpose built student accommodation, who live independently from their parents and do not own their own residence. There is a future pipeline of just over 4,000 additional bedspaces, which, if delivered, would still leave over 12,400 students unable to access purpose built accommodation

Draft Charging Schedule and evidence base

1.13. The draft charging schedule is supported by viability evidence as required by the NPPG. This has been prepared by GVA. For student housing (outside the sustainable urban extension) the charging schedule proposes a charge of £69/sq m.

1.14. The first (October 2012) viability assessment was supplemented by a study specifically relating to testing further employment scenarios at the end of 2013. It assesses a total of 28 'development typologies'. The starting point for assessing the viability of delivery of each development typology is an assessment of the benchmark land value. The evidence proposes two approaches, one assuming existing use value plus 20% as being necessary to incentivise the release of that land for an alternative use and the other being residential use value. These two approaches are broken down further by reference to market value areas, which table 3 illustrates by reference to values within defined postcodes. In the lower market area, under approach 1 (relevant to student housing as set out in Table 21), it is stated that the benchmark land value to release land for student housing is £595,000/ha (£240,000/acre). We consider that the benchmark land values are wholly inadequate and will not ensure that land is made available for beneficial forms of development that emerging policy requires.

1.15. The first 14 development typologies relate to residential development and this is gone into in some detail. Appendix G, for instance sets out detailed assessments with sensitivity analysis relating to changes in capital costs and gross development value for the nine purely residential typologies. The NPPG requires, as set out above, a robust evidence base, yet the same level of evidential justification is not set out for nineteen of the typologies, including student housing. If this level of detail is required for one use, it should be imposed uniformly across all uses. There is no justification for a greater level of detail relating to one use over another. The evidence on the CIL rate for student housing is insufficient and does not form a robust basis on which to justify the proposed rate of £69/sq m. Whilst we acknowledge this has been reduced from the 'maximum' figure of £115 (which we dispute), we still consider it will put too much student housing

development at risk of not being delivered. This is a significant issue in the context of a clear policy recognition of the benefits of delivery of student housing in the city.

1.16. We make limited comment on the CIL rate for residential development other than to say that the evidence does not necessarily, in our view, point towards the proposed rate. Tables 6 to 9 do not seem to justify the charge imposing realistic policy requirements (as required by the NPPG), in that residential development on allocated sites cannot afford to pay any CIL.

1.17. The evidence relating to 'other uses' commences at section 7 of the first GVA report. We note that the sums referred to in paragraph 7.6 do not tally to table 4 figures. Student housing benchmarks are referred back to Table 4.

1.18. In terms of typologies 24 and 25 in Table 22, we make the following comments;

1.18.1. Site coverage – No comment The site coverage areas (ha) per number of rooms for typologies 24 and 25 in Table 22 appears incorrect as typology 24 shows a comparatively high dense provisional scheme over a small site area whilst typology 25 shows the opposite. The number of rooms allocated for typology 24. is far larger at 250 (over 0.18ha) compared to the 50 (over 0.9ha) provided at typology 25.

1.18.2. GIA – The Penworks building completed in Q32013 has a GIA of 8,108 sq m (87,276 sq ft) and provides 282 student bedrooms. The assumptions within Table 22 are unrealistic taking into account necessary in-site management accommodation, communal areas such as a student lounge, laundry facilities and necessary circulation space. The assumed floor area within Table 22 should more closely reflect reality and the recently built Penworks at 309 sq ft (28.7 sq m) per bedroom is a useful benchmark.

1.18.3. Build cost – The build cost of £1,200 /sq m is too low, significantly so, and an unrealistic measure of the actual cost. Our client's budget is currently is over £1,600/sq m on a site that they are purchasing at Legge Street, Birmingham over 510 cluster bedrooms. The Penworks scheme was built in Q3 of 2013 and, taking inflation into account equates to £1,560/sq m. These costs are borne out on other sites currently being taken through the planning/design process elsewhere in the UK, such as Cambridge and Plymouth for instance.

1.18.4. Rental value – Rental values achieved at Selly Oak due to its location for both residential and student use are historically and currently higher than other areas of the city particularly more marginal locations to the north of the city centre such as Aston and Nechells. There should be a range of CIL charges to more accurately reflect the location and price differentials associated with student use across the city and not one single charge focused on the specific area of Selly Oak which benefits from the highest rents achieved in Birmingham.

1.18.5. Yield – We consider that 6.25% is too low a yield as an investor would not be able to support a financial offer on a net initial yield at this level in the Nechells area of Birmingham. Looking at recent investment transactions the market would be more likely to sustain a net initial yield return of no less than 7% resultant in a lower exit capital value of a student development.

1.18.6. Profit – No comment.

1.19. In addition to the above, we question why professional fees have not been included within the viability assessment set out in Table 22. This should be at least 10%.

1.20. Paragraphs 8.9 to 8.12 provide further commentary on student housing. Para 8.10 states that there is an over-supply of student housing. As set out above, we cannot tally this assumption with our experience of the market for purpose built student accommodation. If such an important piece of evidence is unable to correctly assume on such a basic matter, it must lead one to question most of the assumptions within the evidence.

1.21. Paragraph 9.12 provides a conclusion that does not seem to stem from any evidence setting this out. There is no link between the proposed CIL rate of £115/sq m and any evidence justifying this rate within the evidence accompanying the draft charging schedule. It may well exist somewhere, but is not clearly set out. It is insufficient for the evidence to justify a lower rate of £69/sq m as being acceptable on the basis that it is lower than the £115/sq m figure, especially where the latter figure is not fully justified.

1.22. We note guidance on differential rates and 'state aid' within the NPPG. The evidence base that accompanies the draft charging schedule proposes differential rates, but there is no clear link, which is required, between different levels of viability and different CIL rates. We question why the CIL rate for residential development and student housing is £69/sq m in the high value area, but there is a zero rate for residential in in the low value zone, but the same CIL rate of £69/sq m for student housing remains relevant in the low value market areas. If there is a recognition of the similar ability of residential development and student housing to pay CIL by reference to viability, then this assumption must be applied uniformly. In addition the rates must be set out by reference to viability and not to further policy ends. At present, residential development in the low market value areas is specifically proposed to be given state aid. NPPG (ref. ID: 25-155-20140612) states that "*State aid is a European Union member state's support to 'undertakings' which meets all the criteria in Article 107(1) of the Treaty on the Functioning of the European Union (Lisbon Treaty 2009). Article 107(1) declares that state aid, in whatever form, which could distort competition and affect trade by favouring certain parties or the production of certain goods, is incompatible with the common market, unless the Treaty allows otherwise*". This is a significant failing of the rates that is not justified by any part of the evidence base.

1.23. We draw attention to regulation 55 and the discretionary relief for exceptional circumstances. Whilst we accept that this will be invoked rarely, we highlight this to demonstrate the importance of not setting the rate at too high a level; if it is non-

negotiable, this means that the variable is the interpretation of development plan policy. CIL has not negated s38(6) of the 2004 Act and it is imperative that it is not set too high and put development at risk of not coming forward.

Conclusions

1.24. In summary, our clients consider that the following issues should be debated more fully at the examination in front of the appointed Inspector;

1.24.1. Inadequate evidence (including sensitivity analysis) relating to nineteen of the development typologies set out in evidence.

1.24.2. Assumptions set out in Table 22 in respect of typologies 24 and 25, which we consider are inaccurate.

1.24.3. The lack of justification (relating to viability) of the proposed CIL rate of £69/sq m for student housing.

1.24.4. The extent to which differential rates constitute state aid.

1.25. In accordance with Regulation 21, we request the right to appear at the eventual examination in the draft charging schedule. We would look to supplement our general concerns expressed within this document with detailed worked examples setting out key real world assumptions.

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10 November 2014

Dear Ms Anderson

Representations to Birmingham City Council Community Infrastructure Levy (CIL) Draft Charging Schedule on behalf of Lidl

We write on behalf of Lidl to make representations to the Draft Charging Schedule (DCS) for Birmingham City Council (BCC)'s Community Infrastructure Levy (CIL). Our particular concern lies in the proposed charge for convenience retail floorspace over 1,500 sq m.

The 2010 CIL Regulations advise that charging authorities should propose a levy rate that does not put at risk the overall development of the area. They have to strike an appropriate balance between the desirability of funding infrastructure from the CIL and the potential effects on the economic viability of development across the Charging Area.

Charging authorities should prepare evidence about the effect of the levy on economic viability in their area to demonstrate to an independent examiner that their proposed charging rates strike an appropriate balance.

It is the potential effect on economic viability that our representations are predominantly focused on, and we recommend that the DCS is amended on this basis.

The proposed charge for foodstores over 1,500 sq m would make developing our client's stores unviable and prevent any new 'deep discounter' retail stores being developed in the Birmingham area. Not only is this contrary to the CIL Regulations, but this would limit choice as only the 'big 4' supermarkets would be able to proceed on the basis of the proposed CIL charge.

Planning policy should not restrict market forces or consumer choice, and we believe that the proposed DCS will do this.

Our representations consider the following:

- The Lidl Business Model;
- The Policy Context for Convenience Retail;
- Development Viability and BCC's Evidence Base; and
- Our Conclusions.

Lidl Business Model

The Lidl retail philosophy is centred on simplicity and maximum efficiency at every stage of the business, from supplier to customer, enabling Lidl to sell high quality products from a limited range of exclusive own brand labels (along with other brands), at the lowest prices. It is this format which has resulted in Lidl being classified by retail research company Verdict as falling within the 'deep' or 'hard discounters' sector of the UK convenience retail market. Deep or hard discounters are distinct from the mainstream big 4 convenience retailers such as Tesco, ASDA, Sainsbury's and Morrison's.

Lidl are able to offer high quality products at low prices due to extensive pan European bulk purchasing. This enables the company to achieve significant economies of scale that can then be passed onto the consumer in the form of highly competitive prices. Other factors which enable Lidl to offer consistently low prices include the store format, staffing levels and management of the stores themselves.

Store Format

Lidl has one of the highest net to gross sales floor space rates compared to stores within the grocery sector. The market position of Lidl as a 'deep-discounter' is dictated by its ability to cut cost throughout its business. Products are predominately displayed from the original pallets which were delivered to the store and in their original boxes rather than them being stacked on shelves. This reduces the costs associated with manual handling by removing the need to breakdown pallets and transferring products onto shelves. The single storey format allows pallet loads of products to be moved directly from the delivery bay to the sales area.

Lidl have a minimum store size to enable them to operate their standard business model efficiently. Previously this was approximately 1,600 sq m gross on a single level. This floorspace has been accepted by Planning Inspectors at Planning Appeals as the minimum size from which Lidl can trade.

More recently, the average store size has increased and the new stores are now generally between 2,000 sq m to 2,300 sq m gross, leading to an average Gross Internal Area (GIA) of over 2,000 sq m.

The increase in size enables Lidl to incorporate an ancillary element which the company refers to as a 'backnische'. The backnische comprises a freezer, a preparation table and an oven, which facilitate the heating of bread (which is delivered to the store frozen), before it is placed on the shelves. The larger format stores allow for these elements to be located together and for Lidl to include a bakery area as customers enter the store. That said, the new format will mean that the 'net to gross' floor space ratio will reduce.

Retail Operation

Lidl do not have the same turnover as the 'big 4' retailers which impacts upon their development appraisals (and hence their ability to acquire potential sites). **Table 1** below sets out Lidl's turnover as compared to Tesco, Sainsburys, ASDA and Morrisons.

Table 1 – Retail Turnover

Store	Sales Density £ per sq.m
Lidl	£3,960
Tesco	£11,715
Tesco Express	£15,179
Sainsburys	£11,827
Sainsburys Local	£14,960
Morrisons	£14,809
Asda	£12,496
Aldi	£8,251

Source: Mintel Retail Rankings 2014

The above data is taken from Mintel Retail Rankings 2014 and evidences that discount retailers have significantly lower turnovers per sq ft than the big 4 convenience retailers.

Policy Context

It is important to place the DCS in the context of the current planning policy for Birmingham.

The emerging Birmingham Development Plan was submitted to the Secretary of State for examination in **July 2014**. **Policy TP21** deals specifically with convenience retail and does not plan for any further convenience floorspace in the City. The policy states that:

> *'The BRNA Update (2013) indicates that there is limited capacity for additional convenience retail development in Birmingham in the period to 2026 after existing commitments are taken into account.'*

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Birmingham City Council's Retail Needs Assessment (BRNA) Update 2013

Contrary to the text in the emerging Birmingham Development Plan, the **2013** update does identity a quantitative need for additional convenience floorspace. Allowing for commitments there is a requirement for between 25,000 sq m gross and 34,800 sq m gross of new floorspace between 2012 and 2026. This is based on a sales density of one of the big 4 supermarkets (approximately £12,000 per sq m).

The study states at **Para 3.30** that:

> '*It should be noted, however, that the floorspace requirement we have identified in the convenience goods sector is dependent, ultimately, on the end operator; for example, some operators such as Lidl and Aldi will trade at much lower sales densities than the four leading operators (Tesco, ASDA, Sainsbury and Wm Morrison). For the purposes of this assessment, we have utilised an average sales density of £12,000 per sq.m in 2012, rising to £12,841 per sq.m by 2031, so that the floorspace requirement we have identified reflects the high share of the market accounted for by high order operators.*'

If we were to convert this requirement into additional deep discounter floorspace, using the calculation in Table 11a and 11b, of the BRNA and a sales density of £6,000 and floorspace ratio of 85% (to better reflect the deep discounters), there would be a requirement between 2012 and 2026 of circa 39,864 sq m gross to 55,294 sq m gross.

We therefore believe that there is a need for additional convenience floorspace in the Birmingham City area, and that the DCS as currently prepared could result in only the big 4 supermarkets being able to meet this need.

Given that there is a need for additional convenience retail in Birmingham and that it should not be down to policy to restrict market forces or prevent consumer choice, we now look specifically at the viability of the proposed DCS.

Development Viability

The Proposed CIL Levels

The Preliminary Draft Charging Schedule (PDCS) proposed that all convenience retail stores above 5,000 sq m would be subject to a significant charge of £380 per sq m. However, all other retail uses would be subject to a lower charge of £150 per sq m, as set out in **Table 2** below.

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Table 2 – Preliminary Draft Charging Schedule - Retail Charges

Maximum CIL Tariff (per Sq M)	Type of Development
Band 1 £380	• Retail (Supermarket) > 5,000 sq. m
Band 2 £150	• Retail (Supermarket) < 5,000 sq. m • All other retail

Source: Appendix 2 of BCC's PDCS Briefing Note

However, the Birmingham City Council (BCC) DCS proposes revised CIL rates for retail, following the outcome of consultation on the PDCS and further viability testing undertaken by GVA.

The revised CIL rates are set out in Section 6.0 'CIL Charges'. **Table 3** below sets out the revised charging position now proposed:-

Table 3 - Draft CIL Charges - Retail Development

Development Type	Detail	Charge/Sq.M
Retail Convenience	< 1,500 sq. m	£0
Retail Convenience	> 1,500 sq. m	£260
Retail	All Other	£0
Retail	Sustainable Urban Extension	£0

Source: BCC's CIL Draft Charging Schedule September 2014; JLL Analysis November 2014

The DCS now proposes that convenience retail above 1,500 sq m will be subject to a £260 per sq m CIL charge. However, all other retail (including convenience retail stores below 1,500 sq m) will be subject to a CIL rate of £0. This is a significant change from the charges proposed by the PDCS.

Whilst the general reduction in CIL rates that are now proposed by the DCS, which seek to provide a greater viability 'cushion' for CIL charges (reference **Paragraph 5.3** of the DCS), is in principle welcomed, our client is concerned that the DCS in its current form has not been subject to robust viability testing to arrive at the CIL rates now proposed for retail uses.

In particular, the revised charging rates now mean that any convenience retailing above 1,500 sq m (16,146 sq ft) will be subject to a significant CIL charge. We assume that this CIL charge is aimed

at the larger 'big 4' supermarket operators rather than discount food retailers; however, with the current threshold of 1,500 sq m in place, the proposed CIL charge will also apply to discount convenience retail stores.

This will render many opportunity sites for discount convenience retail unviable across the Charging Area, as demonstrated in the paragraphs that follow.

Assessment of BCC's CIL Evidence Base

Regulation 14 requires that the DCS is underpinned by an assessment of the viability of CIL charging rates throughout the Charging Area.

GVA have undertaken several studies on behalf of BCC to inform the CIL rates proposed. These include advice to inform the PDCS in **October 2012**, and subsequent viability testing following the consultation on the PDCS. The later advice was provided by GVA in **December 2013**.

The most pertinent viability advice to retail uses is set out in 'CIL Development Viability Study Additional Retail Testing' **11 December 2013** undertaken by GVA. GVA have tested a range of scenarios and their findings are set out in **Table 4** below:

Table 4: Table 6 of GVA's Additional Retail CIL Testing Report

			Max CIL per Sq. M (40% Viability Cushion)		
			Developer Led		Operator Led
Scenario	**Type**	**GIA Sq. M**	**Profit @ 20% GDV**	**Profit @ 15% Costs**	**Profit @ 5% Costs**
A	Convenience	1,500	£0	£0	£0
B	Convenience	2,700	£470	£624	£810
C	Convenience	5,000	£260	£410	£590
D	City Centre	6,968	£0	£0	n/a

Source: Table 6 of GVA's Additional Retail CIL Testing Report (2013)

Our client has several concerns regarding how GVA's conclusions have been interpreted to inform the DCS, and the assumptions underpinning the viability testing. These are set out in the paragraphs that follow.

Thresholds Tested

A range of store formats have been tested by GVA ranging from 1,500 sq m to 6,968 sq m. GVA conclude at **Paragraph 4.3** that:-

> *'In the case of the food sector, there is an ability to make a sizable contribution to CIL for* ***certain*** *categories of store.'* [Our emphasis]

This has led to the DCS proposing a CIL rate of £260 per sq m for all convenience retail stores above 1,500 sq m, but £0 CIL for stores under this level. This is presumably based upon GVA's findings set out in **Table 6** above, where the results of the viability testing show that a 1,500 sq. m store ***is not*** viable, but a 2,700 sq m store ***is*** viable.

First, GVA's advice has not been reflected in the DCS, given that the proposed CIL rate is applied for **all** convenience retail stores **above 1,500 sq m**. The DCS therefore assumes that all convenience retail stores above the 1,500 sq m threshold are viable. This is contrary to GVA's advice, which states at **Paragraph 4.4** that:-

> *'The analysis suggests that the results for Scenario A (1,500 sq. m convenience store) are the most sensitive and unable to bear a material CIL contribution. Whilst the appraisal show that large stores, above c2,000 sq. m can afford a significant CIL payment.'*

Thus, **Paragraph 4.4** of GVA's report is clear in advising that a CIL is only viable for stores over circa 2,000 sq m.

Second, GVA's assertion that only, convenience retail stores over 2,000 sq m would be viable (and hence able to contribute to CIL) has not been subject to viability test. GVA conclude that a much larger convenience retail store of 2,700 sq m store could support CIL, based upon the outcome of their development appraisal analysis. However, they have not viability tested thresholds between 1,500 sq m and 2,700 sq m (such as a 2,000 sq m store), to ascertain at what point the viability threshold for CIL is met.

In this light, the threshold for CIL for convenience retail of 1,500 sq m as proposed by the DCS should be increased to at least 2,700 sq m, based upon GVA's own assumptions and viability analysis.

We also have several comments on the assumptions GVA have adopted to inform their development viability testing, as set out below.

Site Value Benchmark/Base Land Values

We understand that GVA's **2012** assessment assumed a Base Land Value (BLV) of £500,000 per acre to assess retail uses. However, the benchmark of £500,000 per acre proposed in GVA's earlier study in **2012** appears to have been reduced in GVA's **2013** assessment to only £350,000 per acre (reference **Table 5 Base Land Values** of GVA's Additional Retail Testing Report, and the supporting commentary at **Paragraph 2.11**).

We are concerned that the BLVs adopted in both of GVA's assessments are too low. A low BLV will paint an over-optimistic picture of the ability of convenience retail developments to meet CIL rates throughout the Charging Area.

The BLV benchmark will need to encompass a wide range of sites within the Charging Area, and is too low for retail development land (particularly for convenience retail), which are typically developed on small sites with high land values. It is also unlikely to be sufficient for more complex urban sites which comprise existing buildings, where £500,000 per acre is unlikely to meet the existing use value of sites and hence generate an appropriate return for the land owner as required by the NPPF.

Improved Market Conditions

We are also bemused by the reduced level of BLV applied to retail projects in GVA's **2013** assessment, in light of the fact that the market has improved significantly since GVA's **2012** study, with a corresponding increase in land values.

GVA have not provided a justification in their **2013** report as to why the reduction in BLV for benchmarking retail uses has been adopted.

Comparison with Industrial Land Values

The BLV of £350,000 per acre adopted by GVA in **2013** to assess the viability of retail sites is in line with the lowest base land value that GVA have adopted in their CIL studies (which test the viability of industrial uses). Even for industrial land throughout the Charging Area, the BLV of £350,000 per acre is low.

There is evidence of much higher land values being transacted for employment land throughout the Charging Area. For example, JLL Industrial Agents are marketing Plots B and C at Opus Aspect, Erdington, Birmingham, which comprise several cleared sites of approximately 0.4 hectares (1 acre). The quoting prices equate to approximately £600,000 per acre. GVA are the joint marketing agents.

This calls into question the BLV of £350,000 per acre GVA that have adopted for retail development (as this is akin to average industrial, rather than retail land values in the Charging Area). If the BVL is not adjusted to a more realistic market level, this will portray an over optimistic picture of the ability of sites to meet the proposed retail CIL levels throughout the Charging Area.

Review of Quoting Prices for Available Sites

We have also undertaken a desktop review of available sites of up to 1.21 ha (3 acres) in the Charging Area, based upon research of available sites on the market at present, drawing on the Co-Star/Focus Database. This has been undertaken for all sites for which a quoting price is provided on the database.

This research assists our understanding of land owners' price expectations for potential opportunities which are currently on the market and could be targeted by convenience retail operators. This research is enclosed.

This analysis suggests that average asking prices for sites of up to 1.21 ha (3 acres) are over £1,000,000 per acre. In addition, many of the sites are not prime sites i.e. with a high degree of prominence to key arterial routes. Hence, whilst this 'snap shot' of available sites gives an indication of land values, it is anticipated that a prime pitch for a retail food store use would command significantly more. In addition, land values at £350,000 per acre do not factor in any alternative use potential for sites (such as residential) which discount retailers typically have to compete with in order to secure sites. This provides a further indication that the £350,000 per acre BLV assumption adopted by GVA is too low for potential retail sites in the Charging Area.

Site Acquisition Costs

GVA have applied Purchasers' Costs of 5.8% in their Development Appraisals. However, the acquisition costs applied to the Site Value equate to only 5.75%. This should be amended to 5.80% to reflect Value Added Tax (VAT) at 20%, in line with market practice. This will also ensure that the assumption is consistent with other areas of GVA's development appraisal.

The current assumption will have a marginally positive impact on the viability position that GVA report.

Rent and Yield Assumptions

GVA have applied a rent of £161.46 per sq m per annum (£15.00 per sq ft) where they have tested a 1,500 sq m store, and have capitalised this rental income at 6%. However, GVA have applied a

higher rent of £215 per sq m (£19.97 per sq. ft) for the 2,700 sq m store and have capitalised this rent at a lower yield of 5%.

GVA do not appear to have applied a rent free allowance in their appraisal of the 2,700 sq m store. This appears to be an omission, given that a rent free allowance is applied in all other retail appraisals. This omission will artificially inflate the viability of the 2,700 sq. m store.

We have reviewed the rents and yields GVA have applied with JLL's Retail Agency Team. This review reveals that the yields applied to the big 4 (ASDA, Morrisons, Sainsbury's and Tesco's) would be approximately 5% (and perhaps lower). However, for discount food retailers (such as our client), the investment yield is likely to be higher and approximately 6% (as anticipated by GVA). The yield assumptions will be project specific and will depend upon a range of factors, such as the lease terms agreed etc).

Our analysis suggests that whilst rents will be project dependant, rents for discount retailers are typically much lower than for the 'Big 4' supermarket operators and will be in the order of £15 per sq ft. For example, we are aware that a discount food retailer has recently taken units in both Sutton Coldfield and Wolverhampton at a rental level of approximately £14 per sq ft.

This suggests that the rent and yield assumptions GVA has applied in their assessment are too high, particularly for stores of 2,700 sq m and below which are likely to be attractive to discount convenience retailers. This will paint an over-optimistic picture of development viability of convenience retail development throughout the Charging Area.

JLL Analysis of Development Viability

Given that GVA has not viability tested convenience retail store formats between 1,500 sq m to 2,700 sq m stores to assess the threshold for charging CIL, we have undertaken an analysis of the viability of the development envisaged by GVA, incorporating our revised assumptions (as discussed above).

We have included an additional sensitivity test of a store comprising 2,258 sq m, which reflects our client's minimum store format.

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Table 5 sets out our findings:

Table 5 - JLL Development Viability Appraisal Findings

Scenario	JLL Residual Land Value (Profit of 15% on Cost)	GVA Base Land Value (BLV) (at £350,000 per acre)	JLL Assessment of Base Land Value (As per GVA 2012 report at £500,000 per acre)	JLL Assessment of Base Land Value (at £1,000,000 per acre)	CIL Viability Threshold Met ?
Scenario 1 - 1,500 sq m store	£178,000	£525,000	£750,000	£1,500,000	No – This level of food store is not viable based on both JLL and GVA BLV assumptions.
Scenario 2 - 2,258 sq m store	£435,000	£700,000	£1,000,000	£2,000,000	No – This scenario is not viable based upon JLL assumptions for a discount retailer. This is the case regardless of whether JLL or GVA BLVs are assumed for benchmarking purposes.
Scenario 3 - 2,700 sq m store	£453,000	£1,043,000	£1,490,000	£2,980,000	No – This Scenario is not viable based upon JLL assumptions for a discount retailer. It should also be noted that GVA have not made allowances for rent free and highways costs in their viability assessment.

Source: JLL Analysis (November 2014)

Table 5 above shows that, based upon JLL's assumptions for a discount convenience food retailer, a 1,500 sq m store is not viable for CIL and therefore cannot meet a CIL charge. This is in line with GVA's findings.

Table 5 also shows that a 2,258 sq m convenience food store is not viable based upon JLL's assumptions for a discount convenience food retailer (regardless whether JLL or GVA assumptions regarding Base Land Values is adopted. This is also the case for a 2,700 sq m store (where discount food retailer assumptions are adopted in the appraisal).

Summary

The DCS now proposes that convenience retail uses above 1,500 sq m are to be subject to a CIL charge of £260 per sq m. Whilst the general reduction in CIL rates that are now proposed by the DCS is in principle welcomed, our client is concerned that the DCS in its current form has not been subject to robust viability testing to arrive at the CIL rates proposed.

First, GVA's advice has not been reflected in the DCS, given that the proposed CIL rate is applied for all convenience stores above 1,500 sq m. This is contrary to GVA's advice which states that CIL is only viable for stores over circa 2,000 sq m.

Second, GVA's assertion that only convenience retail stores over 2,000 sq m would be viable and hence able to contribute to CIL has not been subject to the viability test (as required by the CIL Regulations). GVA have not sensitivity tested thresholds between 1,500 sq m and 2,700 sq m (such as 2,000 sq m), to ascertain at what point the viability threshold for meeting CIL is met. Accordingly, the threshold for CIL for convenience retail of 1,500 sq m as proposed by the DCS should be increased to at least 2,700 sq m, based upon GVA's own assumptions and analysis.

We have also made several comments on the assumptions GVA have adopted to inform their viability testing. We are particularly concerned with the Base Land Values (BLVs) that GVA have adopted to benchmark the viability of retail schemes throughout the Charging Area. We are also concerned that BLVs appear to have been revised downwards since GVA's 2012 assessment without justification, during which time the market has improved and land values have risen. Our analysis suggests that average asking prices for sites of up to 1.21 ha (3 acres) are over £1,000,000 per acre. This provides a further indication that the £350,000 per acre BLV assumption adopted by GVA is too low for potential retail sites in the Charging Area.

Finally, the imposition of CIL for small convenience stores above the 1,500 sq m threshold set by the DCS will have a significantly negative impact on the viability of convenience retail projects throughout the Charging Area. For example, our analysis suggests that both 2,258 sq m and 2,700 sq m stores would not be able to contribute to CIL where assumptions for discount food retailers

are assumed. By way of context, the proposed CIL charge for a 2,258 sq m convenience retail store would equate to £587,000. This cost would equate to approximately 85% of the land value utilising GVA's BLV assumption of £350,000 per acre. This would be a significant additional project cost which would render the development of our client's convenience stores across the Charging Area unviable.

The BNRA does identify a requirement for additional convenience floorspace across the city area; however, the DCS as it stands will only allow the development of smaller format stores – below 1,500 sq m GIA, or larger format 'top 4' stores. It makes the development of stores between these ranges unviable and specifically will prevent our client from being able to develop their stores and hence provide the market with choice.

We therefore recommend that the threshold for convenience retail currently proposed in the DCS is revised upwards from 1,500 sq m, in accordance with the CIL Regulations, to ensure that the appropriate balance between funding infrastructure and economic viability is achieved.

Yours sincerely

[redacted]
Associate Director
For and on behalf of Jones Lang LaSalle Limited

Enc.
Desktop Assessment of Site Availability
JLL Development Appraisals Scenarios 1 to 3

Desktop Review of Available Sites

Birmingham CIL Charging Area (Sites from 0 to 3 acres).

Nigel Simkin

Jones Lang LaSalle Limited

10-Nov-14

Street No	Street Name	Town/City	Status	Tenure	Lease Notes	Guide Price	Site area (Acres)	Value Per Acre
	Bagot Street	Birmingham	Available	Freehold	The available space comprises an industrial site/ yard area, which extends to approximately 0.16 acres zoned for general industrial and other commercial uses. The site is available for freehold purchase at an asking price of £125,000 or alternatively available by way of a new lease for a term to be agreed. Further information is available upon application to the agent.	£125,000	0.16	£781,250.00
163	Fordhouse Lane	Birmingham	Available	Freehold	The available space comprises 0.52 acres of land. The property is available freehold.	£350,000	0.52	£673,076.92
11 - 22	Great Hampton Street	Birmingham	Available	Freehold	The available plot of land comprises 1.201 acres of development land. The property is freehold.	£500,000	1.2	£416,666.67
206	Hagley Road	Birmingham	Available	Leasehold	The site comprises an area of land approximately 0.47 acres (0.19 ha) in size which is broadly rectangular in shape and is level. It has been cleared and has a maintained grass covering. Offers are invited for the long leasehold interest of 125 years with a guide price of £750,000.	£750,000	0.47	£1,595,744.68
	Manor Farm Road	Birmingham	Available	Freehold	The site area extends to 0.94 acres and offers in excess of £350,000 are invited for the freehold interest.	£350,000	0.94	£372,340.43
62 - 70	Pershore Street	Birmingham	Available	Leasehold	The available space comprises a site that has recently been cleared, the previous use being that of a three storey garage/workshop. The current permitted use is B2. It should be noted that an application to the City for change of use for car parking was refused and that refusal was upheld following a subsequent appeal. New lease terms are negotiable and the term would run up to a maximum period of 23 years. The landlord has not quoted an asking rent, but is asking for offers to be put forward for considered.	£250,000	0.13	£1,923,076.92
480	Rednal Road	Birmingham	Available	Freehold	The available site comprises a vacant development site/ yard facility, which extends to approximately 0.5 acres. The development site/ yard facility is available for freehold purchase. Further information upon application to the agent.	£150,000	0.3	£500,000.00
268	Stratford Road	Birmingham	Available	Freehold	The available space comprises approximately 0.14 acres of land. Offers in the region of £165,000 are sought for the freehold interest in this property.	£165,000	0.14	£1,178,571.43
55 - 81	Stratford Road	Birmingham	Available	Freehold	The available space comprises an area of land extending to 0.57 acres, which contains a disused petrol station. There is planning consent in place for 18 x 2 bedroom flats and a convenience store of approximately 6,000 sq ft. The property is available freehold.	£650,000	0.57	£1,140,350.88
35	Vyse Street	Birmingham	Available	Freehold	The available space comprises land of 0.147 acres. The freehold interest is available for £400,000	£400,000	0.147	£2,721,088.44
1298	Warwick Road	Birmingham	Available	Freehold	The available space comprises a plot of development land totalling 2.5 acres which is suitable for a number of uses including retail/care home and residential. Offers in excess of £2,500,000 are invited for the freehold interest in the site.	£2,500,000	2.5	£1,000,000.00
158	Wellington Road	Birmingham	Available	Freehold	The available space comprises a site of 0.479 Acres suitable for a variety of alternative uses/redevelopment, subject to planning. Planning permission for residential use has been granted in the past. The site is available freehold with vacant possession for £300,000 plus VAT.	£300,000	0.479	£626,304.80
39	Wood End Lane	Birmingham	Available	Freehold	The plot comprises 0.48 acres of development land. The plot is available by way of a freehold investment. Quoting Price - £550,000.	£550,000	0.48	£1,145,833.33
							Average Per Acre	£1,082,638.81

Source: Co-Star/Focus Database November 2014

Licensed Copy

Development Appraisal

Scenario 1 JLL Appraisal

Report Date: 10 November 2014

Prepared by Jones Lang LaSalle Limited

APPRAISAL SUMMARY

LICENSED COPY

Scenario 1 JLL Appraisal

Summary Appraisal for Phase 1

REVENUE				
Rental Area Summary	**ft²**	**Rate ft²**	**Gross MRV**	
Retail	16,146	£15.00	242,190	
Investment Valuation				
Retail				
Market Rent	242,190	YP @	6.0000%	16.6667
(1yr Rent Free)		PV 1yr @	6.0000%	0.9434
GROSS DEVELOPMENT VALUE				3,808,019
Purchaser's Costs		5.80%	(220,865)	
NET DEVELOPMENT VALUE				3,587,154
NET REALISATION				**3,587,154**
OUTLAY				
ACQUISITION COSTS				
Residualised Price (1.50 Acres £118,461.58 pAcre)			177,692	
Stamp Duty		4.00%	7,108	
Agent Fee		1.00%	1,777	
Legal Fee		0.80%	1,422	
				187,999
CONSTRUCTION COSTS				
Construction	**ft²**	**Rate ft²**	**Cost**	
Retail	16,146	£120.77	1,949,952	
Retail (Parking Spaces)	90	£2,000.00	180,000	**2,129,952**
Developers Contingency		5.00%	119,598	
Enabling Works			162,000	
Highways			100,000	
				381,598
PROFESSIONAL FEES				
Other Professionals		10.00%	239,195	
				239,195
MARKETING & LETTING				
Letting Agent Fee		10.00%	24,219	
Letting Legal Fee		5.00%	12,110	
				36,329
DISPOSAL FEES				
Sales Agent Fee		1.00%	35,872	
Sales Legal Fee		0.50%	17,936	
				53,807
FINANCE				
Multiple Finance Rates Used (See Assumptions)				
Land			13,259	
Construction			77,125	
Total Finance Cost				90,385
TOTAL COSTS				**3,119,264**
PROFIT				
				467,890
Performance Measures				
Profit on Cost%		15.00%		
Profit on GDV%		12.29%		
Profit on NDV%		13.04%		

APPRAISAL SUMMARY

LICENSED COPY

Scenario 1 JLL Appraisal

Development Yield% (on Rent)	7.76%
Equivalent Yield% (Nominal)	6.00%
Equivalent Yield% (True)	6.23%
Gross Initial Yield%	6.36%
Net Initial Yield%	6.36%
IRR	41.62%
Rent Cover	1 yr 11 mths
Profit Erosion (finance rate 7.500%)	1 yr 11 mths

Scenario 1 JLL Appraisal

3,808,019

JEWELLERY QUARTER
Development Trust
LIVE LEARN WORK VISIT

For the attention of Hayley Anderson **10th November 2014**

Re: Jewellery Quarter Development Trust comments on Birmingham City Council's proposed Community Infrastructure Levy Charging Schedule

Dear Hayley

The Jewellery Quarter Development Trust (JQDT) is the representative voice of businesses and residents in the Jewellery Quarter. It is responsible for organising and overseeing the area's Business Improvement District (BID) and commissioning the emerging Neighbourhood Plan. It is in this context that the JQDT wishes to make the following comments on the Community Infrastructure Levy (CIL) consultation being undertaken by Birmingham City Council (BCC).

General observations:

- We have an overarching concern that the City of Birmingham will have an insufficient stream of funding for infrastructure projects given that CIL is only being charged on high-value residential, large retail, student housing and city centre hotels.
- Following earlier proposals for high charges, we feel that the proposals have gone too far in the other direction. We feel there should be a basic principle of developments over a certain size should make a contribution to the local infrastructure. A sliding scale of contribution can then be used to reflect local demand or need for regeneration. We are in agreement with the banding recommended in GVA's 'CIL Economic Viability Assessment October 2012' Section 9 'Conclusions & Recommendations' albeit we acknowledge there may be an across-the-board reduction in rates, perhaps by 50% as an introductory position.
- We cannot find an explanation and therefore understand why the recommendations in the October 2012 GVA report change so dramatically to those in GVA's draft 'CIL Development Viability Study: Additional Employment Testing 11th December'. We disagree with the recommendations of this later report.
- We would support a higher minimum threshold to trigger CIL payments. This may be, for example, 2000 sq m GEA for residential developments and 5000 sq m for office developments, zoned similar to hotels, in order to ensure their impact on the local infrastructure is mitigated. This could be banded with an upper tier of e.g. over 10000 sq m for both.
- It is essential the CIL Charging Schedule is reviewed regularly to reflect the national and local economic outlook. As the economy improves it is right that CIL contributions increase. The review should be written into the policy and we would recommend an annual review.
- We note that the "inner ring road" is the new definition of the city centre i.e. the Middleway and not the Queensway.
- We query the definition of "retail convenience". We believe CIL should be payable on all large retail units with a higher charge for out-of-town units. Small retail units should be exempt and CIL should be used as a way of stimulating the High Street.
- The 'high value' residential zones appear arbitrary and not based on either property values or a requirement to stimulate or constrain development. For example Weoley is high value and Hall Green is not. Equally only part of the Jewellery Quarter is high value whereas values across the Quarter are driven by quality of development and not location in the Quarter.

Studio 215F, The Big Peg, 120 Vyse St, Birmingham, B18 6NF
W: www.jewelleryquarter.net T: 0121 233 2814
The JQDT is a Community Interest Company registered in England (registration no 7675188).
twitter.com/jqdtbirmingham
facebook.com/jqdtbirmingham

JEWELLERY QUARTER
Development Trust
LIVE LEARN WORK VISIT

Jewellery Quarter-specific observations:

- We strongly support the proposal to charge £0 on vacant buildings brought back into the same use.
- We recommend extending this to cover all listed buildings (whether statutorily-listed or locally-listed) or buildings of interest in Conservation Areas whether brought back into the same use or a different use providing it is in accordance with the local planning guidance.

Draft Regulation 123 List observations:

- We request that the Great Charles St Queensway connection between the Jewellery Quarter and the Colmore Business District is included in this list. It is our desire to have an at-grade connection between Ludgate Hill and Church St, potentially achieved by connecting St Chads and Queensway tunnels.
- We note that *'Open Access Ducting Infrastructure (digital connectivity)'* is included on this schedule. We seek that clarification that this is the roll-out of high-speed fibreoptic broadband to all homes and businesses in the city centre (inside the Middleway) and local 'town' centres across Birmingham. This is one of the most essential pieces of infrastructure.
- We would like to see a commitment to Public Open Space, in particular in dense urban areas such as the city centre and inner city residential areas. This may be in the form of a default allocation of the percentage to be spent in the local community, in the absence of any suggestions from said community.

Our overriding message is that there should be some form of contribution by developments in high-value areas, and the current proposals to charge £0 for most developments is neither desirable nor sustainable. Developments must make a contribution to the infrastructure they require, otherwise the gap between Birmingham's infrastructure provision and its demand will continue to grow.

If you have any comments or queries on our representation, please feel free to contact me on [redacted]

Yours sincerely,

[redacted]
Director - responsible for planning and development
Jewellery Quarter Development Trust

Sent via email to hayley.anderson@birmingham.gov.uk

cc to [redacted]

Nigel Gough Associates Ltd

Chartered Surveyors and Chartered Town Planners

City of Birmingham Council

Community Infrastructure Levy – Draft Charging Schedule Consultation

REPRESENTATIONS

For and on behalf of:

PMG Investments Ltd

In respect of:

The Lakeside Centre, Lifford Lane, Birmingham,

West Midlands B30 3NU

RICS RTPI Chartered Town Planners

CALL US 0121 233 2471 | EMAIL US info@nigelgoughassociates.co.uk

Nigel Gough Associates Ltd 3 Sovereign Court Graham Street Birmingham B1 3JR

Registered in England and Wales No. 03790974 VAT No. 184045216

1. INTRODUCTION

1.1. We are instructed by PMG Investments Ltd, the freehold owners of the Lakeside Centre, off Lifford Lane, Birmingham B30 3NU.

1.2. This is a commercial development, primarily of offices, but only partially occupied.

1.3. Discussions have taken place with the City Planning Department to seek the release of this land, and a further connected parcel, in the 2017/2020 time span for residential development. These lands are registered in the City's Strategic Housing Land Availability Assessment.

1.4. Redevelopment of the whole of the land is therefore contemplated with the City's support.

2. REVIEW OF THE DRAFT CHARGING SCHEDULE

2.1. We have considered the Community Infrastructure Levy Draft Charging Schedule document and the GVA Viability Analysis together with the Additional Viability Analysis. In addition we have reviewed the Residential Market Value Areas 2014 Vector Map.

2.2. In reviewing the GVA Viability Analysis / Additional Document, we have noted the terms of the Instruction for that Research from the City and the outturn documentation.

2.3. Quite properly the GVA Additional Document referred, on page 12 of the document, to the 'High Level' nature of that Report which lead them to Report based on primary Post Codes across the City and the consequential reference to the Generalised area names referenced to those Post Codes.

2.4. The size and extent of those Post Codes in a City like Birmingham covers, in any one Post Code a number of sub-districts / neighbourhoods most of which are named.

2.5. For instance the Bournville B30 principal post code covers Bournville, Kings Norton and Lifford.

2.6. The vitally important point that we are trying to make at this stage is that the residential character and residential values as a consequence do vary very considerably across the Primary B30 post codes.

2.7. In terms of the Bournville B30 post code it is accepted that the sub-district of Bournville focused on the Bournville Estate should properly be included in the "High" Level Residential Market Area. However it is not appropriate that the Lifford area of the Bournville B30 post code should be similarly included in this "High" Level area. To be consistent, the Kings Norton area sits more consistently with Northfield in the B30 area as well as Selly Oak in the B29 post code area.

2.8. The reason why the Lifford area's inclusion is wrong can be seen very easily from a review of the properties in the area. The northern part of the Lifford area is primarily commercial / industrial or specialist like the chemical works / refuse collection works fronting Lifford Lane and the Kings Norton Business Centre factory estate fronting Melchett Road. PMG Investments Lakeside development fits into this primarily commercial area.

2.9. To the south of PMG's Lakeside centre is the sub-district around Lindsworth Road. This consists of inter-War and post-War semi-detached and small detached dwellings. This area should more appropriately be classified as well in the Low Value Area.

2.10. Significantly, in Market Value Area 4, is the district of Walmley. This area cannot in any way be compared to Erdington and most particularly Balsall Heath and Bartley Green. It is just illogical and patently wrong in land value terms to categorise Walmley as a Low Value area.

2.11. We maintain that by not analysing areas / sub-districts within the prime post codes the City will adopt an unfair and discriminatory approach to CIL which is fatally flawed in legal terms for those parts of Birmingham that are wrongly categorised.

2.12. A more appropriate and accurate plan of the City should be prepared than the "High Level" approach adopted by the City from the GVA report. Without this proper detailed approach the City will be open to continual legal challenge.

2.13. It is vitally important that the geographic areas are correct identifying High and Low Value areas. This is because individual house extensions above 100 sq m will be caught by the CIL Charging regime and those houses wrongly included in the High Value areas will be unreasonably and unacceptably caught and penalised.

2.14. We would make the important point that it cannot be appropriate and proper if the charge to CIL is retrospective.

2.15. Where proposed new major redevelopment schemes contain very significant on-site infrastructure requirements, as in the case of PMG Investments, such as demolition, decontamination, a new canal bridge and special canal-related building works and drainage, the CIL should properly allow for reasonable viability testing before imposition. In this case we would suggest that there should be a special exemption for these major site redevelopments.

3. CONCLUSION

3.1. There is a fundamental problem with the way that the City have approached the CIL Pricing Schedule through principal post codes. As we have shown above, this leads to an illogicality and a prima facae case for unreasonableness in the imposition of the charging on this basis because there are, in a number of cases, sub-districts of a principal post code which are at complete variance with the GVA schedule and its allocation of "High Value Areas" as opposed to "Low Value Areas".

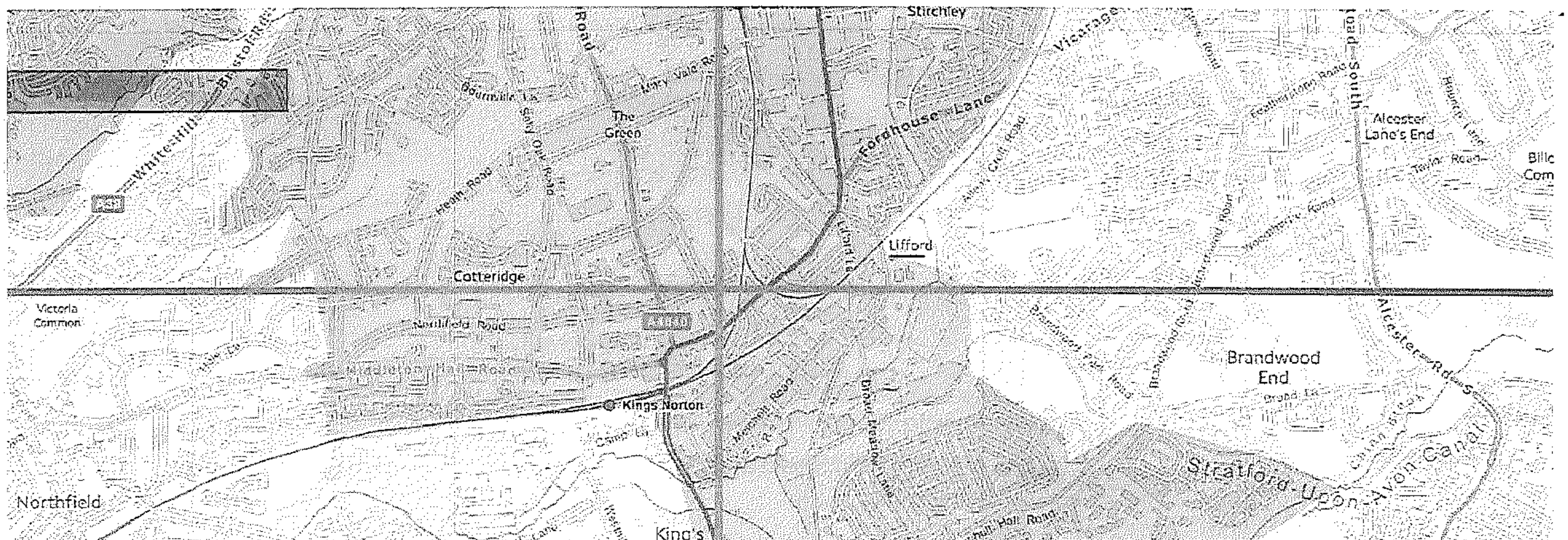
3.2. We have sought above to indicate that in the B30 principal post code area, the Lifford area where our Clients have their Lakeside centre, and a considerable area surrounding their premises are incorrectly classified as "High Value Areas".

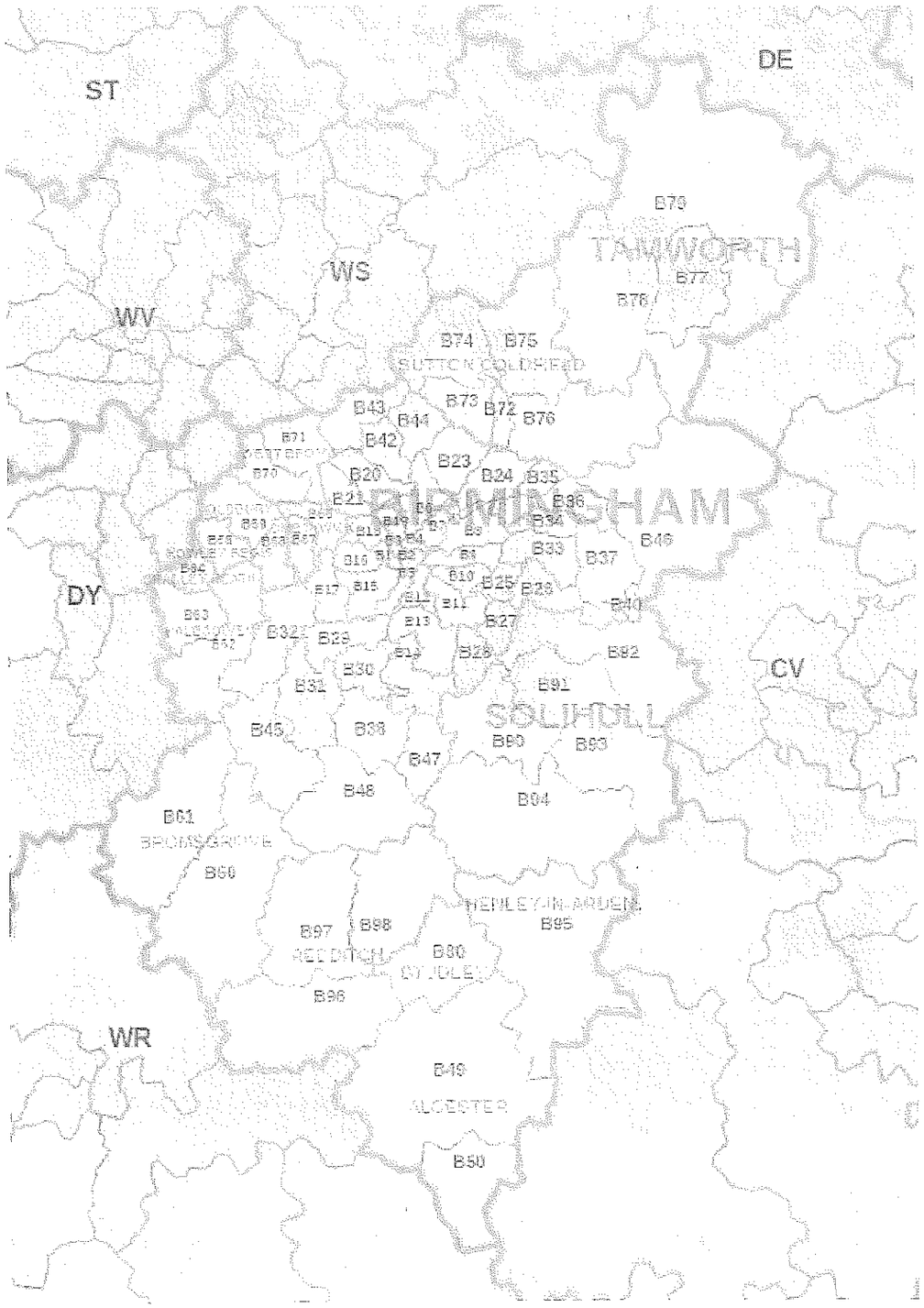
3.3. By not adopting a classification based upon known principal sub-districts, the City of Birmingham has unreasonably and unacceptably discriminated unfairly for those areas that are patently wrongly classified.

3.4. It would not take much for GVA to re-assess their schedule and their plan on a sub-district basis so that the imposition of the CIL Charging on areas of Birmingham can be seen to be, properly, fair and reasonable and therefore not open to legal challenge subsequently.

4. NOTE

4.1. We have included a copy of the City's post code areas.


Stirchley
Vicarage
Fordhouse Lane
Bristol Rd
Whitehill
Bournville La
The Green
Mary Vale Road
Heath Road
Cotteridge
Lifford
Victoria Common
Northfield Road
Middleton Hall Road
A441
Kings Norton
King's Norton
Northfield
Turves Green
Wychall Lane
Monyhull Hall Road
Brandwood End
Brandwood Road
Stratford-Upon-Avon Canal
Alcester Rd S
Alcester Lane's End
Broad Meadow Lane
Wharf Road
Walkers Heath Road
Sisley Lane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SOLIHULL
B45
B38
B90
B93
B47
B48
B04
B61
BROMSGROVE
B60
HENLEY-IN-ARDEN
B95
B97
B98
REDDITCH
B80
STRATFORD
B96
B49
ALCESTER
B50

Hayley Anderson

From: [redacted]
Sent: 10 November 2014 10:09
To: Hayley Anderson
Subject: RE: Birmingham City Council Community Infrastructure Levy – Draft Charging Schedule Consultation

Hayley,

Thank you for giving Severn Trent Water the opportunity to comment on the CIL Draft Consultation, however on behalf of STW I have no comment to make at this stage.
With regard to the costs required for the provision of water supply and waste water infrastructure, through current legislation there is an established funding mechanism to provide for future growth by a combination of developer contribution and funding via customer charges as agreed by Ofwat.

On this basis the CIL is not needed to form part of the funding for water and waste water projects.

If I can be of any further assistance to you please do not hesitate to contact me on the telephone number below.

Kind regards

[redacted]
Water Strategy
☎ [redacted]
✉ [redacted]

From: Hayley Anderson [mailto:Hayley.Anderson@birmingham.gov.uk]
Sent: 30 September 2014 14:43
To: Hayley Anderson
Subject: Birmingham City Council Community Infrastructure Levy – Draft Charging Schedule Consultation

Dear Sirs

Re: Birmingham City Council Community Infrastructure Levy – Draft Charging Schedule Consultation

The Community Infrastructure Levy (CIL) is a charge on new buildings in England and Wales. It is a mechanism to ensure certain types of new development contribute to the infrastructure needed to support that development. This infrastructure will support the growth aspirations for Birmingham as outlined in the Birmingham Development Plan which includes proposals for over 50,000 new homes and 100,000 new jobs.

The charge provides a greater level of certainty for developers and land owners regarding their contributions and will be charged per square metre on net, new development.

We are now seeking views on our proposed charges for the CIL and all the information can be found at www.birminghambeheard.org.uk/development/community-infrastructure-levy-draft-charging-sched

In addition, we will also be holding two drop in sessions at the Council House, Victoria Square, Birmingham, B1 1BB (http://www.birmingham.gov.uk/council-house) should you wish to speak to an officer regarding the CIL proposals.

- Thursday 16th October from 09:00 until 12:30 (Committee Room 2)
- Friday 17th October from 13:00 until 17:00 (HMS Daring Room)

The consultation will close at 5:00pm on Monday 10th November 2014.

Subject to the results of the consultation, we will progress to Examination in Public and adopt our CIL by April 2015.

Details of the Birmingham Development Plan can also be found at
www.birmingham.gov.uk/plan2031

Should you require any further information, please do not hesitate to contact me.

Kind regards, Hayley

Planning Contributions | Planning and Regeneration

Our Community Infrastructure Levy Draft Charging Schedule consultation will run from Monday 29th September to Monday 10th November and can be found at www.birminghambeheard.org.uk/development/community-infrastructure-levy-draft-charging-sched

Contact: hayley.anderson@birmingham.gov.uk
Call: 0121 303 4820
Click: www.birmingham.gov.uk/cil
www.birmingham.gov.uk/s106
Visit: Birmingham City Council | 1 Lancaster Circus Queensway| Birmingham | B4 7DJ
Postal: Birmingham City Council | Planning and Regeneration | PO Box 28 | Birmingham | B1 1TU

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Birmingham Community Infrastructure Levy

Draft Charging Schedule – November 2014

Representations on behalf of St Modwen Developments

1.0 We have been instructed by St Modwen Developments to make representations on their behalf further to the consultation on the Council's Community Infrastructure Levy (CIL) Draft Charging Schedule.

1.1 You will no doubt be aware that St Modwen are recognised as the UK's leading regeneration specialist and as such the majority of their development is focused upon brownfield sites. Moreover that these sites are frequently exposed to high site specific abnormal costs associated remediation, site servicing, demolition, etc. St Modwen is, therefore, in a unique position to assist the City Council considering the appropriateness of introducing a CIL levy and if deemed appropriate in identifying and setting of appropriate CIL Zones and Rates given their knowledge and experience of the Birmingham market and their involvement in some of the most high profile and important regeneration areas of the City.

1.2 It is in this context that St Modwen wish to make the following observations mindful that, in contrast to the NPPF which recognises site viability assessments, CIL has the very real potential to become an inflexible tax, discriminating against brownfield development and acting as a real block to delivery of regeneration projects with high intrinsic site specific costs. We have referenced land allocated within the Longbridge Area Action Plan as a very real example of a major brownfield development of regional significance, the delivery of which could be threatened by the introduction of CIL.

1. We make no specific comment on the detailed viability assessment but do not offer this absence of comment as any endorsement of the assumptions made within that evidence.

2. The NPPF has introduced a more stringent focus on delivery and viability. In particular para 173 states *"To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable".*

   CIL must be introduced in the context of the above and to ensure an appropriate balance between meeting infrastructure needs but equally ensuring economic development objectives are not stifled.

   The CIL Charging Schedule is generally supported and represents a greater "cushion" to viability than the previous draft proposals. This is important.

It is also important and supported that the CIL applies differential rates across the City for different uses. We believe that the imposition of differential charging rates is critical if the more challenging development sites, particularly those urban, previously developed, regeneration sites in the City are not to be delayed and their viability compromised. The Community Infrastructure Levy Guidance of December 2012 supports this approach, specifically paragraph 34 which states "*Charging authorities may want to consider setting differential rates as a way of dealing with different levels of economic viability within the same charging area (see regulation 13). This is a powerful facility that makes the levy more flexible to local conditions. Differences in rates need to be justified by reference to the economic viability of development. Charging authorities can set differential levy rates for different geographical zones* provided that *those zones are defined by reference to the economic viability of development within them. In some cases, charging authorities could treat a major strategic site as a separate geographical zone where it is supported by robust evidence on economic viability*".

Any changes from the current charging schedule or amendments to the charging spatial zones at any point in the future must be subject to full consultation, a point recognised in Section 17.0.

3. Section 15.0 explains that development can still be required to contribute to infrastructure in different ways including through CIL, s106 and s278 highway agreements. It recognises here however that all should serve different purposes and the regulations limit the ability for any perceived or actual double charging of infrastructure contributions.

   In the case of Longbridge, the Longbridge Area Action Plan currently includes a Longbridge Infrastructure Tariff (LIT). The LIT is a pooled contribution in the same way as the new CIL although noteworthy is subject to viability policy provisions which would affect the way it is imposed. That said, as a tariff or levy contribution it would not be appropriate for the LIT to be in place at the same time as the new CIL. Such an approach would have the effect of double charging and place a significantly greater, unfair and unviable burden upon development at Longbridge. Statute does not allow for the future continuation of tariff or levy pooled contributions when CIL is in place. The CIL Charging Schedule should specifically highlight that upon adoption of the CIL Charging Schedule, the LIT at Longbridge would cease to have effect and would be withdrawn.

4. The CIL Draft Regulation 123 list includes a varied range of infrastructure projects around the City. It is unclear as to the priorities within this list and this would provide a greater understanding of infrastructure delivery.

Summary

2.0 It is essential that CIL is appropriately set to ensure that economic development is not stifled. The latest CIL charging schedule improves earlier drafts by creating a greater cushion to viability. This is important. It also applies spatially and at different rates. The approach is generally supported.

2.1 The CIL Charging Schedule should explicitly confirm that the Longbridge Infrastructure Tariff (LIT) will not apply once CIL is adopted.

2.2 The priorities within the CIL Regulation 123 list should be made clear.

Hayley Anderson

From: [redacted]
Sent: 10 November 2014 14:05
To: Hayley Anderson
Subject: Formal Representations: Community Infrastructure Levy Draft Charging Schedule
Attachments: 8976 LPACIL02 HRW October 2014.pdf

Dear Hayley,

Please find attached formal representations submitted on behalf of the Police and Crime Commissioner for West Midlands in response to the current consultation on the Community Infrastructure Draft Charging Schedule.

I should be grateful if you would ensure that this letter is presented to the Inspector conducting the Examination.

Please could you confirm receipt of this submission.

Kind regards,

[redacted]

[redacted]
Consultant Planner
[redacted]

click here for
tyler-parkes.co.uk
Planning and Architecture | advice | applications | drawings

RTPI

Tyler Parkes, 66, Stratford Road, Shirley, Solihull, West Midlands B90 3LP
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tyler
parkes

Planning and Architecture | advice | applications | drawings

Our ref: 8976 LPACIL01 HRW

Economic Directorate
Birmingham City Council
PO Box 28
Birmingham
B1 1TU

Emailed: hayley.anderson@birmingham.gov.uk

10th November 2014

Dear Sirs

Community Infrastructure Levy Draft Charging Schedule: Formal Representations on behalf of the Police and Crime Commissioner for West Midlands

We act for the Police and Crime Commissioner for West Midlands (PCCWM), formerly known as the west Midlands Police Authority, and are instructed to make representations on local development documents in respect of securing policy reference in such documents to, amongst other matters:

- recognise the community need for securing safe environments with crime reduction made a priority;
- require developers to demonstrate how proposals address community safety and crime prevention in Design and Access Statements;
- promote a safe and secure entertainment, leisure and evening economy;
- ensure the timely and effective engagement of the police and other emergency services to ensure effective delivery of infrastructure projects required as a result of development growth with the recognition that the police are a social infrastructure delivery agency;
- in appropriate cases, seek financial contributions towards the additional expenditure burden placed on the PCCWM as a consequence of development proposals and growth; and
- ensure the timely and effective engagement of the police and other emergency services in the processes likely to affect crime and fear of crime.
- ensure the timely and effective engagement of the police and other emergency services

in relation to Counter-Terrorism matters. For example, Counter Terrorism Security Advisors can give appropriate advice concerning Vehicle-Borne Devices (VBD) mitigation and the Crowded Place agenda (particularly in relation to shopping areas and the night-time economy).

The PCCWM clearly has a statutory duty to secure the maintenance of an efficient and effective police force for its area and, of course, the Council is also statutorily required to consider crime and disorder and community safety in the exercise of its duties with the aim of achieving a reduction in crime. Crime and the fear of crime are material considerations throughout the development process and Section 17 of the Crime and Disorder Act 1998 should be paramount.

You will be aware that we submitted representations on behalf of the PCCWM in response to the Community Infrastructure Levy (CIL) Preliminary Charging Schedule consultation on 9th January 2013. We are extremely disappointed that these representations have not been addressed in the current consultation.

The PCCWM again **OBJECTS** to the omission of the PCCWM from Nil CIL charges. The PCCWM is a non-profit making community service which cannot viably afford to contribute to CIL. Indeed, it is itself a community infrastructure provider which should be eligible for receipt of funds raised through CIL. This fact is accepted in the latest Infrastructure Delivery Plan (IDP), June 2014, which identifies the Emergency Services, including the Police, as an infrastructure type capable of receiving CIL.

The PCCWM supports the wording in the IDP which states,

> '..emergency services represent a key form of social infrastructure, and it needs to be ensured that such provision is sufficient to support the population growth. The City Council will continue to engage with the emergency services in seeking to ensure that future infrastructure is delivered in the most appropriate locations.'

The PCCWM **FORMALLY REQUEST** that the PCCWM front and back of house services and facilities (eg. Police Stations and administrative offices) be included in the 'CIL Charges' Table at paragraph 6.0 on page 8 of the Draft document. It is requested that, just as for Health, 'All areas' should have a nil rate. It would be unsound for the CIL Charging Schedule not to specifically identify the fact that the PCCWM have nil CIL charge for developments.

The PCCWM also **FORMALLY REQUEST** that that they are engaged in the IDP reviews and prioritisation of the Regulation 123 List on an on-going basis. They wish to emphasise that it is important for the PCCWM to receive a proportion of CIL funds raised to contribute towards bridging the funding gap arising from the planned growth to ensure the standards of the Police Service are maintained to meet national and local strategic crime reduction objectives.

My Client should be grateful if you would ensure that these representations are submitted to the Inspector appointed to examine the CIL Charging Schedule.

We should be grateful if you would acknowledge receipt of this letter of representation.

Yours faithfully,

[redacted]
Planning Consultant
[redacted]

Hayley Anderson

From: [redacted]
Sent: 10 November 2014 16:58
To: Hayley Anderson
Subject: RE: Birmingham City Council Community Infrastructure Levy - Draft Charging Schedule Consultation

Importance: High

Dear Hayley,

Please see comments below on the above consultation on behalf of Walsall Council:

1. There is a typo at bottom of page 12 of draft charging schedule 'bought' should be *..... 'brought' back into use* (interpretation could be challenged if not corrected); and
2. The additional viability testing showed a CIL charge of £33 per sqm could be applied to residential in low value areas (areas 4,5,6,7) which would still allow a cushion of 40% to allow for variance in individual scheme viability but your draft charging schedule shows a nil rate for residential in the low value area. There doesn't appear to be an explanation as to why a nil rate has been applied for residential in the low value areas.

I hope this is useful and would be happy to meet with you to discuss these points if necessary.

Kind Regards

[redacted]
Planning, Monitoring and Delivery Officer

Planning Policy
Planning and Building Control
Walsall Council
2nd Floor Civic Centre
Darwall Street
Walsall WS1 1DG

Email: [redacted]
Team Email: [redacted]
Tel: [redacted]
Fax: [redacted]
Website: www.walsall.gov.uk

From: Hayley Anderson [mailto:Hayley.Anderson@birmingham.gov.uk]
Sent: 30 September 2014 14:43
To: Hayley Anderson
Subject: Birmingham City Council Community Infrastructure Levy – Draft Charging Schedule Consultation

Dear Sirs

Re: Birmingham City Council Community Infrastructure Levy – Draft Charging Schedule Consultation

The Community Infrastructure Levy (CIL) is a charge on new buildings in England and Wales. It is a mechanism to ensure certain types of new development contribute to the infrastructure needed to support that development. This infrastructure will support the growth aspirations for Birmingham as outlined in the Birmingham Development Plan which includes proposals for over 50,000 new homes and 100,000 new jobs.

The charge provides a greater level of certainty for developers and land owners regarding their contributions and will be charged per square metre on net, new development.

We are now seeking views on our proposed charges for the CIL and all the information can be found at www.birminghambeheard.org.uk/development/community-infrastructure-levy-draft-charging-sched

In addition, we will also be holding two drop in sessions at the Council House, Victoria Square, Birmingham, B1 1BB (http://www.birmingham.gov.uk/council-house) should you wish to speak to an officer regarding the CIL proposals.

- Thursday 16th October from 09:00 until 12:30 (Committee Room 2)
- Friday 17th October from 13:00 until 17:00 (HMS Daring Room)

The consultation will close at 5:00pm on Monday 10th November 2014.

Subject to the results of the consultation, we will progress to Examination in Public and adopt our CIL by April 2015.

Details of the Birmingham Development Plan can also be found at www.birmingham.gov.uk/plan2031

Should you require any further information, please do not hesitate to contact me.

Kind regards, Hayley

Planning Contributions | Planning and Regeneration

Our Community Infrastructure Levy Draft Charging Schedule consultation will run from Monday 29th September to Monday 10th November and can be found at www.birminghambeheard.org.uk/development/community-infrastructure-levy-draft-charging-sched

Contact: hayley.anderson@birmingham.gov.uk
Call: 0121 303 4820
Click: www.birmingham.gov.uk/cil
www.birmingham.gov.uk/s106
Visit: Birmingham City Council | 1 Lancaster Circus Queensway| Birmingham | B4 7DJ
Postal: Birmingham City Council | Planning and Regeneration | PO Box 28 | Birmingham | B1 1TU

****

WYG

Ref: V001185WM25/RR/rr
Date: 10 November 2014

FAO Hayley Anderson
CIL Draft Charging Schedule
PO Box 28
Birmingham
B1 1TU

Dear Sir/Madam

SAINSBURYS SUPERMARKETS LTD
BIRMINGHAM CITY COUNCIL COMMUNITY INFRASTRUCTURE LEVY
DRAFT CHARGING SCHEDULE, SEPTEMBER 2014

We wish to make the following representations on behalf of our client, Sainsbury's Supermarkets Ltd, in connection with the above.

Evidence Base

We note that additional retail testing has been undertaken by GVA (dated December 2013) further to their original CIL Economic Viability Assessment (dated October 2014). The additional retail testing tests four further retail development scenarios, in addition to the three originally tested.

However, we consider that the evidence does not justify the proposed CIL rates for retail development.

The retail testing concludes that 1,500 sq m convenience developments would be unable to bear a material CIL contribution whilst large stores could afford a significant payment. It is noted that the assessment concludes that large stores comprise those above 2,000 sq m, yet the scenarios tested are for a 2,700 sq m and a 5,000 sq m convenience retail development. However, the proposed CIL charge of £260 relates to convenience developments of more than 1,500 sq m. This does not seem to accord within the findings of the retail testing which suggests that retail developments above at least 2,000 sq m could afford a CIL payment.

Furthermore, the retail testing concludes that city centre retail development cannot afford a CIL payment. Yet the proposed CIL charge appears to relate to both in and out of centre retail convenience developments of more than £1,500 sq m, regardless of location (with the exception of within the Sustainable Urban Extension).

We therefore conclude, for the reasons set out above, that the proposed retail CIL charge is not justified by the evidence base.

WYG, Ropemaker Court, 11-12 Lower Park Row, Bristol, BS1 5BN
Tel: +44 (0)117 925 4393 Fax: +44 (0)117 925 4239 Email: bristol.planning@wyg.com

Proposed Retail CIL Charge

Sainsbury's Supermarkets Ltd consider that a CIL charge at the high level of £260 per sq m for retail convenience of more than 1,500 sq m across the City is a significant deterrent to retail led development/regeneration in Birmingham and would lead to Sainsbury's investing in, and providing jobs in, lower charge areas.

We trust that these comments are of assistance. We intend appearing at the CIL examination.

Yours faithfully

[redacted]

[redacted]
Senior Planner

WYG, Ropemaker Court, 11-12 Lower Park Row, Bristol, BS1 5BN
Tel: +44 (0)117 925 4393 Fax: +44 (0)117 925 4239 Email: bristol.planning@wyg.com

Hayley Anderson

From: [redacted]
Sent: 14 November 2014 14:19
To: Hayley Anderson
Subject: Bham CIL Consultation response

Hayley,
apologies for missing your deadline. If possible could you consider the following brief positive comment.

English Heritage welcomes the proposed inclusion in the Draft Regulation 1,2, 3 of the following particular matters that you intend to fund, or part fund, through the Community Infrastructure Levy (CIL).

- Heritage Assets at Risk
- Soho House Visitor Centre and Garden
- Canal side Improvements which are not required as a direct result of a development
- Public realm improvements

Sincere regards
[redacted]

[redacted] Principal Historic Environment Planning Adviser | West Midlands
English Heritage | The Axis | 10 Holliday Street | Birmingham | B1 1TG
Direct line: [redacted]
Historic Environment Planning Adviser | South West
English Heritage | 29 Queen Square | Bristol | BS1 4ND
Direct line: [redacted]

Mobile phone: [redacted]
www.english-heritage.org.uk

CITY COUNCIL – 4 NOVEMBER 2014

AMENDMENT TO MOTION 10B

First line, delete all after "This Council" and insert:

"is currently consulting on the Community Infrastructure Levy (CIL) Draft Charging Schedule, which was approved by Cabinet for public consultation on 15 September. This consultation period ends of Monday 10 December 2014.

Council notes that the CIL regulations, set out by government, state the process which should be followed to develop and adopt a CIL. In addition, the documents associated with the consultation cannot be altered during the consultation process.

Therefore, in order to preserve the public consultation process and to remain within the legal framework, this Council accepts that the debate on this motion will be considered as part of the consultation. The comments made by members during the debate will be considered alongside those received from the public under the Cabinet delegation."

Proposed by : .....
Councillor Tahir Ali

Seconded by : .....
Councillor Mike Sharpe

Councillor [redacted]
Chair – Birmingham Economy & Transport Overview & Scrutiny
Council House
Victoria Square
Birmingham B1 1BB
Tel: [redacted]
E-mail: [redacted]

Hayley Anderson
CIL Draft Charging Schedule Consultation
PO Box 28
Birmingham
B1 1TU

Dear Hayley

Community Infrastructure Levy – consultation response

Thank you for attending the Birmingham Economy & Transport O&S Committee on Friday 17th October, and presenting the proposed CIL Draft Charging Schedule.

As you will recall, Members raised a number of concerns, and I wanted to submit these formally as a response to the consultation.

Firstly, the residential market value areas were questioned. These are based on district postcodes and, as such, are a broad brush approach. There will inevitably be low value lands within those areas. Whilst members understand that the regulations state a high level approach must be used, could the use of postcodes be at the next level down – the postcode sector (i.e. the third part of the postcode).

The second area that caused general unease was the proposal to exempt the Sustainable Urban Extension (SUE). Members expressed concern at this as house values in this area are likely to be very high (though there will be an affordable and social housing component). The land will cost less to develop than brownfield sites, as no remediation work would be needed – this is often the argument used by developers as to why brownfield land cannot be re-developed or that it is too expensive to be developed. Therefore it seems that CIL should be applied to the SUE, otherwise a major source of planning gain is lost. This links to a general concern that the amount of planning gain overall will be reduced with the introduction of CIL.

Finally, Members raised concerns regarding the valuations, and how often these will be updated. Thank you for your clarification of the process, however we would continue to emphasise the importance that the scheme in place is sufficiently regular and robust to capture increasing values.

Yours sincerely

[redacted]

Chair, Birmingham, Economy & Transport Overview and Scrutiny Committee

[illegible]

[illegible]

[illegible]

[illegible]

Hayley Anderson

From: [redacted]
Sent: 18 November 2014 09:03
To: Hayley Anderson
Subject: FW: Birmingham City Council Community Infrastructure Levy – Draft Charging Schedule Consultation

Hayley

Re: Draft Charging Schedule Consultation

On behalf of Canal & River Trust our response to the consultation is as follows:-

We understand from the consultation that the Draft Regulation 123 List is to be reviewed a least once a year and we note that the following are on the list: Canalside Improvements which are not required as a direct result of a development; and Heritage Assets at Risk. We have list of potential projects which could benefit from CIL and would be happy to provide details of them if required.

Section 106 agreements will continue to be used for *"Site specific matters needed to make the development acceptable in planning terms, which could include: cycle/pedestrian routes and connections if directly required by the development."* Given that the canal towpaths provide cycle and pedestrian routes and enhancements and may be required as a direct result of development we anticipate that canal infrastructure enhancements will be funded by both CIL and s106.

Walking and cycling improvements required for the Sustainable Urban Extension at Langley and employment proposals at Peddimore will be funded by s106 rather than CIL. Both of these will affect the Birmingham and Fazeley Canal. The canal infrastructure provides walking and cycling routes and would benefit from improvements. As part of our response to the Development Plan for Birmingham we requested the following:-

Langley SUE
The sustainable urban extension could contribute to enhancement of the Birmingham and Fazeley Canal towpath to provide a surface suitable for all weather cycling and walking and join up with the Cycle Ambition works to the west (Hansons Bridge) and the Growth Area to the east (Wiggins Hill Bridge). The Canal & River Trust consider where appropriate and in accordance with the tests, planning obligations secured from the development which will benefit from the canal towpath as an off road route for walking and cycling should be reinvested to the advantage of the canal infrastructure.

Peddimore
The Growth Area could contribute to enhancement of the Birmingham and Fazeley Canal towpath to provide a surface suitable for all weather cycling and walking and join up with the Cycle Ambition works to the west (Hansons Bridge) and to the east (beyond Wiggins Hill Bridge).

However, we would welcome further discussions with Officers to establish whether s106 monies will be a possibility from the Langley SUE and Peddimore developments. This is set within the context of the CIL regulations and issues relating to the pooling of contributions. We are concerned that it is likely that the walking and cycling improvements we have identified for the Langley SUE and Peddimore may not be secured due to historic contributions.

My apologies again for the delay is getting these comments to you and please do not hesitate to contact me should you have any queries.

Regards,

[redacted]
Area Planner West Midlands
[redacted]

Hayley Anderson

From: [redacted]
Sent: 18 November 2014 09:03
To: Hayley Anderson
Subject: FW: Birmingham City Council Community Infrastructure Levy – Draft Charging Schedule Consultation

Hayley

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My apologies again for the delay is getting these comments to you and please do not hesitate to contact me should you have any queries.

Regards,

[redacted]
Area Planner West Midlands
[redacted]

Strategic Planning Team Midlands

Canal & River Trust, Peels Wharf, Lichfield Street, Fazeley, Tamworth, Staffordshire, B78 3QZ

From: Katherine Burnett
Sent: 10 November 2014 13:54
To: 'Hayley Anderson'
Subject: RE: Birmingham City Council Community Infrastructure Levy – Draft Charging Schedule Consultation

Hayley

Thank you for giving us a little extra time it is really appreciated and I will get our comments to you as soon as possible

Regards,

Katherine

Katherine Burnett BSc (Hons) Associate Member of the RTPI
Area Planner West Midlands

T 01827 252067 **M** 07824 356538

E katherine.burnett@canalrivertrust.org.uk

Strategic Planning Team Midlands

Canal & River Trust, Peels Wharf, Lichfield Street, Fazeley, Tamworth, Staffordshire, B78 3QZ

From: Hayley Anderson [mailto:Hayley.Anderson@birmingham.gov.uk]
Sent: 10 November 2014 12:49
To: Katherine Burnett
Subject: RE: Birmingham City Council Community Infrastructure Levy – Draft Charging Schedule Consultation

Hi Katherine,

Sorry for the delay – I've been in meetings all morning. IT can be such a nightmare!

It's fine, just send your comments directly to me when everything is sorted. There's no rush.

Thanks, Hayley

Planning Contributions | Planning and Regeneration

Our Community Infrastructure Levy Draft Charging Schedule consultation will run from Monday 29th September to Monday 10th November and can be found at www.birminghambeheard.org.uk/development/community-infrastructure-levy-draft-charging-sched

Contact: hayley.anderson@birmingham.gov.uk
Call: 0121 303 4820
Click: www.birmingham.gov.uk/cil
www.birmingham.gov.uk/s106
Visit: Birmingham City Council | 1 Lancaster Circus Queensway| Birmingham | B4 7DJ
Postal: Birmingham City Council | Planning and Regeneration | PO Box 28 | Birmingham | B1 1TU

From: Katherine Burnett [mailto:Katherine.Burnett@canalrivertrust.org.uk]
Sent: Monday, November 10, 2014 10:48 AM

ıses submitted via Be Heard

What is your organisation?	Do you agree with the proposed charges for retail development?	Do you agree with the proposed charges for residential development?	Do you agree with the proposed charges for student housing development?	Do you agree with the proposed charges for hotel development?	Do you agree with the conclusions reached for those developments with a proposed zero CIL?	Do you have any other comments to make regarding Birmingham's CIL proposals?
BCC	Yes	Yes. I am concerned other the proosal to favour BMHT with a lighter CIL charge, as it sets a poor example to other developers and a potential challenge on an equality of opportunity basis. given that BHMT already has the advanatge of not having to purchase ;and they already have the advantage of not providing the council with a capital receipt. In my opinion CIL discount should only been given to the most objectively sustainable development, not the most affordable.	Yes	Yes	No	No
Alistair Grills Associates - on behalf of Salhia Investments (Birmingham) Ltd	Yes. The threshold for CIL liability should remain at 1,500 sqm.	Yes. In particular, we would not wish to see Group 6 and 7 postcode areas (as per GVA's report), where residential property values are low, brought within bands which are not zero-rated for CIL in the Council's introductory, or on-going, charging regime.	No comment	No comment	Yes	BCC and Salhia Investments (Birmingham) Ltd are attempting to kickstart the economic regeneration of the Digbeth area south of the Bullring through the construction of the Beorma Quarter, and CIL payments would substantially impact on the viability of the project and the achievement of this objective. Under the draft introductory schedule, Beorma Quarter is, rightly, not liable for CIL and we wish to ensure this position does not change as modifications to the schedule are considered.

BCC Economy - Education Development and Skills - Lead Officer School Place Planning	Yes	Yes	Yes	Yes	No. We are concerned that these developments will require vital school infrastructure and the position supporting this activity	We would welcome discussion and review in light of pressure on school places and sufficient provission. A view to establishing a presumption on the distribution of funds that enable sufficient schools. Therefore a priority for CIL funding distribution for schools in line with open spaces and affordable housing considerations which already appear to carry provision for consideration as priorities. CASE: Schools provide vital universal provision. Providing every family access to a local school place for their children which ensures regualr attendance and supports the welfare of all our young people is advocated strongly.
Czero Developments	No comment	No comment	No. In principle I can see the point about city centre student accommodation schemes paying for infrastructure. However we are looking at a very specific case (7-12 Bartholomew Row) where a student accommodation scheme is being used as part of a project to restore and bring back to use a significant listed building. In a situation where there is a conservation deficit, the addition of CIL onto the costs of the scheme does not cause the land to be worth less, which would be fair enough in normal circumstances (as developers who pay too much for land should not be protected), it just causes the conservation deficit to be even greater. In a situation such as this, s106 would usually be disregarded on the basis that it would either make restoration unviable or would unacceptably increase the amount of development needed to cross subsidise the restoration. Adding CIL to the costs of a project with a conservation deficit simply means that correspondingly more building is needed, or more historic building needs to be lost!	No comment	Yes	Generally it would seem to make sense that exceptions could be made to the CIL charging regime where listed buildings particularly with conservation deficits are involved. It isn't logical to add an additional cost to a project where the land value cannot go down, and reducing a profit margin that is often effectively set by English Heritage will cause a restoration project not to happen.
Sport England	Yes	Yes	Yes	Yes	Yes	No