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Community Infrastructure Levy Consultation
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(Representations submitted by email to planning.policy@n-somerset.gov.uk)

23rd September 2016

RE: North Somerset CIL Draft Charging Schedule Consultation.

Dear Sir/Madam,

Introduction

Gladman Developments Limited (GDL) has considerable experience in the development industry in a number of sectors including residential and employment land. This letter constitutes GDL's formal response to the North Somerset CIL Draft Charging Schedule Consultation.

CIL is intended to have a positive effect on development. The Planning Practice Guidance (PPG) on CIL notes 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... This balance is at the centre of the charge setting process"* (PPG Paragraph 009 Reference ID:25-009-20140612).

In accordance with the latest CIL Regulations, the Council is therefore required to strike an appropriate balance between the desirability of funding from CIL and the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across the local authority area. The Council must consider the impact of CIL together with the policies contained in the Local Plan on developments within the district when deciding an appropriate CIL rate.

Setting the levy at the appropriate rate will be key to ensuring that development comes forward in the local authority area and subsequently that the Local Plan can be implemented. These representations address some key areas that local planning authorities must consider when preparing their CIL charging schedule, drawing on guidance within the PPG.

Funding gap / evidence base

Local planning authorities need to be able to demonstrate the infrastructure need and subsequent funding gap and must ensure that the level of total CIL receipts that could be generated through the levy, reflects the true needs and proposals in the Local Plan. The CIL should not be used by Councils as a mechanism for creating an unrealistic 'wish list' of infrastructure projects in their area.

When establishing a funding gap that CIL receipts are intended to contribute towards filling, it is vital that the Council take account of every possible income stream. This has to include an accurate assessment of future New Homes Bonus, council tax and business rates receipts generated as a result of new developments allocated in the Local Plan, as well as central government funding streams. This should also include an assessment of statutory undertakers' asset management plans, as these companies will at some stage be upgrading their systems/facilities. This also needs to be taken account of when assessing the infrastructure requirements of the authority.

The Council need to have an up to date, robust evidence base that fully justifies the infrastructure needs based on the amount of development that is required. Information on these infrastructure needs should, wherever possible, be drawn directly from the infrastructure planning that underpins the Development Plan, as this should identify the quantum and type of infrastructure required to realise their local development needs.

PPG notes 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..., and support development across their area. Charging authorities will need to summarise their economic viability evidence. This evidence should be presented in a document (separate from the charging schedule) that shows the potential effects of the proposed levy rate or rates on the economic viability of development across the authority area"* (PPG Paragraph 018 Reference ID: 25-018-20140612).

It is important that in calculating the level of infrastructure the authority needs as a result of development, the Council distinguishes between *new* and *existing* demands. New houses do not always create new pressure on infrastructure as evidence shows that a large proportion will be occupied by people already living in the district, attending local schools, and registered with local GP surgeries. They will therefore require less infrastructure provision compared to new residents in the district.

The available guidance makes it clear that CIL is expected to have a positive economic effect on development across an area in the medium to long term. As outlined in the Inspector's Letters to East Devon District Council (April 2014), the CIL charging rates should not be set at such a level that would threaten development, and must be based on robust evidence and assumptions. The rate will also need to be appropriate over time, bearing in mind land values, market conditions and the wider economic climate change rapidly. The viability impact of incremental policy obligations must be assessed and reflected in the charging schedule.

Differential charging rates

It is integral when setting differential rates for different geographical areas that these differential rates are based on accurate, up to date housing market intelligence forming the evidence base for this decision.

Payments in Kind

Regulations 73 and 73A of the CIL Regulations provide a mechanism for local authorities to accept infrastructure payments, or payments in kind, for land or infrastructure to be provided instead of money to satisfy a charge arising from the levy. An allowance for infrastructure payments should therefore be made available by the Council, recognising that there may be time, cost and efficiency benefits in accepting land or infrastructure from parties liable for payment of the levy.

Examination

As outlined in Para 034 Reference ID: 25-034-20140612 of the PPG the charging authority must appoint the examiner. The examiner must be independent and have the appropriate qualifications and experience. The guidance confirms that a Planning Inspector would fulfil these criteria.

Conformity with Framework

The National Planning Policy Framework (from here on referred to as the Framework) provides the current central government planning policy and requirements for local planning authorities to meet. The Framework places emphasis on sustainable development and in particular ensuring that the objectively assessed needs of an area are met through the requirements and policies within the Local Plan.

It is fundamental that the Council ensures that the proposed levy rates are realistic and not set too high. Arbitrarily high rates may jeopardise the delivery of housing schemes within the area. This would be contrary to the Government's aim outlined in the Framework to *"significantly boost the supply of housing"*, as schemes may not come forward due to viability issues.

The Council's CIL charging rates must not threaten the overall delivery of the Local Plan, by making sites unviable. This point is reiterated in the PPG, which states that *"Charging authorities should set a rate which does not threaten the ability to develop viably the sites and scale of development identified in the relevant Plan"* (PPG Paragraph 008 Reference ID: 25-008-20140612). When testing the impact of CIL it is vital that the assumptions that underlie the standard residual valuation approach used to test the impact on viability of CIL are realistic and accurate. This should include abnormal costs, contingency costs, preliminary costs, and developer profit, which should reflect the current level of risk perceived in the market.

Question 1

Gladman consider that the rates set out in Appendix A seem to strike a reasonable balance between the effects of the imposition of CIL and economic viability. However, the evidence base suggests that in Zone C (Rest of the district) the viability assessment was tested against the provision of 50 dwellings per hectare in these settlements. Gladman consider this to be a totally unrealistic assumption. It is unlikely that the development industry would deliver such high densities in these types of locations or that the Council would accept such densities because they are unlikely to reflect the character of the settlement. A more realistic average density would be 30 dwellings per hectare in Zone C and therefore, the assessments should be rerun using this input and the Draft Charging Schedule amended, if necessary, to reflect the results.

Question 2

Gladman object to the fact that the Council is not considering implementing an Instalments Policy as this could have a significant effect on the cashflow and subsequent viability of a development. GDL would urge the Council to adopt an instalments policy for CIL payments as this will give developers the flexibility to pay contributions in line with development phasing schemes and will facilitate cash flow and therefore development viability. With this in mind, in accordance with Regulation 8(3A) of the CIL Regulations, the Council should also accept the phasing of planning permissions, with each phase treated as a separate chargeable development. Given that a significant number of developers objected to the decision not to introduce an instalments policy under the previous consultation, for good reason, its considered illogical that the Council has stuck to its original position.

GDL also remind the Council of the need to review CIL tariffs once these have been set. The economic climate will inevitably change over the course of the plan period and as such the levy rates that can be set whilst ensuring development remains viable will also change. In accordance with the PPG *"Charging authorities must keep their charging schedules under review and should ensure that levy charges remain appropriate over time. For example, charging schedules should take account of changes in market conditions, and remain relevant to the funding gap for the infrastructure needed to support the development of the area"* (PPG Paragraph 043 Reference ID: 25-043-20140612).

Question 4

Regulation 55 of the CIL Regulations allows local authorities to grant relief for exceptional circumstances from liability to pay CIL. Such provision should be factored into the Council's CIL and will avoid rendering sites with specific and exceptional cost burdens unviable, should exceptional circumstances arise.

Gladman would request therefore, that the Council make reference to exceptional circumstances in the CIL Draft Charging Schedule. The Council cannot predict the economic cycles which will occur within the district over the lifetime of the charging schedule, nor is it possible for the Council to anticipate every site abnormality which may be encountered in the delivery of a development. An exceptional circumstances policy would be a reasonable way of ensuring that in rare circumstances, and where demonstrated by evidence, an option would exist for a potentially different CIL payment which would not prevent sustainable development from being delivered.

Conclusions

GDL welcome the opportunity to comment on the North Somerset CIL Draft Charging Schedule Consultation and would like to be kept informed as the documents progress. We would also wish to participate at the CIL Examination.

I hope that these representations are helpful in the process of preparing the CIL charging schedule. If you require any further information or wish to meet with one of the GDL team, then please do not hesitate to contact me.

Yours sincerely,



Phill Bamford
Gladman Developments