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Re: Community Infrastructure Levy – Preliminary Draft Charging Schedule

(Representations submitted via email to CIL@sefton.gov.uk)

Dear Sir/Madam,

Introduction

Gladman Developments Ltd (Gladman) has considerable experience in the development industry in a number of sectors, including residential and employment land. Gladman are aware that Sefton Borough Council (SBC) are in the process of preparing a Community Infrastructure Levy (CIL) for the area. This letter provides Gladman's response to the current consultations on the Council's preliminary Draft Charging Schedule and Commuted Sums Payment practice note.

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*"[1].

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, when taken as a whole, of the imposition of CIL on economic viability of development across the borough. The Council must therefore consider the impact of CIL together with the policies contained in the emerging Sefton Local Plan (SLP) on developments within the borough when deciding an appropriate CIL rate.

Setting the levy at the appropriate rate will be key to ensuring that development is able to come forward in the local authority area to ensure that those sites identified in the Local Plan can be implemented. This response seeks to address some key areas that the Council must consider when preparing the CIL charging schedule, drawing upon the guidance within the PPG, whilst also raising some concerns with regards to the relationship of the CIL and the emerging SLP.

Conformity with the National Planning Policy Framework

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

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[1] PPG Paragraph 009 Reference ID: 25-009-20140612

It is therefore fundamental that the Council ensures that the proposed levy rates are realistic and not set to 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 which seeks 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 be set at a level that may threaten the overall delivery of the Local Plan. When testing the impact of CIL it is vital that the assumptions underlying the standard residential valuation approached used to test the impact on viability of CIL are both realistic and accurate. This should include abnormal costs, contingency costs, preliminary costs, developer profit and should reflect the current level of risk perceived in the market.

Once set, Gladman would urge the Council of the need to review the CIL tariffs on a regular basis given that the economic climate will inevitably change over the course of the SLP's plan period. As such, the levy rates can be reset to ensure that development proposals remain viable.

Proposed CIL Rate

The proposed CIL rate identifies a differential CIL rate for housing across the borough ranging from zero contributions to £125 per sqm. The emerging SLP was submitted for Examination on 3rd August 2015, accompanying the examination of that document was the Council's Infrastructure Delivery Plan which was published in December 2014 and consequently is now some 19 months out of date. Whilst it is acknowledged that this document is supporting the SLP through the examination process it is likely that this document will need updating, if simply to confirm what levels of funding have been secured and what the remaining infrastructure gap is moving forward. Gladman note that the Council intend to publish a final Draft Charging Schedule for consultation which is expected to take place in November 2016. It would be prudent of the Council to update the Infrastructure Delivery Plan to coincide with this consultation.

Funding Gap

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 the Council as a mechanism for creating an unrealistic 'wish list' of infrastructure projections in the 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 existing systems and facilities. This also needs to be taken account of when assessing the infrastructure requirements of the local authority.

The Council will 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. As already highlighted above, given that the Infrastructure Delivery Plan is now some 19 months old the Council should seek to refresh this ahead of the next consultation. If the evidence base is not complete, robust and up-to-date the charging schedule will be unsound and the local planning authority will have difficult adequately demonstrating the funding gap and subsequent CIL requirements.

The 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.*"[2]

[2] PPG Paragraph 018 Reference ID: 25-018-20140612

It is important that in calculating the level of infrastructure required to implement the SLP the Council needs to, as a result of development, distinguish 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 borough, attending local schools, and are already registered with local General Practitioner surgeries. They will therefore require less infrastructure provision compared to new residents in the borough.

The available guidance makes it clear that CIL is expected to have positive economic effects 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 in order to respond rapidly to any changing conditions in the housing market. The viability impact of incremental policy obligations must be assessed and reflected in the charging schedule.

In light of the above, the Council needs to ensure that they have a full understanding of the potential costs of infrastructure projects needed to meet the infrastructure needs. Gladman believe that it would not be appropriate to set a Charging Schedule based on the current Infrastructure Delivery Plan given that this document has not been updated since December 2014, and therefore only provides a partial understanding of infrastructure costs and the total money needed for infrastructure will have likely changed.

<u>Draft CIL Instalments Policy</u>

Gladman support the Council in introducing an instalments policy for CIL payments to ensure that developments remain viable throughout their delivery.

The key to developments coming forward whilst being able to contribute funding towards essential infrastructure is financial resources. In terms of housing, development does not become viable until a certain number of units have been constructed and have been sold because of the major upfront costs associated with commencement on site. It is therefore essential that CIL contributions are phased in such a way that allows the development to generate sufficient funding to cover the costs of the infrastructure needed to support the development whilst maintaining a healthy cash flow to ensure that delivery of a proposed development is not stalled.

However, we question why the instalments policy only relates to schemes or phases of over 150 dwellings. It would be more appropriate and effective if an instalment policy was applied consistently across the board. This approach would ensure that all development proposals are not unnecessarily hindered by upfront financial contributions when development commences. There are many unforeseen circumstances that can arise through the implementation and commencement of a proposed development that can cause delays to the progression of a scheme. If these occur then the expected dwellings will not be completed and sold and the funding will subsequently not become available.

Notwithstanding the above, the proposed instalments policy provides 3 options for consideration, Gladman would be supportive of 'Option C' as this will allow developers the necessary time to build out sites, secure the necessary house sales in order to pay the contributions at a later date. It would also be wise if the Council sought to apply a sliding scale to whichever option is selected. This will reduce the amount of upfront costs on commencement to a level that is required to implement the initial infrastructure costs rather than seeking a large upfront cost on commencement that could unintentionally stall a development proposal.

It is also noted that the Council will consider alternative options and thresholds for when an instalments policy is implemented, an approach such as this is considered to be prudent planning. To ensure further flexibility it is considered that the Council should adopt an exceptions policy for development proposals that may be faced with abnormal issues or in the event that unforeseen costs emerge. In the absence of such an approach, development proposals could be potentially stymied, to the detriment of the borough's economy and vibrancy. This is considered to be a useful policy tool to deliver specific site solutions, given the uniqueness of each particular site and will enable the Council to consider development proposals on a site-by-site basis.

<u>Payments in Kind</u>

Regulations 73 and 73a of the CIL Regulations provides 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 CIL payments.

Discretionary Relief

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.

Differential Payment Zone

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

The map used as part of the consultation is printed at a scale and quality that is difficult to see exactly where the borders between the differential zones are drawn. A properly scaled and drawn map (as used in appendix 2 of the February 2016 Economic Viability study) should be provided as part of any future consultation to allow proper consideration of the zones in order to identify what level of CIL contributions a developer will be expected to provide.

Commuted sum payment in lieu of affordable housing on site

Gladman are supportive of the approach taken that will enable affordable housing to be delivered off site or through a commuted sum payment. This will effectively enable the Council to ensure affordable housing is delivered in areas which demonstrate the greatest level of need. However, it is considered that the Council should not see the payment of a financial contribution in lieu of on-site provision as the least preferable option but should be considered as an alternative approach to the delivery of housing where there is the greatest levels of need in the borough.

It is noted that emerging policy HC1 seeks to deliver 30% affordable housing measured by the total number of bed spaces. The practice note suggests that payments in lieu of on-site provision would result in a shortfall of affordable housing provision.

The formula used to calculate the uplift to the financial contribution is calculated as follows:

Cost to developer/30 x 43 = final financial contribution

It is considered that the calculation above is quite ambiguous and would express a degree of concern as to how the Council has arrived at the figure '43' used to calculate the full contribution. There is no clear guidance how this figure has been arrived at and therefore places uncertainty regarding the adequacy of the final financial contribution. Gladman therefore reserve the right to comment on this element of the practice note at a later date.

Conclusions

Gladman welcome the opportunity to comment on the Community Infrastructure Levy – Preliminary Draft Charging Schedule and Affordable Housing Practice Note and would like to be kept informed as these documents progress.

The key point which Gladman reiterate through this submission is the need to ensure that any obligations sought meet the Regulation 122 tests, which state that they need to be:

- Necessary to make the development acceptable in planning terms;
- Directly relevant to the development; and
- Fairly and reasonably related in scale and kind to the development.

I hope you have found these representations useful for the preparation of the CIL. If you require any further information or wish to discuss the contents of these representations then please do not hesitate to contact myself or a member of the Gladman team.

Yours faithfully,

John Fleming

Policy Planner
Gladman Developments Ltd.