

CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL

COMMUNITY INFRASTRUCTURE LEVY

CHARGING SCHEDULE EXAMINATION – REBUTTAL TO EXAMINATION POSITION STATEMENTS

September 2016

Johnson Mowat Planning Partnership

Transfer Value assumptions applied to Affordable Housing

Johnson Mowat purport that the transfer values being achieved for affordable housing on residential developments within the District are less than that assumed in the viability evidence, thus undermining the CIL headroom calculations.

The Council has considered the points raised both in the Position Statement and in the earlier representation letter and remain confident that the viability evidence represents a robust basis that justifies the CIL rates that are proposed.

Justification for the transfer values used in the viability evidence

The basis of the transfer values applied within the viability model are the transfer prices that have been used by the Council in negotiations for affordable housing as documented in the Council Scrutiny report, available on the Council's website:

https://www.bradford.gov.uk/media/2114/affordablehousing_sept2009.pdf

The transfer values set out in this document are

- Wharfedale 50% of Open Market Value
- Elsewhere 65% of Open Market Value

Whilst this is not a formal or fixed policy position and transfer values are negotiated on a case by case basis, these benchmarks are transparent, are publicised on the Council's website and have been used by Council officers, RPs and developers to inform S106 agreements. Whilst the Council acknowledges the financial difficulties experienced by Registered Providers created by the recent changes in Government grant to the sector, it has been unable to provide evidence of any reduction in transfer values as these are no longer set out in the S106 agreement.

The approach that is being taken is to enable transfer values to be negotiated between the developer and Registered provider on a case by case basis. As a result, transfer values can vary depending on a range of factors such as the mix of tenure (i.e. social rent, affordable rent and shared ownership), market strength of the location and RP appetite. Transfer values could potentially increase or decrease from the benchmarks applied according to these variables, and the assumptions of the above Scrutiny Report are considered to remain an appropriate basis for the viability evidence.

There is evidence of the above stated transfer values are being applied even when there are affordability issues for Registered Providers in meeting the required transfer prices. As an example, a S106 agreement for a planning permission at Apperley Bridge (13/00377/MAO) involved a commuted sum for the affordable housing units equivalent to the transfer value of 65% of Open

Market Value. In this case, there was no interest expressed by an RP to take affordable units so instead the commuted sum was agreed based on the benchmark transfer price.

Ability to absorb and mitigate the impact of variations in Transfer Values

The Council does acknowledge that there may be some variation in transfer values however, it is considered that there is adequate viability buffers within the area wide viability evidence to insulate the effects that CIL could have on viability when such variations apply. To demonstrate this, some further sensitivities have been undertaken to demonstrate the impacts of 5%, 10% and 15% reductions in transfer values. As can be seen from the results below, the buffers can absorb the effect of up to a minimum of circa 10% reduction in transfer values in all Value Areas, up to 15% in Value Areas 1 to 3 and a much greater reduction in Value Area 1. Although in the 15% reduction Value Area 3 headroom falls marginally close to the CIL charge rate of £20 per sq m, this is because of the larger sites of 5ha and 10ha falling below the £25 per sq m threshold which would be mitigated by the payment instalments policy that is proposed on these larger sites (the viability analysis assumes payment of CIL in its entirety at the commencement of development):

	Average CIL headroom per sq m across all schemes tested				CIL rate (per sq m)
	Transfer price	Minus 5%	Minus 10%	Minus 15%	
Value area 1	£324	£302	£279	£256	£100
Value area 2	£129	£115	£102	£88	£50
Value area 3	£61	£48	£36	£23	£25
Value area 4	£29	£18	£5	-£7	£5

In addition to these viability buffers, there is also within the implementation process the flexibility to negotiate the mix between affordable rent and shared ownership in order to improve the blended capital value of the affordable units overall. As shared ownership properties achieve a higher capital value than social and affordable rent, the Council could permit a higher proportion of these properties in the mix to enhance viability.

Impact of Starter Homes will increase overall value of affordable units

As part of the 2016 Housing and Planning Act, developers of ‘major developments’ (more than 10 units) will be required to provide 20% of housing as Starter Homes. The Act provides that Starter Homes are ‘affordable’ and also that Starter Homes will take priority over other types of affordable housing. Therefore, subject to the detail expected in forthcoming regulations, the first 20% will be Starter Homes and any residual portion of the requirement will be dedicated for other types of affordable housing. Based on Bradford’s current affordable housing policy, this would result in the following affordable housing requirements:

	Affordable housing requirement	Starter Homes	Residual for other forms of affordable housing
Value Area 1	30%	20%	10%
Value Area 2-4	20%	20%	0%
Value Area 5	15%	20%	0%

As Starter Homes are to be sold at 80% of open market value, compared with the existing transfer value assumptions of 50% and 65%, this would have the effect of significantly increasing the overall blended transfer value, and improving viability. The impact on transfer values would be as follows:

	Current Transfer Value Assumption (% of open market value)	Impact of introduction of Starter Homes (% of open market value)
Value Area 1	50%	70%
Value Area 2-4	65%	80%
Value Area 5	65%	80%

“CIL rate for Wharfedale should be reduced to £85 per sq m”

Johnson Mowat maintain their earlier objection that the CIL charge rate in Wharfedale should be reduced to £85 per sq m citing the following:

- It is higher than the £90 per sq m rate charged in the equivalent highest value zone in the neighbouring Leeds CIL area
- There is inadequate infrastructure cost information
- Lack of clarity over the relationship between site specific planning obligations and CIL

The Council rebuts the objection to the proposed rate change. The regulations and National Planning Practice Guidance (NPPG) relating to CIL make it clear that CIL rates must be based on viability evidence, not on benchmarking the CIL rates that are charged in comparable locations elsewhere. The proposed CIL rates are supported by robust and comprehensive viability evidence. No detailed alternative viability evidence has been provided to support the proposed £85/sqm rate. In respect of Wharfedale, a substantial viability buffer has been allowed which provides considerable allowance to insulate development viability from the impact of variations in cost.

In respect of the comparison with the Leeds charge rate we would point out that the comparison – however irrelevant it is in any case – is inappropriate since the equivalent Leeds area requires a higher level of affordable housing (35%, compared with 30% in Wharfedale), thus arguably representing a greater burden than the combined affordable housing and CIL tariff in Wharfedale.

The CIL is informed by Infrastructure evidence in the Local Infrastructure Plan (LIP) (CIL-005). The Council consider that this provides appropriate evidence to support the proposed CIL. The LIP was tested as part of the Core Strategy evidence base during the Examination into the Core Strategy. It is not considered that further infrastructure planning evidence is necessary at this stage to support the proposed CIL in line with NPPG (Paragraph: 017 Reference ID: 25-017-20140612).

The Allocations DPD is at an early stage of production and it is therefore not possible to provide detailed site level infrastructure requirements, in particular for larger scale urban extensions which may include items such as primary schools on site. Education contributions for primary and secondary provision are included on the Regulation 123 list and therefore section 106 contributions will not be sought on any specific projects in that category. Therefore on-site provision of a primary school would currently be considered a payment in kind. The council is committed to monitoring the CIL and will regularly update the infrastructure evidence. When the Allocations DPD has reached a more advanced stage and there is greater certainty regarding infrastructure requirements associated with site allocations the Council will review the CIL and Regulation 123 List. Where a change to the

regulation 123 list would have a very significant impact on the viability evidence that supported CIL, this will be done as part of a comprehensive review of the charging schedule.

The CIL viability evidence includes an allowance for S106 contributions based on an analysis of residential planning applications over the previous 5 years (CILEX006). The Council recognise that there are some instances where the residual S106 may be higher than £1000/unit. However it is considered that the assumptions used in the viability assessment are based on appropriate available evidence. In addition the proposed CIL rates include substantial buffers from the maximum which provides considerable allowance to insulate development viability from the impact of variations in cost. The council is also proposing to introduce an instalments policy which will further improve the viability of sites, in particular for larger scale residential sites.

It is considered the Regulation 123 list is sufficiently clear and provides adequate clarity between site specific planning obligations and CIL as set out in the council's MIQ response to question 5. As the Site Allocations DPD is at an early stage, it is not considered appropriate to make the items on the Regulation 123 (R123) list any more specific at this stage. It should be noted that the draft Regulation 123 list is similar to the R123 list being used by Leeds City Council for their adopted CIL charging schedule (see links below):

[http://www.leeds.gov.uk/docs/CIL%20Regulation%20123%20List%20\(April%2015\).pdf](http://www.leeds.gov.uk/docs/CIL%20Regulation%20123%20List%20(April%2015).pdf)

<http://democracy.leeds.gov.uk/documents/s137748/CIL%20Cover%20Report%20091015.pdf>

It is considered that the Draft Regulation 123 List is sufficiently clear about how future infrastructure will be funded to avoid 'double dipping', as set out in NPPG (paragraph: 017 Reference ID: 25-017-20140612). However, whilst it is not the purpose of the examination to approve the list, the Council is willing to consider any recommendations put forward as part of the Examination to improve the clarity and transparency of the R123 list. For example, further detail could be included in relation to the approach to 278 agreements in order to provide greater clarification. Other councils have produced short documents on the continued use of S106 contributions following adoption of CIL. The Council is willing to provide similar guidance prior to the implementation of CIL should this be considered necessary.

Mr Pickles

Mr Pickles asserts the case for an uplift in the proposed CIL tariff and makes a number of related points to which the Council will respond as follows:

Matter 1: No financial appraisal undertaken of Infrastructure Requirements of Silsden

The Council consider that the LIP (CIL-005) provides robust, appropriate and available evidence to inform the CIL DCS. NPPG Paragraph 017 (Reference ID: 25-017-20140612) states that information on the District's infrastructure needs should be drawn from the infrastructure assessment that was undertaken as part of preparing the relevant Plan. The Council has worked in partnership with infrastructure delivery partners, through the preparation of the LIP, which sets out how the Local Plan Core Strategy will be supported by appropriate infrastructure. The LIP is a live document which is updated on a regular basis in consultation with key partners, local communities and infrastructure providers.

The LIP identifies the strategic infrastructure requirements in relation to delivering growth in the District and provides evidence of an aggregate funding gap that demonstrates the need to put in place the levy and has helped inform the Draft Regulation 123 List. Section 5 of the LIP (CIL-005) also provides an Infrastructure Assessment summary of current and future infrastructure requirements for the four Core Strategy spatial areas including Airedale, which covers Silsden.

The council consider that the CIL is informed by appropriate infrastructure evidence as set out in the Council's MIQ response to question 2. It is considered that the LIP provides appropriate available evidence on the District's infrastructure requirements based on the infrastructure assessment that was undertaken as part of preparing the relevant Plan (Local Plan Core Strategy) in accordance with NPPG Paragraph 16 (Reference ID: 25- 016-20140612). The LIP (CIL-005) was examined as part of the evidence for the Core Strategy. It is not considered that further infrastructure planning evidence is necessary at this stage to support the proposed CIL in line with NPPG (Paragraph: 017 Reference ID: 25-017-20140612).

In accordance with the CIL NPPG Charging authorities should focus on providing evidence of an aggregate funding gap that demonstrates the need to put in place the levy. Whilst such evidence can only ever represent a point in time, the Council considers that the submitted infrastructure evidence in the LIP (CIL-005) satisfies the CIL NPPG and CIL Regulations, in terms of demonstrating an aggregate infrastructure funding gap and striking an appropriate balance.

In accordance with NPPF Paragraph (016 Reference ID: 25-016-20140612) the Council has identified the total cost of infrastructure to be funded wholly or partly through the levy. This is set out in the Council's MIQ response to question 3. The Council is committed to monitoring the CIL and will regularly update the infrastructure evidence.

Matter 2: The CIL rate does not take into account the full level of infrastructure required to support Silsden's growth

The Council consider the proposed residential CIL rates in the DCS are based on robust, appropriate and available evidence and strike an appropriate balance between the desirability of funding infrastructure from the levy and the potential impact on the viability of development.

In line with the NPPG Paragraph 016 (Reference ID: 25-016-20140612) the CIL is informed by infrastructure evidence in the LIP (CIL-005) which provides evidence of an aggregate funding gap that demonstrates the need to put in place the levy. In addition the proposed CIL rates have been informed by viability evidence, in line NPPG paragraphs 18 and 19 and include a viability buffer to ensure that the levy rate is able to support development when economic circumstances adjust and to ensure the CIL rates not put the delivery of development in the District at risk.

It should be noted that while CIL will help contribute to funding infrastructure to support growth it is not intended to be the only funding source for infrastructure. Therefore, the Council will not be relying solely on CIL receipts for the delivery of infrastructure. It is recognised that while the infrastructure funding gap is considered significant enough to justify charging CIL on development, there will remain a shortfall in funding that will need to be found from other sources, for example the Council's capital programme or Government funding /grants, whose funding has yet to be determined. The Council will proactively seek additional funding opportunities where they become available with the aim of reducing the funding gap to address the strategic infrastructure issues that are identified in the Local Infrastructure Plan (LIP).

Density targets – the Core Strategy aims for a minimum of 30 dwellings per ha but the viability evidence is predicated on 35 dwellings per ha.

Policy HO5 in the emerging Core Strategy sets out the Local Plan policy approach to density. The policy requires a minimum 30 dwellings per hectare but sets out that higher densities would be possible in areas well served by public transport and/or close to the City Centre and Principal Town Centres. The Allocations DPD and AAPs may set density targets to specific areas which may be higher or lower than 30 dwellings per hectare.

The viability appraisal is only an indicator of the typical densities sought by house builders and relates to a pure net developable area. This does not affect the actual quantity of housing that will be permitted on sites within Silsden, which will be considered in line with emerging Core Strategy Policy HO5. It is considered that the CIL viability evidence includes appropriate assumptions in accordance with local evidence to inform the broad test of viability across the District, in line with NPPG Paragraph (019 Reference ID: 25-019-20140612).

No development appraisals have been produced for Silsden

The viability analysis is an area wide study in accordance with the requirements of the CIL regulations and NPPG (paragraph 019 Reference ID: 25-019-20140612). The District area as a whole was assessed and a series of hypothetical schemes were devised based on evidence of the types of development being built across the District (including in Silsden) and appropriate appraisal assumptions were applied in accordance with local evidence (including that sampled from Silsden such as the Crossfield View new build scheme). Therefore, the area wide viability appraisals are considered representative of development taking place within Silsden, are based on market evidence sampled directly from Silsden and as such provide suitable evidence to inform CIL charges for this area.

In addition to the area wide study, supplementary sampling of real world sites was undertaken. Because of limitations as to the availability of sites and schemes to test at the time of the evidence, no actual schemes were tested in Silsden itself but there were examples of sites within the same value area tested including the adjacent village of Steeton.

The Council does not consider there is a need to carry-out any further sampling or appraisals and considers it has fully met the requirements of the regulations in respect of providing appropriate available evidence.

Splitting Silsden by the A6034 is not reflective of new house prices being achieved in Silsden

The Value Areas are based on postal districts with differences determined by average house prices according to the Land Registry. The postal area boundary which runs along the A6034 Keighley Road splits Silsden into two value zones with the west of the road in Value Area 2 (postal area BD20 9) and the east of the road in Value Area 3 (BD20 0). This distinction is supported by HM Land Registry data on house prices achieved displaying a significant difference between the two sides of Silsden as summarised below. The data originally used for the value area map is displayed (averages over the period March 2011 to April 2014) alongside updated averages for the last 12 months. The data shows that the east of the village has recently closed the gap to the west of the village however there remains a significant gap in average house prices of approximately 15%:

	Average house prices (all properties – March 2011 to April 2014)	Updated average house prices for last 12 months (July 2015 to June 2016)
BD20 0 (east of A6034)	£151,824	£181,695
BD20 9 (west of A6034)	£212,611	£215,113

Source: HM Land Registry

In respect of new build evidence, there was limited evidence of new build schemes to enable a granular assessment of the differences between the two post codes. The single new build scheme sampled as part of the viability evidence was Crossfield View which is on the western side of the village and therefore in the Value Area 2. The average revenue achieved on this development was 2,341 per sq m (£217 per sq ft), broadly consistent with the revenue assumption for Value Area 2 in the viability evidence (£2325 per sq m).

According to Land Registry data on new build average house prices over the last 12 month period (July 2015 to June 2016) there have been seven new build house sales in BD20 0 (east of the A6034) averaging £233,636 and only one new build house sale in BD20 9 (west of the A6036) at £333,000. This therefore reconfirms the distinction in values achievable between the east and west of the village and reinforces the value areas proposed.

Matter 3 – improvement in market conditions since the original viability work allows a higher CIL charge to be applied in Silsden

The Council acknowledges the improvements in viability as demonstrated and documented in the Viability Addendum document (CIL – 004). However, in view of the potential for variation in development costs and the requirements of National Planning Guidance to allow sufficient viability buffers, the Council chose to retain the tariffs at the proposed levels.

Other matters

In respect of the affordable housing point raised, this is dealt with in response to the position statement of Johnson Mowat.

In relation to the change in professional fees from 6% to 8% of construction costs, this was done in response to consultation representations through the CIL preparation process. It should be noted that it was also accompanied by a reduction in contingencies from 5% to 3% of construction cost, thus there was a neutral impact as a result of the two changes.

Ilkley Design Statement Group

The Council propose a minimum amount of CIL to be passed to local areas of 15% increased to 25% where a Neighbourhood Plan is in place. IDSG propose these should be increased to at least 60% and 80% respectively.

The CIL Regulations require a proportion of CIL recipes to be passed to local communities where development has taken place. The CIL Regulations 2010 (as amended) set out the proportion of CIL which should be passed to local areas (Regulation 59A). The council has set out the neighbourhood proportion in line with the CIL Regulations. The proportion of CIL passed to neighbourhoods is outside the remit of the Charging Schedule itself and not considered an issue relevant to the CIL Examination. The Council will consider these comments in relation to any future decision on local ring-fencing of CIL monies following the adoption of CIL.