

DOCUMENT CILR1



New Forest District Council Local Development Framework

Community Infrastructure Levy

**New Forest District outside the National Park
November 2012**

NFDC Response to Examiner's CIL Issues and Questions: ED-2

- 1 This note is prepared by NFDC in response to the questions raised by the Examiner in Examiner's CIL Issues and Questions: ED-2, August 2012. The Examiner's questions are boxed and shown in **bold** text.

NFDC Response to Inspector's Note Section 1: Regulatory matters

1.1 Can the Council confirm that the Schedule has been prepared in accordance with:-

- **the statutory procedures .**

- 2 As stated in point (a) of the Council's Section 212 declaration¹, the Council confirms it has complied with the requirements of Part 11 of the Planning Act 2008² and the Community Infrastructure Levy, (CIL), Regulations 2010 as amended by the CIL Regulations 2011³ (including the requirements to have regard to the matters listed in section 211 (2) and (4) of the 2008 Act). Pages 2 and 3 of this declaration confirm how the Council has complied with Regulations 12, 13, 14, 15, 16, 17 and 19. Page 4 of the declaration confirms how the Council has complied with Regulations 211 and 212 of the Planning Act 2008⁴.

- **the Council's Core Strategy and submitted Local Plan (Part 2)**

- 3 Paragraphs 5.2 – 5.5 of the Council's Community Infrastructure Levy Draft Charging Schedule Context and Rationale Document⁵ explain how the Council has had regard to the

¹ Document CIL2: Section 212 Declaration, page 1

² Document POL1: The Planning Act 2008, page 117

³ Documents POL2: Community Infrastructure Levy Regulations 2010 and POL3: The Community Infrastructure Levy (Amendment) Regulations 2011

⁴ Document POL1: The Planning Act 2008, pages 121-123

⁵ Document EVI1: Draft charging schedule context and rationale, page 10

adopted Core Strategy⁶ and submitted Local Plan (Part 2)⁷. The Council’s Deliverability of Infrastructure Projects document⁸ also highlights how policies in the Core Strategy and Local Plan Part 2 have informed the Infrastructure Plan and subsequent charging schedule.

- **the consultation requirements set out in the Community Infrastructure Levy Regulations April 2010**

4 Regulations 15, 16 of the CIL Regulations 2010⁹ set out the requirements for consultation on both a preliminary and draft charging schedules. The Council has complied with all of these Regulations. The tables below set out the requirements of each Regulation and, where appropriate, the date on which it was complied with.

CIL Regulation Requirements for Consultation on a preliminary draft charging schedule (Regulation 15)	
Requirement	Date Complied
(1) A charging authority which proposes to issue or revise a charging schedule must prepare a preliminary draft charging schedule for consultation.	Approved by NFDC Council on 4 Jan 2012
(2) The charging authority must— (a) send a copy of the preliminary draft to each of the consultation bodies; and (b) invite each of those bodies to make representations on the preliminary draft.	Letters/Emails issued to consultation bodies on Friday 13 Jan 2012.
(3) For a charging authority in England, the consultation bodies are— (a) each of the following whose area is in or adjoins the charging authority’s area— (i) a local planning authority within the meaning of section 37 of PCPA 2004, (ii) a local planning authority within the meaning of section 78 of PCPA 2004, (iii) a county council, (iv) a responsible regional authority; (b) each parish council whose area is in the charging authority’s area; (c) the Mayor if the charging authority is a London borough council; (d) any other person exercising the functions of a local planning authority (within the meaning of TCPA 1990) for an area within, or which adjoins, the charging authority’s area.	
(4) For a charging authority in Wales, the consultation bodies are— (a) each of the following whose area is in or adjoins the charging authority’s area— (i) a local planning authority within the meaning of section 78 of PCPA 2004, (ii) a local planning authority within the meaning of section 37 of PCPA 2004;	

⁶ Document S14: Core Strategy 2009

⁷ Document S1: New Forest District (outside the National Park) Local Plan Part 2: Sites and Development Management

⁸ Document NFDC4: Deliverability of Infrastructure Projects (appendices A and B)

⁹ Documents POL2: Community Infrastructure Levy Regulations 2010 pages 12-14

<p>(b) any other person exercising the functions of a local planning authority (within the meaning of TCPA 1990) for an area within, or which adjoins, the charging authority's area; and (c) the Welsh Ministers.</p>	
<p>(5) The charging authority must also invite representations on the preliminary draft from— (a) persons who are resident or carrying on business in its area; and (b) such of the following as the charging authority consider appropriate— (i) voluntary bodies some or all of whose activities benefit the charging authority's area, and (ii) bodies which represent the interests of persons carrying on business in the charging authority's area.</p>	<p>Letters/Emails issued to consultees on Friday 13 Jan 2012.</p>
<p>(6) The charging authority must make such arrangements as it considers appropriate for inviting representations under paragraph (5).</p>	<p>An online web form was made available plus a word/pdf form which could be submitted separately.</p>
<p>(7) The charging authority must take into account any representations made to it under this regulation before it publishes a draft of the charging schedule for examination in accordance with section 212 of PA 2008.</p>	<p>Report of consultation issued in April 2012 which reflected proposed amendments following consultation.</p>
<p>(8) In this regulation "responsible regional authority" must be construed in accordance with Part 5 of the Local Democracy, Economic Development and Construction Act 2009</p>	

<p>CIL Regulation Requirements for publication of a draft charging schedule (Regulations 16 and 17)</p>	
<p>Regulation 16 Requirement</p>	<p>Date Complied</p>
<p>(1) Before submitting a draft charging schedule for examination in accordance with section 212 of PA 2008, the charging authority must—</p>	
<p>(a) Make a copy of the draft charging schedule, the relevant evidence and a statement of the representations procedure available for inspection— (i) at its principal office, and (ii) at such other places within its area as it considers appropriate;</p>	<p>Copies of all submission materials available at the Council's principle offices. The main documents were available at the each of the Council's Local Offices and Libraries.</p>
<p>(b) publish on its website— (i) the draft charging schedule, (ii) the relevant evidence (to the extent that it is practicable to do so), (iii) a statement of the representations procedure, and (iv) a statement of the fact that the draft charging schedule and relevant evidence are available for inspection and of the places at which they can be inspected;</p>	<p>The Council's website was updated prior to the beginning of the period of representation.</p>
<p>(c) send to each of the consultation bodies— (i) a copy of the draft charging schedule, and (ii) a statement of the representations procedure; and</p>	<p>Consultation material issued on 19 April 2012</p>

<p>(d) give by local advertisement notice which sets out— (i) a statement of the representations procedure, and (ii) a statement of the fact that the draft charging schedule and relevant evidence are available for inspection and of the places at which they can be inspected.</p>	<p>A local advertisement notice was placed in the Avon Advertiser on Wednesday 18 April 2012, and the Bournemouth Echo, Southern Echo and Lymington Times on 20 April 2012.</p>
<p>(2) In this regulation “statement of the representations procedure” means a statement specifying—</p>	<p>See Document EVI4 and EVI5.</p>
<p>the period within which representations about the draft charging schedule must be made in accordance with regulation 17(2)(a);</p>	
<p>the address to which, and the name of the person (if any) to whom, representations about the draft charging schedule must be made in accordance with regulation 17(2)(b);</p>	
<p>that representations may be made in writing or by way of electronic communications;</p>	
<p>that persons making representations may request the right to be heard by the examiner; and</p>	
<p>(e) that representations may be accompanied by a request to be notified at a specified address of any of the following— (i) that the draft charging schedule has been submitted to the examiner in accordance with section 212 of PA 2008, (ii) the publication of the recommendations of the examiner and the reasons for those recommendations, and the approval of the charging schedule by the charging authority</p>	<p>Representations received during the period 20 April – 18 May 2012</p>

• and is supported by a financial appraisal?

5 The Council commissioned a viability assessment in August 2011. Due regard has been had to the findings of that assessment in setting its CIL rates, as has been shown in the draft charging schedule¹⁰ and the Background and Rationale Document¹¹. The final report can be seen in the Council’s Community Infrastructure Levy Viability Assessment New Forest District Council and New Forest National Park Authority December 2011¹². The Council believes that the evidence used in this appraisal is appropriate and up to date information.

Summary

6 The Council can therefore confirm that the Charging Schedule has been prepared in accordance with all statutory regulatory matters.

1.2 Are there any procedural shortcomings?

7 No, the Council does not believe there are any procedural shortcomings in the process that has been carried out.

¹⁰ Document CIL1: Draft Charging Schedule

¹¹ Document EVI1: Draft charging schedule context and rationale, page 11, paragraphs 5.9-5.12

¹² Document EVI3 (Community Infrastructure Levy Viability Assessment New Forest District Council and New Forest National Park Authority December 2011).

NFDC Response to Inspector's Note Section 2: Is there a substantial shortfall in the funding available for infrastructure required to support development in the area?

2.1 Is the list of infrastructure projects in Appendix A of the Infrastructure Delivery Plan (IDP) (EVI02) a reasonable basis for identifying the cost of necessary infrastructure and the funding shortfall?

- Are all the projects in Appendix A consistent with aims of the Core Strategy and submitted Local Plan Part 2?**

8 All projects listed in Appendix A are consistent with the aims of the Core Strategy and the Local Plan Part 2. The Infrastructure Delivery Plan¹³ and the Deliverability of Infrastructure Projects paper¹⁴ contain policy reference to the Core Strategy and, where applicable, the submitted Local Plan part 2 as either a Development Management Policy or a site-specific policy.

- Are all the projects in Appendix A necessary to accommodate new, planned development or, if not, is it reasonable for them to be included in identifying the funding shortfall to which CIL should contribute**

9 An Infrastructure Delivery Plan (IDP) was prepared in 2009¹⁵ as supporting evidence for the Council's Core Strategy. At the time it was also known that this would be required once CIL fully came into force. In 2011, when the District Council began preparing a CIL charging schedule, the IDP was split in to 2 parts, with Appendix 1 containing a table which details the infrastructure projects planned and proposed which will affect the Core Strategy area and Appendix 2 containing a table showing projects that were not in any local authority or service provider plans at the time and included proposed projects from town and village plans.

10 The Council reviewed the IDP in January 2012¹³ as part of preparing a CIL evidence base. This revised document continued with two appendices as before; Appendix A identifies those projects currently considered a priority to support the objectives of the Local Development Framework. Appendix B identified a list of other possible projects for which no timeframe or budget has been identified. Whilst the projects in Appendix B will contribute towards the mitigation of new development and delivery of the Local Development Framework the achievement of the Local Development Framework is not dependent on them.

11 The projects listed within Appendix A will address the mitigation of new development on a cumulative basis as well as projects related to individual developments and therefore all together contribute to the funding shortfall for which CIL should contribute. Many of the projects listed are required to mitigate the impacts on new development on the wider New Forest Area. This is particularly significant as large parts of the Plan Area lie within or in close proximity to sites subject to statutory international, European and national nature conservation designations and local nature conservation designations. Much of the Plan Area is also subject to designations that are very significant in determining the future spatial strategy. Beyond the designations within the Plan Area, the need to take account of the nationally important designations in adjoining areas (including the National Park as described above) is fundamental to the Core Strategy

12 The projects listed in Appendix A have come from a variety of different published sources including New Forest District Council Transport Contribution Policy¹⁶. All projects included in

¹³ Document EVI2: New Forest District Council (Outside the National Park) Infrastructure Delivery Plan 2012

¹⁴ Document NFDC4: Deliverability of Infrastructure Projects

¹⁵ Core Strategy BP 34b: Core Strategy Draft Infrastructure Delivery Plan

¹⁶ The Council's transportation policy can be seen at : <http://www.newforest.gov.uk/committeedocs/cab/CDR03548.pdf> and <http://www.newforest.gov.uk/index.cfm?articleid=10669>

the list have come from a source that is in the public domain. The project lists for Transport and Open Space projects are those lists that the Council currently uses to justify the collection of developer contributions. The Council therefore considers this a reasonable basis for identifying the costs of necessary infrastructure.

- **Should Appendix A include provision for additional primary school places in Ringwood? (Rep DCS009)**

- 13 As stated in paragraph 2.5.2 of the Council's Infrastructure Delivery Plan 2012¹⁷ the Council has used Hampshire County Council's School Places Plan 2011-2015 to assess any educational infrastructure needs that may be required. That plan does not list any requirement for new educational places in the New Forest area. As advised in paragraph 12 of this statement, only published sources have been used to assess the Infrastructure demand.
- 14 Hampshire County Council are in the process of preparing a Draft Strategic Infrastructure Statement which will include an £8,000,000 requirement for 60 new primary school places to cover Ringwood between 2017-2022. The justification for these new places is a 'demand for places potentially related to prospective housing development in the area and associated pupil population growth. Places would be provided across number of schools to meet demand.' As this report has yet to be published report by Hampshire County Council then the District Council has not included any such projects within Appendix A of the IDP¹⁸. It may also be possible, for example, that this shortfall could be solved with an amendment to the school catchment areas rather than new build.
- 15 As and when this report is published, the IDP can be reviewed and any new projects included. However, as no specific projects have yet to be determined there is no basis to include them in Appendix A. At this time the Council considers there is a sufficient funding gap to demonstrate a need for CIL whether or not this element is included and that appropriate available evidence has been used to demonstrate the funding gap.

Summary

- 16 In summary the Council believes that the list of projects in Appendix A of the IDP is a reasonable basis for identifying the cost of necessary infrastructure and the funding shortfall. The Council considers that even if individual schemes are queried then there is still a sufficient funding gap to justify a funding shortfall.
- 17 Paragraph 3.2 of the IDP¹⁹ summarises the infrastructure requirements and shortfall by project types (e.g. open space and transport). For Appendix A projects this highlights a funding gap of around £25m and for Appendix B around £250m.
- 18 Although CIL does not specifically have to be spent in the area that it is collected, the Council has identified a number of projects within each of the three Core Strategy areas. The table below highlight where the funding gap exists throughout the district by project type to justify that there are projects required to accommodate new and planned development across the District.

¹⁷ Document EVI2: New Forest District Council (Outside the National Park) Infrastructure Delivery Plan 2012, page 14

¹⁸ Document EVI2: New Forest District Council (Outside the National Park) Infrastructure Delivery Plan 2012, Appendix A

¹⁹ Document EVI2: New Forest District Council (Outside the National Park) Infrastructure Delivery Plan 2012, page 22

	Ringwood, Fordingbridge, the Avon Valley and Downlands	District Wide	Totton and the Waterside	The Coastal Towns and Villages
Open Space	£1,398,423.50		£5,989,841.00	£4,727,937.00
Transport	£2,940,748.00	£33,530.00	£6,468,995.00	£ 3,711,802.00
TOTAL	£4,339,171.50	£33,530.00	£12,458,836.00	£8,439,739.00

Table 1 Appendix A Project Distribution of projects by Core Strategy Sub-Area

2.2 To what extent does the Council rely on the list of projects in Appendix B to identify a funding shortfall?

- To what extent are these projects necessary to meet existing deficiencies (including repair, maintenance and renewal of existing facilities) rather than to meet future needs?**

- 19 The projects listed in Appendix B of the Infrastructure Delivery Plan²⁰ are generally longer term ambitions without a specific commitment or funding in place. While such projects would contribute towards the delivery of the Core Strategy, the achievement of the Local Development Framework is not dependent on these projects.
- 20 The projects listed in Appendix B are both to address existing and future deficiencies and should still be considered when identifying a funding shortfall.

- Are there any projects in Appendix B which are necessary to accommodate planned development? Council to respond to the representation made by Natural England.**

- 21 The Council stresses that at this stage the projects listed in the Infrastructure Delivery Plan Appendix A¹⁹ are not an exhaustive list of those on which CIL money will be spent. As per CIL Regulation 123 the Council will publish on its website, following adoption of a CIL charging schedule a list of infrastructure projects on which it intends to spend CIL.
- 22 The projects listed in Appendix B of the Infrastructure Delivery Plan¹⁹ are not thoroughly costed and there is no timetable for delivery proposed. As stated in the document, the projects delivery will contribute to the delivery of the Local Development Framework but the achievement is not dependent on them. The Council would still like to see these projects implemented at some point, but non-delivery within the plan period does not prevent the proposed housing delivery numbers of the Local Development Framework.
- 23 In relation to the specific mitigation projects to which Natural England (DCS004)²¹ have made reference, SDM/1, SDM/2 and SDM/3²², no costs have yet been identified to these projects, neither has a timetable been identified. There is no basis for the Council to include them within Appendix A at this time. However, as the IDP and future 123 list will be live documents this does not exclude CIL funds being used on the projects in the future.

Summary

- 24 As stated in paragraph 10 of this statement the IDP is split into the two appendices. The appendices differentiate between those projects that have been identified and are likely to be

²⁰ Document EVI2: New Forest District Council (Outside the National Park) Infrastructure Delivery Plan 2012

²¹ Document CIL3: Statement on Consultation, Annex C, page 3 of 12.

²² Document EVI2: New Forest District Council (Outside the National Park) Infrastructure Delivery Plan 2012, Appendix B page 3 of 11

delivered in the early stages of the plan period and those that have been identified without a timetable. However, when assessing a funding gap the two lists should both be taken into account as CIL could be used to fund projects contained within either appendix.

- 25 Most projects in Appendix B will contribute towards mitigating the impact of additional development, but projects in this list are also related to existing problems. Although Appendix B should be taken into account when assessing the funding gap, the Council believes that there is a sufficient funding gap within Appendix A itself.

NFDC Response to Inspector's Note Section 3: In setting the CIL rates, has the Council struck an appropriate balance between the funding shortfall and the potential effects on the economic viability of development across its area?

3.1 Are the assumptions made in the *Viability Assessment Final Report December 2011 (EVI03)* reasonable, including:

- **Developer profit at 20%;**

- 26 Chapter 7 of the viability Assessment²³ modelled developer profit at a range of levels of GDV, 15%, 17.5% and 20%. Whilst it is accepted that the minimum level of developer profit on developments will ultimately be decided by the developer/banks a figure of 20% is generally considered an acceptable and reasonable figure to be used²⁴. It is of note that 20% is also a generally accepted Developer Profit level for other Local Authorities who have adopted a CIL including Wandsworth, Portsmouth, Poole and the London Mayoral CIL.

- **Residual S106 obligations at zero;**

- 27 New Forest District Council's Core Strategy 2009 policy CS25²⁵ sets out the Council's position regarding developer contributions namely:

"Development proposals will be required to provide, or meet the reasonable costs of providing, the on-site and off-site infrastructure, facilities and/or mitigation necessary to make a development acceptable in planning terms, including the mitigation of the effect of cumulative developments."

- 28 The Council has historically used standard charges and/or standard formulae to calculate the contributions required to mitigate the cumulative impact of developments and this will be largely replaced with the introduction of CIL. Whilst some elements of on-site specific developer contributions will be required, the residual role of S106 contributions will be kept to a minimum and quite often nil.
- 29 As many of the allocations in the submitted Local Plan Part 2 have minimal (if any) onsite infrastructure requirements it is felt modelling residual S106 obligations at zero is reasonable.
- 30 The proposed CIL rates take account of the possibility of potential residual S106 obligations by not setting the proposed CIL rate at the absolute ceiling level of development viability e.g. the viability evidence suggested a CIL level of £100 could be sustained on residential development²⁶.

²³ Document EVI3: Community Infrastructure Levy Viability Assessment New Forest District Council and New Forest National Park Authority December 2011, page 37

²⁴ Document EVI3: Community Infrastructure Levy Viability Assessment New Forest District Council and New Forest National Park Authority December 2011, page 31

²⁵ Document S14: Core Strategy, page 82

²⁶ Document EVI3: Community Infrastructure Levy Viability Assessment New Forest District Council and New Forest National Park Authority December 2011, page 46

- **Adequate incentive for landowners to bring forward land compared with existing use value/expectations?**

- 31 The viability work took account of government advice that CIL rates should not be set at the limits of viability and made its recommendations accordingly²⁷. Chapter 7²⁸, of the Viability Report concluded that a CIL rate of £100 per sqm was still viable in all areas.
- 32 It is possible that CIL may have an impact on the viability of a small number of schemes, particularly in the short term, if CIL was not factored in at the time of land acquisition. However, the CIL is being introduced as a substitute for existing S106 charges and therefore the impact should be minimal. However, the Council believes that in setting the rates at the proposed levels it has struck an appropriate balance between the desirability of funding infrastructure and the potential effects upon the economic viability of development across the plan area.
- 33 The Council accepts any such minimal impact that CIL may have on development, because it believes that it has balanced viability considerations appropriately against the matter of infrastructure funding needs and adequate incentive for landowners to bring forward land still does exist. It is also considered that at the rate proposed CIL does not have a major impact on development viability²⁹ and therefore have minimal impact on the land value.

Summary

- 34 The Council therefore believes that the assumptions made in the Viability Assessment³⁰ are reasonable.

Residential

- 3.2 Is a single residential rate across the whole district justified, given the range of residential values across the district and the contribution to planned development within the eastern (Waterside) spatial area which generally has lower values than the other 2 spatial areas?**

- 35 When the Council adopts the CIL Charging schedule then, in the majority of cases, the only residual contributions for developments will be the CIL and an affordable housing contribution. When the Council set its affordable housing levels an adjustment was made at this time to reflect the change in value areas. The Council, therefore, believes that a single rate across the District is justified as existing Council policy adequately addresses the differing value areas that exist.
- 36 Policy CS15 of the Council's adopted Core Strategy³¹ sets out the Council's requirement for affordable housing provision across the District. This policy was supported by a viability assessment, carried out in August 2007³². This assessment evaluated the values in the District and advised on differing levels of affordable housing (40%-70%) accordingly.

²⁷ Document EV13: Community Infrastructure Levy Viability Assessment New Forest District Council and New Forest National Park Authority December 2011, Chapter 10, page, 53

²⁸ Document EV13: Community Infrastructure Levy Viability Assessment New Forest District Council and New Forest National Park Authority December 2011, page 37

²⁹ Document EV13: Community Infrastructure Levy Viability Assessment New Forest District Council and New Forest National Park Authority December 2011, page 54

³⁰ Document EV13: Community Infrastructure Levy Viability Assessment New Forest District Council and New Forest National Park Authority December 2011

³¹ Document S14: Core Strategy 2009, policy CS15, page 57

³² Document BP25: Affordable Housing Economic Viability Assessment August 2007

- 37 Although the Eastern (Waterside) area of the District generally has the lowest land values in the District, there are areas in the Western and Southern areas with similar low values³³. If the Council were minded, therefore, to produce a charging schedule that reflected the numerous different economic values it would be a complex matrix and not in accordance with Government advise to keep the charging schedules simple. Also, the Council does not believe there is sufficient evidence available to fully justify such a complex charging schedule matrix.

3.3 If a single rate is justified, is the proposed rate appropriate? Will it significantly affect the delivery of planned housing over the Core Strategy period? Where sample developments in some areas are shown in the *Viability Assessment* to be not currently viable, is the imposition of CIL a determining factor in viability?

- 38 The Council's viability assessment has modelled a range of different archetypes³⁴ of development in all areas of the District at a range of different CIL levels.
- 39 The CIL level proposed by the Council still produces positive land values in all areas of the District and it is also a consideration that the CIL rate proposed is only a marginal increase from the existing S106 contributions which it replaces. It is therefore felt that the imposition of CIL is not going to be a major determining factor in viability.
- 40 Whilst it is accepted that land values are lowest in the Eastern area of the District, even if developers consider that the imposition of CIL makes a development unviable at present, the Council is confident that the housing requirement for the District will still be delivered within the plan period.

3.4 Has the *Viability Assessment* adequately considered the particular viability considerations affecting sheltered housing, including:

- **The extent of additional space required in such developments for communal areas, compared with conventional flatted development;**

- 41 The Council believes that the Community Infrastructure Levy Viability Assessment: Final Report has assessed Sheltered Housing adequately³⁵. The viability of these particular development types was modelled using separate archetypes to those for standard residential development.
- 42 When developing the archetypes the consultants examined a number of recent completions within the District to ascertain the average unit size. An uplift of 40%³⁴ was added to the net unit size figures to allow for the communal areas that are required as part of this development type. The Council considers that this uplift in size adequately addresses this development type.

- **The need for the whole development to be completed before the first unit can be occupied and the anticipated slower rate of sales (reps DCS001 and 007) compared with conventional housing sites?**

³³ Document EVI3: Community Infrastructure Levy Viability Assessment New Forest District Council and New Forest National Park Authority December 2011, Figure 14, page 25

³⁴ EVI3: Community Infrastructure Levy Viability Assessment New Forest District Council and New Forest National Park Authority December 2011, Chapter 3, page 19

³⁵ EVI3: Community Infrastructure Levy Viability Assessment New Forest District Council and New Forest National Park Authority December 2011, Chapter 3, page 20

- 43 Whilst it is not part of the examination to consider an instalment policy for CIL, the Council did prepare a policy which is included within the submitted evidence³⁶. This instalment policy was proposed to reflect the circumstances of a range of developments and allows for payments to be made across an 18 month period (for CIL payments over £80,000)
- 44 As the viability assessment has shown that there is sufficient viability within Sheltered Housing to accommodate the proposed CIL charge of £80 per square metre, and the fact that the required CIL payment (with instalments) will be known at the time of the planning application, it will be for the developer to assess their finances to accommodate this.

Summary

- 45 The Council therefore considers that it has adequately considered the viability considerations on sheltered accommodation.

3.5 Has adequate consideration been given to the impact on the viability of Extra Care housing schemes?

- **Do such schemes normally fall within the C3 class (and thus be subject to the proposed residential rate) or would they be regarded as similar to Care Homes? *(It is not my intention to make any definitive ruling on this matter. The question is intended only to clarify the context for the discussion. Responses should therefore be appropriately succinct.)***

- 46 Extra Care Housing does not fit neatly into the Use Class Order under C3 or C2 as there are many types of extra care housing which each offer different types of care. Therefore some will be more akin to a C3 use whilst others C2.
- 47 Overall, however, it could be considered that extra care housing usually falls in to the C3 use and two appeal decisions in 2007 reinforce this decision, namely:
- Appeal number APP/W1850/A/06/2022861 Land off Faraday Road, Hereford³⁷; and
 - Appeal Number APP/J3720/A/07/2037666. Tiddington Fields, Main Street, Tiddington, CV37 7AY³⁸.
- 48 Extra care housing is an increasing phenomenon and it could be considered that many of them have split use and in such cases the C3 residential CIL rate would only be charged on that C3 part of the development. However, these are developments which have to be judged on a case by case basis.

- **If they are likely to be regarded as residential schemes, are the development costs/returns/risks associated with such developments materially different to those for sheltered housing and have they been adequately considered in the viability evidence?**

- 49 As stated above in paragraph 47, extra care housing should be considered along a sliding scale of use class. Therefore some developments will be more akin to sheltered accommodation (C3) whilst others will be more akin to residential care homes (C2).
- 50 As the individual merits of each scheme will need to be assessed on a scheme by scheme basis then it is not possible to model each and every extra care home. However, the Council

³⁶ Document EV1: Draft charging schedule context and rationale, Annex C

³⁷ <http://www.pcs.planningportal.gov.uk/pcsportal/fscdav/READONLY?OBJ=COO.2036.300.2.7253395&NAME=/Decision%20Letter.pdf>

³⁸ <http://www.pcs.planningportal.gov.uk/pcsportal/fscdav/READONLY?OBJ=COO.2036.300.2.8168890&NAME=/Decision%20letter.pdf>

believes that the viability evidence adequately covers the two extremes for this type of development in C2 and C3 uses.

Summary

- 51 A similar representation to DCS001 was made during the Redbridge Council Draft Charging Schedule consultation period by The Planning Bureau³⁹ where a single rate for residential development was proposed (and subsequently approved). The Inspector at this examination addressed this point by concluding that extra care housing will still generate its own infrastructure requirements which may be differing to other uses. This decision therefore justifies the charging of CIL on extra care housing. An extract of the Inspector's report⁴⁰ which references this use can be seen at Appendix A to this statement.
- 52 As residual S106 contributions will be kept to a minimum following adoption of CIL, this opinion supports the Council's view that the charging rate is informed by and consistent with the evidence. To the Council's knowledge there has been no CIL charging schedule approved to date with a separate charge for 'Extra-care' which further suggests that they should be examined on an individual basis rather than a standard charge.
- 53 In view of the evidence available, the Council is confident that it has adequately addressed the viability of impact of CIL on Extra Care Housing.

3.6 If the residential CIL charge would adversely affect the viability of sheltered housing and/or Extra Care schemes generally in the district what are the consequences/appropriate response? Would it be possible for any such type of residential development to be excluded from the charge or be subject to a different rate?

- 54 The Council does not believe that the CIL charge will adversely affect the viability of sheltered housing, which can be seen by the modelling in the viability assessment⁴¹. The Council therefore does not believe that such types of residential development should be excluded from the charge or subject to a different rate.
- 55 As Extra care homes cannot be defined by a particular archetype and operate along a sliding scale of care provision these should also not be excluded from the residential charge or subject to a different rate. Each development should be considered on a standalone basis and classed accordingly (e.g. C2 or C3). Consideration should also be given to any 'split use' areas of the developments where different use classes could apply.

Retail

3.7 Is the proposed differential rate for retail schemes of different sizes justified by the evidence?

- 56 The Council believe that the proposed differential rate for retail schemes in justified by the evidence. The modelling undertaken by the Council's consultants in the Council's viability assessment⁴² has assessed four types of retail development, small convenience, small

³⁹ http://www2.redbridge.gov.uk/cms/planning_and_the_environment/planning_policy_regeneration/local_development_framework/community_infrastructure_levy/idoc.ashx?docid=3ddc5e1d-df68-490e-93bd-db77e57566cb&version=-1 Page 12

⁴⁰ http://www2.redbridge.gov.uk/cms/planning_and_the_environment/planning_policy_regeneration/local_development_framework/community_infrastructure_levy/idoc.ashx?docid=06776cd0-54ae-401d-a45a-e1972925b8b2&version=-1 paragraph 13, page 3

⁴¹ Document EVI3: Community Infrastructure Levy Viability Assessment New Forest District Council and New Forest National Park Authority December 2011, Chapter 7, page 47

⁴² Document EVI3: Community Infrastructure Levy Viability Assessment New Forest District Council and New Forest National Park Authority December 2011, Chapter 8, page 50.

comparison, small superstore and large superstore. This modelling concluded that there is a clear difference in the residual land value between different sizes/types of retail development.

- 57 The viability work concluded that superstore/large comparison retail developments with a strong covenant strength is able to sustain a CIL charge of at least £200 per sqm whereas smaller retail developments with only a local covenant would produce a negative residual land value. Therefore the Council believes it is justified to set a differential rate as the charges proposed are supported by appropriate available evidence and, the proposed rates strike an appropriate balance between the funding requirements from CIL and the impact on the economic viability across the plan area.

<p>3.8 Is there sufficient evidence to establish that the threshold for the proposed charge should be set at 1000 sq m?</p>
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- 58 The modelling for retail development in the viability assessment⁴¹ has modelled 6 different archetypes which were selected as typical developments likely to be seen in the District from evaluating past completions, planning applications and Local Plan allocations. These archetypes can therefore be justified as using appropriate available evidence.
- 59 As set out in viability study⁴³ the consultants concluded that there was a clear difference between small and large retail development and therefore proposed a threshold of 1000 sqm.
- 60 The Council feels that there is sufficient appropriate evidence to establish and justify this split. As set out in the viability study, a typical smaller convenience store (which will most likely carry a local covenant) is likely to be around 500 sqm and supermarkets will usually require a minimum of 1500 sqm. By setting the threshold at 1000 sqm, the Council is striking a balance on the chances of these smaller retail developments coming forward at a slightly larger size (without crossing the threshold) without jeopardising their viability.
- 61 Whether a split charge can be levied across the same use class has been widely debated. However, the recent Examiner's report on the Wycombe District Council charging schedule⁴⁴ does confirm that there is nothing in the CIL Regulations to prevent this. As noted in this Examination report (Appendix B to this report), the definition of the types of retail is far from precise. In the viability assessment⁴⁵ the retail archetypes used four different types of retail development, namely supermarket, superstore (both small and large), convenience and comparison stores. It is from the results of this modelling and these archetypes that New Forest District Council has decided to place the size threshold.
- 62 Whilst the Wycombe Examiner has called for a footnote defining the retail uses, such a definition has not been required in other charging schedules including Portsmouth City Council⁴⁶ and Huntingdonshire District Council⁴⁷. The Council therefore does not propose any modifications to the charging schedule at this stage.

⁴³ Document EVI3: Community Infrastructure Levy Viability Assessment New Forest District Council and New Forest National Park Authority December 2011, Chapter 8, page 51-58

⁴⁴ <http://www.wycombe.gov.uk/Core/DownloadDoc.aspx?documentID=5853>, paragraphs 16-18, page 4.

⁴⁵ Document EVI3: Community Infrastructure Levy Viability Assessment New Forest District Council and New Forest National Park Authority December 2011, Chapter 3, page 23

⁴⁶ http://www.portsmouth.gov.uk/media/CIL_charging_schedule_adoption.pdf

⁴⁷ <http://www.huntingdonshire.gov.uk/SiteCollectionDocuments/HDCCMS/Documents/Planning%20Documents/PDF%20Documents/Local%20Development%20Framework/CIL/CIL%20Charging%20Schedule%202012.pdf>

Appendix A

Extract from Redbridge Council CIL Examiner's Report (pages 3-4)

residential development lacks detail. However in view of the small quantity of this type of development likely to take place it is sufficient to assess the potential to charge CIL. On this basis, the evidence which has been used to inform the Charging Schedule is robust, proportionate and appropriate.

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

CIL rates for residential development

10. Residential land and house prices in Redbridge have reflected national trends in recent years but there is some variation across the Borough. The Viability Assessment takes account of both recently achieved values, up to March 2010, and those in 2007, to reflect better market conditions should an improvement occur in the future. Further evidence from the Land Registry submitted by the Council indicates that average house prices have remained relatively stable over the last year or so, increasing by just over 1%.
11. The viability study tested CIL rates of £23 per sq m (psm), £69 psm and £107 psm. In summary, the output tables demonstrate that in normal market conditions, taken to mean some recovery in values approaching the peak in 2008, the mid-range CIL rate is likely to be deliverable in many development circumstances in the Borough, assuming mid-range sales values. This takes into account provision of affordable housing at 30%, with grant; a higher percentage may be deliverable if sales values improve over the next few years. The Viability Assessment is likely to outline 'worst case' scenarios, because it does not take into account the reduction in CIL charges on those sites where some existing floorspace would be redeveloped. The study acknowledges that the low number of transactions during the months before the work was completed were 'an added complication' and the data base was not extensive. However, in broad terms the study evidence shows that housing development is deliverable across the Borough with the middle band CIL charge selected. The charging rates for residential development are therefore informed by and consistent with the economic viability evidence.
12. The Council acknowledges that average house prices are higher in the northern and western parts of the Borough than those in the south and east. The vast majority of development is in the south, a pattern which is likely to continue under adopted LDF policies. As well as about 4,500 dwellings in Ilford, another 2,000 are expected along the Crossrail corridor. Capacity in the north is more limited, by green belt and conservation area constraints among others, and a higher levy there would generate little extra income. In a densely developed urban area such as Redbridge, the definition of a detailed boundary between two charging areas is likely to create severe practical difficulties. There are no clearly defined separate markets, such as distinct urban or rural areas. The potential benefits of applying a differential rate are likely to be outweighed by these significant disadvantages.
13. In response to a representation about retirement homes, there may well be variations in the ability of different types of housing to absorb CIL charges. In terms of fairness, while retirement housing might not generate demand for education facilities or significant leisure needs, it may lead to other

disproportionate demands, for example for healthcare and social services. The modest rate proposed for Redbridge should be able to be absorbed by most development types, including homes for the elderly, without difficulty.

Commercial rate

14. There is very little available evidence of comparative viability levels for new commercial development in Redbridge. In the last two or three years there has been a low level of non-residential development. Hardly any industrial development has taken place in the last seven years. The illustrative appraisal of a commercial scheme contained in the Viability Assessment indicates that a charge rate of £69 psm would be viable. In the absence of any evidence to the contrary, or any representations disputing the non-residential rate, there is no reason to believe that the charge would render such development unviable.
15. This view is justified by a viability study prepared for the Mayor of London in relation to the Crossrail CIL. This identified a close correlation between residential land prices and office and shop rents. The study also showed that industrial buildings are typically constructed over just one or two storeys and their redevelopment generates a limited net increase in floor area, and consequently a lower CIL charge. On balance therefore, the Council has set the charge taking into account the best available evidence. While some marginal schemes may be affected, the charge is not likely to render any one class of development unviable.

Impact of Crossrail CIL

16. At the time the draft charging schedule was published the Mayor of London had not published the draft CIL for Crossrail. The Mayor has set a draft rate of £35 psm, to apply to all types of development across the Borough, excluding health and education facilities. The Mayor's own viability study endorsed the Redbridge Assessment. While the combined charge of both CILs would be close to the upper rate of £107 psm tested by Redbridge, the Mayor's study shows that such a charge would not unduly threaten development viability for two reasons, as already discussed: the Redbridge study analysed 'worst case' scenarios; the impact of the charge is likely to reduce by about one third due to the significant proportion of previously developed sites.
17. The Crossrail CIL is still at examination stage and may be changed. The Mayor supports the Redbridge charging rate and there is no justification for reducing the charge which will support much needed infrastructure investment. The Council has made a commitment to monitor the impact of the charge and to undertake an early review if necessary.

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

18. The Council's decision to set an overall rate of £70 psm is based on reasonable assumptions about development values and likely costs. Even taking into account the potential impact of the Crossrail CIL, the evidence suggest that

Appendix B

Extract from Wycombe District Council CIL Examiner's Report (pages 4-5)

for large scale sites was too low, the Council acknowledged that such costs were hard to quantify due to the unpredictable nature of requirements on specific sites. While the average figures quoted by a major housebuilder derived from direct experience, the Council's argument that the general balance in the assessments was correct was convincing. An allowance of £5m, compared with the £7m quoted by a developer, had been included in the appraisals. In exercises such as this, high level assumptions which are reasonable for a whole area have to be employed. Crucially, there was no evidence regarding any of the potential new large sites in Wycombe (including reserve sites identified in the CS) that any abnormal costs for sewage, water, power etc would be incurred. The construction costs had not been subjected to any potentially valid deductions for economies of scale in building out large sites. The tested scenarios also include a contingency allowance of 5%.

15. In summary, I consider the Council's figures for the viability of a large residential site to be reasonable. In broad terms, the overall results showed a land value of over £1m per hectare for large sites, a figure which would encourage landowners to sell for development. This would give plenty of headroom and would be well above a reasonable threshold value for release for development.

Retail rate

16. There is nothing in the CIL regulations to prevent differential rates for retail developments of different sizes, provided they are justified by the viability evidence and differing retail characteristics or zones. The VR identified that in current market conditions two types of retail development showed distinct viability and retailing characteristics, either side of a 280 sq m threshold. In Wycombe there appears to be a marked difference between the capability of a small retail development and that of a large retail superstore built on low-grade industrial land to support a CIL charge. The VR quoted several examples of retail schemes, although the majority were mostly large convenience stores. These stores can often generate significant amounts of comparison turnover and may show the ability to support CIL of up to £250 per sq m, despite relatively high build cost for stores requiring high specification for equipment and a good quality customer environment. In response to earlier representations on the preliminary draft CIL, this element of the charge has been reduced to £200 psm, which the VR results showed was generally well within the bounds of viability.
17. Current economic conditions in the retail sector lead to questions about the viability of retail warehouse developments, of which there have been few recent examples in Wycombe. However, the analysis in the VR shows that such proposals may still come forward and would remain viable at the higher CIL rate, primarily due to the considerably reduced build costs compared with large convenience stores. The figures for yields are reasonable for large stores and the charge of £200 psm for retail warehouses can be justified.
18. However, the definition of the types of retail development to which the different CIL rates would apply is far from precise and cannot be simply based on size. In response to a query about the likely effectiveness of the draft schedule, the Council has agreed to a modification to clarify the nature of the stores and the retailing operations carried out. I agree that the proposals

quoted in the Council's evidence statement to refer to the weekly nature of most trips to supermarkets and the range of goods sold would provide clarity essential for the effective operation of the levy. Similarly, a definition of retail warehouses following the previous explanation in PPS4 would be helpful for effectiveness. I therefore recommend that the schedule is modified to clarify the retail definitions, as set out in **EM1** in Appendix A.

Other non- residential uses

19. The VR notes that the capacity of commercial development other than retail to withstand CIL is linked to rental incomes. Until market conditions improve to increase rents and make new commercial development viable there is no merit in setting CIL and the nil rate is justified. The VR shows that leisure, community and education development also could not support a CIL payment and a nil rate is also appropriate for these uses.

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

20. 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 VR and additional viability appraisals, taking account of the characteristics and varying sales values in different parts of the District for residential property. It has also taken into account evidence of varying viability for two types of retail development and the lack of general viability of other types of commercial, industrial and community development. Subject to modification **EM1** clarifying the definitions applicable to differential retail charge rates, the proposed CIL rates are based on reasonable assumptions about development values and costs. The evidence suggests strongly that the overall development of the area will not be put at risk if the draft rates are charged.

Conclusion

21. 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 Wycombe District. It 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.