



## Preliminary Draft Charging Schedule

### Report of Responses

March 2013

**Question 1: Do you agree that the infrastructure assessment shows that there is sufficient justification for the introduction of CIL in Gedling Borough?**

**Summary of Key Issues raised in Consultation**

It is vital for the Council to produce evidence to substantiate the costs incorporated within the CIL. The supporting documentation provides no analysis of the predicted CIL income that would be raised if the proposed CIL rates were adopted and does not go as far as to actually state which of these funds are anticipated to bring in income and the scale of that potential income.

**Officer Response**

In terms of the infrastructure costs the Infrastructure Gap Section is being reviewed to address these comments. It should be noted that the Infrastructure Delivery Plan, on which much of the estimate is based, is not a static document. It is regularly updated as new infrastructure requirements are identified and as more detail becomes available on existing proposed schemes and funding sources. It is anticipated that as the process unfolds the infrastructure gap will grow.

**Question 2: Bearing in mind that planning obligations will not be able to be negotiated in the future for infrastructure CIL funds, do you have any views as to what should be left to planning obligations and what should be covered by CIL?**

**Summary of Key Issues raised in Consultation**

- All should be covered by CIL (if CIL income is correct)
- Planning obligations should cover historic environments and townscape
- Planning obligations should include affordable housing
- Planning obligations should include educational requirements
- Planning obligations should cover site specific requirements

**Officer Response**

The S.123 accompanies the Draft Charging Schedule and identifies what infrastructure will be funded through CIL.

**Question 3: Do you consider that the key assumptions that underlie the viability evidence are appropriate?**

**Summary of Key Issues raised in Consultation**

- It is questioned whether heb sought the involvement of landowners and developers in formulating its evidence;
- It is imperative that the evidence supporting CIL clearly identifies the key infrastructure projects required to support development and provides an up-to-date, consistent and well informed evidence base of economic viability in order to test various scenarios against CIL rates. It is viewed that the present Preliminary Draft CIL Charging Schedule fails both these tests;
- The draft CIL is supported by vague evidence of infrastructure needs and does not clearly explain what the other potential funding sources available may yield as a contribution towards the cost of infrastructure and does not explain the relationship between S106 infrastructure funding and CIL funding;
- The unit numbers in the appraisals do not total correctly, nor do the split of unit types tally within each appraisal summary sheet;
- A uniform assumption has been applied to all residential appraisals in respect of the timescale to complete the developments;
- Heb have used an unorthodox methodology to derive the benchmark land values to be inserted into the appraisals;
- The viability study has failed to test scenarios which reflect those sites and key areas identified for the delivery of housing over the plan period.
- The brownfield land scenarios are likely to require an element of site clearance and should be allowed for within the appraisals;
- Site-by-site "variables" such as land contamination are bound to imply that some developments' economic viability will be potentially undermined by CIL whereas others will still go forward profitably; and
- The CIL viability assessment for employment uses in particular should be reworked varying the assumptions regarding developer profit margins.

**Officer Response**

It is accepted that the consultation was not 100% 'exhaustive' but such a consultation is not requirement under the CIL regulations. It is considered that the property market research exceeded what is required under the 'appropriate available evidence' guidelines, and as well as consultee discussions, due regard was also given to published statistical tables and other avenues of research. It should also be borne in mind that heb are locally based property experts with their own in depth knowledge and market expertise of the study area.

It is the intention to publish a supplementary document further outlining specific comparable evidence and other points of information. In addition, further dialogue with any party who wishes to make contact and to provide additional information or market sentiment would be welcomed.

It is confirmed that the Infrastructure Gap Section is being reworked to address comments made.

Modelling is subject to both rounding and fractional calculations. The model is predicated on firstly apportioning affordable housing (ie 10% ) then splitting this into tenures ( 75% social rent and 25% intermediate) and then splitting these into house types (Apts, 2 Bed and 3 Bed). It is therefore inevitable that it will result in calculating fractions of house values.

The 12 month period for construction (and an additional 6 month sales void) is used to represent a period between construction costs and fees being incurred and sales being achieved i.e. when interest is being accrued for the purpose of reasonably assessing finance costs. It is not intended to represent the actual construction period for a 100 unit housing development, just the period between construction commencement and sales income for individual parts of the development which will start at different times over maybe over a 3 year period. It is accepted that this is not an accurate cashflow projection but the approach is considered to be suitably robust for this type of viability appraisal.

The base land value calculation provides for the landowner to receive existing use value plus 60% of the uplift in value due to the change of use. This is considered a pro-development stance as the residual values produced are considered to be more reflective of market conditions. Residual land values which are based on existing use value plus a proportion of hope value will produce better viability margins but leave landlords with little room for negotiation or indeed incentive to dispose of their land.

It would be equally justifiable using planning precedent to adopt a standard benchmark approach with the difference in establishing threshold land value being illustrated by the following example:- A landowner owns a 1 Hectare field at the edge of a settlement. The land is going to be allocated for residential development. Agricultural value is £15,000 per Ha. Residential land is being sold in this area for £1,000,000 per Ha. What should this Greenfield site be valued at for the purpose of evaluating potential CIL contributions? Under standard benchmarking the threshold land value would be established at £18,000 (Existing Use Value (EUV) of £15,000 + 20%. Under market value benchmarking the land be valued at £606,000 (EUV£15,000 + 60% of the uplift between EUV£15,000 and End Value of £1,000,000) – realising a market return for the landowner but reserving a reasonable proportion of the uplift for infrastructure contribution.

Specific sites will be tested in line with the new regulations for the Draft Charging Schedule.

It is acknowledged that much development will involve some degree of exceptional or 'abnormal' construction cost. Brownfield development may have a range of issues to deal with to bring a site into a 'developable' state such as demolition, contamination and utilities diversion. However, in such circumstances these abnormal elements represent costs that need to be accounted for in bringing a piece of land up to a 'developable state'. Many of these costs will

therefore need to be deducted from the land value and will not therefore affect the viability margin for the purpose of calculating CIL potential.

It should be recognised that the type of viability assessment required to give an overview of viability across a Charging Authority area as a whole (as required by the Regulations and Statutory Guidance) will inevitably be a generic test and it would be unrealistic to make site specific assumptions over average abnormal costs to cover such a wide range of scenarios. It is better to bear the unknown costs of development in mind when setting CIL rates and not fix rates at the absolute margin of viability as is the case with the Gedling Preliminary Draft Charging Schedule.

The profit margin adopted reflects industry standard assumptions. Given that the majority of results show that commercial development will not support a CIL contribution, varying the margin would serve little purpose.

**Question 4: Do you agree that the (absence/presence) of different rates in different parts of Gedling Borough is beneficial?**

**Summary of Key Issues raised in Consultation**

- Further evidence is required to justify the approach taken, including evidence of comparable development / recent schemes that justifies both the residential values and differential rates set;
- Concern that an unfair number of zone 3 areas could be developed to encourage a greater amount of CIL;
- Concern to see that large brownfield residential development sites, such as the former Gedling Colliery, that are contiguous with the PUA, are considered to be in the same zone (and therefore presumably the same value band) as the rural areas;
- The proposal to split the Borough into three charging zones for residential and two charging zones for commercial development directly related to assumed values is considered to be the most appropriate;
- The Council should investigate amending the charging zones by reducing, or indeed removing, the CIL levy within the settlement boundaries of the large towns such as Ravenshead and Calverton whilst increasing the CIL rate across the surrounding rural areas;
- It must be clearly demonstrated that not even a moderate charge can be levied due to viability constraints before a zero rate is applied; and
- The actual boundaries as set out at present are inconsistent and there is a need for a more detailed consideration of the zone boundaries.

### **Officer Response**

Extensive comparable information has been obtained and is available for inspection, which provides full justification for both values and zones. A supplementary document will be available as supporting evidence for the Draft Charging Schedule.

Each planning application is considered on its own merits and not according to what zone it is located within.

It is confirmed that the boundaries are being reviewed for the Draft Charging Schedule utilising new data from the Land Registry.

### **Question 5: Do you have any views on the best mechanism for delivering affordable housing?**

#### **Summary of Key Issues raised in Consultation**

- Does CIL apply to Registered Providers or do we have an exemption?
- Planning obligations remain the primary mechanism for delivering affordable housing

### **Officer Response**

In most cases CIL does not apply to Registered Providers. Rented social housing and shared ownership will attract Social Housing Relief provided that, in the case of shared ownership, no more than 75% of the market value of the property has been sold and the rent on the remaining part does not exceed 3% of its market value and is not increased by more than 0.5% above RPI annually.

### **Question 6: Do you support the proposed rates in the Preliminary Draft Charging Schedule Table?**

#### **Summary of Key Issues raised in Consultation**

- The proposed CIL rates set within the Preliminary Draft Charging Schedule require further justification as at present, the approach taken, and supporting evidence presented, indicates that the Preliminary Draft Charging Schedule runs the risk of failing to effectively meet the requirements of both the CIL Regulations and the National Planning Policy Framework;
- If the CIL rate is set too high it is possible that delivery of key residential sites will not happen and there are concerns over the validity and appropriateness of the appraisal work which underpin the rates that have been proposed;
- Although it is acknowledged that a balance has to be struck between affordability and viability when setting CIL rates, the proposed rates will result in an alarming shortfall in revenue. The respondent would like to know how

Gedling Borough intends to secure the likely significant shortfall and, if not, upon what items will the otherwise limited funding be spent;

- Clarification is required over why some uses are not included in the charging schedule e.g. office and leisure uses;
- It is considered that CIL for Zones 2 and 3 is set too high; and
- It does not appear that the report justifies the setting of the residential values with supporting evidence, clear comparables nor effectively justifies the boundaries set. Evidence should be provided.

### **Officer Response**

- The Draft Charging Schedule will contain more evidence concerning the Infrastructure gap. A supplementary document of comparable evidence and other data sources will be published alongside the Draft Charging Schedule;
- Boundaries and evidence is currently being reviewed prior to the publication of the Draft Charging Schedule. However, it should be noted that viability testing cannot take into account exceptional circumstances and there will always be examples of sites within a zone which throw up residual values contrary to the model results. This in itself does not mean that a charge is unreasonable or will hinder development in a particular zone. The CIL charges are not set at the maximum level indicated by the viability assessments. This leaves a margin to allow for market fluctuations and site specific viability issues;
- CIL is not intended to cover the whole gap and it is the duty of the local authority to source other funds to finance infrastructure projects. CIL is only one tool in the process;
- The viability model results did not support a levy charge for office or leisure uses;
- Boundaries in the Preliminary Draft Charging Schedule have been reviewed using new data;
- A supplementary document containing a listing of appropriate available evidence and concluding comparables and other data points will be published alongside the Draft Charging Schedule. This will include a specific zone/area breakdown justification based on land registry values.

**Question 7: There is no differential rate suggested for food retail versus general retail in light of the recent Poole Inquiry. Do you agree with this approach?**

### **Summary of Key Issues raised in Consultation**

Although backed-up by the detailed valuation studies, surprise is expressed that the proposed CIL for retail and other commercial developments is the same, as retail developments are traditionally very lucrative.

### **Officer Response**

There is a differentiation between all other commercial uses and retail. The only use type attracting a CIL charge is retail within the urban zone. All other commercial uses have a zero CIL rate. The question is addressing whether there should be a differentiation between types of retail and there have been test cases which have deemed a differential rate as inappropriate.

### **Question 8: Do you believe there are any other uses which we should consider charging CIL on, and if so, what?**

#### **Summary of Key Issues raised in Consultation**

- Provision of sheltered housing;
- The scope for charging CIL on office and leisure uses should be considered and if not pursued the justification for this should be clearly set out; and
- A surcharge should be paid if it affects the local community.

### **Officer Response**

- The provision of sheltered housing is not permitted under CIL Regulations
- Justification is provided in the viability model results. All uses, as specified by the use classes order have been considered, appraised and tested as outlined in the supporting documentation. With specific reference to offices it can be confirmed that current sales value at a similar level to build costs and accordingly there is no scope for CIL charging. With regards to leisure use this is inevitably a somewhat generic test considering the wide range of potential uses falling under 'leisure'. The generic test has complied with CIL guidelines and demonstrates zero viability.
- An announcement by Government in January 2013 confirmed that communities that draw up neighbourhood plans will receive 25% of the planning levy charged on new developments in their area. Neighbourhoods without a plan will receive a 15% share of the revenue from development in their area, capped at £100 per council tax dwelling

### **Question 9: What are your thoughts on the use of phased CIL payments? Do you have any views on how the phasing of payments should be structured?**

#### **Summary of Key Issues raised in Consultation**

All responses agreed with the phased approach to payment.

## **Officer Response**

Noted

### **Question 10: Do you believe the use of payments-in-kind provides greater flexibility to the development industry or reduces clarity on what is being paid?**

#### **Summary of Key Issues raised in Consultation**

- Can you define payment-in kind;
- Welcome a pro-active mechanism and approach to permitting developers to offer land either as payment, or to take into account the value of land which is retained for the use of infrastructure;
- Anyway of increasing the flexibility of the CIL is to be welcomed;
- Payments-in-kind reduce the amount of liquid asset upon which to invest in supporting infrastructure; and
- Payments-in-kind are beneficial but important to maintain a consistent and transparent approach to valuation to ensure clarity about what is being paid.

## **Officer Response**

- Payments in-kind may be defined as land offered as a payment in lieu of CIL.

### **Question 11: Do you have any other comments regarding the introduction of CIL in Gedling Borough?**

#### **Summary of Key Issues raised in Consultation**

- Preliminary Draft Charging Schedule does not identify any Strategic Road Network infrastructure as being necessary to support growth in Gedling;
- Can you confirm that the proposed Community Infrastructure Levy would apply directly to developers, and not to utilities who work with developers?
- Where has CIL come from and is it optional? Who has authorised its progress and has there been member involvement? How do our charges compare to other districts? It is considered that the consultation is not effective as the council have not contacted every individual household or made best use of the contacts magazine. How is the money collected divided between infrastructure providers - is there anything for Parish Councils?
- Will CIL be used to protect the historic environment?
- GBC should make available guidance on:- how to calculate the relevant chargeable development/level of CIL; on the liability to pay CIL and the Appeals process; outline the approach to payments in kind and an outline of the CIL review mechanism system;
- It was questioned whether New Homes Bonus will be used to support infrastructure and reduce the proposed CIL charge.

### **Officer Response**

The Infrastructure Delivery Plan identifies the infrastructure needs. This has flagged up potential transport infrastructure projects including the Gedling Access Road. However, this scheme is now included on the Regulation 123 list in order to provide a new access road and bypass to the east of Gedling village which would enable the Gedling Colliery site to be developed.. An integrated transport package has been identified for the proposed development at Top Wighay Farm but the estimated cost is still to be confirmed.

The Levy is payable by the landowner but responsibility can be transferred to a developer by agreement.

CIL is a new planning charge introduced through the Community Infrastructure Levy Regulations 2010 (now amended by the CIL (Amendment) Regulations 2011). Cabinet authorised the progress of the Preliminary Draft Charging Schedule to allow for a period of public representations.

Newark & Sherwood is the only adjacent district to have introduced CIL. Newark and Sherwood have one of the more complex CIL Levies with numerous charging zones. Some charges are higher and some lower than those proposed in the Borough.

Consultation was in accordance with the statutory requirements and the documentation was made available on the Borough Council's website and at the Civic Centre and local libraries. Notices were also placed in the local press. Briefings were given to the Developers' Forum at Gedling Borough and to the three political parties. The initial consultation was focussed on the business community but in response to the concern raised that consultation had not been effective an article was published in Contacts magazine, which is delivered to all households in the Borough, advising of the Preliminary Draft Charging Schedule and that the Borough will seek a response from all residents during the next consultation period on the Draft Charging Schedule.

The Borough Council is the "charging" authority and it is proposed to introduce a "protocol" to provide clarity as to how money will be distributed. A government announcement in January 2013 confirmed that communities with neighbourhood plans will receive 25% of the planning levy charged on new development in their area. Neighbourhoods without a neighbourhood plan will receive a 15% of revenue from development in their area but this will be capped at £100 per council tax dwelling.

Currently it is not the intention to use CIL to protect the historic environment although contributions will still be sought if appropriate through s106

The intention is to produce a supplementary planning document which will confirm the level of CIL and clarify the liability for payment. Issues such as "payments-in-kind" and future reviews will be considered within that document.

Whether New Homes Bonus can be used to reduce the proposed CIL charge will require further consideration and has been identified in the background paper on the Infrastructure Delivery Plan as a possible source of funding for infrastructure investment.

### **List of Respondents**

Gedling Borough Council Conservative Group, Councillor Chris Barnfather; Sport England, Mr Steve Beard; Boulton represented by Ms Rhianon Boulton of Turley Associates; Nottingham City Council, Ms Helen Cattle; Severn Trent Water Ltd, Mr Peter Davies; Northern Trust Company Limited, Mr David Forshaw represented by Mr Matthew Spilsbury of GVA Grimley; Northern Trust Company Limited, Mr David Forshaw represented by Mr Stephen Bell of GVA, Langridge Homes Mr Roger Foxall represented by Mr Geoffrey Prince of Geoffrey Prince Associates Ltd; English Heritage Mr Tom Gilbert-Wooldridge; Gedling Borough Council Liberal Democrat Group Councillor Paul Hughes; Environment Agency Mr Kazi Hussain; Mrs Denise Ireland; Ravenshead Parish Council Mrs Y Jones; Nottinghamshire Wildlife Trust Ms Gaynor Jones Jenkins; Highways Agency Kamaljit Khokhar; Natural England Mr Jamie Melvin; Ashfield District Council Mr Neil Oxby; Nottinghamshire County Council Mr David Pick; Mr Colin Powell; Calverton Parish Council Cllr Emily Quilty; Nottinghamshire County Council Mr Tom Rawsterne; New Charter Housing Trust Group Mr Sean Stafford; The Co-operative Group represented by Mr Paul Smith of NJL Consulting; McCarthy and Stone represented by Ziyad Thomas of the Planning Bureau Ltd; Aldergate Property Group Mr Peter Walster; East Midlands Housing Ms Purnima Wilkinson; Western Power Distribution Mr Nick Woods; Western Power Distribution; Barratt Homes/David Wilson Homes, Taylor Wimpey (East Midlands) Ltd, W Westerman Ltd and JS Bloor (Services) Ltd represented by Mrs Melys Pritchett of Savills; St Modwen Developments Ltd represented by Mr Joe Murphy RPS Planning & Development; Wm Morrison Supermarkets Plc represented by Ms Laura Fern of Peacock and Smith Ltd