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Elizabeth Foulkes
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Dear whom it may concern,

Please find attached a representation to Stratford On Avon DC's CIL Submission Charging Schedule. This representation is submitted on behalf of a National Housebuilder Consortium.

We express an interest to be heard at the Examination, and notified once the Charging Schedule progresses to the next stage.

Kind regards

Liz

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Stratford on Avon Community Infrastructure Levy Submission Charging Schedule

Consultation response on behalf of a Housebuilder Consortium



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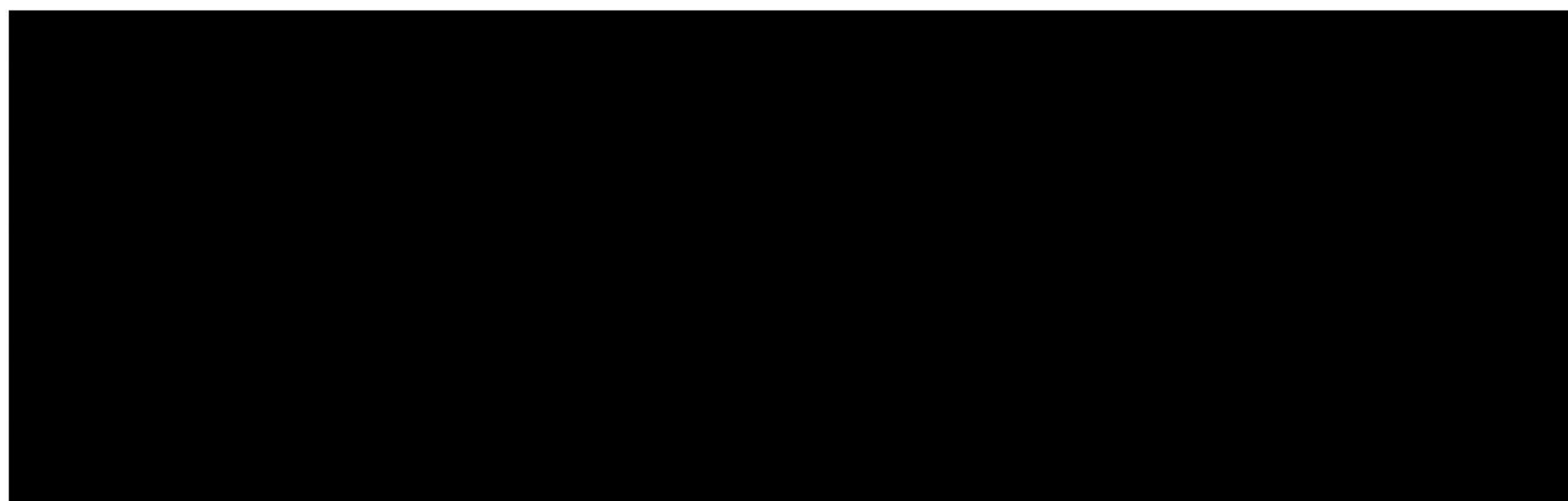
Executive Summary

This representation has been prepared by Savills (UK) Limited on behalf of a Housebuilder Consortium, with significant interest in the housing land supply within Stratford on Avon District. The Consortium includes Barratt Houses, David Wilson Homes, Miller Homes and Taylor Wimpey, hereafter known as 'the Consortium'. It is made in respect of Stratford on Avon District's Submission Community Infrastructure Levy (CIL) Charging Schedule.

The Statutory CIL Guidance is clear on the narrow focus of the CIL Examination process permitted by the Regulations: -

"The Examiner should establish that:

- *▪The charging authority has complied with the required procedures set out in Part 11 of the Planning Act 2008 and the CIL Regulations;*
- *The charging authority's draft charging schedule is supported by background documents containing appropriate available evidence;*
- *The proposed rate or rates are informed by and consistent with, the evidence on economic viability across the charging authority's area; and*
- *Evidence has been provided that shows the proposed rate (or rates) would not threaten delivery of the relevant Plan as a whole.¹"*



This representation is structured in six sections.

- **Section 1** provides an introduction to the representation.
- **Section 2** provides planning and legal background.
- **Section 3** outlines specific points about the available evidence base, notably in respect of infrastructure delivery and the Core Strategy.
- **Section 4** provides first scrutiny of the available viability evidence (Peter Brett Associates, September 2015) and interpretation of the results.

¹ Paragraph 038, Reference ID 25-038-20140612, PPG CIL Guidance, September 2014

- **Section 5** outlines the position of the Consortium in respect of the effective operation of CIL.
- **Section 6** provides conclusions.

Where relevant this representation provides comment on the supporting evidence/ existing guidance and also makes reference to policy documents which are all reference as footnotes.

1. Introduction

This representation has been prepared by Savills (UK) Limited, hereafter known as 'Savills', on behalf of the Consortium. The Consortium includes the following members (in alphabetical order):

- i. Barratt Homes Limited
- ii. David Wilson Homes Limited
- iii. Miller Homes Limited
- iv. Taylor Wimpey Homes Limited

This representation has been submitted to influence the Submission Community Infrastructure Levy (CIL) Charging Schedule proposed by Stratford-on-Avon (SoA), published for public consultation in the period 16th October to 13th November 2015. This representation follows previous submissions to the SoA Preliminary Draft Charging Schedule and Draft Charging Schedule consultations.

This representation does not seek to repeat all points submitted in our previous representation. Where our previous concerns are still valid and have not been addressed in the updated Economic Viability Study: Submission Charging Schedule, produced by PBA dated September 2015 (the 'Updated Viability Study') or the Stratford on Avon District Community Infrastructure Levy Submission Charging Schedule (October 2015) we reemphasise our key areas of objection and refer back to our previous representations, where necessary. We trust that all representations will be used as part of the independent examination process.

The Consortium's particular comments relate to the proposed rates for residential development. The Consortium has come together owing to certain concerns with the approach proposed by SoA, notably regarding the viability of the proposed rates for residential development. The Consortium's members have significant land holdings across the District, which will contribute to the maintenance and delivery of the housing land supply (to meet identified housing needs). The rate of CIL is therefore of critical importance to the Consortium.

To clarify, the Consortium has concerns relating to the proposed rate of £150 per sq m for the rest of the District, and the lower CIL rates for the strategic sites.

1.1. Overview and Background

It should be noted that our representation is made in the context of the Community Infrastructure Levy Regulations 2010 (as amended) ("the Regulations") and relevant statutory guidance². The most recent amendments to the Regulations and associated guidance came in to force on 1st April 2015.

² April 2014 (as amended)

The desirability of funding from CIL is a key test of the Regulations. The purpose of CIL is to facilitate the delivery of development, including new housing to meet the key National Planning Policy Framework (NPPF) objective for a significant boost in the supply of housing. This NPPF objective provides perspective on how desirable CIL funding may or may not be, in relation to the range of legal and planning mechanisms available to secure infrastructure delivery. There is no obligation on the Council to pursue CIL; should they do so, they should be minded that the initiative is new, and that existing tools are available to secure site specific mitigation costs.

The objective of this representation is not to oppose CIL; it merely seeks to ensure a reasonable rate, based on the evidence and a collective interest to deliver well planned, viable and feasible development in the District. The opportunity has been taken to provide further evidence to SoA, which it is hoped is used to inform modifications to the SCS prior to submission for Examination.

In submitting this representation, the Consortium is only commenting on particular key areas of the evidence base. The lack of reference to other parts of the evidence base cannot be taken as agreement with them and the Consortium reserves the right to make further comments upon the evidence base at the Examination stage.

Our key concerns can be summarised as follows:

- **Housing Supply** – SoA do not have a five year housing land supply and have an unproven record of delivering the required housing completions to meet the planned delivery in the Submission Core Strategy Proposed Modifications (August 2015)
- **Strategic Sites** – CIL is not proven to adequately assist with the delivery of strategic sites.
- **Budget 2015** – the recent Budget announcements are anticipated to have a significant Impact on the values associated with Affordable Housing. We would therefore encourage the Council to revisit the assumptions in the viability evidence to ensure that suitable adjustments are made.

In submitting this representation, the Consortium is only commenting on particular key areas of the evidence base. The lack of reference to other parts of the evidence base cannot be taken as agreement with them and the Consortium reserves the right to make further comments upon the evidence base at the Examination stage.

2. Summary of National Policy & Legal Context

In respect of the preparation of Charging Schedules and supporting documentation, it is important to have due regard to the available Government policy, guidance and law, notably:

- Policy - National Planning Policy Framework (NPPF)³;
- Planning Practice Guidance (PPG) CIL Guidance 2014 (as amended);
- Law – Part 11 of the Planning Act 2008; Community Infrastructure Levy Regulations 2010 (as amended); and
- Non Statutory Guidance

The Consortium's comments are based on these publications and the Regulations.

Our previous representations summarised the National Policy and Legal Context which is still relevant, however for the context of this representation we repeat the key elements below.

2.1. Legal

Section 212 of the Planning Act requires the Examiner to consider whether the "drafting requirements" have been complied with and, if not, whether the non-compliance can be remedied by the making of modifications to the DCS. The "drafting requirements" mean the legal requirements in Part 11 of the Planning Act and the CIL Regulations so far as relevant to the drafting of the Charging Schedules.

In considering the "drafting requirements", Examiners are required in particular to have regard to the matters listed in Section 211(2) and 211(4). This requires examiners to consider whether the relevant charging authority has had regard (as it must) to the following matters:

- actual and expected costs of infrastructure;
- matters specified by the CIL Regulations relating to the economic viability of development;
- other actual and expected sources of funding for infrastructure; and
- actual or expected administrative expenses in connection with CIL.

Regulation 14 of the CIL Regulations (as amended) expands on these requirements, explaining that charging authorities must, when striking an appropriate balance, have regard to:

- The desirability of funding from CIL (in whole or in part), the actual and expected estimated total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and
- The potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.

³ National Planning Policy Framework (NPPF), March 2012

Examiners test compliance with the Planning Act and the CIL Regulations, including in respect of the statutory processes and public consultation, consistency with the adopted development plan and appropriate evidence on infrastructure needs and development viability. Examiners also commonly test whether a Charging Schedule is economically viable, reasonable and realistic before recommending approval (with or without modifications) or rejection.

2.2. National Planning Policy Framework (NPPF)

It is important that the preparation of CIL is in the spirit of the NPPF, notably that it is delivery-focused and “*positively prepared*”.

The NPPF outlines 12 principles for both plan making and decision taking, notably that planning should “*proactively drive and support sustainable economic growth*”.⁵ Furthermore, that plan making should “*take account of market signals such as land prices and housing affordability*” and that “*the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth*”.⁶

Furthermore, the NPPF refers to the “*cumulative impacts*”⁷ of standards and policies relating to the economic impact of these policies (such as affordable housing) and that these should not put the implementation of the Plan at serious risk. Existing policy requirements should therefore be considered when assessing the impact of CIL on development viability.

The NPPF expressly states that CIL “*should support and incentivise new development*”.⁸ To comply with this policy, CIL Charging Schedules must be demonstrated to have positive effects on development. The absence of adverse effects on the economic viability of development, whether serious or otherwise, is not enough to justify CIL proposals. Charging Authorities now have a positive duty when it comes to setting CIL rates and formulating their approach on the application of CIL.

CIL Examiners' reports, such as those for Mid Devon (February 2013) and Winchester City Council (October 2013), have set a clear precedent for CIL to be considered in the round, including the testing of policy-compliant levels of affordable housing and other policy costs.

2.3. Statutory Guidance

In June 2014, the Government published an online resource of Planning Practice Guidance (PPG) which provided technical guidance on a series of planning related topics. Relevant to CIL, the PPG (2014) states:

- Charging schedules should be consistent with, and support the implementation of, up-to-date relevant Plans⁹.
- The need for balance (as per Regulation 14¹⁰); and
- The need for ‘appropriate available evidence to inform the draft Charging Schedule’ (as per Schedule 211(7) (a) of the 2008 Act)¹¹.

⁴ NPPF, Paragraph 182, March 2012

⁵ Ibid, Criterion 3, March 2012

⁶ Ibid, Paragraph 19, March 2012

⁷ Ibid, Paragraph 174, March 2012

⁸ Ibid, Paragraph 175, March 2012

⁹ Paragraph 10, Reference ID: 25-010-20140612, Planning Practice Guidance, revision date 12 June 2014

¹⁰ CIL Regulations 2010 (as amended)

¹¹ Paragraph 019, Reference ID: 25-019-20140612, CIL Guidance (revision date 12th June 2014)

The policy direction from central government is very much towards facilitating development. This policy imperative should have a major material bearing on the CIL rates. This applies to the evidence provided to support the balance reached between the desirability of funding infrastructure through CIL and the potential effects on economic viability of development across that area (applied when considering Regulation 14(1)).

The Guidance states that the Government also makes clear that it is up to Local Authorities to decide how much potential development they are willing to put at risk through CIL (the “**appropriate balance**”). Clearly this judgement needs to consider the wider planning priorities. Furthermore, the CIL Guidance outlines that CIL receipts are not expected to pay for all infrastructure but a “**significant contribution**”¹². The overall approach and rate of CIL will have to pay attention to the development plan and intended delivery.

2.4. Non Statutory Guidance

In addition to the regulations and statutory guidance, two specific non statutory guidance documents have been published which are directly relevant to the CIL rate setting process. These two guidance documents have been recognised by Inspectors elsewhere as valuable sources of advice regarding the approach to, and assumptions to be used in, the settling of CIL levy rates for residential development. The two documents are:

- Financial Viability in Planning , RICS (August 2012), and
- Viability Testing Local Plans, Local Housing Delivery Group (June 2012) (Harman Report)

Reference is made to these guidance documents where relevant throughout these representations.

¹² Ibid, Paragraph 095, Reference ID 25-095-20140612

3. Planning and Infrastructure Delivery

3.1. The Development Plan

A charging schedule should be consistent with, and support the implementation of, an up-to-date relevant Development Plan. Stratford on Avon do not have an up-to-date Development Plan. The Council is currently reliant on the Saved Policies of the District Local Plan Review 2006 (adopted July 2006).

The Development Plan, which as of 2011 had expired, outlines a requirement for 1,450 dwellings to be completed in Stratford on Avon District during the plan period of 2005 to 2011 (242 per annum), which was set in accordance with the Regional Spatial Strategy (RSS)¹³.

An up-to-date plan is being progressed simultaneously alongside the SCS. SoA submitted the Core Strategy to the Planning Inspectorate on 30 September 2014.

3.2. Housing Delivery

After the submission of the Core Strategy to the Planning Inspectorate in September 2014, in February 2015 the Inspector issued an interim report which required SoA to undertake further work on the following:

- *the Objective Assessment of Housing Need [OAN] because the labour market adjustments that are contained in the supporting evidence are not justified and fail to demonstrate that an adequate labour force supply will be available to meet the projected job growth within the District;*
- *The housing supply trajectory is tight and in view of the likely need to increase the OAN it needs to provide more headroom.*

Following the Inspector's Interim Report, SoA have produced Proposed Modifications to the Core Strategy¹⁴, which includes an increase in housing numbers for the District. The Proposed Modifications increases the provision in the Core Strategy from 11,320 dwellings to 14,485 dwellings, which is an increase of 28%. This increase in housing supply includes a new settlement at Long Marston Airfield of approximately 2,100 new homes, as well as three further new allocations, 65 new homes to the south of Alcester Road, Stratford-upon-Avon (SUA.2), 450 new homes north of Bishopton Lane, Stratford-upon-Avon (SUA.4) and 500 new homes south of Daventry Road, Southam (SOU.3).

The revised planning housing delivery of 14,485 dwellings across the plan period of 2011 – 2031 equates to 724 homes per annum, which is considered by the Local Authority to be an 'objective assessment of housing need' based on the joint Strategic Housing Market Assessment (SHMA) undertaken for the Coventry and Warwickshire sub-region, and further independent analysis of the SHMA for Stratford on Avon District. This is a significant housing need and requires a significantly higher rate of delivery than Stratford on Avon has ever reached.

¹³ District Local Plan Review 2006 (adopted July 2006), Section 2.4 New Housing Provision.

¹⁴ Core Strategy Proposed Modifications in response to the Inspector's Interim Conclusions (August 2015)

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The Five Year Housing Land Supply Calculation Summary¹⁵ concludes that the District currently demonstrates a 3.85 years housing land supply, which is below the minimum threshold of 5.25 years as set out in Government policy. SoA therefore, can not demonstrate a policy required 5 year land supply based on a housing need of 14,485 new homes (724 per annum). The Five Year Housing Land Supply Calculation Summary goes further to state:

“Whilst the average annual requirement over the Core Strategy plan period is 724 homes, in the short-term this needs to be increased to deliver around 1,216 homes annually to rectify the shortfall in delivery in Stratford-on-Avon District over the period 2011 to 2015.”

We comment that the figures stated above are not agreed by the Consortium, and objections will be made to the figures at the Examination for the Core Strategy in January 2016.

We include below Table 3.1 Recent residential completions from the PBA Updated Viability Study. This clearly demonstrates the inability of SoA to deliver near to 724 homes per annum. The table does show that the District has increased housing completions over the past few years as the residential market has improved. Completions for last year, April 2014 – March 2015, where 708 new dwellings. This is close to the annual requirement however, due to the deficit between 2011 to 2015, the District need to achieve 1,216 new homes per year, therefore April 2014 to March 2015 is still 42% below the required delivery.

Table 1: Housing completions

	Completions	Cumulative Completions
Apr 08 - Mar 09	172	172
Apr 09 - Mar 10	244	416
Apr 10 - Mar 11	102	518
Apr 11 - Mar 12	132	650
Apr 12 - Mar 13	290	940
Apr 13 - Mar 14	319	1,259
Apr 14 - Mar 15	708	1,967

Source: Stratford-on-Avon District Council

Source: Table 3.1 Recent residential completions from PBA Updated Economic Viability Study (October 2015)

There is currently no compelling evidence from the Council that this elevated figure of 1,216 completions per annum can be achieved.

The Consortium therefore consider that SoA is in an increasingly vulnerable position in respect of housing supply, given that since April 2008, the average yearly completions is 281 dwellings. This is exacerbated by the reliance on strategic sites to bring forward this growth (47% of housing supply). The failure of delivery of just one of these sites would significantly impact upon supply and seriously threaten the delivery of the plan, and if CIL were applicable, priority infrastructure within the District.

¹⁵ Five Year Housing Land Supply Calculations Summary, as at 31 March 2015, dated 23 July 2015

The reliance on 10 strategic sites to address SoA's Housing Need needs to be carefully considered in respect of CIL. Ensuring a CIL charge is not set at the margins of viability is particularly critical to ensure delivery of these sites. A significant viability buffer should therefore be imposed when setting the CIL charge for strategic sites to ensure that delivery of housing and infrastructure is not compromised.

3.3. Emerging Regulation 123 List

The Community Infrastructure Levy (Amendment) Regulations 2014 require the Regulation 123 list to form part of the evidence base¹⁶. We therefore welcome the publication of a draft Regulation 123 list of infrastructure for Stratford on Avon. Whilst we acknowledge that this is not the final version, nor will it ever be exhaustive, it does serve as a useful guide as to the direction that the Council envisages taking in providing for the delivery of infrastructure to support the Plan.

However, the Consortium is concerned that SoA's Draft Infrastructure Delivery Plan (IDP) has not been updated since June 2014. The draft IDP currently provides for 10,800 new homes across the District, thus significantly underestimating the level of infrastructure required for the revised planned growth of 14,485 new dwellings. The Consortium consider this should be updated ahead of the Examination to provide increased clarity on how infrastructure delivery is planned for the District.

In absence of an up to date IDP, SOA has produced a Regulation 123 List. Some items on this list are unclear on the exact requirements of funding through either Section 106 or CIL. The result of this is a complex and somewhat confusing Regulation 123 List and leads to a number of items identified for delivery through both Section 106 and CIL:

Table 2: SoA Regulation 123 List

Funded through CIL	Funding through Planning Obligations
Stratford Transport Package (items 1-14 on IDP or Transport schemes other than site specific access improvements and traffic calming measures.	Site specific access and traffic calming measures
Warwick Road dynamic signage	Site specific public transport, pedestrian and cycle links
Public transport investments, pedestrian and cycle links where not part of a site specific development / mitigation package	Stratford western relief road
Schools and sixth form provision (excluding primary school at Gaydon / Lighthorne Heath and primary and secondary school at LMA)	Transport and highways infrastructure for Gaydon / Lighthorne Heath
Primary, secondary and community health infrastructure (except primary health centre at Gaydon / Lighthorne Heath and LMA)	Transport and highways infrastructure for LMA
Emergency services facilities except Safer Neighbourhoods Premises at Gaydon / Lighthorne Heath and LMA	Canal Quarter localised mitigation package including bridge over canal

¹⁶ Regulation 14 (5)

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Support to Library services (except at Gaydon / Lighthorne Heath and LMA)	Primary school and early years provision at Gaydon / Lighthorne Heath and LMA
Indoor sports provision (except at Gaydon / Lighthorne Heath and LMA)	Secondary school provision LMA
Outdoor sports provision (except at Gaydon / Lighthorne Heath and LMA)	Primary health centre at Gaydon / Lighthorne Heath
Allotments and community orchards (except at Gaydon / Lighthorne Heath and LMA)	Safer neighbourhoods premises at GLA and LMA
Natural and semi – natural accessible green space (except at Gaydon / Lighthorne Heath and LMA)	Combined library / community facility at Gaydon / Lighthorne Heath and LMA
Improvements to existing strategic parks and civic spaces	Site specific green infrastructure including biodiversity mitigation and improvement
Flood alleviation schemes (other than SUDs and on-site solutions)	On-site open space including children's play, local parks, gardens and amenity space
Low carbon energy projects	On site outdoor sports provision at LMA
High speed broadband – development of strategic network	Community orchards and allotments and natural & semi natural accessible greenspace at Gaydon / Lighthorne Heath and LMA
	On-site drainage and flooding solutions
	On –site sustainable energy requirements
	Affordable housing

Source: SoA CIL Submission Charging Schedule Consultation Document; Appendix A: Draft Regulation 123 List (October 2015)

The items currently identified on the Regulation 123 list are broad ranging and identify types of infrastructure rather than specific projects. This means that any projects that are within those types of infrastructure on the list will not be able to be funded by Section 106 contributions, where more than five are required to be pooled or have already been secured since April 2010, as set out in the PPG CIL Guidance –

*“At that point no more may be collected in respect of a specific infrastructure project or a type of infrastructure through a section 106 agreement, if **five or more obligations** for that **project or type of infrastructure** have already been entered into since 6 April 2010, and it is a type of infrastructure that is capable of being funded by the levy. Where a section 106 agreement makes provision for a number of staged payments as part of a planning obligation, these payments will collectively count as a single obligation in relation to the pooling restriction”.*¹⁷

This is important as a single development and Section 106 agreement can have more than one obligation in relation to a type of infrastructure, which further reduces the Council's ability to pool obligations. We would therefore recommend that the Council ensure that they understand the implications of Section 106 pooling post-CIL and its impact on their intended delivery mechanism for infrastructure.

¹⁷ Paragraph 99, Reference ID 25-99-20140612, PPG CIL Guidance 2014, September 2014

The Consortium are concerned that the Regulation 123 List can and will be reviewed yearly without any consultation and the viability re-assessed. Items which are currently on the list can be removed and therefore applicable to Section 106, thus allowing the Council the ability to double dip CIL and Section 106 obligations. Savills and the Consortium strongly recommend that the Regulation 123 List is not reviewed without due consultation and consideration for the overall viability of sites required as part of the Core Strategy to realise the housing supply.

3.4. Section 106 Obligations vs. CIL

The CIL Guidance states that *“When a charging authority introduces the levy, section 106 requirements should be scaled back to those matters that are directly related to a specific site... For transparency, charging authorities should have set out at examination how their section 106 policies will be varied and the extent to which they have met their section 106 targets”*¹⁸. However, it is currently unclear from the Viability Study what Section 106 assumptions have been assumed in respect of the Strategic Sites.

The draft Regulation 123 list highlights that the following items will continue to be sought via Section 106:

- Site specific access and traffic calming, site specific public transport, pedestrian and cycle links
- Stratford Western Relief Road
- Transport and Highways infrastructure for GLH and LMA
- Healthcare facilities
- Library and community facilities
- On site open space
- On site drainage
- On site sustainable energy requirements
- Community orchards, allotments and greenspace
- Site specific greenspace infrastructure, and
- Affordable housing

Based on this list, we would anticipate the level of residual contributions on strategic sites continuing to be at a similar level to that currently being agreed in Section 106 Agreements, and therefore appropriate assumptions need to be included within the PBA Economic Viability Study.

¹⁸ Paragraph 097, Reference ID 25-097-20140612, CIL Guidance (2014)

4. Viability Study

Section 211 (7a) of the Planning Act 2008 (as amended), requires Councils to use "**appropriate available evidence**" to inform their Charging Schedules. In the case of the SCS, we have assumed that the Council has relied upon the Viability Assessment¹⁹ produced by Peter Brett Associates (PBA) as their '*appropriate available evidence*'. We have critically examined this report as part of this representation to determine if the Council has sufficiently met the requirements of Section 211 (7a) in preparing their rates.

The fundamental premise is that to enable delivery, sites must achieve a competitive land value for the landowner and provide developers the required return on investment; otherwise development will be stifled. This is recognised by the NPPF²⁰ and is 'in-built' within the CIL 2010 Regulations (as amended). It is also the basis of the definition of viability within the Harman report.²¹

Owing to the key test of Regulation 14(1)²² it is important that the viability appraisals prepared are fit for purpose, as it is clear that at Examination the Charging Schedule will need to be supported by "**relevant evidence**"²³. Within the CIL 2010 Regulations (as amended), LPAs must strike an appropriate balance and justify that balance with evidence at the Examination, showing and explaining how the rates will contribute towards the implementation of their relevant Plan.²⁴

"Striking an Appropriate Balance"

The Council will be aware that Regulation 14(1) of the CIL Regulations (as amended) sets out the key test against which the Charging Schedule will be measured, which states:

"In setting rates (including differential rates) in a charging schedule, a charging authority must strike an appropriate balance between –

- a. the desirability of funding from CIL (in whole or in part) the actual and expected estimated total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and*
- b. the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area."*

¹⁹ Stratford on Avon District Council, Community Infrastructure Levy 'Economic Viability Study: Submission Charging Schedule, dated September 2015

²⁰ NPPF, Paragraph 174, March 2012

²¹ Section One, Viability Testing Local Plans, Chaired by Sir John Harman, June 2012

²² CIL Regulations 2010 (as amended)

²³ Ibid. Regulation 11(1) (f) / 19(1) (e)

²⁴ Paragraph 009, Reference ID 25-009-20140612, CIL Guidance (2014)

Essentially CIL must not threaten the delivery of the Development Plan. A point highlighted by the PPG CIL Guidance which states that this test is at the “*centre of the charge-setting process...charging authorities should be able to show and explain **how their proposed levy rate (or rates) will contribute towards the implementation of their relevant plan and support development across their area.** As set out in the National Planning Policy Framework in England (paragraphs 173-177), the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened*”²⁵ (emphasis added).

4.1. The PBA Economic Viability Study (September 2015)

WE have undertaken an updated review of the Viability Assessment provided by PBA²⁶, and outline below the key areas that the Consortium still has concerns over and justification for any differences. We also discuss the implications and difficulty of delivering development for strategic sites through CIL.

4.1.1. Areas of Concern

The Consortium is pleased to note a number of amendments have been undertaken to the Viability Assessments following the consultation on the PDCS and the DCS. However, we are disappointed to note that a number of the comments made in our previous representations in respect of the viability assumptions and inputs have not been reflected in the revised Viability Study.

In principle, the Consortium considers the overall methodology of seeking to determine viability on a residual valuation exercise as being appropriate. However, the Consortium fundamentally disagrees with a number of the assumptions made by PBA in the Viability Study, notably:

i. Affordable Housing

Affordable housing is a key component of the CIL viability testing. It is therefore of paramount importance that the affordable housing assumptions are realistic and reflective of current market conditions. With this in mind, we would highlight the impact of the 2015 Budget announcements on the affordable housing sector, which can be summarised as follows:

- An absolute rent reduction of 1% per annum on social and affordable rents until 2020;
- A Freeze on Local Housing Allowance (the housing benefit cap);
- A reduction in the benefit cap to £23,000 in London and £20,000 in the rest of the Country, from the current £26,000; and
- The abolition of Housing Benefit for under-21's and the end of Social Rents for Local Authority and Housing Association tenants who earn more than £30,000 (£40,000 in London).

We are aware that Registered Providers are consequently renegotiating Section 106 packages, with a direct impact on land values. These amendments will subsequently have a significant impact on Registered Providers and the valuation of affordable / social rental products in CIL viability work. The impact will vary depending on the tenure split prescribed by the Local Planning Authority, as only social and affordable rental products are affected; however, we are aware of offers being reduced by £10,000 - £30,000 per plot.

²⁵ Paragraph 009, Reference ID 25-009-20140612, CIL Guidance (2014)

²⁶ Economic Viability Study (September 2015)

Stratford on Avon District Community Infrastructure Levy SCS

Consultation response on behalf of a Housebuilder Consortium



This is again, supported by the recent letter to Local Authority Leaders and Chief Planning Officers in England, dated 9th November 2015 from Brandon Lewis which urges Local Planning Authorities to respond 'constructively, rapidly and positively' to requests to renegotiate Section 106 packages. This letter recognises the wider implications of the Budget announcement and the requirement for LPA's to respond positively to affordable housing re-negotiations.

For the purpose of viability appraisals these policy requirements will clearly result in a reduction in affordable revenues for developers. In light of this, we would strongly advocate PBA and the Council undertaking additional viability testing to take account of these changes. It is possible to see the assumptions in the EVS September 2015 relating to Affordable housing are unchanged from the previous EVS dated June 2014 used to inform the Draft Charging Schedule therefore it would appear PBA have not reflected the changes introduced as part of the 2015 Budget.

In addition, we note the method that has been adopted by PBA applies a crude discount to market value, which given the quantum of affordable housing on larger sites is neither accurate or sufficiently robust. We would either suggest that the RICS guidance note on the "Valuation of Land for Affordable Housing" is used or that PBA approaches a selection of local RPs to offer a more informed view.

ii. Build costs

As previously explained in our previous representations, it is vital that the baseline build cost data accurately reflects current market sentiment and is reflective of the actual costs incurred by developers. This is important as build costs are a significant input into residual appraisals and therefore a seemingly small change in the build cost assumption would have a big impact on the residual land value and the overall viability of each site typology.

In addition, build cost inflation is currently highly documented in the construction industry, as both labour and material shortages are having an upwards impact on build costs. In light of this, we understand from BCIS all in tender price index the current build cost inflation ran at 8.1% in 2014, and is forecast to reach 5.9% in 2015, and further still, we also highlight that tender prices are forecast to rise by 28% in the next five years, at a rate of 4.5% – 6% per annum, according to a report from RICS' BCIS Quarterly Briefing (April, 2015).

The Consortium welcomes the increase between the previous Economic Viability Study and the September 2015 update, whereby build cost assumptions have increased by 9% for flats, 8% for small housing, and 7.5% for estate housing. However as demonstrated below the revised costs are still below the prevailing average build costs. As PBA have sourced their build costs assumptions using BCIS average prices, we have researched the current average prices rebased to Stratford on Avon. We detail a comparison below.

Table 3: Build cost comparison

	PBA EVS Sept 2015 <i>per sq m</i>	Savills Nov 2015* <i>per sq m</i>	Difference
Flats	£1,083	£1,218	12%
Houses (small)	£1,360	£1,482	9%
Houses (general estate)	£958	£1,060	11%
* BCIS rebased to Stratford on Avon; data last updated 31-Oct-2015			

The above evidence shows the PBA EVS (September 2015) build cost assumptions next to the latest BCIS average prices as at November 2015. It is possible to see the PBA assumptions are on average, over 10% lower than the current BCIS data.

In summary, the Consortium welcome the increase in build costs from the previous EVS (June 2014) which was used to evidence the DCS, however the adopted build costs still fall behind the prevailing average build costs for the District.

iii. Zero Carbon Standards

The Consortium and Savills are concerned regarding the provision for Zero Carbon Standard and an allowance for this additional cost. The build costs discussed above are strictly base build costs and no allowance has been made for improved Zero Carbon Standards.

Although the Government has removed the requirement for all new build houses to reach zero carbon by 2016, SoA have a Policy (Policy CS.2 Climate Change and Sustainable Construction) which the Submission Core Strategy relating to Sustainability Standards in Buildings. Again, we note the wording relating to Code for Sustainable Homes Level 4 has been deleted as part of the Core Strategy Proposed Submission Version Schedule of Proposed Minor Modifications (August 2015) however the broad policy still exists which can impact on the requirement of development to be built to higher carbon and environmental standards.

Within PBA's updated Viability Study, when discussing sustainability and building standards, the study states "*For Authorities wishing to incorporate this into planning policy, such as Stratford-on-Avon, this will have cost implications that will need to be considered*" (paragraph 5.3.21). There is no allowance in the viability assessments for the increased costs. Therefore, in light of this, the Consortium and Savills strongly recommend these costs are re-assessed and a justifiable amount is included.

In addition, the introduction of a Zero Carbon Standard, to be introduced through amendments to the Building Regulations energy performance requirements, is anticipated in 2016. For the purpose of the viability appraisals, this policy requirement will result in an additional cost for developers and should subsequently be included in the viability appraisals.

A recent report prepared by Sweett for the Zero Carbon Hub 'Cost Analysis: Meeting the Zero Carbon Standard' (February 2014), indicates that the cost of meeting the Zero Carbon Standard has a known and quantifiable cost above current Building Regulations (Part L1A 2013) (see Table 3 below). Given that this requirement will be introduced in the next two years, its impact should be considered. We would therefore ask that a suitable allowance for meeting this standard is included in the viability appraisals:

Table 4 - Zero Carbon Standard Cost above Building Regulations (Part 1LA 2013)

	Detached House	Semi-Detached House	Mid-Terraced House	Low Rise Apartments
Range	£6,700 – £7,500	£4,100 – £4,700	£3,700 – £4,200	£2,200 – £2,400
Average	£7,100	£4,400	£3,950	£2,300

Source: Zero Carbon Hub, Cost Analysis: Meeting the Zero Carbon Standard (February 2014)

iv. S106 and S278 Costs

The Consortium are extremely concerned to see no allowance has been made in the Viability Study to allow for Section 106 and Section 278 costs for all typologies, except the three strategic sites for Gaydon / Lighthorne Heath, Long Marston Airfield and the Canal Quarter. The identification of the three strategic sites listed in contrary to the Core Strategy Proposed Modifications (August 2015) which identifies a further seven strategic sites. It is the Consortium's view that all strategic sites should be assessed with consistency due to the reliance on each of these for the overall delivery of the Core Strategy's objectives.

From Savills' experience of reviewing Viability Studies nationally, we can confirm that almost all other consultants include a provision in the appraisals for Section 106 and Section 278 costs. For smaller size, we would expect this to be in the region of £1,000 to £2,500 per unit. For larger sites of 350 new houses or more, we would expect an inclusion of a figure in the region of £10,000 per unit. This is to account for the site specific mitigation which is still require to make the development acceptable in planning terms. In addition, the items not included on the Regulation 123 List can be sought through Section 106. This is of particular relevance to the following infrastructure requirement which will be sought through planning obligations (Section 106);

- Site specific access and traffic calming measures;
- Site specific public transport, pedestrian and cycle links;
- On site drainage and flooding solutions;
- On site sustainable energy requirements.

Pricing the items listed above is challenging as they will vary dependent on the sites, however, it is clear that these items will incur additional costs to the Housebuilder which need to be taken into consideration within the viability appraisals. We strongly recommend the appraisals are re-produced including provision for Section 106 and Section 278 costs for all site typologies, but particularly for site of 350 units above including a provision for £10,000 per plot.

v. Developers Profit

As stated in our previous representations²⁷ the minimum acceptable profit margin for the Consortium is **20% on GDV blended** across both the private and affordable dwellings. As stated in our previous representation this profit level was endorsed via the Manor appeal decision in Shinfield.²⁸ It has also been included in Maldon District Council's supporting viability work produced by HDH Planning & Development who are currently preparing supporting viability evidence for 24 Local Authorities.²⁹ This is particularly relevant for large scale development where the increased capital outlay, planning risk and extended development programme results in an increased level of risk. Consequently, a profit margin in excess of 20% on GDV blended will normally be sought.

The requirement for 20% blended profit is even more imperative in light of the Budget announcement affecting the affordable housing sector. As detailed above, the changes introduced by the Budget are having widespread implications for the affordable housing sector where Registered Providers are renegotiating Section 106 packages, as well as downwardly revising offers for affordable housing. In reality this has a two fold implication for housing developers, firstly offers for affordable housing will decrease and secondly, the risk of delivering affordable housing has increased. On this basis, a profit rate is no longer applicable and we strongly recommend a blended profit rate of 20% is applied to all typologies.

²⁷ Paragraph 5.9, Savills response on behalf of a Landowner and Developer Consortium, December 2012

²⁸ Ref: APP/X0360/A/12/2179141, 8 January 2013

²⁹ Local Plan & CIL Viability Study – Post Consultation Update (November 2013)

vi. Promotion Costs

We note that promotion costs have still not been allowed for in the appraisal assumptions as suggested in our previous representations.³⁰

For clarity, the cost of promoting a site through the planning process can be considerable, especially with the larger strategic sites. The viability appraisals provided by PBA do not seem to recognise or allow for these costs and we would therefore ask that they are considered in setting the CIL rates prior to the Examination. The Harman Report (June 2012) states professional fees can rise to 20% for more complex multi – phase sites.

vii. Threshold Land Values (TLV)

The Consortium are pleased to see that TLV have been reviewed and updated as part of the Updated Economic Viability Study (September 2015).

However, the Consortium and Savills still have a number of concerns relating to the TLV methodology and assumptions made by PBA in respect of the housing delivery. The TLV figures are adopted by PBA are as follows:

Table 5: PBA Threshold land values

Sub Location	Type of Land	£ value per net hectare	£ value per net acre
Central	Small Brownfield	£1,350,000	£545,000
	Small Greenfield	£1,230,000	£500,000
	Brownfield	£990,000	£400,000
West	Small Brownfield	£1,000,000	£405,000
	Small Greenfield	£910,000	£370,000
	Brownfield	£740,000	£300,000
East	Small Brownfield	£1,220,000	£495,000
	Small Greenfield	£1,110,000	£450,000
	Brownfield	£900,000	£365,000
Strategic and Large Sites		£640,000	£260,000

We can see that PBA have applied a 25% discount to TLV, reflecting the CIL Examiner's report for the Greater Norwich Development Partnership. The 25% deduction is an arbitrary figure which is applied for the case of this LPA to reflect the costs of CIL on the land value. We recognise that part of the rationale behind CIL is to capture a proportion of the increase in land value and that by its nature CIL will therefore have a bearing upon land values. However, it is imperative that realistic and reasonable benchmark land values are included within the Viability Study which are based upon an understanding of the values at which land is currently traded.

³⁰ Housebuilder Consortium Representations to the PDCS, attached at Appendix 2.

For the larger site typologies it is necessary to account in the BLV for the costs and planning risk associated with site promotion. For simplicity we split the development process in two; firstly the 'promotion' phase which includes promoters profit, and then the 'delivery' phase from which the house builder derives their profit.

The second part of this (i.e. the 'delivery' phase) should adopt the same 20% margin as all other typologies. In order to account for the former, we recommend an adjustment to the benchmark land value. This approach is consistent with the Harman Report which states that:

*"In such circumstances, the Threshold Land Value (at which a landowner will release land for development) is unlikely to represent the assessed value that will bring land forward for development. It will be necessary to take account of planning promotion costs and the return required by the promoters of such sites."*³¹

Land promoters typically require 10%-20% of the land value in order to reflect the risk that they may expend significant costs in the promotion of a site without ever seeing a return. Put another way, the land promoter requires 10%-20% of the land value when the site is sold with planning permission to make it worth their resource and risk in promoting the site. The most accurate means of reflecting this in the Viability Study is to inflate the greenfield benchmark land values for all those sites where it is likely that promotion of the site will have occurred, i.e. greenfield site typologies over 100 dwellings.

In summary, to ensure consistency with the NPPF and to provide the landowner with a competitive return, we consider that the BLVs must be uplifted by a minimum 25% – 30%. In some cases, this will still not represent a sufficient return to the landowner to incentivise the release of an asset which, in some instances, will have been within the ownership of the family for many generations. Nevertheless, the additional uplift to the benchmark land values will provide an incentive and help ensure that land supply does not reduce significantly and ensure SoA meets their housing need and delivery rate. .

Savills provided evidence as part of our submission to the DCS consultation.

4.2. Part 2 – Interpretation of Viability Results

We have been provided within limited viability appraisals for the typologies therefore we have been unable to undertake a full review of the methodology and scrutinise the appraisals. As part of our previous submission to the DCS, we model an alternative viability appraisal altering assumptions. Our representation demonstrated the cumulative impact of seemingly small changes on the residual land value and therefore the viability of a scheme.

We have not sought to replicate this process for this representation, but do draw your attention to our previous representation to the DCS dated October 2014.

4.2.1. Strategic Sites

SoA are heavily reliant on the delivery of strategic housing sites to ensure they met the requirements of the Core Strategy. Currently the Submission Charging Schedule identifies different CIL rates for Gaydon – Lighthorne Health, Long Marston Airfield and the Canal Quarter having undertaken individual assessment.

³¹ Financial Viability in Planning, Page 31

The Consortium are concerned that all strategic sites, as identified in the SoA Core Strategy Proposed Modifications (August 2015) have not been assessed using the same perimeters in the viability assessments. SoA are reliant on each identified strategic site to meet the objectives of the Core Strategy, and therefore consistency should exist for all 10 strategic sites.

For sites of the scale (500 units plus), there will be considerable costs associated with servicing and on-site physical infrastructure required to deliver serviced land parcels. This is a separate cost to community or social infrastructure and relates to the provision of services, highways infrastructure, drainage etc. The Consortium note an allowance of £5,000 per unit for sites of less than 200 units, £10,000 per unit for 201 to 500 units, and Greenfield sites of more than 500 units £18,000 per unit for major on-site infrastructure and associated costs. The Consortium consider this assumption, included without any evidence or justification, is to be low and not reflective of the requirements to bring forward sites at the early planning stages. As a rule of thumb, the Harman Guidance indicates that the cost of strategic infrastructure is typically in the order of £17,000 - £23,000 per plot for larger scale schemes³². We would expect smaller 400 unit schemes to have costs included in the region of the bottom end of the Harman Report guidance (£17,000 per plot), and larger sites above 400 units at the top of the range (£23,000 per plot).

The Consortium's clear preference is for all strategic sites to be delivered through planning obligations rather than CIL. Without this, the burden of CIL may fail to bring forward these sites, or inadequately deliver vital infrastructure, and therefore threaten the Development Plan objectives.

The key strategic objective of delivering a substantial contribution of affordable housing through these sites would also be put at risk. The approach of providing a zero CIL rate for strategic sites recognises the costs of delivery of these sites and enables greater flexibility to address necessary infrastructure requirements through a bespoke Section 106 agreement which balances the costs and timing of infrastructure delivery. In addition, delivery of large sites is complex and thus control over infrastructure is imperative to ensure comprehensive planned development is achieved for to create balanced, desirable new settlements and neighbourhoods.

We therefore suggest implementing a rate of £0 per sq m for strategic sites of 400 dwellings or above in scale. This would allow developers to control the delivery and implication of vital infrastructure to ensure prosperous new communities are created, whilst not burdening the existing resident population and infrastructure.

For clarity the £0 per sq m rate for strategic sites would be applicable to the following sites:

- SUA.1: 650 homes relating to the Canal Quarter
- SUA.4: 450 homes North of Bishopton Lane, Stratford upon Avon
- SOU 3: 500 homes South of Daventry Road, Southam
- GLH: 2,300 homes at Gaydon/Lighthorne Heath New Settlement
- LMA: 2,100 homes at Long Marston Airfield New Settlement

This equates to 41% of the planning housing supply of SoA.

³² Viability Testing Local Plans, Appendix B, page 44

5. Effective Operation of CIL

Despite the narrow Regulatory requirements of the Examination, the Consortium urge the Council to make clear at the earliest opportunity the supporting documentation needed to operate CIL and to make it available for consultation. Practically, this needs to be done prior to the Examination so that participants and stakeholders are able to comment on the effective operation of CIL. Whilst this supporting information is not tested at Examination, this information is critical to allow for the successful implementation of CIL and to demonstrate that the CIL has been prepared positively and supports sustainable development.

The documentation should include:

- Guidance on how to calculate the relevant 'chargeable development'/level of CIL;
- Guidance on liability to pay CIL/Appeals process;
- Policy for payments by instalments;
- Approach to payments in kind;
- Guidance on relief from CIL and a policy on exceptional circumstances for relief from CIL.

The Consortium provides further comment on some of these points below.

5.1. Instalments Policy

Savills and the Consortium welcome the inclusion of the Instalments Policy included in the Submission Charging Schedule (dated October 2015). An Instalments Policy is particularly important for the strategic sites, as developer cashflow is an important consideration on larger sites, notably in respect of upfront infrastructure costs typically associated with strategic development. A proposed Instalment Policy should aim to reflect, as closely as possible, the timing of delivery of the development, to ensure that the CIL does not put unnecessary pressure on cashflow and viability.

5.2. Testing

As Local Authorities are able to remove an Instalments Policy at any time, we would recommend that the viability testing does not include phased payments. This will ensure that sites are able to support the proposed CIL rates in the event that an Instalments Policy is not in place.

5.3. Exceptions Policy

Savills note the Council may consider introduction an Exceptions Policy enabling two additional forms of discretionary exemptions;

- Developments by charities which are held as investment from which the profits are applied for charitable purposes.
- Where a specific scheme cannot afford to pay the levy. In these circumstances, Relief is only possible where it can be clearly demonstrated that paying the full charge would have an unacceptable impact on the development's economic viability and where an exemption from CIL is not considered to be receiving State Aid.

There is clearly no detriment arising from the Council making available such reliefs within policies as part of its Charging Schedule, as the Council will still retain control over the application of the policies. There are strict tests surrounding the availability and applicability of Exceptional Circumstances Relief. It would therefore only be applicable to those schemes that can justify the need for it and meet those strict tests.

The Consortium would welcome the Council's decision to offer exceptional circumstances relief. This is important as there may well be instances where CIL (even with a buffer) would render development, which the Council may otherwise want to support, unviable.

5.4. Payment in Kind

The scope to reduce the CIL liability via utilisation of Payment in Kind is therefore restricted to those items of infrastructure which are not required to mitigate the impact of a development, which for strategic sites would exclude most (if not all) site-specific and 'scheme mitigation' infrastructure.

Payment in Kind is therefore not a credible option, which further emphasises the need to ensure that the Regulation 123 List does not include any items of infrastructure intended to be delivered through Section 106 agreements on any of the strategic sites.

5.5. Reviewing CIL

The CIL Guidance outlines that Charging Authorities '**must keep their charging schedules under review**'³³ to ensure that CIL is fulfilling its aim and responds to market conditions. The Consortium is therefore pleased to note that the Council is intending to review the Charging Schedule within 3 years of its implementation, or sooner if any of the criteria for review are triggered.³⁴

³³ Paragraph 043, Reference ID 24-043-20140612, CIL Guidance (2014)

³⁴ Paragraph 6.8.1, CIL DCS Supporting Document (August 2014)

6. Conclusions

This Representation has been prepared by Savills on behalf of a Local Housebuilder Consortium. As set out at the start of these representations there are three key tests at Examination:

- i. The charging authority has complied with the required procedures set out in part 11 of the Planning Act 2008 and the CIL Regulations;*
- ii. That “the charging authority’s Charging Schedule is supported by background documents containing appropriate available evidence”;*
- iii. That “the proposed rate or rates are informed by and consistent with, the evidence on economic viability across the charging authority’s areas”; and*
- iv. That “evidence has been provided that shows the proposed rate would not put at serious risk overall development of the area”.*

The key tests outlined above demonstrate the assessment of planned development and its viability is an inherent test of the Examination. The Consortium’s concerns relate to a number of assumptions used in the viability assessment and how this will negatively impact on the housing supply for the District.

In light of this, Savills and the Consortium would recommend that the Council considers the following:

- Re-running the viability appraisals to take account of the additional costs set out in Section 4;
- Applying a £0 psm CIL rate to the strategic sites above 400 units, with clear identification of infrastructure to be provided through CIL and Section 106/278;
- Providing further information on the anticipated level of Section 106 contributions on the strategic sites post-CIL implementation; and
- Undertaking a review of the Regulation 123 list to ensure that no ‘double dipping’ will occur.

The Consortium feel it necessary to stress that if the CIL level is set too high, **it will almost certainly have a negative impact on a large proportion of development coming forward**, especially bearing in mind the reliance on the identified strategic sites in the Development Plan. The Consortium believe that once the assumptions – as mentioned above – have been clarified, it will show the proposed CIL levels need reviewing.

To this end, the Consortium would like to reserve the right to be heard at Examination.

END

