

Smiths Gore – representation on Draft Charging Schedule

CIL Response

Q7: Do you agree or disagree with the District Council's Draft Instalments Policy?

Yes we agree with the instalments policy subject to the other comments below.

Q8: Do you agree or disagree with the Council's proposed CIL rates for residential development?

We disagree as we do not support the viability assessment that has been undertaken in a number of respects and we believe that the proposed CIL rate will have an adverse effect on the delivery of housing growth.

1. Prematurity: it is inappropriate in our view to introduce the draft CIL Charging Scheme in advance of the forthcoming draft Local Plan. Government guidance suggests that CIL should be based on an up to date development plan – or if based on a draft plan, should be examined at the same time. Here, it seems to us that the draft Infrastructure Plan is partly based on the existing Core Strategy but partly on growth anticipated in the future Local Plan.

The forthcoming Local Plan will set out the overall level and distribution of growth and other key matters such as the level of affordable housing required from new developments. That will have a major impact on viability. There is a danger that the CIL process will be out of line with the development plan process and therefore charges will be set which do not properly reflect actual site development costs, the level of growth planned in different settlements or the infrastructure requirements. The two processes should be brought into line to ensure consistency. The Infrastructure Plan (and therefore CIL) should reflect the adopted Core Strategy or be examined in connection with an emerging plan. At present in East Cambridgeshire – neither scenario applies.

2. Lack of transparency or clarity (S106 split): we note that, at para 2.5 of the Draft Charging Schedule, it states that 'the proposed split between CIL and Section 106 is an estimate at this stage'. In order to properly assess the effect of the charging scheme on viability we believe it is essential for there to be clarity on this split and for the full extent and cost of the proposed S106 obligations to be clear. Table 1 of the Charging Schedule fails to achieve this and therefore it is far from clear, for strategic sites, what will be funded from CIL and what will fall within the terms of a site-specific S106 Agreement. We believe that far greater clarity is needed otherwise there is a clear risk of actual or perceived double counting, Paragraph 2.5 also states that it is intended to revise the Council's SPD 'Developer Contributions' to reflect a streamlined Section 106 system. While we agree with that principle the two matters must be progressed jointly so that clarity is achieved between the two systems.

Education is a key example as this frequently represents a major S106 cost. Based on the Infrastructure Study it appears that development in North Ely is expected to make provision for a new primary school and that this will be S106-funded (Table 6-13 of Infrastructure

Study). If that is the case then Table 1 of the Draft Charging Schedule should make it clear that the Section 106 development specific infrastructure is in fact 'development-specific *primary* educational facilities...'. As constructed at present it could imply that all educational facilities should be S106-funded and we do not believe that is the intention.

If a strategic site funds a primary school, it will also be paying CIL charges for other district-wide educational needs. Non-strategic sites will only pay the CIL charge. That seems inequitable and fundamentally unfair.

It should be noted that the Primary School referred to in Table 6-13 is presumably in respect of the current Core Strategy Allocation of 500 houses. The cost (£5.475M) therefore of this one S106 item alone is equivalent to over £10,000 per house – a cost that is recognised in the Viability Assessments.

Table 1 states that strategic green infrastructure will be CIL-funded. Does that mean, for example, that expansion of the Ely Country Park (as anticipated in the Core Strategy), as part of a development scheme proposing a greater level of open space than can be secured under planning policy, will be funded through CIL rather than via S106? There are other examples in Table 1. In North Ely current proposals envisage major extensions to the Ely Country Park and it is entirely unhelpful in progressing such growth plans when it is unclear whether such proposals are to be CIL-funded or not. This applies to the costs of provision and the cost of additional land.

In summary, we believe it is essential for there to be far greater clarity between S106 items and CIL-funded infrastructure. This is particularly important in establishing viability of strategic sites which will deliver the bulk of the District's future housing supply in the main settlement of Ely.

3. Incorrect S106 Assumption: the viability assessment refers to an assumption of 'residual' S106 costs of £10,000 per dwelling. We do not accept this figure and believe a better estimate, for strategic sites, judging from Table 6-13, to be closer to £20-25,000/dwelling, which will render most developments unviable even without CIL. We will provide evidence to the Inspector of the County Council requesting what equates to approximately £19k/dwelling for education purposes alone in discussion of a current planning application. In addition to those education costs and affordable housing, we expect the County & District Councils to also require contributions to:

- Public open space, sport & recreation
- Strategic green infrastructure
- Health & social care facilities
- Community facilities

- Nature conservation, wildlife and SUDS mitigation measures
- A variety of transport (including public transport) measures
- Waste and recycling facilities
- Public art

The figure of £10,000 is therefore a significant under-estimate for strategic sites. This is important because it is strategic sites which will deliver the bulk of the District's future housing land supply. The viability assessment therefore needs to be re-run to include a much more realistic S106 cost. The extent of likely ongoing S106 requirements is such that, for large strategic sites, there is a case for a 'no-CIL' zone. Our own Appraisal (see Appendix 1) shows that with the proposed CIL charge and the above residual S106 many sites will not be viable.

4. Site Values & Development Costs– During the preparation of the Draft CIL Charging Schedule we have already expressed concerns about the values attributed to new housing in Ely, which has resulted in the introduction of VL 3a. Evidence demonstrates the average sales value in North East Ely, adjoining the main growth area are approximately £200 per sq ft (we will provide this evidence to the Hearing). Notwithstanding this, Dixon Searle (DSA) has attributed a value of £219 per sq ft . Reasons stated for this higher valuation include the need to 'look forward'. Unfortunately, decisions to take forward developments are made on the basis of *current* not future conditions. By using the HCA Toolkit DSA have taken the exercise to a level of detail, which is really not appropriate for a general CIL policy of this nature, but more importantly however they under-estimate the costs of bringing forward large scale developments.

The sample assessment made in the May 2012 consultation draft is based on a 400 house scheme, whereas the current application in North Ely is for 800, which will be part of a 3000 house development. The viability of such schemes, requiring early provision of major infrastructure, is very different from a 100 or even 400 house scheme irrespective of CIL. For instance, in the model provided, we do not see any provision for site 'abnormals', such as *off-site* drainage, services, utilities and spine roads and other items that are usually accounted for as such by housebuilders. An allowance of 20% of build cost has been made to cover 'externals', but this will no more than cover the normal on-site external works such as estate roads and drainage etc. For large scale schemes, and depending on specific circumstances, these abnormal costs may well be substantial.

The model also includes an allowance for S106 obligations of £10,000 per house. The schedule of S106 requirements identifies the need for a primary school costing £5.45m which it is assumed is the requirement flowing from the current Core Strategy allocation of 500 houses. If the provision of the primary school will be covered by the S106 agreement it can readily be seen this already exceeds the assumed allowance of £10,000 per house assumption for **all** S106 contributions. Therefore the provision of primary schools via S106 agreements coupled with the list of other items outlined in the Consultation Document

suggests that the model figure (£10,000/dwelling) is entirely inadequate when applied to strategic sites.

The above suggests that the over-estimation of values and under-estimation of costs will mean that the levels of RLV will be considerably below the projected levels and close to or below the 'minimum' levels. It has been recognised in the December 2011 Viability Assessment (paragraph 2.10.2) that other aspects of the planning obligations may need to be reassessed in any case. However, we believe that this will be done against an unrealistic belief of the values that landowners will accept. We are not aware of any landowners who will release land for sale at values between £250,000 and £500,000 per acre (see below). This reinforces our belief that the CIL Charging Schedule can only properly be considered at the same time as a draft DPD and revised Developer Contributions SPD.

5. Minimum land values – Paragraph 2.2.8 of the Addendum to the Viability Assessment refers to minimum land values of £250,000/ha and states that 'this is an appropriate point to consider as a likely minimum value'. Whilst we would agree that this is a position beneath which land would be unlikely to come forward, we do not agree that this represents an appropriate minimum value which will result in land being released and the authors of the Viability Assessment have presented no evidence to support this figure. In our experience, in advising landowners on the commercial aspects of major development schemes throughout England, values well above £250,000/ha, which in any case is a gross figure from which the owner will need to meet the (speculative) cost of promoting the site and securing planning permission, are required to incentivise landowners to bring their land forward to the market, particularly with larger sites. Smiths Gore act for a range of private and institutional clients and such owners of strategic greenfield land are often 'long term' landowners with few, if any pressures to sell and view development opportunities in generational terms. Whilst most landowners accept that the market has adjusted over the last few years to the extent that values have fallen 40-50%, they are also well aware of the potential for land values to improve and unless realistic levels are set land will not come forward. Terms have recently been agreed for the sale of a 0.8ha site in north Ely at a value of £1M/ha which would appear to be a much more realistic assessment. The risk of using the approach set out in the Viability Assessment is that an assumption is made that scheme's viability can be 'managed' down to a specific level and they will still happen. This is an unrealistic concept.

If CIL and S106 obligations push values too low landowners will quite naturally decide to wait until the market improves. We do not consider that land will come forward for development at the levels suggested by the Council, which represents between 3% and 7% of GDV. At this level, the value of land will be little more than the developer's marketing fees. Historically, the land content has been assessed at a third of GDV.

In the case of North Ely we believe that growth will simply not be delivered if such an approach is adopted and this would be contrary to Regulation 14 requiring the charging authority to strike an appropriate balance between the desirability of funding infrastructure from CIL and the potential effects on economic viability of development across its area.

6. Infrastructure Study : the December 2011 Infrastructure Study has been used to define a significant 'funding gap'. It states that 'the Core Strategy housing targets and related

population projections have been used to inform calculations of infrastructure needs in this document'. However, many of the infrastructure requirements listed in the study appear to relate to levels of development or circumstances well above that set out in the adopted Core Strategy for example, in Table 12.1, 'new access from Kings Avenue roundabout to the A10 and new signalised junction between A10 Access Road and Lynn Road, the Southern Link Road scheme and dualling of the A10. These originate from the Ely Modelling Report and are not reflected in the Core Strategy. These are measures conceived to address longer term growth than that set out in the Core Strategy.

In addition to the above Chapter 12 sets out many items of transport infrastructure (and indicates their costs) for measures that would normally be undertaken as part of site-development. For example, Table 12.2 lists 'fourth arm at the B1382 Ely Road/Prickwillow Road/Kings Avenue roundabout' and which is costed at £500,000. The implication of this being included in the required Transport Infrastructure Costs is that it will be funded from CIL – and we are therefore curious if that is the District Council's intention? There are other similar examples.

For the two reasons above we therefore believe the funding gap to be significantly overstated.

Q9: Do you agree or disagree with the Council's proposed CIL rates for retail development?

No comment

Q10: Do you agree or disagree with the Council's proposed CIL rates for other development?

No comment

Q11: Do you have any other comments to make on the Draft Charging Schedule or the Council's proposed approach to CIL? (which have not been covered in the previous questions)

Yes

In the light of our comments above we consider that:

- There should be much greater clarity on the split between S106 requirements and CIL-funded infrastructure for strategic sites – the SPD must be published prior to the examination and the viability assessment reconsidered accordingly;
- The viability assessments should be reconsidered using higher minimum land values, greater residual S106 costs and more realistic infrastructure costs;
- References to minimum land values should be deleted from the supporting assessments as they appear to be unevicenced; and
- The CIL rate proposed will have a detrimental effect on housing delivery unless a significantly different approach to residual S106 requirements is adopted.

We have attached our own Viability Appraisal which is largely based on the cost assumptions set out in the Council's Viability Assessment work. This excludes a number of costs but still results in a land

value which is below that which we consider is required to encourage landowners to bring their land forward to the market.

North Ely Appraisal using ECDC CIL Viability Assessment

Gross Area	23 hectares		
Houses	500		
School	2.3 hectares		
Units per ha net	37		
Net Area	13.51 hectares		
Affordable content	30%	70% Rent	30% Intermediate

Housing Income

Market Housing	9.46 hectares	3790 sq m per ha	£2,248 per sq m =	£80,572,883	
Affordable Housing rent	2.84 hectares	3790 sq m per ha	£1,191.44 per sq m =	£12,811,088	
Affordable SO	<u>1.22</u> hectares	3790 sq m per ha	£1,461.20 per sq m =	<u>£6,733,591</u>	
	13.51				£100,117,563

Housing Costs

Build Cost	51,203 sq m @	827 per sq m	42,344,798
External Costs	17.5% of build cost		7,410,340
Off-site and Abnormals	Not allowed for		
Build Cost Contingency	5.0% of build cost		2,117,240
Site Survey and Preparation cost	£4,500 per unit		2,250,000
Professional Fees	13% of build cost		5,293,100

Internal Overheads	10% of build cost		4,234,480	
Market Finance	6% of development cost		2,802,722	
Affordable Housing Finance	6% of development cost		762,206	
Marketing fees	3% of market value		2,667,187	
Developer's return	18% of market value		14,100,255	
Contractor's return (affordable)	6% of development costs		<u>£762,206</u>	
				84,744,534
CIL	£70.00 per sq m Market Housing	35,842 sq m		2,508,942
Health		to be quantified		
Education			5,500,000	
Sports facilities		to be quantified		
Community facilities		to be quantified		
Transport		to be quantified		
POS Commuted	£12,355 per Ha		<u>117,249</u>	5,617,249

Finance of S106 and CIL	6% of costs	487,571	
Total Costs		<u>£93,358,296</u>	
			6,759,267
Purchase Costs	6.75% of purchase price		<u>£456,251</u>
			£6,303,016
Value per hectare		£274,044	per ha