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Submitted by email only: psp@solihull.gov.uk

26th November 2013,

Dear Sir/Madam

RE: Community Infrastructure Levy – Draft Charging Schedule

Introduction
Gladman Developments has considerable experience in the development industry in a number of sectors including residential and employment land. Gladman are aware that the Inspector's report on the Solihull Draft Local Plan was published on 21st November and the Council are now proceeding to the adoption of the Plan. Alongside this the Council are in the process of preparing a Community Infrastructure Levy for the area. This Consultation is for the draft charging schedule of CIL.

CIL is intended to have a positive effect on development. The CLG guidance notes that *"By providing additional infrastructure to support development of an area, the levy is expected to have a positive economic effect on development across and area. In deciding rate (s) of the levy for inclusion in its draft charging schedule, a key consideration is the balance between securing additional investment for infrastructure to support development and the potential economic effect of imposing the levy upon development across their area".* (Paragraph 8, CLG Guidance, 2012)

The Council must ensure that they strike an appropriate balance between the desirability of funding from CIL and the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across the local authority area. This means that the Council must consider the impact of CIL together with the policies contained in the Local Plan on developments within the borough when deciding an appropriate CIL rate.

Setting the levy at the appropriate rate will be key to ensure that development comes forward in your local authority area and subsequently that the Local Plan is implemented. These representations address some key areas that local planning authorities must consider when preparing their CIL charging schedule, drawing on recent guidance produced by the CLG.

Funding gap / evidence base

Local planning authorities need to be able to demonstrate the infrastructure need and subsequent funding gap and must ensure that the level of total CIL receipts that could be generated through the levy reflects these true needs and the proposals in the Local Plan. The CIL should not be used by Council's as a mechanism for creating an unrealistic 'wish list' of infrastructure projects in their area.

When establishing a funding gap that CIL receipts are intended to contribute towards filling, it is vital that the Council take account of every possible income stream. This has to include an accurate assessment of future New Homes Bonus and council tax and business rates receipts generated as a result of new developments allocated in the Local Plan, as well as central government funding streams. This should also include an assessment of statutory undertakers asset management plans, as these companies will at some stage be upgrading their systems/facilities. This also needs to be taken account of when assessing the infrastructure requirements of the authority.

The Council need to have an up to date, robust evidence base that fully justifies the infrastructure needs based on the amount of development that is required. Information on these infrastructure needs should, wherever possible, be drawn directly from the infrastructure planning that underpins the Development Plan, as this should identify the quantum and type of infrastructure required to realise their local development needs. If the authorities infrastructure planning is weak or out of date then the Council should undertake an exercise to refresh this. If the evidence base is not complete, robust and up to date the charging schedule will be unsound and the local planning authority will have difficulty adequately demonstrating their funding gap and subsequent CIL requirements.

The CLG guidance notes that: *"Charging authorities should be able to show and explain how their proposed Community Infrastructure Levy rate (or rates) will contribute towards the implementation of their relevant plan and support development across the area. It is likely, for example, that charging authorities will need to summarise evidence as to economic viability in a document (separate from the charging schedule) as part of their evidence base."* (Paragraph 21, CLG Guidance, 2012)

It is important that in calculating the level of infrastructure you need as a result of development you distinguish between *new* and *existing* demands. New houses do not always create new pressure on infrastructure as evidence shows that a large proportion will be occupied by people already living in the borough, attending local schools, and registered with local GP surgeries. They will therefore require less infrastructure provision compared to new residents in the borough.

The available guidance makes it clear that CIL is expected to have a positive economic effect on development across an area in the medium to long term. The CIL charging rates should not be set at such a level as to put at serious risk the overall development of the area. The Council will need to provide robust evidence that the proposed rates will not jeopardise development. The rate will also need to be appropriate over time, bearing in mind land values, market conditions and the wider economic climate change rapidly.

The Council needs to ensure that they have a full understanding of the potential costs of infrastructure projects needed to meet the infrastructure needs. Gladman believe that it is inappropriate to set the levy based on a partial understanding of these infrastructure costs and in particular if the total money needed for infrastructure is unknown.

Differential charging rates
The CLG guidance notes that the use of differential charging rates can be an appropriate approach where there is viability evidence that constitutes the basis for this. *"This is a powerful facility that makes the levy more flexible to local conditions"* (Paragraph 34 CLG Guidance, 2012)

The rules around the use of differential rates in the Charging Schedule are clear: they can only be for different geographical zones in which development would be situated or by reference to different intended uses of development. Furthermore, as inspectors have made clear, differential rates should be set *"based on economic viability considerations alone , rather than any planning or any other public policy related choices"* (Paragraph 14, Newark and Sherwood EIP report, August 2011), and *"CIL is not intended to be a planning policy tool"* (Paragraph 23, Huntingdonshire EIP report, April 2012). Charging schedules should not impact disproportionately on a particular sector or small group of developers.

It is integral when setting differential rates for different geographical areas that these differential rates are based on accurate, up to date housing market intelligence forming the evidence base for this decision.

Discretionary Relief
Regulation 55 of the CIL Regulations allows local authorities to grant relief for exceptional circumstances from liability to pay CIL. Such provision should be factored into the Council's CIL and will avoid rendering sites with specific and exceptional cost burdens unviable should exceptional circumstances arise.

Requirement to consult
As with Local Plans, local planning authorities have an obligation to consult at various stages of the CIL preparation process. However, the guidance does not provide details as to the format that this consultation must take or length of the consultation period. Gladman echo the CIL guidance and would urge your local authority to engage with local developers and others in the property industry early and throughout the process. This will help your authority to gain opinions from the market to feed into the preparatory work.

Examination
As outlined in paragraph 56 of the CLG guidance the charging authority must appoint the examiner. The examiner must be independent and have the appropriate qualifications and experience. The guidance confirms that a Planning Inspector would fulfil these criteria.

Conformity with Framework
The National Planning Policy Framework (from here on referred to as the Framework) provides the current central government planning policy and requirements for local planning authorities to meet. The Framework places emphasis on sustainable development and in particular ensuring that the objectively assessed needs of an area are met through the requirements and policies within the new Local Plan.

It is fundamental that the Council ensures that the proposed levy rates are realistic and not set too high. Arbitrarily high rates may jeopardise the delivery of housing schemes within the area. This would be contrary to the Government's aim outlined in the Framework to *"significantly boost the supply of housing"*, as schemes may not come forward due to viability issues.

The Council's CIL charging rates must not threaten the overall delivery of the Local Plan, by making sites unviable. This point is reiterated in the CLG guidance *"in proposing a levy rate (s) charging authorities should show that the proposed rate (or rates) would not threaten delivery of the relevant plan as a whole."* (Paragraph 29, CLG Guidance, 2012). When testing the impact of CIL it is vital that the assumptions that underlie the standard residual valuation approach used to test the impact on viability of CIL are realistic and accurate. This should include abnormal costs, contingency costs, preliminary costs, and developer profit, which should reflect the current level of risk perceived in the market.

Gladman would urge the Council to adopt an instalments policy for CIL payments as this will give developers the flexibility to pay contributions in line with development phasing schemes and will facilitate cash flow and therefore development viability.

Gladman would also like to remind the Council of the need to review CIL tariffs once these have been set. The economic climate will inevitably change over the course of the plan period and as such the levy rates that can be set whilst ensuring development remains viable will also change. The CLG guidance promotes the need for charging schedules to remain under review *"This is important to ensure that the levy charges remain appropriate over time, and also so that that they remain relevant to the gap in the funding for the infrastructure needed to support development of their area"* (paragraph 79, CLG Guidance, 2012).

The Local Plan for your area will need to be in place prior to the CIL being adopted. Gladman believe that the Council need to have a clear understanding of the level of residential development to be brought forward in the plan period when preparing the charging schedule as this will directly influence the scale of CIL that will be generated. Without this the charging schedule will not reflect the relevant and true infrastructure needs of the area.

I hope that these representations were helpful in the process of preparing the CIL charging schedule. If your require any further information or wish to meet with one of the Gladman team then please do not hesitate to contact me.

Yours faithfully,

[redacted]

Nicole Penfold
Planner
Gladman Developments