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24 April 2013

Policy and Spatial Planning  
Solihull Metropolitan Borough Council  
Council House  
Manor Square  
Solihull  
B91 3QB

Dear Sir/Madam

**Community Infrastructure Levy: Preliminary Draft Charging Schedule**

We are instructed by Gallagher Estates to submit responses to your recent consultation document concerning the proposed introduction of the Community Infrastructure Levy (CIL) in Solihull. At this stage we do not intend setting out a detailed critique of the proposed CIL Rates contained in the consultation document, as we anticipate the evidence that supports these proposals will need to be updated prior to the final consultation on the draft Charging Schedule, following the adoption of the Local Plan. We do however have some comments which we hope that the Council will consider in the constructive manner they are intended with regard to the methodology and assumptions set out including in the CBRE Viability Study, December 2012.

As a starting point, the consultation document is correct to refer to Regulation 14 from the CIL Regulations 2010 (as amended) as setting out the key test with regard to striking the "appropriate balance" between the desirability of funding infrastructure from the CIL and the potential effects of its imposition on the economic viability of development across Solihull. The most recent CIL Guidance published in December 2012, expands on what is meant by the "appropriate balance" at paragraph 8, stating that CIL itself is expected to have a positive economic effect on development across an area as well as needing to be set at a level which does not discourage investment and in particular will allow the scale of development identified in the Local Plan to be implemented. Fundamentally, the imposition of CIL is not intended to be a cost imposed on development up to a limit which is sustainable in order to ensure viability, but a means of securing infrastructure in its widest sense which supports growth and the delivery of the level of development set out in an adopted Local Plan.

In respect of the methodology employed by CBRE in their Viability Study, we are mindful of the recently published Inspector's Report on the examination of the draft CIL Schedules for the Greater Norwich Development Partnership. We note that his report points out that one of the characteristics of the residual valuation approach is that the results are very sensitive to the assumptions made in the calculation (paragraph 11). We are encouraged that many of the assumptions subject to criticism in Greater Norwich are more realistically dealt with in the CBRE Study. We support, for example, the view that profit should be calculated on the basis of Gross Development Value (GDV) and can accept the logic of a

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5 The Priory, Old London Road, Canwell, Sutton Coldfield, B75 5SH  
T 0121 308 9570 F 0121 323 2215 [www.pegasuspg.co.uk](http://www.pegasuspg.co.uk)

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blended yield taking account of affordable housing requirements set out in the Draft Plan. However we would question the overall appropriateness of the profit levels of 20% for private sale and 6.5% for affordable housing assumed in the CBRE Study.

We would also question the extent to which, as referred to in the Inspector's Report in relation to Greater Norwich, the costs of finance in the CBRE Study appropriately take account of the cash flow of schemes over their lifetime, especially with regard to some of the larger allocations proposed in the draft Local Plan. It is also the case that a significant proportion of new housing proposed to be delivered through the draft Local Plan will be on greenfield sites, and we would refer to the important document issued by the Local Housing Delivery Group, Viability Testing Local Plans, June 2012 (referred to as the Harman Guidance) which points out the costs of servicing large greenfield sites and the significance of under-estimating these. As the Harman Guidance is referred to increasingly by planning inspectors, we would ask that the update to the Viability Study which should accompany the draft Charging Schedule should be referred to explicitly.

A particular concern we have at this stage is the relationship between the proposed CIL and the continued use of Section 106 Agreements. It is of paramount importance that there is absolute clarity as to the relationship between the proposed CIL and the extent to which obligations will still be required on individual schemes through Section 106 Agreements. We of course recognise that site-specific infrastructure requirements, typically such as road infrastructure necessary to open up an individual site, will continue to need to be negotiated on a site by site basis. Unfortunately what is not clear from the documentation produced at this point by the Council is the extent to which all those items referred to in the Infrastructure Delivery Plan (September 2012) will be funded in part through CIL and therefore for which contributions will not be sought through Section 106 Agreements. In particular, for example, currently Section 106 Agreements frequently contain significant financial obligations in respect of education and open-space/leisure contributions and it would be important to understand if it is intended in the future that these will be financed through CIL rather than Section 106.

We note that the CBRE Viability Study has made a blanket assumption of £1,000 per dwelling for Section 106 contributions in the future. There is no explanation of the basis for this assumption, and therefore there is a complete lack of clarity as to the ongoing relationship between a future CIL and Section 106. The importance of setting out clearly the relationship between the proposed CIL and future Section 106 Agreements is explained fully in the current Government CIL Guidance, (December 2012) at paragraphs 84-91. Again, it is essential that a future draft of the Charging Schedule is accompanied by a clear explanation of the extent to which Section 106 Agreements will be used in the future to secure contributions to infrastructure requirements.

On the specific question raised about the potential for charging a lesser CIL rate for residential developments that accommodate the full draft Local Plan requirement of 40% on-site affordable housing, we doubt that the provisions of the CIL Regulations 2010 (as amended) allow for such an arrangement.

These comments are intended to inform the development of the CIL in Solihull such that, as required by Guidance and the NPPF, it assists the delivery of development through the provision of necessary infrastructure, without undermining the viability of schemes. At a level of £150 per square metre in the rural area, CIL rates for residential development will imply a significant cost to bringing forward new housing schemes in these locations. It is

therefore very important that the extent to which this level of CIL rate can be implemented without adversely affecting the delivery of new housing is clearly established. In that regard the relationship in the future with Section 106 obligations is critically important and requires further clarification.

We look forward to receiving further information as proposals for the introduction of CIL in Solihull progress. Should you require anything from us at this stage please do not hesitate to get in touch.

Kind regards,

Yours faithfully



**CHRIS MAY**

**Director**

chris.may@pegasuspg.co.uk

Enc.