

Christchurch and East Dorset Core Strategy Examination

Statement submitted by Savills on behalf of the Canford Estate and Harry J Palmer Holdings Ltd on Matter 7: Housing

Respondent reference: 523532

August 2013

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Matter 7: Housing

C. Affordable Housing

Issue 1: Are the percentage requirements for affordable housing set out in LN3 justified by viability evidence?

1. The NPPF highlights that careful attention to viability and cost is required in plan-making to ensure that plans are deliverable. Paragraph 173 states that:

'..... 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. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.'

2. Paragraph 174 of the NPPF advises local authorities to:

'assess the likely cumulative impacts on development in their area of all existing and proposed local standards, supplementary planning documents and policies that support the development plan, when added to nationally required standards. In order to be appropriate, the cumulative impact of these standards and policies should not put implementation of the plan at serious risk, and should facilitate development throughout the economic cycle.'

3. The main evidence base report in relation to the affordable housing percentage requirement is the Three Dragons *East Dorset District Council Affordable Housing Provision and Developer Contributions in Dorset* (January 2010). The Three Dragons report was based on January 2009 market values, and does not take account of the cumulative impact of local and national standards on the deliverability of the plan. It pre-dates the NPPF and the recent advice on viability contained in the recent publications *Viability Testing Local Plans – Advice for Planning Practitioners* (Local Housing Delivery Group Chaired by Sir John Harman, 2012) and the RICS professional guidance note *Viability in Planning* (RICS, 2012).

4. The Three Dragons report identifies three options for affordable housing proportions:
 - a single percentage target of 40%;

- a split rate of 40% generally and 50% in the high value rural areas to the north of the district;
- a split rate of 50% in the high value rural areas, 40% across most of the rural area and Wimborne, and 35% in the southern settlements and lower value parts of East Dorset.

None of these options provide a justification for the requirement of up to 50% on greenfield sites.

5. More recently, viability has been tested in relation to the proposed introduction of a Community Infrastructure Levy (CIL). The Community Infrastructure Levy Viability Testing report (PBA, January 2013) tested the viability of serviced housing sites up to 100 units assuming 30% affordable housing provision to reflect current markets, and recommended a CIL charge of £100 per sq m based on 30% affordable housing provision.
6. An update to the PBA report was published in June 2013, this includes testing of affordable housing at 35%, which shows that at this level a CIL charge of £100 per sq m is close to the margins of viability for certain scenarios. The overall recommendations of the PBA report remain unchanged with a CIL charge of £100 per sq m based on 30% affordable housing provision.
7. Neither of the PBA reports has assessed the impact of 50% affordable housing provision on the delivery of the New Neighbourhoods and neither report provides a justification for a 50% affordable housing requirement on greenfield sites proposed in Policy LN3. The lack of a viability assessment for a policy compliant level of affordable housing on strategic sites is a significant omission from the Core Strategy evidence base given that the New Neighbourhoods account for approximately 40% of housing in the plan and their delivery early in the plan period is critical to the housing trajectory.
8. In summary, the affordable housing provision of up to 50% on greenfield sites in Policy LN3 is not justified by the evidence base on grounds of viability. There is no evidence to back it up, indeed the evidence provided by the Council's own consultants shows 50% to be unviable and it ignores the significant infrastructure investment usually associated with strategic greenfield sites. The impact of the 50% requirement has not been assessed in terms of its impact on the overall viability of the plan taking into account the full range of likely development costs arising from local and national standards.

9. The affordable housing provision should be set at a target of up to 40%, subject to viability considerations.

Issue 2. Should the percentages reflect property market areas rather than a greenfield/brownfield differential?

10. There is no justification for splitting the percentages between brownfield / greenfield development. It is suggested in the Three Dragons report that there are variations in viability across the plan area that could support differential percentage requirements for property market areas, however the amount of development proposed in the Core Strategy in the higher value rural areas is very small and a differential rate would be of limited value in terms of the amount of additional affordable homes that would be delivered.
11. A single percentage target across the whole district would be simple and clear. It also would avoid problems of interpretation of the brownfield / greenfield split in relation to garden land, for example in the case of the redevelopment of a large house and garden, where the developed part of the site would qualify as brownfield, but the garden would be considered greenfield.
12. A single percentage target would also simplify the process of determining the CIL charging schedule, and would be consistent with the flat rate for CIL proposed across the local authority areas.

Issue 3. Are viability testing assumptions realistic with regard to:

- Residual land values
- Density
- Other costs such as SANG/CIL/mitigation/ space standards

13. Savills has prepared a detailed review of the Community Infrastructure Levy Viability Testing report (PBA, January 2013) as part of a response to consultation on the CIL Preliminary Draft Charging Schedule submitted in March 2013, a copy of which is provided at **appendix 1**.
14. Section 4 of the Savills report highlights specific concerns about the viability testing. The report's conclusions are summarised as follows:

Benchmark land values

15. There is a lack of factual evidence to support benchmark land values.

Typologies

16. The typologies tested do not match the proposed allocations. The typologies used only test up to 100 units, however the Core Strategy identifies site allocations ranging from 30 to 950 homes, including 8 strategic sites in excess of 100 units. Strategic sites are subject to large up front costs including promotion and infrastructure costs. PBA have not included the cost of infrastructure within their assessment and have assumed all land is fully serviced.

Affordable housing assumptions:

17. The viability assessment has not tested the appropriate policy compliant level of affordable housing.

S106 contributions

18. Clarity is needed regarding the items which will be funded through site specific S106 Agreements.
19. Information is also sought in relation to the amounts raised in recent years through S106 agreements and the extent to which affordable housing and other targets have been met.

Developers profit

20. The minimum profit margin that the lending institutions are currently prepared to accept, on residential development, is 20% on Gross Development Value. In recent months, the appeal decision relating to Land at The Manor, Shinfield, Reading has been made by the Planning Inspector.¹ We are of the opinion that this is an important case in terms of viability in planning. In relation to developer's profit, the decision states:

“The appellants supported their calculations by providing letters and emails from six national housebuilders who set out their net profit margin targets for residential

¹ Ref: APP/X0360/A/12/2179141, 8 January 2013

developments. The figures ranged from a minimum of 17% to 28%, with the usual target being in the range 20-25%. Those that differentiated between market and affordable housing in their correspondence did not set different profit margins. Due to the level and nature of the supporting evidence, I give it great weight. I conclude that the national housebuilders' figures are to be preferred and that a figure of 20% of GDV, which is at the lower end of the range, is reasonable."

21. The PBA viability assessment has adopted a profit of 20% on developer's costs. We would stress that the minimum acceptable profit margin is typically 20% on GDV. 20% on developer's costs is roughly equivalent to only 16.3% on GDV, which is significantly below the expectations of lenders. Through researching other Local Authority CIL viability assessments in the South it is evident that their consultants share this view. We have outlined below some of the neighbouring Local Authorities and their profit inputs:

Local Authority	Profit Level
Portsmouth	20% on GDV (adopted)
Poole	25% on GDV (adopted)
New Forest	20% on GDV
Wiltshire	20% on GDV
North Dorset/Weymouth and Portland	20% on GDV

Developable area

22. The gross:net ratios applied within the viability appraisals are inappropriate for larger sites, and do not take account of requirements for on site public open space, Sustainable Urban Drainage Systems, or other on site infrastructure. A ratio of 70% would be more applicable.

Professional fees and promotion costs

23. Fees should take account of the cost associated with bringing forward and implementing proposed sites, including outline planning costs, reserve matters and discharge of planning conditions costs, undertaking public consultation and environmental impact assessment (EIA) compliance. Figures for fees relating to design, planning and other professional services can range from 8-10% of development costs for straightforward

sites, up to 20% for the most complex multi-phased sites. The professional fees figures used in the viability appraisals for the larger site typologies are considered too low.

Viability cushion

24. Site specific circumstances will mean that the economics of the development pipeline will vary from the typical levels identified via analysis of the theoretical typology. This is inevitable given the varied nature of housing land supply and costs associated with bringing forward development. Therefore, there must be a viability cushion incorporated either into the benchmark land value or elsewhere through the CIL assessment process which would ensure delivery of sufficient housing to meet strategic requirements.
25. Alternative viability appraisals for a series of strategic site typologies are provided in section 5 of the Savills report, based on what are considered to be realistic assumptions.

Issue 5. Does recent viability testing for CIL indicate any changes to policy are needed?

26. The response to consultation on the CIL Preliminary Draft Charging Schedule submitted by Savills in March 2013 (**appendix 1**) includes a series of alternative viability appraisals which reflect the characteristics of the key housing sites in the Core Strategy. These appraisals indicate that affordable housing provision of 35-40% on strategic sites is viable with CIL rates of £20 per sq m to £80 per sq m.
27. On the basis of this evidence, and in order to ensure that the cumulative impacts of current and emerging policies do not threaten the viability and deliverability of the plan and the strategic sites, we consider that the affordable housing provision should be set at a target of up to 40%, subject to viability considerations.

Appendix 1: Copy of Savills response to consultation on the CIL Preliminary Draft Charging Schedules, March 2013



**CHRISTCHURCH BOROUGH COUNCIL AND EAST DORSET
DISTRICT COUNCIL COMMUNITY INFRASTRUCTURE LEVY
PRELIMINARY DRAFT CHARGING SCHEDULES**

Consultation response on behalf of Landowner and Developer Consortium

March 2013

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1.0 Introduction

1.1 This Representation has been prepared by Savills on behalf of a landowner and developer Consortium comprising:

- The Home Builders Federation
- Barratt Developments Plc
- Bloor Homes Ltd
- Bovis Homes Group Plc
- Crest Nicholson
- Galliford Try Plc
- Gladedale Group Ltd
- McCarthy and Stone Retirement Lifestyles Ltd
- Persimmon Plc
- Redrow Plc
- Taylor Wimpey Plc
- The Miller Group Ltd

hereafter known as 'the Consortium'.

1.2 This representation has been submitted to influence the emerging Community Infrastructure Levy (CIL) Charging Schedules proposed by Christchurch Borough Council (CBC) and East Dorset District Council (EDDC). The representation is made in respect of the Preliminary Draft Charging Schedule published for public consultation in the period January to March 2013. Our clients' particular comments relate to the proposed rates for residential development.

1.3 The Consortium has come together owing to certain concerns with the approach proposed by CBC and EDDC, notably regarding the viability of the proposed rate for residential development. The Consortium's members have significant land holdings across the CBC and EDDC area which will likely 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 our clients.

1.4 Where relevant this representation provides comment on the supporting evidence/existing guidance and also makes reference to policy documents, a list of which is contained at **Appendix 1**.

- 1.5 In setting the rate of CIL, the Community Infrastructure Levy, England and Wales Regulations 2010 (as amended) (“the Regulations”) state that **“an appropriate balance”** needs to be struck between **“a) the desirability of funding from CIL (in whole or in part)”** against **“b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development”¹**. The term ‘taken as a whole’ implies that it may be acceptable for some schemes to be rendered unviable by the level of CIL charge; however, there is a clear requirement to ensure that most developments are able to proceed, not least due to the NPPF requirement for a deliverable five year housing land supply plus a 20% buffer provision for those Authorities which have persistently undelivered. The Government provides further guidance on the meaning of the appropriate balance from paragraph 8 of the Community Infrastructure Levy Guidance (December 2012²).
- 1.6 Likewise, the purpose of CIL must be to positively fund the infrastructure required to enable growth. This is clearly outlined in the Regulations which state **“A charging authority must apply CIL to funding infrastructure to support the development of its area”³**. The Planning Act 2008⁴ defines infrastructure.
- 1.7 There is a requirement within the CIL Regulations to provide a list of **“relevant infrastructure”⁵** to be wholly or partly funded by CIL. We question whether this requirement has been satisfied.
- 1.8 The Consortium therefore considers that it is imperative that the evidence supporting CIL:
- clearly outlines the key infrastructure projects required to support development (this being the key test of the Regulations); and
 - outlines an up to date, consistent and well informed evidence base of economic viability in order to test various scenarios against CIL rates.
- 1.9 This representation outlines certain concerns with the Viability Appraisals prepared by Peter Brett Associates⁶ (Section 4.0). Dependent on the further response to these, Savills may

¹ Regulation 14(1)

² This document supersedes the previously published Community Infrastructure Levy Guidance – Charge Setting & Charging Schedule Procedures, 2010

³ Regulation 59(1)

⁴ Section 216

⁵ Regulation 123

⁶ Community Infrastructure Levy Testing, Peter Brett Associates, January 2013

provide further evidence of viability for consideration at the consultation of the Draft Charging Schedule and Examination.

- 1.10 Most importantly, we demonstrate our concerns that the authorities are choosing to apply a CIL rate which does not reflect the realities of the economics of development and ignores the cumulative impacts of policy and infrastructure requirements, particularly on greenfield residential developments. We expand on these points further herein.

2.0 The Approach of National Policy

- 2.1 With regard to the preparation of Charging Schedules and supporting documentation it is important to have due regard to the available Government guidance and law, notably, the CLG Community Infrastructure Levy – an Overview (May 2011), CLG Community Infrastructure Levy Guidance (December 2012), CLG Community Infrastructure Levy Relief (May 2011), the Planning Act 2008 and the CIL Regulations 2010 (as amended). It is also important that the preparation of CIL is in the spirit of the National Planning Policy Framework (NPPF), notably that it is delivery focused and *‘positively prepared’*⁷. The Consortium comments are based on these publications and the Regulations.
- 2.2 The (NPPF) outlines 12 principles for both plan making and decision taking, notably that planning should ***“proactively drive and support sustainable economic growth”***⁸. Furthermore, that plan making should ***“take account of market signals such as land prices and housing affordability”***. Furthermore, that ***“the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth”***⁹.
- 2.3 Further, the NPPF refers to the ***“cumulative impacts”***¹⁰ 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.
- 2.4 The steer from Central Government is very much angled toward facilitating development, which should have a major material bearing on the preparation of CIL and the balance applied when considering Regulation 14(1).
- 2.5 The Government has also confirmed through the CIL Guidance, guidance on the preparation of CIL, notably:
- The need for balance (as per Regulation 14)
 - The need for *‘appropriate available evidence to inform the draft Charging Schedule’* (as per Schedule 212(4) (b)) of the 2008 Act)

⁷ Paragraph 182

⁸ Criterion 3

⁹ Paragraph 19

¹⁰ Paragraph 174

- 2.6 The Guidance states that “***the levy is expected to have a positive economic effect on development across an area.***”¹¹ 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. Clearly this judgement needs to consider the wider planning priorities.
- 2.7 Recent Examiner’s reports for Mid Devon, (February 2013) and the Greater Norwich Development Partnership (December 2012) have set a clear precedent for CIL to be considered in the round, including the testing of policy-compliant levels of affordable housing.

¹¹ Paragraph 8

3.0 Planning & Infrastructure Delivery

3.1 In setting the rate of CIL, the Community Infrastructure Levy, England and Wales Regulations 2010 (as amended) (“the Regulations”) state that **“an appropriate balance”** needs to be struck between **“a) the desirability of funding from CIL (in whole or in part)”** against **“b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development”**¹². The term ‘taken as a whole’ implies that it may be acceptable for some schemes to be rendered unviable by the level of CIL charge; however, there is a clear requirement to ensure that most developments are able to proceed, not least due to the NPPF requirement for a deliverable five year housing land supply plus a buffer of 5% or 20% for Authorities which have persistently undelivered. The Government provides further guidance on the meaning of the appropriate balance from paragraph 8 of the Community Infrastructure Levy Guidance (December 2012¹³).

3.2 Likewise, the purpose of CIL must be to positively fund the infrastructure required to enable growth. This is clearly outlined in the Regulations which state **“A charging authority must apply CIL to funding infrastructure to support the development of its area”**¹⁴. The Planning Act 2008¹⁵ defines infrastructure as:

- **“(a) roads and other transport facilities,**
- **(b) flood defences,**
- **(c) schools and other educational facilities,**
- **(d) medical facilities,**
- **(e) sporting and recreational facilities, and**
- **(f) open space.”**

3.3 There is a requirement within the CIL Regulations to provide a list of **“relevant infrastructure”**¹⁶ to be wholly or partly funded by CIL. It is also possible¹⁷ for CIL to be used to reimburse expenditure already incurred on infrastructure, a tool which could have useful implications.

¹² Regulation 14(1)

¹³ This document supersedes the previously published Community Infrastructure Levy Guidance – Charge Setting & Charging Schedule Procedures, 2010

¹⁴ Regulation 59(1)

¹⁵ Section 216 as amended

¹⁶ Regulation 123

¹⁷ Regulation 60(1)

- 3.4 The Consortium therefore considers that it is imperative that the evidence supporting CIL:
- clearly outlines the key infrastructure projects required to support development (this being the key test of the Regulations); and
 - outlines an up to date, consistent and well informed evidence base of economic viability in order to test various scenarios against CIL rates.
- 3.5 One of the key tests of the examination of a Charging Schedule is that “**Evidence has been provided that shows the proposed rate (or rates) would not threaten delivery of the relevant Plan as a whole.**”¹⁸ The assessment of viability against the pipeline of planned housing and other development within the joint Core Strategy is therefore an inherent test of the Examination.
- 3.6 The Guidance also makes clear the evidently narrow focus of the CIL Examination process permitted by the Regulations: “**The Independent 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.**”¹⁹
- 3.7 Ascertaining the level of CIL is essentially a development viability exercise and owing to this it is critical that the level of CIL is based on robust and credible evidence. The CIL – An Overview document outlines that “**Charging Authorities wishing to introduce the levy should propose a rate which does not put at serious risk the overall development of their area**”²⁰. It will therefore be important that the rate is based on reality and the viable level of funding towards the planned provision of infrastructure needed to deliver the development Plan. Whilst the Draft Infrastructure Delivery Plan (IDP) published alongside the Pre-Submission Core Strategy does not clearly set out the funding gap, it is clear from the evidence available that CIL alone will not be able to fund the all the infrastructure that is

¹⁸ Paragraph 9, CIL Guidance 2012

¹⁹ Ibid.

²⁰ Paragraph 23

said to be required until the end of the current Plan period. This makes it more important to set the level of CIL based on what can be afforded rather than what may theoretically be desired, to reduce the risk of the shortfall being even greater.

Infrastructure Delivery Priorities

- 3.8 The CIL Guidance outlines that CIL should only be considered where an identified funding gap is demonstrated²¹. The process of demonstrating this should also identify a CIL ***“infrastructure funding target”***²² which should be based upon the selection of infrastructure projects or types that are identified as candidates to be funded by the levy in whole or in part. The Draft IDP provides an extensive schedule of projects, many of which identify developer contributions as a means of delivery. Costs and funding information is only provided for a small number of these projects, and where such information is available it is generally for projects where funding has already been secured through s106 agreements. The sum total amount required to fund the infrastructure required to support the delivery of the Plan has not been identified, nor has the ‘target’ been stated; the evidence supporting the declaration that there is a funding gap is therefore considered to be insufficient.
- 3.9 The Preliminary Draft Charging Schedule recognises that revenue from CIL is not expected to bridge the funding gap entirely. The schedule of projects set out in the Draft IDP gives an indication of the relative importance of these projects, but draft Regulation 123 lists have not yet been published and there is no indication of which of the projects listed would be funded through CIL. Several of the projects listed relate to specific developments and the relationship between CIL and S106 is unclear. It is important that a list of projects to be funded through CIL is provided, and that these are prioritised to focus on mitigation required under European legislation and essential strategic infrastructure.
- 3.10 The objective of CIL is fundamentally to assist with the delivery of developments, as CIL receipts are used toward the funding of new major infrastructure (as per Regulation 59(1)). The CIL Charging Schedule and supporting documentation must therefore outline the positive actions proposed from the Council to enable the actual delivery of major infrastructure, which may require additional ‘top up’ funding, or the Council using its powers under the Local Government Acts (2000 and 2003) and CIL Regulations to borrow money to

²¹ Paragraph 14

²² *ibid*

'forward fund' infrastructure delivery²³. The Consortium would be supportive of the necessary investment to 'unlock' and assist with development delivery.

- 3.11 The CIL Guidance also states that, at Examination, authorities should '*set out those known site-specific matters where section 106 contributions may continue to be sought*²⁴. We would suggest it prudent for this to be considered prior to the publication of the Draft Charging Schedule in order that it can be taken into account in setting the proposed CIL rates.

Christchurch and East Dorset Core Strategy

- 3.12 Christchurch Borough Council and East Dorset District Council are in the process of preparing a new joint Core Strategy. A Pre-submission Draft Core Strategy was published for consultation in April 2012, and a Schedule of Proposed Changes to the Pre-submission Document was published for consultation in November 2012. EDDC and CBC have recently resolved to submit the Core Strategy to the Secretary of State and an Examination is anticipated this summer. The plan provides for about 8,200 new homes in the plan area between 2013 and 2028, of which 4,800 will be provided in the urban areas and a further 3,400 as new neighbourhoods at Christchurch, Burton, Corfe Mullen, Wimborne/Colehill, Ferndown/West Parley, and Verwood.

- 3.13 The CIL Guidance refers to the NPPF and states that, "***where practical, levy charges should be worked up and tested alongside the Local Plan.***"²⁵ It is important that CIL is seen in the context of the planned supply of housing within Christchurch and East Dorset and the authorities should make it clear within their supporting evidence how it is shown that the proposed rates do not threaten delivery of the relevant Plan as a whole.²⁶

Heathland mitigation

- 3.14 Heathland mitigation is an essential component of the development plan for Christchurch and East Dorset, however the extent to which it will be covered by the proposed CIL is currently unclear. The Draft Infrastructure Delivery Plan (IDP) recognises the importance of providing infrastructure to mitigate the impact of development on the Dorset Heathlands Special Protection Area and Dorset Heaths Special Area of Conservation. The Dorset Heathlands Planning Framework SPD 2012-2014 currently provides a mechanism for

²³ Paragraphs 17 and 18, CIL – An Overview

²⁴ Paragraph 15

²⁵ Paragraph 11

²⁶ Ibid. Paragraph 9

securing developer contributions towards a range of mitigation measures in the period 2012 to 2014, and the Dorset Heathlands Development Plan Document is being prepared to take forward the long term strategy for avoidance or mitigation of impacts on the Dorset Heathlands to 2026. Consultation on the Preferred Options for The Dorset Heathlands Development Plan Document is currently underway; the proposed approach represents a combination of protection, avoidance, management and mitigation measures which include the provision of Suitable Alternative Natural Greenspace (SANGs) as a means of diverting recreational pressure from the Dorset Heathlands.

- 3.15 The Draft IDP states that to ensure that development can proceed in the area, the Councils will ensure that the appropriate proportion of CIL monies collected from development will be directed towards delivering the Dorset Heathlands mitigation projects identified in the IDP table as a priority. The IDP Schedule of Projects includes a number specific projects for delivery between 2012 and 2014, as well as general heathland mitigation measures for delivery throughout the plan period to be identified through the Heathland SPD/DPD. However the emerging Core Strategy is also seeking on-site SANGs provision by developers for settlement extension sites of more than 50 dwellings. The relationship between CIL payments and the provision of SANGs associated with strategic sites is currently unclear, but a requirement for CIL contributions towards heathland mitigation in combination with on-site SANGs provision risks overburdening strategic sites. It also presents the risk of 'double-dipping', which the CIL Guidance makes clear is to be avoided.²⁷
- 3.16 The issue of heathland mitigation is critical to the delivery of new housing in the district, clarity of approach is essential and the charging schedule should be based on a clear understanding of the necessary mitigation costs along with associated prioritisation of projects and funding. Measures to take account of on-site SANGs provision through the CIL Charging Schedule should be considered, this could be in the form of a differential CIL rate for strategic sites where SANGs are provided on-site, or measures to allow land provided for SANGs to be off-set against CIL liability through a payment-in-kind policy.

²⁷ Paragraph 85

4.0 Viability Appraisal

- 4.1 The proposed CIL rates for the two LPAs have been supported by a viability report produced by Peter Brett Associates LLP (January 2013). Owing to the key test of Regulation 14(1) it is important that the viability appraisals prepared are fit for purpose. It is clear that at Examination the Charging Schedule will need to be supported by **“relevant evidence”²⁸**. For example, the review of the Local Plan is only at the ‘emerging draft policies’ stage and the precise nature and location of several areas/sites for strategic growth are yet to be determined. The progress of this review could alter the demand and/or priorities for infrastructure, or the quantum and/or timing of income likely to be generated through CIL.
- 4.2 Through assessing the viability appraisal provided by Peter Brett Associates LLP (PBA) we have identified a number of discrepancies that need to be addressed. The Consortium thought it would be most appropriate in this instance to provide an independent viability assessment which we have undertaken on their behalf. We would be pleased to meet PBA to discuss the implications or inputs of our assessment should we need to.

The Requirement for a Viability Study

- 4.3 The requirement to justify the Charging Schedule with evidence of viability is outlined by CIL – An Overview²⁹, which notably also makes reference to setting differential rates. The CIL Guidance outlines **“charging authorities should avoid setting a charge right up to the margin of economic viability across the vast majority of sites in their area”³⁰**. It will therefore be an important consideration to ensure that the evidence of viability adequately tests scenarios that reflect the key sites required to deliver the planned growth.
- 4.4 The fundamental premise is that to enable delivery, sites must achieve a credible land value and developers the required return on investment, otherwise development will not come forward. This is recognised by the NPPF³¹ and is ‘in-built’ within the CIL Regulations. It is also the basis of the definition of viability with the Local Housing Delivery Group report, Viability Testing of Local Plans.³²

²⁸ Regulation 11(1) (f) / 19(1) (e), CIL Regulations (as amended)

²⁹ Paragraphs 25 and 26

³⁰ Paragraph 30

³¹ Paragraph 174

³² Section One

The PBA Viability Study

- 4.5 The viability assessments are based on a series of residual valuation scenarios that models the gross development value achievable from different uses in different areas, in the different authorities, and discounts development costs, interest costs and developer profit. In principle, our clients consider the overall methodology of seeking to determine viability on a residual valuation exercise as being appropriate. The specific comments relate to the inputs and assumptions made.

Benchmark Land Values

- 4.6 Savills and the Consortium have major concerns about the method of which the residential benchmark land value has been calculated. There is no factual evidence within the report and for this reason we request that the evidence relied upon is made publicly available. The Consultees referred to in Appendix 4 are local estate agents and typically would not sell land on a day to day basis. Paragraph 5.9 reinforces this point and reads “although Battens do not undertake land transactions they consider land values within East Dorset to be around £2,000,000 per hectare”. We request that the consultation exercise is undertaken again with the agents who sell land in the area as the reliability of this comment is concerning.

Typologies

- 4.7 The typologies selected to be assessed for viability must “**reflect a selection of the different types of sites included in the relevant Plan**”, as per the CIL Guidance.³³ There should also be an assessment of the proportion of the planned supply of housing that falls within each typology tested. This is in order that the impact of the proposed CIL rate on the viability of the planned housing supply is explicit. This is in conformity with the CIL Guidance which quotes the NPPF³⁴ and states that authorities “**should show that the proposed rate (or rates) would not threaten delivery of the relevant Plan as a whole**”.³⁵ It is therefore important that the typologies are tested against the housing trajectory in the Annual Monitoring Report (AMR). We also recommend that typologies are based upon the characteristics of other known sites that form potential supply and other types of site that have contributed in the past.

³³ Paragraph 27

³⁴ Paragraph 173

³⁵ Paragraph 29, CIL Guidance, 2012

- 4.8 PBA have failed to match their site typologies with the proposed allocations. The typologies used only test up to 100 units, however the Joint Core Strategy identifies site allocations ranging from 30 to 950 homes, including 8 strategic sites in excess of 100 units. We have therefore undertaken further viability assessments to better reflect the types of sites included in the plan.
- 4.9 Strategic sites are subject to large up front costs including promotion and infrastructure costs. PBA have not included the cost of infrastructure within their assessment and have assumed all land is fully serviced. We outline the appropriate costs of providing infrastructure in the section below.

Affordable Housing Assumptions

- 4.10 We are concerned that the Viability Assessment does not appear to have tested the appropriate policy-compliant level of affordable housing. Table 5.1 in the Viability Assessment sets out the assumptions in respect of affordable housing. The table clearly states that the Councils have policy requirements for affordable housing within their Draft Joint Core Strategy at 35%, 40% and 50%, depending upon site specific factors. However, the table also states that the appraisals have only been conducted assuming a contribution of 30% affordable housing.
- 4.11 The CIL Guidance is clear that Charging Authorities should include the costs and implications of other planning policies when setting the rate of CIL³⁶. In addition, the Examiner's report for Mid Devon, published on 20 February 2013³⁷, recommended a reduction in the Council's proposed CIL rate on the basis that they had failed to test a policy-compliant level of affordable housing. The Examiner's report for the Greater Norwich Development Partnership published in December 2012 also makes reference to the need to test policy-compliant levels of affordable housing³⁸. Given that the principles within the CIL Guidance have now been established as precedents within Examiners' reports, we would recommend that the Councils review their viability assessment and undertake further testing of the proposed CIL rate at the appropriate level of affordable housing, in accordance with policy.
- 4.12 The Councils have decided to set a single rate of CIL for residential across the authority areas which will restrict the ability to reflect the varying levels of affordable housing required in different areas. If the authorities do not intend to introduce differential rates by reference

³⁶ Paragraph 29 CIL Guidance 2012

³⁷ Paragraph 17

³⁸ Paragraph 23

to geographic area, the highest level of affordable housing should be the base assumption in order that it can be demonstrated that the delivery of development across the plan area would not be put at risk.

S106 Contributions

4.13 It is imperative that throughout the preparation of CIL due regard is had to the Regulations that state that Section 106 planning obligations must be:

- ***necessary to make the development acceptable in planning terms;***
- ***directly related to the development; and***
- ***fairly and reasonably related in scale and kind to the development***³⁹

The power to seek Section 106 contributions remains under CIL. Our clients are concerned about the scale of Section 106 contributions which will continue to be sought which, alongside the proposed CIL rates, will render the delivery of the allocated sites difficult.

4.14 Greater clarity is needed regarding the items which the authorities consider will be funded through site specific S106 Agreements. At present, the uncertainty makes it difficult to assess the cumulative impact of CIL; therefore we would request that the authorities provide guidance on their intentions in this respect, as per the requirements of the CIL Guidance⁴⁰.

4.15 There is also a requirement in the CIL Guidance for authorities to prepare, as part of their background evidence, information on the amounts raised in recent years through s.106 agreements and the extent to which affordable housing and other targets have been met.⁴¹ This information has not been provided as part of the evidence base to support the Preliminary Draft Charging Schedule and should therefore be produced in advance of the Draft Charging Schedule consultation.

Build Costs

4.16 PBA have used a standardised build cost of £837 per sq m (£77 per sq ft) for housing and £992 per sq m (£92 per sq ft) for apartments. We have cross checked this with the RICS Build Cost Information Service (BCIS) and rebased the results to Q2 2012 (latest results that

³⁹ Regulation 122

⁴⁰ Paragraph 15

⁴¹ Paragraph 22

do not rely on forecasting) and Dorset as the location. The mean results of these inputs are as follows:

- Housing (generally) £852 per sq m (79 per sq ft)
- Flats (generally) £1,003 per sq m (£93 per sq ft)
- Sheltered Housing (generally) £1072 per sq m (£99 per sq ft)

Broadly these costs are the same as those outlined in the PBA report however we would comment that smaller more complicated sites are significantly more expensive to build, especially for high end bespoke developers and specialist accommodation for the elderly, as they are not able to achieve economies of scale. The assumption that site typologies below 15 units (i.e. non national house builder sites) can be built to a cost of £852 per sq m is a concern.

Promotion costs

- 4.17 The cost of promoting a site through the planning process can be considerable, especially with the larger strategic urban extensions. 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 Draft Charging Schedule consultation.

Developers Profit

- 4.18 The minimum profit margin that the lending institutions are currently prepared to accept, on residential development, is 20% on Gross Development Value. In recent months, the appeal decision relating to Land at The Manor, Shinfield, Reading has been made by the Planning Inspector.⁴² We are of the opinion that this is an important case in terms of viability in planning, and whilst it is not directly related to CIL, it does address many of the factors that are under consideration here. In particular developer's profit. The decision states:

"The appellants supported their calculations by providing letters and emails from six national housebuilders who set out their net profit margin targets for residential developments. The figures ranged from a minimum of 17% to 28%, with the usual target being in the range 20-25%. Those that differentiated between market and affordable housing in their correspondence did not set different profit margins. Due to the level and nature of the supporting evidence, I give it great weight. I conclude that the national housebuilders' figures

⁴² Ref: APP/X0360/A/12/2179141, 8 January 2013

are to be preferred and that a figure of 20% of GDV, which is at the lower end of the range, is reasonable.”

- 4.19 PBA have adopted a profit of 20% on developer’s costs and have failed to provide reasoning behind this figure. We would stress that the minimum acceptable profit margin for the Consortium is 20% on GDV. 20% on developer’s costs is roughly equivalent to only 16.3% on GDV, which is significantly below the expectations of lenders. Through researching other Local Authority CIL viability assessments in the South it is evident that their consultants share this view. We have outlined below some of the neighbouring Local Authorities and their profit inputs:

Local Authority	Profit Level
Portsmouth	20% on GDV (adopted)
Poole	25% on GDV (adopted)
New Forest	20% on GDV
Wiltshire	20% on GDV
North Dorset/Weymouth and Portland	20% on GDV

Developable Area

- 4.20 The ratio of gross to net developable area is a key consideration, especially in respect to the typologies that test the larger residential sites.
- 4.21 We have concerns that the gross:net ratios applied within the viability appraisals are inappropriate. For example, the typology for 100 units assumes a net to gross area of 100%. It is simply against policy to assume that a site of that size would have no requirement for on site Public Open Space, Sustainable Urban Drainage Systems, SANGs or other, on site infrastructure. A ratio of 70% would be more applicable. Furthermore, many forms of specialist accommodation for the elderly, such as retirement housing, provide communal areas for residents at an additional cost to developers. Typically an open market flatted residential development will provide 16% non-saleable floorspace, whereas this increases to 30% for sheltered accommodation and 35% for Extra Care accommodation. These forms of accommodation have mistakenly been included into the C3 residential category despite these differences.
- 4.22 This is supported by the Local Housing Delivery Group’s “Viability Testing Local Plans” document, which comments that *“in all but the smallest redevelopment schemes, the net*

developable area is significantly smaller than the gross area that is required to support the development, given the need to provide open space, play areas, community facility sites, public realm, land for sustainable urban drainage schemes etc. The net developable area can account for less than 50%, and some times as little as 30% on strategic sites, of the total land to be acquired to facilitate the development (i.e. the size of the site with planning permission). Failure to take account of this difference can result in flawed assumptions and inaccurate viability studies”⁴³.

- 4.23 Assuming a 100% gross:net ratio artificially increases the viability of the proposed development, this point alone could result in the proposed CIL being unviable for all of the strategic sites within the Local Authorities.

Professional Fees

- 4.24 As referred to previously in section 4.9, fees should take account of the cost associated with bringing forward and implementing proposed sites, including outline planning costs, reserve matters and discharge of planning conditions costs, undertaking public consultation and environmental impact assessment (EIA) compliance. Figures for fees relating to design, planning and other professional services can range from 8-10% of development costs for straightforward sites, up to 20% for the most complex multi-phased sites. Again putting this in to perspective, we believe that the professional fees figures used in the viability appraisals for the larger site typologies are too low.

Viability Cushion

- 4.25 In reality, site specific circumstances will mean that the economics of the development pipeline will vary from the typical levels identified via analysis of the theoretical typology. This is inevitable given the varied nature of housing land supply and costs associated with bringing forward development. Therefore, there must be a viability cushion incorporated either into the benchmark land value or elsewhere through the CIL assessment process which would ensure delivery of sufficient housing to meet strategic requirements.
- 4.26 The Examiner’s Report for the Greater Norwich Development Partnership references the importance of not setting the CIL rates up to the margin of viability. In particular, it highlights greenfield sites: *“The need for a substantial ‘cushion’ is particularly important on Greenfield sites where, as the Harman advice notes, prospective sellers are often making a once in a*

⁴³ Appendix B, Page 44

*lifetime decision and are rarely distressed or forced sellers.*⁴⁴ This statement notes that there must be allowance within the CIL rates to account for the variation in landowner aspiration, as well as the potential differences in costs and values of individual sites. The viability cushion should take account of the risks to delivery flowing from the potential for some sites to achieve a lower sales value than others. Indeed, PBA acknowledges this in the advice they have given the authorities within their viability study.⁴⁵

Overall

- 4.27 Our clients consider that the consultant's report provided by PBA does not contain sufficient evidence to justify the conclusions. As a result the Consortium cannot agree to a number of points that have been raised by the report and feels that the rates set have not been set based on a robust evidence base, where it can be concluded that development will not be put at serious risk.
- 4.28 The approach advocated by our clients in this representation accords with the CIL Guidance and the advice within the NPPF.
- 4.29 Our clients therefore request that the evidence be revised and made readily available, as summarised by the list below:
1. The relationship between the typologies and the planned housing supply;
 2. Allowance for the Affordable Housing requirements of the Local Authority in accordance with Policy;
 3. Incorporation of a reasonable Developers Profit and professional fees;
 4. Allowance for an appropriate gross to net developable land ratio;
 5. Evidence of benchmark land values;
 6. Detail of historic s.106 evidence and the likely s.106 requirements following the adoption of CIL; and
 7. Evidence of an appropriate viability buffer.

⁴⁴ Paragraph 25,

⁴⁵ Paragraph 2.12, PBA Viability Study

5.0 Alternative Viability Appraisals – Savills

950 unit typology, 500 unit typology and 100 unit typology

- 5.1 As mentioned in the previous section of this report, Savills on behalf of the Consortium considers that it is essential that the testing criteria takes into account the characteristics of the key housing sites as outlined by the pre-submission draft Core Strategy. The approach of the PBA report seems divorced from the reality of the planned development in terms of the development scenarios tested and consideration of land values and house prices in these areas.
- 5.2 The emerging joint Core Strategy relies heavily on strategic sites in the form of new neighborhoods to deliver a significant proportion of the overall housing target; 3,400 (41%) of the proposed 8,200 new homes will be delivered through urban extensions. If the CIL rate is set too high it is possible that delivery of these key sites will be but at risk.
- 5.3 In this regard Savills has carried out two viability appraisals to reflect the characteristics of the larger strategic sites and one based on 100 units to compare with the PBA appraisal. Savills provides commentary on these below with a summary of all of the inputs adopted. These inputs have been provided by the Consortium and by independent evidence collected by Savills. Copies have of these appraisals have not been included with this submission but are available upon request. We would be delighted to meet with the Councils and their advisors to discuss matters further.

Gross Development Value

- 5.4 The PBA report has referred to a heat map (Figure 6.12) identifying the different value zones in the area however they have then not used this information effectively. The areas identified for growth are primarily within the three lowest value brackets. Within their appraisals they have adopted a single average rate approach of £2,800 per sq m (£260 per sq ft) for houses. In reality the values will vary depending on location. The heat map identifies average house prices on a like for like basis at £2,174 per sq m (£202 per sq ft) for the Grange area in Christchurch (identified to form part of the Christchurch Urban Extension) and £2,888 per sq m (£268 per sq ft) for the third lowest house price bracket (identified to form other important housing supply locations). We would question why, on average, such a high rate has been used when the majority of strategic sites sit in lower value areas.

- 5.5 The North Wimborne strategic site is identified within the boundary of the highest value bracket (£404,000 – £438,000) however this is due to the higher value low density settlements to the north of Wimborne. This has artificially inflated the achievable prices for the North Wimborne Strategic site and we would expect them to be similar to the lower value (green) bracket immediately to the south. For the purpose of the appraisal of the 500 unit scheme we have adopted a rate of £2,800 per sq m (£260 per sq ft) to reflect the characteristics of a higher value strategic location.
- 5.6 In setting the Gross Development Value for the two strategic site typologies, Savills has had regard to the average prices mentioned above for the key areas strategic development sites are located within. The 100 unit typology has been set at an average of £2,691 per sq m (£250 per sq ft). This small difference in average values has a large impact on the results of the appraisal scenarios.

Construction Rate/ Sales Rate

- 5.7 Savills has adopted the following construction rate for our two appraisals:

950 unit typology:

2014/2015	100 units
2015/2016	150 units
2016-2019	200 units per annum
2019/2020	100 units

500 unit typology:

2015/2016	100 units
2016-2018	200 units per annum

- 5.8 We are of the opinion that the sales rate will roughly follow the same rate as the build rate. With this in mind we have assumed 3 sales a month for a single sales outlet with up to 3 sales outlets on any one site.

Section 106 Contributions

- 5.9 Savills has adopted 35% on site affordable housing within our appraisal for the 950 unit typology and 40% for the 500 unit typology and the 100 unit typology, reflecting the likely affordable rates for locations with strategic development potential. In practice these units will

be a mixture of social rented and shared ownership (likely to be around 70:30). For simplicity Savills has adopted an average capital value equating to 55% of the open market revenue for affordable housing. This level has recently been achieved by a number of housing schemes Savills has been involved with in the South.

- 5.10 PBA has included a £1,000 per dwelling Section 106 financial contribution and for Section 278 contributions. For a scheme of 950 dwellings this only amounts to £950,000, which is low if the Local Authority requires new schools or community facilities on site (which as we understand it will be secured via a S.106 agreement). Many of the new neighborhoods proposed in the emerging Core Strategy include significant infrastructure provision such as road improvements, new schools, sports pitches, and SANGs. The cost of a new primary school starts from approximately £5million, which on its own equates to over £5,263 per dwelling.
- 5.11 In addition, the Consortium would like clarity on whether the cost of SANG land or on site mitigation will be covered by Section 106 or by CIL. Should the cost need to be borne by Section 106, the cost per dwelling as outlined by the Dorset Heathlands Planning Framework 2012-2014 (September 2012) is £1,524 (house) and £952 (flat).

Savills inputs

Table 3: Savills inputs

Heading	Input
950 unit typology average open market sales price per sq m (per sq ft)	£2,583 per sq m (£240 per sq ft)
500 unit typology average open market sales price per sq m (per sq ft)	£2,799 per sq m (£260 per sq ft)
Remaining scenarios average open market sales price per sq m (per sq ft)	£2,691 per sq m (£250 per sq ft)
Average open market unit size	969 sq ft (90 sq m)
950 unit typology average affordable revenue per sq ft (per sq m)	£1,420 per sq m (£132 per sq ft)
500 unit typology average affordable revenue per sq m (per sq ft)	£1,539 per sq m (£143 per sq ft)
Remaining scenarios average open market sales price per sq m (per sq ft)	£1,480 per sq m (£137.50 per sq ft)
Average affordable unit size	969 sq ft (90 sq m)
Gross:Net	50:50
Affordable housing provision	35% - Christchurch UE 40% - Remaining scenarios
Sales rate	3 per month based on up to 3 national

	house builders on site
Construction rate	c. 100 - 200 per annum (as above)
Construction costs	£79 per sq ft (£852 per sq m)
Energy	£3,000 per unit
Contingency	5% of build costs
Infrastructure cost per dwelling (500 unit typology)	£20,000
Infrastructure cost per dwelling (950 unit typology)	£15,000
Section 106 cost per dwelling	£4,000
Professional fees	8% of build costs
Acquisition costs	5.8% of land value
Town planning costs	£335 per dwelling plus planning consultants fees
Marketing costs	1% of GDV
Sales agent fee	1% of GDV
Sales legal fee	0.25% of GDV
Finance rate	7% including entry, exit, monitoring fees etc

5.12 Based on these assumptions, Savills has made an assessment of viability for a 950 unit typology, a 500 unit typology and the 100 unit typology. The following land values result (based on zero CIL):

Scheme	Residual Land value (per gross hectare)	Threshold Land Value (per gross hectare)	Surplus/ deficit before CIL (per gross hectare)
950 unit site typology	£415,100	£308,000	£107,100
500 unit site typology	£625,770	£308,000	£317,769
100 unit site typology	£748,023	£308,000	£440,023

5.13 The land values above would in theory support levels of CIL of:

Scheme	Theoretical CIL before viability buffer (per square metre)
950 unit typology	£29 per sq m
500 unit typology	£88 per sq m
100 unit site typology	£122 per sq m

5.14 This analysis demonstrates that the proposed levels of CIL presently sought are not achievable without putting the development of strategic Greenfield urban extension sites, such as the Christchurch UE and North Wimborne at serious risk.

5.15 Savills considers CIL should be set at no higher than two thirds of the theoretically viable level as follows (i.e. allow a 33% buffer), noting that other authorities are seeking to apply rates of around 30% to 60% of the maximum potential rates indicated by their viability assessments.

5.16 Savills are of the opinion that a 33% buffer should be applied to allow for an unforeseen costs and to avoid setting a rate at the limit of viability. A buffer lower than this is a risk to delivery. With the above in mind we have applied the buffer to the theoretical figures as below:

Scheme	CIL per square metre (net of viability buffer)⁴⁶
950 unit typology	£20 per sq m
500 unit typology	£58 per sq m
100 unit typology	£80 per sq m

5.17 This approach recognises realistic levels of value and also the significant costs associated with strategic urban extensions.

5.18 It worth noting that we have run a sensitivity analysis to demonstrate the affect on viability if the 50% affordable housing policy was applied to our 3 scenarios, the results of this are below and include the 33% suggested buffer.

Scheme	CIL per square metre (net of viability buffer)⁴⁷
950 unit typology	£0 per sq m
500 unit typology	£33 per sq m
100 unit typology	£54 per sq m

⁴⁶ Figures have been rounded up to the nearest £.

⁴⁷ Figures have been rounded up to the nearest £.

6.0 Effective Operation of CIL

6.1 Despite the narrow Regulatory requirements of the Examination, our clients urge the EDDC and CBC to make clear at the earliest opportunity the supporting documentation needed to operate CIL and to make it available for input/comment. 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

6.2 The documentation should include:

- Guidance on how to calculate the relevant 'chargeable development'/level of CIL (cross referral to CLG guidance/Planning Portal – location of the Notice of Chargeable Development Form – further with regard to the RICS published guidance on Gross Internal Area – and what should be included).
- Guidance on liability to pay CIL/Appeals process.
- Policy for payments by instalments.
- Approach to payments in kind – notably valuation process for ascertaining land value and also the potential to accept land for infrastructure as a payment in kind.
- Guidance on relief from CIL and a policy on exceptional circumstances for relief from CIL.

6.3 We provide further comment on some of these points below.

Payment of CIL – Installments

6.4 The Regulations⁴⁸ and CIL – An Overview⁴⁹ are clear that the charging authority has the flexibility to adjust the timing of the charge and to outline the payment procedure. This flexibility extends to:

- Levy payment deadlines
- Instalments policy

⁴⁸ Regulation 69B(1)

⁴⁹ Paragraphs 45 - 48

- 6.5 With regard to the phasing of CIL payments, neither of the authorities has published a draft instalment policy and it is not clear if there is an intention to do so. We would strongly recommend that the authorities take advantage of the flexibility in the Regulations and publish draft instalment policies for comment at the Draft Charging Schedule consultation stage, if not before.
- 6.6 We would recommend that the initial contribution (%) payable at the commencement of development should vary depending on the scale of the total CIL payment due. The timing and proportion of subsequent payments should then also vary by the scale of the CIL liability. This should include a mechanism to allow the timing of CIL payments to be negotiated and agreed on a one-to-one basis in certain situations where CIL payments threaten the viability and deliverability of a scheme.

Payments in Kind

- 6.7 The Regulations⁵⁰ permit the payment of land in lieu of CIL. This is an interesting tool which could be proactively interpreted where the land in question is provided for infrastructure, for example 'strategic' highways or open space.
- 6.8 The mechanism of payments in kind must result in credible land values being agreed and offset against the levels of potential CIL receipts incurred through the chargeable development. If operated effectively the mechanism could considerably assist with development delivery. Historically, some such negotiations have proved lengthy and costly; a 'fall-back' provision should be made for timely resolution of such cases through arbitration.
- 6.9 We would recommend that the authorities take advantage of this facility and allow for the payment of land in lieu of CIL. In particular, this should be explored as a mechanism to avoid 'double dipping' where SANGs are provided by developers on strategic sites, as noted at 3.15 of this report.

Relief

- 6.10 The Community Infrastructure Levy Relief – Information Document (CLG, May 2011) outlines the Government's position on "**exceptional circumstances**" which could warrant exception from CIL⁵¹. The first matter to note from the Regulations is that the offer of relief is

⁵⁰ Regulation 73(1)

⁵¹ Paragraph 66 onward

discretionary on the charging authority⁵². It is also noted that the authorities have remained silent on this issue in the Preliminary Draft Charging Schedules.

- 6.11 The Consortium considers it imperative that the authorities make available relief from the date of the adoption of CIL, and that they clearly outline their approach to doing so (in conformity with the Regulations).

CIL Regulation 122 – Double Counting

- 6.12 With regard to the relationship with Section 106 the CIL Charging Schedule should be clear that ‘double counting’ of Section 106 contributions and CIL is not permitted by law. The revised CIL Guidance has reinforced this point and states: **“Where the regulation 123 list includes a generic item (such as education or transport), section 106 contributions should not normally be sought on any specific projects in that category.”**⁵³ Further, the Guidance is clear that charging authorities should ensure they are clear about their infrastructure needs and what will be paid through each route (s.106 or CIL), **“so that there is no actual or perceived ‘double dipping’”**.⁵⁴
- 6.13 The key tests of CIL Regulation 122 should be outlined within the supporting documentation. In practical terms, owing to the need to publish a Regulation 123 List, it is likely that only site specific or immediately adjacent measures will continue to be funded by Section 106 (i.e. site access or immediately adjacent open space). As outlined, the costs of this on-site infrastructure will increase for larger scale development.
- 6.14 The Government’s position on the role of Planning Obligations is clearly outlined in the Overview document,⁵⁵ notably the statutory basis that they must be directly related to mitigating the impact of development, and that CIL payments and planning obligations do not overlap. This is also made clear in the NPPF⁵⁶.

⁵² Regulation 55(3) (a)

⁵³ Paragraph 89

⁵⁴ Paragraph 85

⁵⁵ Paragraphs 59 and 60

⁵⁶ Paragraph 204

Reviewing CIL

- 6.15 The CIL Guidance outlines that the Government ‘strongly encourages⁵⁷ reviews to ensure that CIL is fulfilling its aim and responds to market conditions. If the CIL is set at too high a rate, the delivery of housing will be put at risk. Regular monitoring is required to ensure that any detrimental impact of the CIL on delivery is noticed promptly and remedied. It should be borne in mind that, in reviewing the CIL rates, the same charge setting process and procedures are required to be followed and therefore there will be an inevitable delay until any deficit in delivery can be remedied.
- 6.16 Our clients consider that the authorities should have a clearly defined review mechanism and suggest that monitoring takes place on a 6-monthly basis. Monitoring data and reviews should be regularly published, for example on the Councils’ website. Regular monitoring is key to ensure that CIL does not stifle development in the right locations.

⁵⁷ Paragraph 79

7.0 Conclusions

- 7.1 This Representation has been prepared by Savills on behalf of a landowner and developer Consortium comprising:
- The Home Builders Federation
 - Barratt Developments Plc
 - Bloor Homes Ltd
 - Bovis Homes Group Plc
 - Crest Nicholson
 - Galliford Try Plc
 - Gladedale Group Ltd
 - McCarthy and Stone Retirement Lifestyles Ltd
 - Persimmon Plc
 - Redrow Plc
 - Taylor Wimpey Plc
 - The Miller Group Ltd
- 7.2 The Consortium is concerned with aspects of the approach adopted by CBC and EDDC towards CIL rates for residential development. Furthermore, we have concerns relating to the assumptions used in the viability models and would ask that PBA provide evidence on the aspects we have highlighted. We 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 proposed new neighbourhoods for growth. We believe that once the assumptions – as mentioned above – have been clarified, it will show the proposed CIL levels need reviewing.
- 7.3 The authorities have not undertaken sufficient analysis and prioritisation of their planned infrastructure items, to clearly demonstrate what the funding gap is and what the CIL funding target should be. This is a requirement of the Regulations and the CIL Guidance.
- 7.4 As discussed throughout this submission, we do not believe that the supporting evidence has shown that the proposed CIL rates will not put at risk the delivery of the relevant Plan; rather to the contrary. The authorities have selected to charge a rate at the margins of viability, allowing no flexibility for site specific circumstances of viability.

- 7.5 The CIL Guidance gives the authorities the ability to set differential rates for strategic sites⁵⁸, to reflect specific viability circumstances. The guidance also makes it clear that **“there is no obligation to impose a Community Infrastructure Levy for its own sake. Charging authorities can set a zero rate if they wish...”**⁵⁹ (emphasis added); we suggest the authorities review the proposed rates in respect of strategic sites and consider this further in light of the viability appraisal results provided by Savills.
- 7.6 We consider that the published Preliminary Draft Charging Schedules and the evidence base that supports them does not conform with the CIL Guidance in respect of the areas discussed earlier in these representations. We suggest that it would be prudent to withdraw the Preliminary Draft Charging Schedules and to review the supporting evidence in light of the amended guidance, before re-consulting on the Preliminary Draft Charging Schedules.
- 7.7 The Consortium is open to meeting with CBC and EDDC and its advisors to discuss amendments to the approach taken. We believe this should be arranged as soon as possible.

⁵⁸ Paragraph 34

⁵⁹ Paragraph 38

Appendix 1: List of Documentation

- Christchurch and East Dorset Draft Infrastructure Delivery Plan, April 2012
- Christchurch and East Dorset Draft Infrastructure Delivery Plan Schedule of Proposed Changes November 2012
- Christchurch and East Dorset Pre-submission Core Strategy, April 2012
- Christchurch and East Dorset Pre-submission Core Strategy Schedule of Proposed Changes, November 2012
- Christchurch Local Development Scheme Revision 5, December 2012
- Christchurch Borough Council Annual Monitoring Report 2010/2011
- Community Infrastructure Levy Guidance, DCLG, December 2012
- Community Infrastructure Levy Preliminary Draft Charging Schedules for Christchurch and East Dorset, January 2013
- Community Infrastructure Levy Regulations 2010 (as amended)
- East Dorset Annual Monitoring Report 2010-2011
- East Dorset District Council and Christchurch Borough Council Community Infrastructure Levy Viability Testing, Peter Brett Associates, January 2013
- East Dorset Local Development Scheme No 6, January 2013
- Examiner's report for Mid Devon, published on 20 February 2013
- Examiner's report for the Greater Norwich Development Partnership published in December 2012
- National Planning Policy Framework, DCLG, March 2012
- Planning Act 2008 (as amended)
- Report on the examination of the Draft Mid Devon District Council CIL Charging Schedule, David Hogger BA MSc MRTPI MCIHT, February 2013
- Report to the Greater Norwich Development Partnership – for Broadland District Council, Norwich City Council and South Norfolk Council, Keith Holland BA (Hons) Dip TP MRTPI ARICS, December 2012
- Viability Testing Local Plans – Advice for Planning Practitioners, Local Housing Delivery Group Chaired by Sir John Harman

ENDS