Response

Question 1: The Community Infrastructure Levy (CIL) Viability Assessment Update (August 2022) informed the production of the proposed rates in the draft CIL Charging Schedule. This document is available to view on the Council website and at the Council Offices.

Do you have any comments on the content of the CIL Viability Assessment Update?

On behalf of the Officers Meadow Developer Consortium, please find below commentary in respect of the HDH CIL assessment – dated August 2022. The following commentary should be read alongside my previous representations dated July 2022. As will be appreciated, one of the key considerations within any CIL assessment is the risk of setting a CIL rate too high, because of the potential viability implications and the associated risks of non-delivery. In this regard there are a number of issues with the HDH analysis that require further examination.

It is noted from the updated HDH report that a CIL rate of £150 per square metre has been proposed. Some of the key report extracts include:

• Paragraph 12.41 recommends that the Council continues to work with site promoters to understand the delivery of strategic sites. However, it is noted that our key comments RE site capacity have been ignored, which is a key consideration to the viability of the Officers Meadow scheme.

• Paragraph 12.64 states that "***To further inform the CIL rate setting process, we have calculated CIL as a proportion of the Residual Value and the Gross Development Value***."

• Table 12.6 at page 163 then shows the CIL as a proportion of Residual Value – and it will be recognised that you will note the Officers Meadow scheme is shown to be Viable (green) at **£150 per square metre**, but the scheme is then shown to be non-viable (Red) at £175 per square metre. This summarises HDH's appraisal modelling, and the justification for the site's £150 per square metre CIL charge.

• This position is further explained at paragraph 12.65 – which reads "*CIL as the proportion of the Residual Value,* ***in approximate terms, represents the percentage fall in land value that a landowner may receive. As set out earlier in this report, it is inevitable that CIL will depress land prices****. This is recognised in the RICS Guidance and was considered at the Greater Norwich CIL examination. In Greater Norwich it was suggested that landowners may accept a 25% fall in land prices following the introduction of CIL. It is important to note that a wide-ranging debate took place at that CIL Examination and on the specific local* *circumstances. It would however be prudent to set CIL at a rate that does not result in a fall in land prices of greater than 25% or so."*

- HDH's justification for the £150 per square metre CIL charge is based upon this assessment, looking at the CIL as a % of Residual Value. The summary table 12.6 illustrates that £150 per square metre CIL rate equates to 22% of the Residual Value of the scheme and would therefore be a viable rate of CIL. However, if a rate of £175 per square metre was adopted, this would equate to 27% of Residual Value, which would be too high based on the Great Norwich CIL examination.

In-light of this, a number of important considerations require further examination, including the following:

- HDH's primary justification for the recommended CIL rate is based upon the total CIL charge as a % of the development's Residual Land Value. As a result, where appropriate development costs are excluded or where the development is 'over-valued' – these 'borderline' conclusions would not be correct.

- I believe these are especially important matters in this instance because HDH have continued to model the Officers Meadow scheme at 825-dwellings, despite our previous representations which identified that the actual site capacity is likely to be 700-dwellings (which I am now advised is likely to be the maximum figure). The respective developers have all predicted lower number of units, including the Redrow application which has already been submitted to BBC at 180 dwellings – which is some way below original estimates. Having considered the HDH analysis, this is considered to be an especially important issue because obviously the scheme reduces in size, this would impact upon what could be afforded for CIL, as a % of Residual Land Value.

- Furthermore, it is also evident that HDH have had no regards to the site specific infrastructure cost requirements, which were again provided within our previous representations. Had these costs been included, the scheme Residual Land Value would have again reduced, which would have impacted upon the total CIL cost as a % of the residual land value.

- HDH appear to have misinterpreted the cost plan assessment that was submitted within our earlier representations at paragraph 7.11. Very simply, the cost plan assessment that was provided within the earlier representations considered the strategic infrastructure costs only, which are the costs to be incurred in delivering the respective scheme on-top of the plot external works, which should be included as a 15% addition to the BCIS base costs. This means that the HDH analysis is essentially missing a considerable amount of costs, placing further doubt on the appraisal conclusions – particularly when considering the total CIL charges as a % of the development's Residual Land Value, which is key to the HDH CIL recommendations.

Question 2: Do the proposed levy rates set out in the draft CIL Charging Schedule appropriately reflect the conclusions of the CIL Viability Assessment Update?

Yes, with general principles, but there are significant concerns regarding how HDH arrive at their conclusions in the appraisal models included within their August 2022 CIL Viability Assessment Update.

With regards to the HDH appraisal assessment for the Officers Meadow scheme - which is included at page 294 - there are again a number of issues that require further examination. Firstly, I do not believe the 'additional profit' calculation is operating correctly, which should be the variance between the Residual Land Value (shown to be £44.93m) and the Benchmark and Value (at £18.59m) – which should provide an Additional Profit of £26.33m, as opposed to the £36.3m identified in the report. As an initial point, this therefore means that the Additional Profit (the headroom for CIL) is shown to be markedly higher than it should be, which result in considerable doubts in respect of HDH's CIL conclusions

The other especially important issue is that HDH have continued to reflect 825 dwellings, whereas the scheme is likely to only be able to deliver 700 (at best). This means that the Residual Land Value from the scheme is likely to be markedly lower than as predicted by HDH, and therefore the additional profit / headroom for CIL will again markedly reduced (also noting the above comments)

As above, HDH also appear to have somewhat misinterpreted the cost plan assessment that was submitted within my earlier representations at paragraph 7.11. Very simply, the cost plan assessment that was provided within the earlier representations considered the strategic infrastructure costs <u>only</u>, which are the costs to be incurred in delivering the respective scheme <u>on-top of</u> the plot external works, which should be included as a 15% addition to the BCIS base costs. This means that the HDH analysis is essentially missing a considerable amount of costs, placing further doubt on the appraisal conclusions.

Question 3: Do the proposed levy rates set out in the draft CIL Charging Schedule provide an appropriate balance between securing infrastructure investment and supporting the financial viability of new development in the area?

As outlined above, the planning obligations seemingly required by the scheme include CIL, S106 and S278 which appears onerous, particularly given the level of infrastructure required by the site.

A further important consideration is what the HDH analysis attributes to the Officers Meadow scheme for s106 / CIL and whether this can be justified, again bearing in-mind the very questionable viability/ CIL conclusions. Page 5 of the CIL Consultation Information Booklet identifies that Brentwood's Infrastructure Delivery Plan ("IDP"). The latest 2021 version of the IDP (note that the one on the Council's website is dated 2019) outlines c. £311m worth of Indicative Costs required, with a column showing the Funding Source which is mainly S106, CIL or other. From this schedule there are infrastructure items outlined in relation to the site listed under code R03 – relating to Officer's Meadow, namely:

- £11m – Brentwood and Shenfield Railway Station Public Realm Improvement
- £5m – Quietway Cycle Routes in Brentwood Urban Area
- £300k – Railway Station Cycle Infrastructure
- £680k – Signalised Junction Improvements
- £0 – SUDS & Drainage
- £0 – Primary School with collocated EYCC
- £0 – Early Years Child Care
- Total – £16.98m

It should be noted that these infrastructure items are expected to be funded through S106 obligations but it is not clear what the CIL contribution will cover from this document (if any) and further information is therefore required in this regard, for the parties to meaningfully assess the likely (combined) CIL/ infrastructure and s106 liabilities. There are also a number of CIL items in the IDP that arguably do not apply to the Officers Meadow scheme (R03), including:

- T1 – BUA School Clear Zone – Croudace is providing a safeguarded site for a primary school and EYCC, as well as contributions along with the other developers providing contributions to a new school; hence this would be designed in as part of the new school layout; hence double counting
- T3 – BUA Park, Ride and Stride facilities – R03 is within easy walking/cycling distance of Shenfield's services including the train station, services and facilities (it

was once considered as a Park & Stride site), plus the proposals will provide improved links on and off site as well as financial contributions to public transport improvements via s106; hence double counting

- SP8 – Play Area Investment – this strategic development will have to provide play facilities for all its residents on site through s106; hence, this would be double counting

It should also be noted that the primary school with co-located EYCC is in the IDP for £9.654m to be split between allocated sites R03 to R19. All developments of these sites will be expected to contribute on a cost per child yielded from the site (dependant on number and size of dwellings) and conversations with ECC Education have indicated Croudace will be expected to provide the 2.1 ha site at no cost.

In my experience, usually the prospective Charging Authority would publish a CIL 'wish list' which would identify the infrastructure they would be covered by CIL – but this does not appear to be available. A considerably greater level of details is required to allow the parties to establish what is required from the respective schemes, whether the contribution sought are required and whether they are Reg 122 compliant.

Question 4: CIL rates should not be set at a level which could render new development financially unviable. To ensure the financial viability of new development in the area, and to take into account variations in land prices and development costs throughout the Borough, the draft CIL Charging Schedule proposes variable rates for different kinds of development. Do you have any comments on the proposed CIL rates?
As per my comments in Q1 I maintain the view on my comments in July 2022 that the site should be £0 listed for CIL, consistent with the approach taken to the Dunton Hills scheme.

Question 5: Should any types of development be charged a different CIL rate, and if so, why? Where alternative rates are proposed, please provide evidence to demonstrate why a proposed rate should be changed.
As above I would consider that Officer's Meadow should be £0 listed – I note that Dunton Hills Garden Village has been £0 listed in the Draft Charging Schedule and I do not see any reason why Officer's Meadow should not be treated the same way. Numerous concerns exist regarding HDH's approach and appraisal conclusions, including the missing site-specific infrastructure costs within the HDH appraisal and the fact that the site only has capacity to deliver 700 units as a maximum, not the 825 units reflected by HDH. I am unclear why these positions have been adopted, when these matters were brought to the Council's specific attention within the earlier representations.

Question 6: To support the financial viability of new development in the area, the draft CIL Charging Schedule includes an Instalments Policy which allows specified levels of levy charges to be paid in instalments over a set period of time. Do you have any comments on the draft Instalments Policy?
I have no comments on the specific draft instalment policy but it is worth noting that the HDH analysis still not include the CIL contributions as development costs within the appraisals. Instead, the HDH analysis calculated the 'additional profit' which is essentially what they consider to be the developments 'headroom for CIL'. In my view this is a flawed approach because the compound finance costs associated with CIL contributions are also therefore missing, which can be a key factor in the viability / deliverability of any scheme. This is another point that was made within the earlier representations which has been ignored – albeit HDH have acknowledged (and seemingly agreed) with the issue at paragraph 3.27 – 3.30. For completeness, the subject site has not been modelled including CIL costs to consider the associated finance cost implications – as suggested at para 3.29. A reason to reflect CIL contribution as a development cost within the appraisal would have been to test the implications of the CIL payment instalments policy, in viability terms

Question 7: The Consultation Information Booklet available on the Council website and at the Council Offices provides information on the types of development which would be required to pay the levy. The CIL Regulations allow the Council to give relief or grant exemptions to identified types of the development from paying the levy. The Council has not identified any types of development which may require specific discretionary relief or exemption from paying the levy beyond the compulsory relief outlined in the Regulations. Is there a need to provide discretionary relief from the levy to any types of development, and if so, why?
No comment.

Question 8: Do you have any other comments on the draft CIL Charging Schedule?
See above answers