HS4: Matter 3 – Are the rates informed by, and consistent with, the evidence available?

Issue 1 – New Residential Development

QUESTION 1

Is the levy rate of £250 per square metre for new residential development in 'all other areas' justified by appropriate available evidence, having regard to the PPG and local infrastructure needs arising from the adopted development plan for the area?

1. Yes. CIL is set through a quantitative and qualitative assessment, rather than calculated using a strict arithmetic formula. It draws on a wide range of evidence that was largely carried forward from the 2018 Whole Plan Viability Assessment before being updated and then tested through the May/June 2022 Technical Consultation. The evidence has been prepared as required by the CIL Regulations and the relevant CIL and Viability guidance set out in the PPG.

2. A set of typologies that are representative of planned development have been modelled, as per Paragraph 10-003-20180724 of the PPG. These represent the development on the allocations and the smaller windfall development, other than the strategic sites, which are tested individually.

3. The setting of CIL has been based on 4 broad tests. In the analysis it is assumed that development is fully compliant with the policies in the recently adopted Local Plan and more recent changes in national policy.

   i. The capacity for CIL has been calculated. This is referred to as the Additional Profit and is the amount by which the Residual Value exceeds the Benchmark Land Value, expressed as £/m^2 of market housing. This is the amount from which CIL could be paid.

      This analysis is set out in Table 10.4 of CSD6, Viability Assessment Update (August 2022).

   ii. A set of appraisals have been run, ranging from £0/m^2 to £500/m^2. In these appraisals CIL is treated as a cost. In this analysis, in line with Paragraph 25-021-20190901 of the PPG, the Benchmark Land Value (BLV) has been increased by 30% '*to ensure that a 'buffer' or margin is included, so that the levy rate is able to support development when economic circumstances adjust'*.

This analysis is set out in Table 10.5 of CSD6, Viability Assessment Update (August 2022) and shows that across all the typologies the Residual Value exceeds BLV +30% for rates of CIL of up to £500/m^2 on the greenfield sites and £350/m^2 on most brownfield sites, indicating that development is likely to be viable with these levels of CIL.

iii. CIL is then considered a proportion of the Residual Value. This is an indication as how much land values may fall as the result of introducing CIL.

This test is not from the PPG, rather it is informed by an early CIL hearing (*Greater Norwich Development Partnership* – *for Broadland District Council, Norwich City Council and South Norfolk Council by Keith Holland BA (Hons) Dip TP, MRTPI ARICS Date: 4 December 2012*). Based on this HDH have assumed that it would be prudent to set CIL at a rate that does not result in a fall in land prices of greater than 25% or so.

This analysis is set out in Table 10.6 of CSD6, Viability Assessment Update (August 2022) and suggests that a maximum rate of £250/m^2 or so may be appropriate on the development represented by the typologies.

iv. Finally, CIL is considered a proportion of the total scheme value. Viability testing is not an exact science being based on numerous assumptions and estimates. In recognition of this (and reflected in paragraphs 10-012-20180724 and 10-018-20190509 of the PPG) contingency sums, the competitive return assumptions are used, and the generally cautious approach is taken when assessing sites. In this regard we have checked that the proposed rates of CIL are less than 5% or so of GDV.

This analysis is set out in Table 10.7 of CSD6, Viability Assessment Update (August 2022) and this test does not further constrain the proposed rates on the development represented by the typologies.

4. The Infrastructure Delivery Plan (CSD7B) identifies the key items of infrastructure that will be required to support future development growth. CIL will make a valuable contribution towards funding this infrastructure and enable the Council to ensure infrastructure is provided to facilitate the delivery of the adopted Local Plan. The local infrastructure relevant to individual site allocations is set out within site specific policies and it is anticipated in these instances would be either delivered directly by the developers or contributed via S106 or through a mix of direct delivery by developers, the S106 regime and CIL.

QUESTION 2

> Based on the information provided, what impact will the proposed levy have on the rate of housing delivery in Brentwood?

5. Yes, although it is accepted that the cost of finance will fluctuate through economic cycles.

6. The introduction of CIL will facilitate new development through making a valuable contribution to the funding of the strategic infrastructure as identified in the IDP.

7. The implementation of CIL is not considered to have an impact on housing delivery in Brentwood. The intention to implement CIL is set out within the adopted Local Plan, identified within the Infrastructure Delivery Plan (CSD7A and CSD7B) as a funding source which were subject to scrutiny through the examination of the Local Plan.

8. CIL Regulation 14 says:

> 14. (1) In setting rates (including differential rates) in a charging schedule, a charging authority must aim to strike what appears to the charging authority to be an appropriate balance between:
>
> (a) the desirability of funding from CIL (in whole or in part) the actual and expected estimated total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and
>
> (b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.

9. As set out in the response to Matter 3, Issue1, Q1 careful regard has been had '*the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development'*.

10. In this regard it is timely to note the changes to the viability sections of PPG (Chapter 10) were rewritten in 2018. The underlying emphasis of viability testing has changed. The superseded requirements for viability testing were set out in paragraphs 173 and 174 of the 2012 NPPF. The test was whether or not the policy requirements were so high that development was threatened. Paragraphs 10-009-20190509 and 10-010-20180724 change this:

> *…ensure policy compliance and optimal public benefits through economic cycles…*
>
> PPG 10-009-20190509
>
> *…and the aims of the planning system to secure maximum benefits in the public interest through the granting of planning permission.*
>
> PPG 10-010-20180724

11. Now the purpose of viability testing is to ensure that '*maximum benefits in the public interest*' has been secured. This is a notable change in emphasis, albeit in the wider context of striking a balance between the aspirations of developers and landowners, in terms of returns against risk.

12. As set out above, CIL will enable the planned delivery of infrastructure to facilitate the delivery and mitigate the impact of new development and has been set, taking a cautious approach, at an appropriate level.

QUESTION 3

The PPG advises that is appropriate to ensure that a ‘buffer’ or margin is included, so that the levy rate is able to support development when economic circumstances adjust. In all cases, the charging authority should be able to explain its approach clearly (Paragraph: 020 Reference ID: 25-020-20190901). How has this been reflected in the proposed rates in the charging schedule, having particular regard to previously developed land?

13. As set out in response to Matter 3, Issue 1, Q1 above, careful regard has been had to a ‘buffer’.

14. A set of appraisals have been run, assuming full compliance with the Policies set out in the Local Plan and with CIL ranging from £0/m2 to £500/m2. In these appraisals CIL is treated as a cost. In this analysis, in line with Paragraph 25-021-20190901 of the PPG, the BLV has been increased by 30% ‘*to ensure that a ‘buffer’ or margin is included, so that the levy rate is able to support development when economic circumstances adjust’*.

15. It is important to also note that the appraisals take a generally cautious approach throughout and also include a contingency of 5% figure on the brownfield sites, and the 2.5% figure on the remainder.

16. This analysis is set out in Table 10.5 of CSD6, Viability Assessment Update (August 2022) and shows that across all the typologies the Residual Value exceeds BLV +30% for rates of CIL up to £500/m^2 on the greenfield sites and £350/m^2 on most brownfield sites, indicating that development is likely to be viable with these levels of CIL.