



**Hertsmere Borough Council**

**COMMUNITY INFRASTRUCTURE LEVY (CIL)**

**PRELIMINARY DRAFT CHARGING SCHEDULE**

**SUMMARY OF CONSULTATION RESPONSES**

**July 2013**

<b>Document Title</b>	<b>Purpose</b>
Preliminary Draft Charging Schedule Summary of Consultation Responses	Supporting document outlining the responses received during the public consultation on the PDCS, including the Council's responses to the issues raised; copies of the representations received; and, details of consultation process.

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## **1. INTRODUCTION**

- 1.1 On 1<sup>st</sup> March 2013 Hertsmere Borough Council published its Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule (PDCS) and supporting evidence base. It invited responses from the public including local landowners and developers, as well as other public authorities. The purpose of the consultation was to invite comments and additional evidence that will help the Council strike an appropriate balance when setting CIL rates.
- 1.2 In accordance with Regulation 15 (7) of the Community Infrastructure Levy Regulations 2010 (as amended) the Council has taken into account these representations before it publishes its Draft Charging Schedule (DCS). This document summarises how the Council has taken the representations into account alongside other appropriate available evidence.
- 1.3 The Council received 15 representations in total. Please see Appendix 1 for a schedule of the representations received. Individual copies of the representations can be found in Appendix 5.

## **2. THE MAIN ISSUES**

- 2.1 The comments received can be summarised as follows:
  - There is a need for additional infrastructure planning work to satisfy the requirements of the amended (2012) CIL Regulations.
  - There is a need to agree appropriate governance arrangements and the level of CIL monies that will be made available prior to the Examination.
  - The rates as proposed will undermined the delivery of the planned growth.
  - The Viability Assessment should provide a development scenario for a typical flatted retirement housing scheme.
  - Payment by instalments should be offered.
  - Some of the assumptions used in the viability assessment are not realistic.
  - A range of comments were received in relation to how funds will be used and how decisions to release funds will be made.

### 3. WHO RESPONDED AND NUMBER OF REPRESENTATIONS RECEIVED

3.1 15 consultation responses were received to the Preliminary Draft Charging Schedule - Representations were received from the development industry (4); statutory consultees (4); neighbouring districts (3); town and parish councils (2); Hertfordshire County Council; and, one local resident. Table 1 below provides a full list of the respondents. The individual comments made, the Council's detailed consideration and response to these by the Council is provided in the Table at Appendix 1.

**Table 1: List of Respondents to the Hertsmeire CIL Preliminary Draft Charging Schedule Consultation**

ID #	Respondent
RES1	Savills on behalf of the Home Builders Federation and Members
RES2	Hertfordshire County Council
RES3	Natural England
RES4	Sport England
RES5	Highways Agency
RES6	Three Rivers District Council
RES7	Banner Homes Group PLC
RES8	The Planning Bureau Limited on behalf of McCarthy & Stone Retirement Lifestyle
RES9	St Albans City & District Council
RES10	Dacorum Borough Council
RES11	English Heritage
RES12	EHW Architects Ltd
RES13	Resident 1
RES14	Elstree and Borehamwood Town Council
RES15	Aldenham Parish Council

## **Appendix 1: Detailed Schedule of Representations and the Council's Responses**

**Individual Comments Received and the Council's Response to Each**

ID	Summary of representation received	Officer Response
<p><b>RES1 Savills on behalf of the Home Builders Federation and Members</b></p>	<p>(i) The minimum profit margin must be 20% on GDV not the 17% on GDV within the LSH model. No distinction should be made between the profit level on affordable housing (6% within the LSH model) and private housing. The minimum acceptable profit margin should be 20% on GDV. 20% on developer's profit is the equivalent of only 16.3% on GDV which is below the expectations of lenders.</p> <p>(ii) The top rate of Stamp Duty of 7% on residential land transactions over £2 million should be applied within the scenarios tested.</p> <p>(iii) For the Elstree Way Corridor an appraisal of a scheme of 800 dwellings would be more appropriate form of evidence as opposed to a 100 dwelling scenario.</p> <p>(iv) It is unclear how a reduction in sale values of 14% justifies a 43% increase in the proposed CIL rate, this does not logically follow as reduction sales values would have a negative impact on viability.</p> <p>(v) If the maximum potential CIL within WD23 area is £156/m2 we cannot understand how this has changed into a CIL rate of £210/m2 for the same area in stage 2.</p> <p>(vi) Within the table in Stage 2 showing a summary of the Stage 1 and Stage 2 CIL outputs (para. 6.6), the Stage 1 outputs appear to be exactly the same figures as the Stage 1 assumed average sales rates, albeit in £/m2 not £/ft2 respectively (para 5.16).</p> <p>(vii) Request clarification between the rates within para J of the Executive Summary within the Stage 2 Viability Assessment and the rates within the PDCS Table 1.</p> <p>(ix) In accordance with Statutory CIL Guidance Dec 2012, it is best</p>	<p>(i) The individual circumstances of the proposed scheme and the risks involved in the example cited by Savills are unknown. Profit level should represent appropriate risk to a development and LSH have to consider an appropriate balance across the authority rather than that of any individual scheme. Affordable Housing, is by definition a non-profit making business with the sole intention of delivering affordable homes. 6% on cost is consistent with the approach of both the HCA and GLA to mitigate risk.</p> <p>(ii) 4% is considered to be the most appropriate rate for Hertsmere.</p> <p>(iii) The Elstree Way Corridor is most likely to come forward as a series of development parcels, and therefore a development scenario of 100 dwellings is most suitable.</p> <p>(iv/v/vi/vii) Further explanation as to refinement between Stage 1 and Stage 2 will be included within the revised Viability Study.</p> <p>(ix) LSH has made considerable allowance/tolerance in their assumptions in identifying a CIL which have not been recognised by Savills. Additionally, careful consideration to the proposed reasonable land value benchmark and believe a reasonable tolerance has also been allowed for in the land value benchmarks. LSH believe they have robustly allowed for sufficient tolerance in the CIL rates to ensure that, on balance, most developments across the authority are not at the margin of economic tolerance.</p> <p>(x) A draft regulation 123 has been prepared and was</p>

	<p>practice to apply a viability cushion when setting the rate of CIL. There should be a buffer at a discount of at least 30% applied to the proposed rates.</p> <p>(x) A Draft Regulation 123 list of infrastructure should be provided for comment at the earliest opportunity.</p> <p>(xi) HBC must make available its approach to the Flexible Operation of CIL</p> <p>(xii) HBC 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.</p>	<p>consulted upon as part of the consultation on the PDCS.</p> <p>(xi) An Instalment Policy will be consulted upon as part of the Draft Charging Schedule.</p> <p>(xii) Comment Noted.</p>
<p><b>RES2 Hertfordshire County Council</b></p>	<p>(i) For the Elstree Way Corridor it appears that the S106 allowance has been made to only cover the cost of highway infrastructure works and further clarity is required as to whether or not a S106 allowance has been made for other infrastructure schemes that are likely to be required within the EWC (i.e. provision of land for/ or provision of additional primary school places).</p> <p>(ii) The current infrastructure planning work (relating to infrastructure provided by the County Council) may not satisfy the requirements of the new CIL guidance.</p> <p>It is considered that further work will be required to;</p> <ul style="list-style-type: none"> <li>• (for some infrastructure types) refine the list of schemes in the IDS and Infrastructure Funding Gap Assessment (to ensure that proposed schemes relate to the demand being generated by growth set out within the adopted Core Strategy);</li> <li>• clarify the relationship between the use of CIL and S106 for infrastructure projects in the Borough;</li> <li>• identify or make informed judgements as to the potential of alternative funding sources;</li> </ul>	<p>(i) Within the DCS it is proposed that all infrastructure (including highway and education) in the Elstree Way Corridor be funded through S106 as opposed to CIL.</p> <p>(ii) Paragraph 13 of the DCLG Guidance Note of December 2012 indicates that <i>“Information on the charging authority area’s infrastructure needs should be directly related to the infrastructure assessment that underpins their relevant Plan, as that planning identifies the quantum and type of Infrastructure required to realise their local development and growth needs.”</i> Hertsmere Borough Council’s Local Plan Core Strategy was found sound in January 2013, the Borough’s infrastructure planning which underpinned the Core Strategy has continued to be developed, the Infrastructure Assessment which collates known infrastructure work is a ‘live document’ and is updated when details become available. This infrastructure work has been produced in cooperation with Hertfordshire County Council.</p> <p>The Government recognises that available data is unlikely</p>

	<ul style="list-style-type: none"> <li>• prioritise projects that are to be funded via CIL monies.</li> </ul> <p>(iii) The revised guidance places greater restriction on the ability for Charging Authorities to update their 'Regulation 123 list' and requires greater transparency as part of the examination as to why CIL monies will be collected and how they will be spent. In recognition of this, the proposed wording on the draft Regulation 123 list may be over generalised.</p> <p>(iv) There is a need to agree appropriate governance arrangements and the level of CIL monies that will be made available to the County Council for the provision of strategic infrastructure. Such agreements we be required prior to any consultation on the draft CIL Charging Schedule or its examination.</p>	<p>to be fully comprehensive or exhaustive and that "appropriate available evidence" is the requirement (paragraph 25 of the DCLG Guidance Note).</p> <p>(iii) The Amended Regulations do not give rise to the requirement for greater detail nor do they require the naming of specific Infrastructure projects on the Regulation 123 list.</p> <p>(iv) HBC will continue to work with HCC to establish an appropriate governance arrangement for the allocation of CIL.</p>
<b>RES3 Natural England</b>	<p>Potential infrastructure requirements may include:</p> <ul style="list-style-type: none"> <li>• Access to natural greenspace.</li> <li>• Allotment provision.</li> <li>• Infrastructure identified in the local Rights of Way Improvement Plan.</li> <li>• Infrastructure identified by any Local Nature Partnerships and or BAP projects. Infrastructure identified by any AONB management plans.</li> <li>• Infrastructure identified by any Green infrastructure strategies.</li> <li>• Other community aspirations or other green infrastructure projects (e.g. street tree planting).</li> <li>• Infrastructure identified to deliver climate change mitigation and adaptation.</li> <li>• Any infrastructure requirements needed to ensure that the Local Plan is Habitats Regulation Assessment compliant</li> </ul>	Comments Noted
<b>RES4 Sport England</b>	<p><b>Green Infrastructure and Other Community Facilities</b></p> <p>(i) The planned reviews of the Council's Open Space Strategy and Playing Pitch Strategy is welcomed. Following completion of the reviews, site specific projects to address needs are identified and</p>	Comments Noted



	<p>prioritised and subsequently costed.</p> <p><b>Infrastructure Funding Gap Assessment</b></p> <p>(ii) Consideration should be given to adding leisure/indoor sports facilities if the Council’s review of the Open Space Study identifies any needs.</p> <p>(iii) It is noted that there is a substantial funding gap in relation to playing fields. It would be helpful if the assessment provided details of how the total cost of playing field projects has been derived.</p> <p>(vi) Would prefer a smaller number of priority projects to be implemented rather than thinly across multiple projects which may not be deliverable in practice.</p>	
<b>RES5 Highways Agency</b>	We have no comments on the document	Comment Noted
<b>RES6 Three Rivers District Council</b>	Thank you for consulting Three Rivers District Council on Hertsmere's Preliminary Draft Charging Schedule. Three Rivers District Council notes the content of the Preliminary Draft Charging Schedule and I can confirm that we do not have any comments at this stage.	Comment Noted
<b>RES7 Banner Homes Group PLC</b>	<p>Object to the proposals in their current form as the rates in their own right or in combination with the LPA’s “postcode” approach to affordable housing contributions will have a similar effect to a “housing moratorium”. The Council should adopt one of the following approaches:</p> <ul style="list-style-type: none"> <li>• Withdraw the draft Charging Schedule</li> <li>• Deferring any further to enable a more informed assessment of the economic viability of the CIL threshold proposed including their likely impact upon overall levels of housing delivery and creating mixed communities. This</li> </ul>	The CIL rates are based on viability evidence and it is considered that an appropriate balance has been made between the desirability of funding from CIL to support the estimated total cost of infrastructure required to support the development and the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across Hertsmere.

	<p>exercise would be undertaken using more localised data with, for example, detailed input/ comments from local estate agents.</p> <ul style="list-style-type: none"> <li>• Continue to work under the currently proposed thresholds and await the outcome of an inspectors considerations relating to the objections at Examination in due course.</li> </ul>	
<p><b>RES8 The Planning Bureau Limited on behalf of McCarthy &amp; Stone Retirement Lifestyle Ltd.</b></p>	<p>(i) The emerging CIL rate must accurately assess the development of specialist accommodation for the elderly in Hertsmere Borough.</p> <p>(ii) The PDCS whilst differentiating between higher and lower value areas (Zones) within the Borough on the grounds of viability, provides a uniform CIL levy rate for all forms of residential development and does not differentiate between houses, flats and specialist accommodation for the elderly, despite the significant difference between these forms of accommodation. A “general residential heading” fails to acknowledge the very specific viability issues associated with specialist accommodation for the elderly.</p> <p>(iii)The viability assessment for private care homes (private retirement homes) may be applicable to some care home facilities is not applicable to private specialist accommodation for the elderly, which is built speculatively by developers.</p> <p>(iv) The viability of retirement should be assessed against both likely existing site values and alternative uses. Retirement housing can only be built on a limited range of sites, typically high value, previously developed sites in close proximity to town centres.</p> <p>(v) The Viability Assessment should provide a development scenario for a typical flatted retirement housing scheme, located on a previously developed site within 0.4 miles of a town centre.</p> <p>(vi) Payment by instalments should be offered, the earliest part</p>	<p>The Viability Assessments have considered a range of density type schemes in their assessment including houses and flats to conclude a single residential rate. Given the amount of potential McCarthy &amp; Stone schemes which are anticipated in the plan period and the proportion of the overall development they deliver, it is considered that it would not be appropriate to break down the CIL rate charging schedule further.</p> <p>McCarthy &amp; Stone build a series of products including both assisted living and later living, the Council will assess the use class (C2/C3) of a development based on an assessment of the individual case. Wording has been amended from ‘Care Home’ to ‘Retirement Home’.</p> <p>CIL is anticipated to replace elements of Section 106 costs, and therefore its overall impact on land value variation is minimal (other than the contributions would be non-negotiable).</p> <p>(vi) An Instalment Policy will be consulted upon as part of the Draft Charging Schedule.</p>

	payment should be on first occupation and then phased depending on occupation levels.	
<b>RES9 St Albans City &amp; District Council</b>	Hertsmere Borough Council is encouraged to ensure that the balance between securing additional investment for infrastructure and the economic effect of imposing the levy across the area has been appropriately considered.	Comments Noted
<b>RES10 Dacorum Borough Council</b>	We have examined your PDCS and have no comments to make at this stage.	Comment Noted
<b>RES11 English Heritage</b>	<p>(i) The introduction of CIL could lead to proposals for more intensive development of sites, with the consequence that sensitivity to heritage assets on, or adjoining, the development is harder to achieve.</p> <p>(ii) Request that discretionary relief be considered for cases that raise heritage concerns.</p> <p>(iii) The definition of infrastructure that may be eligible for funding through CIL will require some consideration and, for the historic environment, may include some heritage assets, historic open spaces and the public realm.</p>	Comments Noted
<b>RES12 EHW Ltd</b>	<p>This is idiocy gone rampant! Has anyone actually thought out the consequences?</p> <p>Will this facilitate development as Central Government clamors for? Absolutely no way! Quite the reverse, stagnation is the only result! In order for development to be enabled one of three things will need to happen 1] Landowners give away the land for free, 2] Developers build at a loss or 3] Prices go through the roof and become unaffordable, again killing development.</p> <p>Consequently consultants like us will suffer too and this country will</p>	The CIL rates are based on viability evidence and it is considered that an appropriate balance has been made between the desirability of funding from CIL to support the estimated total cost of infrastructure required to support the development and the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across Hertsmere.

	remain in recession in perpetuity!	
<b>RES13 Resident 1</b>	CIL funding should be spent on education and the maintenance of the roads.	Comments Noted
<b>RES14 Elstree and Borehamwood Town Council</b>	<p>(i) Seek assurances that that Town and Parish Councils are involved in the decision-making process when determining how and where levy monies are to be spent.</p> <p>(ii) CIL could potentially cause developers to seek work elsewhere</p> <p>(iii) Levy monies should be spent in the neighborhood in which they are raised.</p>	<p>(i) A Governance structure will be prepared which will demonstrate how Town and Parish Councils are to be involved in the setting of CIL Spending Priorities.</p> <p>(ii) CIL in most cases will replace the existing means of securing developer contributions (s106). All of neighbouring authorities are progressing with the adoption of a CIL.</p> <p>(iii) The Regulations (amended 2013) requires Charging Authorities to pass a percentage of levy funds to the parish councils in whose are the chargeable development takes place. Further details of this will be provided by the Council as part of the Draft Charging Schedule</p>
<b>RES15 Aldenham Parish Council</b>	<p>(i) Paragraph 2.3 should be more specific</p> <p>(ii) Paragraph 3.2 words missing from the final sentence</p> <p>(iii) Paragraph 4.1 should reference paragraph 7.1 dealing with exemptions. Suggested the deletion of the words 'CIL will be applied to the majority of new developments'.</p> <p>(iv) It is unclear why the CIL Charging Rate for Zone 2 significantly higher than Zone 1.</p> <p>(v) Concerns over the appropriateness of the proposed CIL rates for the areas described in paragraph 7.4.</p> <p>(vi) Concerns over the postcode approach which gives large areas the same CIL rates</p>	<p>(i) Comment Noted</p> <p>(ii) Comment Noted</p> <p>(ii) Comment Noted</p> <p>(iv) The CIL rates are based on Viability Evidence and take into account the levels and nature of development. The Regulations require Charging Authorities to set a rate(s) which do no undermined areas planned growth</p> <p>(v) Comment Noted. Reference to Aldenham and Patchetts Green being within postcode area WD23 will be removed. The report and supporting map will be amended to make it clear that WD25 has a proposed CIL Rate of £120 and this includes the "Birds Estate" in Garston.</p>

	<p>(vii) Paragraphs 8.2 and 8.3 appear to be repetitive</p>	<p>Watford BC within their PDCS are proposing a CIL rate of £120 for the remainder of Garston.</p> <p>(vi) In setting the rates Charging Authorities are required to use an area based approach which involves a broad test of viability across their area. The 'postcode' approach is recognised approach for the CIL Viability Assessments.</p> <p>(vii) Comment Noted</p>
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## Appendix 2: Preliminary Draft Charging Schedule Online Details

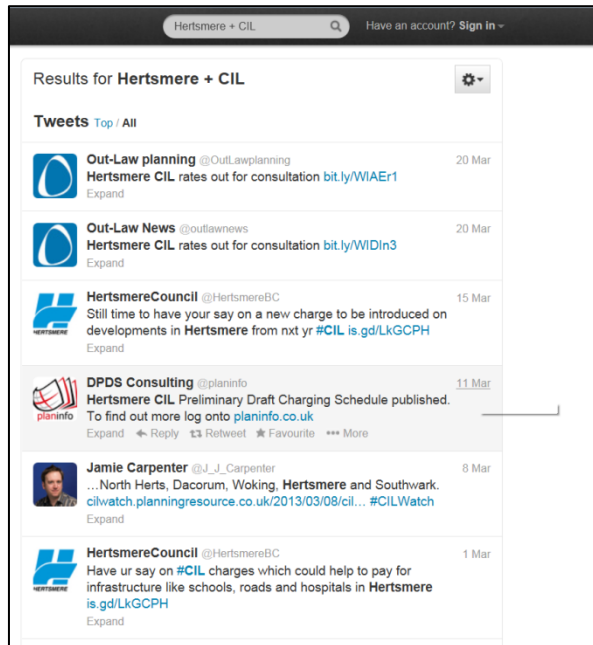


Figure 1 Twitter Feeds

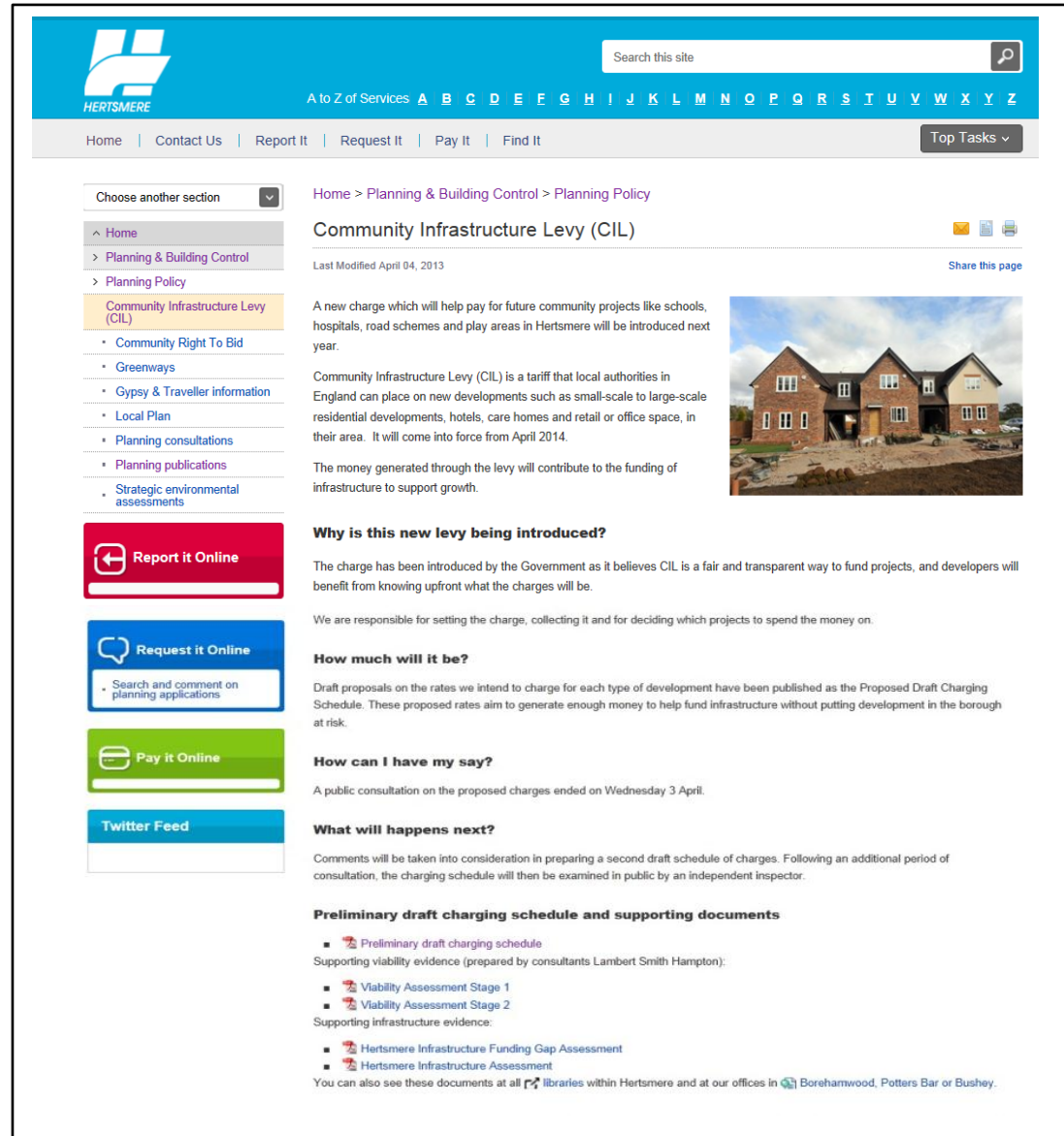



Figure 2 Council Website

## Appendix 3: Preliminary Draft Charging Schedule Consultation Letters



**HERTSMERE BOROUGH COUNCIL**

Civic Offices, Elstree Way  
Borehamwood  
Herts WD6 1WA  
Tel: 020 8207 2277  
DX45602 Borehamwood  
www.hertsmere.gov.uk

**Planning and Building Control**

Mr D Lloyd  
Police and Crime Commissioner for  
Hertfordshire  
FREEPOST ANG6281  
Hertford  
Hertfordshire  
SG13 8YS

Your ref: CIL1/MW  
Our ref: 020 8207 2277  
Direct line: 020 8207 2277  
Ext: 4350  
Email: [local.plan@hertsmere.gov.uk](mailto:local.plan@hertsmere.gov.uk)  
Fax: 020 8207 7444  
Date: As postmark

Dear Mr D Lloyd

**Community Infrastructure Levy Preliminary Draft Charging Schedule  
Notice of public consultation**

Hertsmere Borough Council is in the process of preparing a Community Infrastructure Levy (CIL). CIL is a new charge that local authorities in England can place on new development in their area. The money generated through the levy will contribute to the funding of infrastructure to support growth.

A preliminary draft charging schedule has been developed which sets out the proposed charging rates for Hertsmere. The Council considers that the preliminary draft charging schedule, based on viability evidence strikes an appropriate balance between contributing to funding infrastructure and not putting development across Hertsmere at risk.

Consultation on the preliminary draft charging schedule will take place between 1<sup>st</sup> March 2013 and 3<sup>rd</sup> April 2013. Representations must be received by 5pm on 3 April 2013.

A copy of the preliminary draft charging schedule is enclosed. In addition, the preliminary draft charging schedule and all supporting documents are available:

- online at: [www.hertsmere.gov.uk/CIL](http://www.hertsmere.gov.uk/CIL)
- at libraries and the Civic Offices


We welcome your comments via the following means:

- email: [local.plan@hertsmere.gov.uk](mailto:local.plan@hertsmere.gov.uk)
- post: CIL Consultation, Planning Policy and Transport, Hertsmere Borough Council, Civic Offices, Elstree Way, Borehamwood, Herts, WD6 1WA

Representations received on the preliminary draft charging schedule will be considered in preparing a final charging schedule. Representations will be invited on a final charging schedule prior to an examination in public by an Independent Planning Inspector.

If you have any questions please contact Policy and Transport on 020 8207 2277 or by email using the address above.

Yours faithfully



Matthew Wilson  
Senior Planning Officer

Figure 3 Consultation Letter

**Matthew Wilson**

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**From:** Matthew Wilson  
**Sent:** 01 March 2013 12:01  
**Subject:** Hertsmere Borough Council - Community Infrastructure Levy Preliminary Draft Charging Schedule

Dear Sir/Madam

**Community Infrastructure Levy Preliminary Draft Charging Schedule  
Notice of public consultation**

Hertsmere Borough Council is in the process of preparing a Community Infrastructure Levy (CIL). CIL is a new charge that local authorities in England can place on new development in their area. The money generated through the levy will contribute to the funding of infrastructure to support growth.

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- online at: [www.hertsmere.gov.uk/CIL](http://www.hertsmere.gov.uk/CIL)
- at libraries and the Civic Offices

We welcome your comments via the following means:

- email: [local.plan@hertsmere.gov.uk](mailto:local.plan@hertsmere.gov.uk)
- post: CIL Consultation, Planning Policy and Transport, Hertsmere Borough Council, Civic Offices, Elstree Way, Borehamwood, Herts, WD6 1WA

Representations received on the preliminary draft charging schedule will be considered in preparing a final charging schedule. Representations will be invited on a final charging schedule prior to an examination in public by an Independent Planning Inspector.

If you have any questions please contact Policy and Transport on 020 8207 2277 or by email using the address above.

Yours faithfully

Matthew Wilson  
Senior Planning Officer

Figure 4 Consultation Email

#### Appendix 4: Preliminary Draft Charging Schedule Consultation bodies

Affinity Water	London Colney Parish Council
Aldenham Parish Council	National Grid Transco
Barnet London Borough	National Trust
Broxbourne Borough Council	North Hertfordshire District Council
County Architectural Liaison	Police and Crime Commissioner for Hertfordshire
Dacorum Borough Council	Royal Town Planning Institute
East Herts District Council	Shenley Parish Council
Elstree & Borehamwood Town Council	Spatial and Land Use Planning
English Heritage, East of England Region	St Albans City & District Council
Environment Agency	Stevenage Borough Council, Civic Offices
Hertfordshire County Council	The Forestry Commission
Hertfordshire Partnerships NHS Foundation Trust	Three Rivers District Council
Highways Agency	Watford Borough Council
Homes & Community Agency (HCS)	Welwyn Hatfield District Council
London Borough of Barnet	West Hertfordshire PCT
London Borough of Enfield	Environment Agency
London Borough of Harrow	

In addition, the following developers / agents / organisations were directly contacted regarding the consultation.

Affinity Sutton Housing	Lewis Patten Chartered Architects
Agora Chartered Architects LLP	Malcolm Doherty Architects
AH Architecture	McArthur Tring Architects
Allen Smith Associates	MEB Design Architects
Andrew Scott Associates Architects Ltd	Metropolitan Development Consultancy
Apcar Smith Planning	Metropolitan Housing Partnership
Area Design Architects	MJS Planning and Design.
Arsenal FC	Morrison Design - Chartered Architects
Arthur J Ferryman & Associates	Nathaniel Lichfield & Partners
Armstrong&Rigg	National Grid
AS St Peacock and Smith	Networkrail
Banner Homes	Oakbridge Homes
Barker Parry Town Planning Limited	ORBIT ARCHITECTS
Bellis Architects	Origin Housing
Benjamin Associates Ltd	OS+A. O'Shaughnessy & Associates
Borough of Broxbourne	P+R Associates
Bourne Wood Partnership Limited	Paradigm Housing
Bowhill Planning Partnership	Pegasus Planning
Briffa Phillips Architects	Planning Inspectorate
CHeSS Architecture & Development	Planning Perspectives



Collins & Coward Town Planning	Prestige Projects Bespoke Building Contractors
Consensus Planning Ltd.	Preston Bennett
CPRE Hertfordshire	Prime Meridian - Architects
CSM+ Architects	Ramsden and Partners Architects Ltd
Cunnane Town Planning	Raymond Stemp Associates (RSA)
David French Partnership	Read Architecture
Dexter Morren Associates	Redrow Homes
Direct Planning	Richardjbaker.co.uk
DLA Town Planning Ltd	Rolfe Judd Ltd
DLG Architects	Rosser Morris Ltd
DVM Architects	RPS Group Plc
EHW - architects and designers	Saloria Architects Ltd
Fairview Homes	Savills
Forthright Design	Scott Wilson
Fusion Residential	Silk Planning
Genesis Housing Association	Simpson Mchugh
GHM Consultancy Group	SJT Associates
GL Hearn	Stanley Architects
Gotzheim Associates	Steene Associates Architects
GPSarchitects	Stuart Henley & Partners
GPSarchitects	Synergy Construction & Property Consultants LLP
Hertford Planning	Taylor Wimpey
Hertfordshire Constabulary	TEC architecture
Hightown Praetorian & Churches	Thames Water
Hives Architects LLP	The Coal Authority
Home Builders Federation	The RM Partnership
Home Group	The Victorian Society
Homes Design Ltd	Town and Country Planning Ltd
Huntsman Eldridge, Building Surveyors	Transco
Indigo Planning	Village Homes
Inside Out Architecture	Waitrose
Jack Cruickshank Architects	Wilbraham Associates Ltd
JDM Architects	Wilby & Burnett Surveyors & Architects
Jones Lang La Salle	Woolf Bond Planning
Kirsop & Company	YOOP Architects

## Appendix 5: Preliminary Draft Charging Schedule deposit points

### Hertsmere Borough Council

Civic Offices  
Elstree Way  
Borehamwood  
Hertfordshire  
WD6 1WA

### Parish council offices

Aldenham Parish Council  
Radlett Centre  
1 Aldenham Avenue  
Radlett  
Herts  
WD7 8HL

Elstree and Borehamwood Town Council  
Fairway Hall Brook Close  
Borehamwood  
Herts  
WD6 5BT

### Local libraries

Borehamwood Library  
Elstree Way  
Borehamwood  
Herts  
WD6 1JX

Potters Bar Library (Oakmere)  
The Elms  
High Street  
Potters Bar  
Herts  
EN6 5BZ

Bushey Library  
Sparrows Herne  
Bushey  
Herts  
WD23 1FA

Radlett Library  
Radlett Centre  
1 Aldenham Avenue  
Radlett  
Herts  
WD7 8HL

### Neighbourhood information centres

Bushey Information Office  
Bushey Centre  
High Street  
Bushey  
Herts  
WD23 1TT

Radlett Centre  
1 Aldenham Avenue  
Radlett  
Herts  
WD7 8HL

Potters Bar Information Office  
Wylllyots Centre  
Wylllyots Place  
Darkes Lane  
Potters Bar  
EN6 2HN

#### **Appendix 4: Hertfordshire CIL Reference Group Meetings**

A Hertfordshire wide CIL working group referred to as the CIL Reference Group has been in existence since 2011. The group includes officers from all the Hertfordshire Districts together with representatives from Hertfordshire County Council, Herts Construability, and Hertfordshire PCT NHS.

- 21 September 2011
- 02 November 2011
- 18 January 2012
- 07 March 2012
- 27 June 2012
- 18 July 2012
- 12 September 2012
- 14 November 2012
- 07 February 2013
- 20 March 2013
- 15 May 2013
- 10 July 2013
- 17 September 2013

## Appendix 5: Copies of the PDCS responses

**RES1**

**Savills on behalf of the Home Builders Federation and Members**

9 April 2013  
130409 Hertsmere Prelim HBF Reps

savills

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Dear Sir/Madam,

**Hertsmere Borough Council CIL Preliminary Draft Charging Schedule  
Representation submitted on behalf of the Home Builders Federation and Members**

1.1 These representations are submitted in respect of the above, on behalf of the Home Builders Federation consortium, which comprises:

- 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 Schedule proposed by Hertsmere Borough Council (HBC). The representation is made in respect of the Preliminary Draft Charging Schedule (PDCS) published for public consultation in the period March to April 2013. Our clients' particular comments relate to the proposed rates for residential development.

1.3 The Consortium has come together as a result of certain concerns with the approach proposed by HBC, notably regarding the viability of the proposed rate for residential development. The Consortium's members have land holdings across the HBC 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 In submitting this representation, due to the time and resource available to us at this stage, the Consortium is only commenting on particular key areas of the evidence base. The lack of reference to other parts of the evidence base cannot necessarily be taken as agreement with them and the

Offices and associates throughout the Americas, Europe, Asia Pacific, Africa and the Middle East.

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Consortium reserves the right to make further comments upon the evidence base at the Draft Charging Schedule consultation stage.

- 1.5 We have grouped our concerns into five key areas:
- The appropriateness of inputs into the viability appraisals;
  - The viability appraisal for the strategic regeneration area in Elstree;
  - The interpretation of the viability evidence in setting the proposed residential rate;
  - CIL Regulation 122<sup>1</sup> and Double Counting; and
  - The flexibility in the operation of CIL following adoption.
- 1.6 We will address these five areas in turn.

## 2.0 Viability Appraisal Assumptions

### *Profit Level*

- 2.1 Within the Lambert Smith Hampton Stage 2 Viability Assessment, December 2012 (Stage 2 VA)<sup>2</sup>, the discussion concludes that a 17% return on Gross Development Value (GDV) (20% on cost) is appropriate. In Savills experience of undertaking valuations for loan security purposes, the minimum profit margin that the lending institutions are currently prepared to accept, on residential development, is 20% on GDV. In recent months, the appeal decision relating to Land at The Manor, Shinfield, Reading has been made by the Planning Inspector.<sup>3</sup> 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 are to be preferred and that a figure of 20% of GDV, which is at the lower end of the range, is reasonable."*

- 2.2 Or particular note is that there was no difference between the assumed profit on private and affordable housing. LSH have assumed only a 6% profit on affordable housing cost. The advice provided by the HCA is historic and originates from a time when grant funding was available and the risk of delivering affordable housing was much lower. We are now experiencing increased risk in the delivery of affordable housing and, indeed, have seen examples of house builders that have purchased land but who have failed to secure the interest of a Registered Provider to take on the affordable housing units. This increased risk warrants an appropriate level of market risk to be factored into the profit on the affordable housing. We therefore believe that, in accordance with the Inspector's decision noted above, no distinction should be made between the profit levels on affordable and private housing.
- 2.3 We would stress that the minimum acceptable profit margin for the Consortium is therefore 20% on GDV. 20% on developer's costs is actually roughly equivalent to only 16.3% on GDV, which is significantly below the expectations of lenders.

### *Stamp Duty*

<sup>1</sup> Community Infrastructure Levy Regulations, 2010, as amended

<sup>2</sup> Paragraphs 5.3 – 5.5

<sup>3</sup> Ref: APP/X0360/A/12/2179141, 8 January 2013

- 2.4 It should be noted that the assumption that Stamp Duty would be 4% (as denoted in the table at 5.1 of the Stage 2 VA) is incorrect. Stamp duty thresholds vary by the value of the land being transferred and should be applied accordingly, with the top rate of Stamp Duty being 7% on residential land transactions over £2million, which would be applicable in most, if not all, of the scenarios tested. This inaccuracy could make a significant difference where the viability of a development is marginal which, according to the example appraisals provided<sup>4</sup>, they are.

### 3.0 **Elstree Way Corridor**

- 3.1 It is noted in the Stage 2 VA<sup>5</sup> that there is a redevelopment proposed at Elstree Way Corridor of up to 800 units. This site has been appraised in isolation in order to test the viability of CIL. The appraisal provided within the Appendix to the VA shows a development of only 100 dwellings, which cannot be representative of an 800 dwelling scheme as a much larger development would have increased costs of capital and cashflow timing implications. We would suggest that an appraisal of a scheme of 800 dwellings would be a more appropriate form of evidence on which to base the proposed CIL rate for the Elstree Way Corridor area.

### 4.0 **Interpretation and Application of the Viability Appraisal Results**

- 4.1 We understand that the VA has been a two stage process and that refinements have been made between the stages. The Stage 2 VA goes some way to explaining the refinements made between the two reports, however there are some unusual results that do not appear to follow the logic of the changes.
- 4.2 For example, within the Stage 2 VA, the report sets out the maximum CIL rates identified within the Stage 1 VA, which for the postcode area WD23 reached a maximum of £156/m<sup>2</sup> at a density of 100dph<sup>6</sup>. It discusses changes to assumptions for the purposes of the Stage 2 VA<sup>7</sup>, including a reduction in the assumed sales value in the WD23 area from £416/ft<sup>2</sup> to £360/ft<sup>2</sup>. The conclusion within the Stage 2 VA is that the WD23 area can now (at Stage 2) afford a proposed CIL rate of £210/m<sup>2</sup>, having been covered by the generic proposed £120/m<sup>2</sup> at Stage 1.
- 4.3 Firstly, given the analysis presented above, we cannot see how a reduction in sales values of 14% justifies a 43% increase in the proposed CIL rate; this does not logically follow as reduced sales value would have a negative impact on viability. Secondly, if the maximum potential CIL within the WD23 area is £156/m<sup>2</sup>, we cannot understand how this has changed into a CIL rate of £210/m<sup>2</sup> for the same area at Stage 2 – there is little explanation and the appraisal results for each viability appraisal have not been provided. Within the WD23 area, Bushey accounts for a fifth of the housing supply for the Borough, therefore any inaccuracy that would render development unviable in this area could seriously put at risk the delivery of the plan. There is therefore insufficient justification for this rate and we do not believe it to be appropriate. We are concerned that the other proposed rates are also undermined by similar inconsistencies and therefore request a thorough review and check of the assumptions, appraisals, results and proposed CIL rates across all areas.
- 4.4 We also note that within the table in the Stage 2 VA showing a summary of the Stage 1 and Stage 2 CIL outputs<sup>8</sup>, the Stage 1 outputs appear to be exactly the same figures as the Stage 1 assumed average sales rates, albeit in £/m<sup>2</sup> not £/ft<sup>2</sup> respectively<sup>9</sup>. This may be coincidental or it may be a mistake. If it is the latter, it seriously misrepresents the work undertaken previously and the impact of

<sup>4</sup> Appendix 2, Stage 2 Viability Appraisal, Lambert Smith Hampton, 2012

<sup>5</sup> Paragraph 5.9

<sup>6</sup> Paragraph 6.1

<sup>7</sup> Paragraph 5.16

<sup>8</sup> Paragraph 6.6

<sup>9</sup> Paragraph 5.16



the revised work undertaken at Stage 2. We request this is checked and, for transparency, the appraisal results are provided for consideration.

#### *The Proposed Rates*

- 4.5 Within paragraph j of the Executive summary within the Stage 2 VA, the table shows the following rates and zones:
- Zone 1 - £120/m<sup>2</sup>;
  - Zone 2 - £210/m<sup>2</sup>; and
  - Zone 3 - £60/m<sup>2</sup>.
- 4.6 The table following that paragraph denotes areas by 'bands' rather than zones, but it is clear that the following areas are covered by those bands/zones:
- Band 1 – Radlett and Bushey
  - Band 2 – Borehamwood, Potters Bar and Elstree
  - Band 3 – Elstree Way Corridor
- 4.7 Within the PDCS<sup>10</sup>, the proposed rates for the areas covered by Band 1 and Band 2 then appear to have been reversed, so that the higher rate of £210/m<sup>2</sup> which was proposed for 'Zone 2', and therefore presumably 'Band 2' (Borehamwood, Potters Bar and Elstree), has been incorrectly applied to Radlett and Bushey. We request clarification of the results for each areas and how these have been translated into the proposed rates, and the 'zones' or 'bands' to which they apply.

#### *Viability Cushion*

- 4.8 In addition to the comments above, it is best practice to apply a viability 'cushion' when setting the rate of CIL, in accordance with the Statutory CIL Guidance, published in December 2012, which states: ***“charging authorities should avoid setting a charge right up to the margin of economic viability across the vast majority of sites in their area.”***<sup>11</sup>
- 4.9 In reality, site specific circumstances will mean that the economics of the development pipeline will vary from the typical levels identified via analysis of a 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.
- 4.10 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 and therefore recommends the application of a 'viability cushion'.<sup>12</sup> This 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.
- 4.11 The development appraisals provided within the Stage 2 VA<sup>13</sup> appear to show residual land values that exactly mirror the benchmark land values with no room for variation at all. It is therefore inappropriate to set CIL rates that directly reflect the maximum potential CIL rate identified. There should be a buffer at a discount of at least 30% applied to the proposed rates to allow for the

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<sup>10</sup> Table 1

<sup>11</sup> Paragraph 30, 2012

<sup>12</sup> Paragraph 25, 2013

<sup>13</sup> Appendix 2

variations noted above. This is very important in ensuring that the proposed rates do not put at risk the viability of the Plan.

## 5.0 CIL Regulation 122 – Double Counting

- 5.1 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<sup>14</sup> 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."***<sup>15</sup> 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'"***.<sup>16</sup>
- 5.2 The key tests of CIL Regulation 122<sup>17</sup> 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).
- 5.3 The Government's position on the role of Planning Obligations is clearly outlined in the CIL Overview document,<sup>18</sup> 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 National Planning Policy Framework, 2012<sup>19</sup>.
- 5.4 We would therefore request that the Draft Regulation 123 list of infrastructure is provided for comment at the earliest opportunity, preferably prior to the publication of the Draft Charging Schedule consultation.

## 6.0 Flexible Operation of CIL

- 6.1 Despite the narrow Regulatory requirements of the Examination, our clients urge HBC 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.

<sup>14</sup> Community Infrastructure Levy Regulations, 2010, as amended

<sup>15</sup> Paragraph 89

<sup>16</sup> Paragraph 85

<sup>17</sup> Community Infrastructure Levy Regulations, 2010, as amended

<sup>18</sup> Paragraphs 59 and 60, CLG, May 2011

<sup>19</sup> Paragraph 204

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

*Payment of CIL – Installments*

6.4 The Regulations<sup>20</sup> and CIL – An Overview<sup>21</sup> 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

6.5 With regard to the phasing of CIL payments, we note that HBC have not indicated that they will introduce an instalments policy. We would strongly recommend that take advantage of this opportunity within the Regulations so as to reduce the risk of the proposed CIL rates and the payment of CIL so early in the development programme from being a barrier to the delivery of housing. We recommend that HBC publish a draft instalment policy 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 Regulations<sup>22</sup> 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 HBC 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 counting' where infrastructure is provided by developers on site.

*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 CIL<sup>23</sup>. The first matter to note from the CIL Regulations is that the offer of relief is discretionary on the charging authority<sup>24</sup>. It is also noted that HBC have referred to this option within the Preliminary Draft Charging Schedule, but have not committed to introducing it.

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<sup>20</sup> Regulation 69B(1), Community Infrastructure Levy Regulations, 2010, as amended

<sup>21</sup> Paragraphs 45 - 48

<sup>22</sup> Regulation 73(1)

<sup>23</sup> Paragraph 66 onward

<sup>24</sup> Regulation 55(3) (a), Community Infrastructure Levy Regulations, 2010, as amended

- 6.11 The Consortium considers it imperative that HBC makes 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).

*Reviewing CIL*

- 6.12 The CIL Guidance outlines that the Government 'strongly encourages'<sup>25</sup> 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.
- 6.13 Our clients consider that HBC 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 Council's website. Regular monitoring is key to ensure that CIL does not stifle development in the right locations.

**7.0 Conclusion**

- 7.1 As discussed throughout this submission, we are concerned that the supporting evidence has significant inconsistencies within it and some of the assumptions within the viability appraisals do not appear to be correct. The result of this is that we believe the evidence has not shown that the proposed CIL rates will not put at risk the delivery of the relevant Plan. HBC has selected to charge a rate at the absolute margin of viability, allowing no flexibility for site specific circumstances of viability. This is a high risk approach and is likely to be considered inappropriate by the Examiner, not least because it is not in accordance with Statutory Guidance nor is it in line with published Examiners' reports.
- 7.2 The Consortium is open to meeting with HBC and its advisors to discuss the approach taken and the required adjustments and refinements required to ensure that the rate proposed does not put at risk the delivery of the Plan. We believe this should be arranged as soon as possible.

Yours faithfully,



**Melys Pritchett BSc (Hons) MRICS**  
Associate Director

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<sup>25</sup> Paragraph 79

**RES2**

**Herefordshire County Council**

Chief Executive and  
Director of Environment: John Wood

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Date: 2 April 2013

Dear Mr Wilson,

**HERTSMERE BOROUGH COUNCIL COMMUNITY INFRASTRUCTURE LEVY –  
PRELIMINARY DRAFT CHARGING SCHEDULE**

Thank you for consulting the County Council on the Hertsmere Borough Council (HBC) Preliminary Draft Charging Schedule (PDCS). This response represents the County Council's position as a strategic infrastructure provider and is made on behalf of both the Environment Department (in the County Council's capacity as Local Transport and Highway Authority) and Property and Technology Department (in relation to the County Council's other services such as Children's Services, Libraries, Fire and Rescue and Waste). At this time these are Officer views only.

Following the updating of the statutory guidance relating to the CIL Regime (December 2012), there are a number of new requirements for establishing a CIL charging schedule. These changes will require the continued cooperation between HBC and the County Council as a strategic infrastructure provider. The remainder of this response highlights the changes to the CIL guidance which are likely to have implications for both authorities and identifies a number of areas where further work may need to be undertaken prior to further consultation and examination of the draft charging schedule.

The CIL regime will also have relevance to other infrastructure that is of interest to the County Council (such as Green Infrastructure) however, it is considered that this is not necessarily within the remit of the County Council's capacity as a strategic infrastructure provider and will continue to be a matter for HBC to consider in consultation with relevant stakeholders.

## Implications of revised CIL Guidance (December 2012)

The revised guidance will have implications for both HBC and the County Council. Those changes that are likely to have greatest implications for the preparation of the CIL charging schedule and which relate to the provision of strategic infrastructure provided by the County Council are;

- the need for a more comprehensive and transparent approach to infrastructure planning and delivery at the outset (Para 15);
- the need for greater clarity as to the relationship between CIL and S106 arrangements (Para 85);
- the need for collaboration between HBC and County Council in relation to setting the levy rate and agreeing how the levy will be spent in two-tier areas in relation to key strategic infrastructure (Para 48);
- ability to treat major strategic sites as a separate geographical zone for the setting of CIL rates (Para 34);
- more onerous requirements relating to the updating and republishing of the Regulation 123 list (Para 90).

## Setting the Levy rate

It is for HBC to determine what the appropriate charging rate should be for the area and in general the approach set out in the PDCS is supported. It appears that the proposed levy rate is based upon viability work. However, until there is further clarity as to how the infrastructure items identified in the accompanying Infrastructure Assessment will be funded, and an agreement is reached between the two authorities in relation to what proportion of CIL monies will be made available for the provision of strategic infrastructure provided by the County Council; it is not possible to comment on how the projected income will relate to the scale of infrastructure provision required across the Plan period.

When considering the use of S106 and CIL within the Borough (in as much as it relates to the provision of strategic infrastructure provided by the County Council), it is considered that for the larger, more strategic sites which generate their own infrastructure needs; the most effective approach is likely to be the continued use of S106 agreements to fund infrastructure items which are directly related to those developments.

The County Council therefore welcomes the identification of the EWC as a separate geographical charging area and notes that a greater allowance for the use of S106 has been applied for the EWC within the viability work. However, it appears that the S106 allowance has been made to only cover the cost of highway infrastructure works and further clarity is required as to whether or not a S106 allowance has been made for other infrastructure schemes that are likely to be required within the EWC (i.e. provision of land for/ or provision of additional primary school places).

CIL monies are likely to be more appropriately used to fund infrastructure requirements generated from smaller developments, but may also be necessary to address the cumulative impact of development occurring across the district as a whole. It is also important to consider how CIL and S106 could coexist, particularly in relation to the EWC should a single development partner not be identified (as long as there is clarity about how each funding mechanism will be used and why).

Consequently, there is a need to review and update the infrastructure requirements within the Infrastructure Assessment to clarify what the funding mechanisms may be; what the scale of contributions from S106 might be, and what demands will be placed upon available CIL monies in light of the aggregate funding gap and availability of other funding sources.

There is also a need to consider the potential for S106 agreements and setting a differential CIL rate for strategic or larger development sites elsewhere in the Borough if appropriate. It may be necessary to engage the development industry and other infrastructure providers in these discussions and further clarity would be expected in future iterations of the Charging Schedule.

#### Updating and Prioritising Infrastructure Requirements

To date, there has been ongoing engagement between the County Council and HBC, who have worked collaboratively to identify future infrastructure requirements over the Plan period. Much of the infrastructure planning work to date has identified a range of infrastructure schemes which are required to support the level of growth in the adopted Core Strategy– although some highway related schemes may also relate in part to an existing infrastructure deficit which is exacerbated by new development. Where possible, the infrastructure planning work has also included a preliminary assessment of indicative costs and identified potential funding mechanisms.

However, the list of schemes in the Infrastructure Assessment is significantly more detailed than that included in the Infrastructure Topic Paper that supported the Core Strategy. Although comprehensive, there is a need for the additional schemes (relating to County Council infrastructure) to be reviewed by County Council Officers and for the list to distinguish between the use of S106 and CIL including the prioritisation of CIL projects. The current infrastructure planning work (relating to infrastructure provided by the County Council) may therefore not satisfy the requirements of the new CIL guidance.

It is considered that further work will be required to;

- i) (for some infrastructure types) refine the list of schemes in the IDS and Infrastructure Funding Gap Assessment (to ensure that proposed schemes relate to the demand being generated by growth set out within the adopted Core Strategy);
- ii) clarify the relationship between the use of CIL and S106 for infrastructure projects in the Borough;



- iii) identify or make informed judgements as to the potential of alternative funding sources;
- iv) prioritise projects that are to be funded via CIL monies.

### Identifying and Reviewing Spending Priorities

Following the undertaking of ii) and iii) above, the County Council (in relation to the infrastructure it provides) will be able to identify which infrastructure schemes are to be funded by S106 and those which may be funded by CIL monies or alternative funding sources. It is these latter projects that will need to be included on the 'Regulation 123 list'. The County Council will endeavour to provide a joint response from all its service areas (although information in some instances may be available at different times).

In recognising that the levy may not be sufficient to fund all identified schemes (for example in relation to highway improvements) and that monies will be collected across the Plan period in a way that may not necessarily be commensurate with the delivery of infrastructure schemes, there is a need for the County Council to determine which of its infrastructure schemes should be prioritised for the receipt of CIL monies (and HBC will need to demonstrate how these priorities are reflected in its Regulation 123 list). It is expected that the outcomes of this work will need to form part of the evidence for the CIL examination. The way in which this prioritisation is undertaken will depend on a number of factors including governance arrangements and the way in which the Borough makes a proportion of the levy available to the County Council for funding such infrastructure. There will be a need to engage Senior Officers and Members on this aspect and more time will be required to undertake this process.

Under the previous guidance, there was sufficient flexibility which allowed the Charging Authority to update its 'Regulation 123 list' on a regular basis. This provided an effective mechanism for both the Charging Authority and infrastructure providers to respond quickly to potential changes in spending priorities of both the District Council and infrastructure providers. Although still possible, the revised guidance places greater restriction on the ability for Charging Authorities to update their 'Regulation 123 list' and requires greater transparency as part of the examination as to why CIL monies will be collected and how they will be spent. In recognition of this, the proposed wording on the draft Regulation 123 list may be over generalised.

As with a number of infrastructure providers, the provision of County Council related infrastructure will be dependent on a number of external factors (i.e. demographics, availability of alternative funding sources, timing of development, etc) and as such priorities may change overtime, and (in some cases) over a relatively short timescale. In recognising the more onerous procedure relating to the updating of the 'Regulation 123 list', the County Council will need to work with HBC to identify an approach that would allow spending priorities to be updated as effectively as possible whilst minimising the need for formal review of the 'Regulation 123 list'.

## Next Steps

The County Council as a strategic infrastructure provider are committed to working with HBC in a timely and effective manner to meet the requirements of the revised CIL guidance. However, the new requirements set out within the CIL guidance brings with it a number of challenges which, as mentioned above will not only require a period of time for Officers to review and update the relevant information relating to infrastructure schemes within the Borough, but is also likely to require parallel political processes (to be agreed) to decide on how CIL monies should be prioritised. The County Council are currently piloting an approach with two Charging Authorities and once tested, it is the intention for this approach to be followed for all Charging Authorities. Given the extent of further work that needs to be undertaken, meeting the indicative timescales in the PDCS document may be challenging.

There is also a need to agree appropriate governance arrangements between the two authorities and the level of CIL monies that will be made available to the County Council for the provision of strategic infrastructure. It is likely that this work will need to be undertaken prior to any consultation on the draft CIL Charging Schedule or its examination.

We hope that you find the above comments useful and look forward to working with you in taking forward the implementation of CIL within Hertsmere.

Yours sincerely,

Chris Bearton

**Spatial and Land Use Planning Unit  
Hertfordshire County Council**

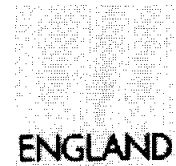
Jacqueline Nixon

**Property and Technology  
Hertfordshire County Council**

**RES3**

**Natural England**

Date: 07 March 2013  
Our ref: 80505



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Senior Planning Officer  
Hertsmere Borough Council  
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### By Email

Dear Mr Wilson,

### Re: Hertsmere Community Infrastructure Levy Preliminary Draft Charging Schedule

Thank you for your consultation on the above, which was received by Natural England on the 04 March 2013.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Natural England is not a service provider, nor do we have detailed knowledge of infrastructure requirements of the area concerned. However, we note that the National Planning Policy Framework Para 114 states "Local planning authorities should set out a strategic approach in their Local Plans, planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure." We view CIL as playing an important role in delivering such a strategic approach.

As such we advise that the council gives careful consideration to how it intends to meet this aspect of the NPPF, and the role of the CIL in this. In the absence of a CIL approach to enhancing the natural environment, we would be concerned that the only enhancements to the natural environment would be ad hoc, and not deliver a strategic approach, and that as such the local plan may not be consistent with the NPPF.

Potential infrastructure requirements may include:

- Access to natural greenspace.
- Allotment provision.
- Infrastructure identified in the local Rights of Way Improvement Plan.
- Infrastructure identified by any Local Nature Partnerships and or BAP projects.
- Infrastructure identified by any AONB management plans.
- Infrastructure identified by any Green infrastructure strategies.
- Other community aspirations or other green infrastructure projects (e.g. street tree planting).
- Infrastructure identified to deliver climate change mitigation and adaptation.
- Any infrastructure requirements needed to ensure that the Local Plan is Habitats Regulation Assessment compliant

We hope that you find this information useful. For any correspondence or queries relating to this consultation only, please contact Francesca Barker using the details given below. For all other correspondence, including in relation to forward planning consultations, please contact the address above or email [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

Yours sincerely,

Francesca Barker  
Land Use Operations Team  
Tel: 0300 060 0873  
Email: [Francesca.barker@naturalengland.org.uk](mailto:Francesca.barker@naturalengland.org.uk)

**RES4**

**Sport England**

**Creating a sporting habit for life**



Your ref:

Our ref: Local Plan/ Hertsmere

CIL Consultation  
Policy and Transport  
Hertsmere Borough Council  
Civic Offices  
Elstree Way  
Borehamwood  
Hertfordshire  
WD6 1WA

15<sup>th</sup> March 2013

Dear Sir/Madam,

#### **HERTSMERE CIL PRELIMINARY DRAFT CHARGING SCHEDULE**

Thank you for consulting Sport England on the above consultation document. Sport England is the Government agency responsible for delivering the Government's sporting objectives. Sport England is also a statutory consultee on planning applications affecting playing fields.

While Sport England has no comments to make on the preliminary draft charging schedule itself, I would like to take this opportunity to make comments on the Council's associated Infrastructure Assessment and Infrastructure Funding Gap Assessment:

#### **Infrastructure Assessment**

##### *Green Infrastructure and Other Community Facilities*

Reference to the current infrastructure needs derived from the Council's Open Space Strategy and Playing Pitch Strategy in relation to leisure facilities and outdoor sport is welcomed as these are types of community infrastructure that should be considered in an infrastructure assessment that will support and justify the CIL. The reference in paragraph 7.19 to the two strategies being reviewed and potential changes arising being published as an update is also welcomed as this should hopefully address concerns previously raised by Sport England on the existing evidence base.

Following completion of the reviews, it is considered essential that site specific projects to address needs are identified and prioritised and subsequently costed. This is necessary to show that any contributions collected from CIL/planning obligations will be used in practice towards deliverable projects that have a relationship with the

Sport England, Local office - Central, SportPark, 3 Oakwood Drive, Loughborough, LE11 3QF,  
Tel: 0207 273 1777 Email: [planning.central@sportengland.org](mailto:planning.central@sportengland.org)  
Web: [www.sportengland.org](http://www.sportengland.org) Twitter: [sport\\_england](https://twitter.com/sport_england)

development. Without such detail there is a concern that it will not be possible to use CIL contributions towards sports facilities as it will not be possible to demonstrate that the contributions will be used to deliver sports facility infrastructure in practice.

For example, identifying (in paragraph 7.17) that Potters Bar currently has a shortfall of 2 mini-soccer pitches, one cricket pitch and a senior hockey pitch identifies the playing pitch needs in this area of the Borough but does not demonstrate that there are projects that contributions could be used towards for addressing these needs. Instead, Sport England would expect the Infrastructure Assessment see specific projects identified in Potters Bar to address these needs which should be prioritised to ensure that the limited resources that will be available are focused on funding projects that are the most important to the community as well as being deliverable e.g. the projects identified in the Playing Pitch Strategy Action Plan (or any update to this). This would be consistent with the approach taken in the Infrastructure Assessment to Green Infrastructure for instance.

### **Infrastructure Funding Gap Assessment**

Reference in the Council's draft Regulation 123 list to playing fields forming part of the infrastructure requirements that are proposed for CIL funding is welcomed as the evidence base would support this and Consideration should be given to adding leisure/indoor sports facilities if the Council's review of the Open Space Study identifies any needs.

It is noted that there is a substantial funding gap in relation to playing fields. It would be helpful if the assessment provided details of how the total cost of playing field projects has been derived as it is difficult to provide informed comment on these costs and there is a lack of transparency about how the costs have been derived e.g. the total figure of £3,440,000 is substantially different to the total estimated cost of implementing identified projects in the playing pitch strategy (page 162). Without such information there is a potential concern that these costs may be challenged when the CIL is examined. Given the significant funding gap and the likelihood that CIL and other funding sources will not realistically meet this gap, as set out above, consideration should be given to prioritising playing field/outdoor sport projects for the purposes of CIL (and therefore reducing the total cost figure) unless it is considered that the funding gap could realistically be addressed from other funding sources. Sport England would prefer a smaller number of priority projects to be implemented within a reasonable timescale than potential funding from CIL and other sources being spread too thinly across multiple projects which may not be deliverable in practice.

I hope that these comments are helpful to you in progressing the CIL and the infrastructure assessment that supports it. I would be happy to discuss my comments further with the Council and provide additional advice if required.



Creating a sporting habit for life



Yours sincerely

A handwritten signature in black ink that reads "Roy Warren".

Roy Warren  
Planning Manager

**Direct Line: 0207 273 1831**

**E-Mail: [roy.warren@sportengland.org](mailto:roy.warren@sportengland.org)**

**RES5**

**Highways Agency**

## Matthew Wilson

---

**From:** Nelson, Stephen (non CS) <Stephen.Nelson@highways.gsi.gov.uk>  
**Sent:** 25 March 2013 09:48  
**To:** Local Plan  
**Cc:** Hall, Stephen  
**Subject:** Community Infrastructure Levy Preliminary Draft Charging Schedule Notice of public consultation

Dear Matthew Wilson

Thank you for your letter regarding the **Community Infrastructure Levy Preliminary Draft Charging Schedule Notice of public consultation**.

The HA is an executive agency of the Department for Transport (DfT). We are responsible for operating, maintaining and improving England's strategic road network (SRN) on behalf of the Secretary of State for Transport.

The HA will be concerned with proposals that have the potential to impact the safe and efficient operation of the SRN.

We have reviewed the application and have no objection.

I hope this is helpful.

Yours sincerely

**Stephen Nelson, on behalf of Stephen Hall**

Highways Agency | Federated House | London Road | Dorking | RH4 1SZ

Tel: +44 (0) 1306 878634

Web: <http://www.highways.gov.uk>

GTN: 3904 8634

Safe roads, reliable journeys, informed travellers  
Highways Agency, an executive agency of the Department for Transport.

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**RES6**

**Three Rivers District Council**

**Matthew Wilson**

---

**From:** Claire May <Claire.May@ThreeRivers.gov.uk>  
**Sent:** 02 April 2013 11:53  
**To:** Local Plan  
**Subject:** TRDC response - Preliminary Draft Charging Schedule Consultation

Dear Matthew,


**Hertsmere Borough Council Community Infrastructure Levy Preliminary Draft Charging Schedule**

Thank you for consulting Three Rivers District Council on Hertsmere's Preliminary Draft Charging Schedule. Three Rivers District Council notes the content of the Preliminary Draft Charging Schedule and I can confirm that we do not have any comments at this stage.

Kind regards

Claire May  
Principal Planning Officer  
Development Plans  
Three Rivers District Council

01923 727106

 please consider the environment - do you really need to print this email?

-----  
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**RES7**

**Banner Homes Group PLC**

## Matthew Wilson

---

**From:** Neil Cottrell <Cottrell@bannerhomes.co.uk>  
**Sent:** 02 April 2013 12:34  
**To:** Local Plan  
**Subject:** CIL Preliminary Draft Charging Schedule - Representations

Dear Sirs,

I am responding to the consultation on the Council's Preliminary Draft CIL Charging Schedule. I have also read the associated Viability Study and Infrastructure Delivery Plan.

You will be aware that we are very active in the Borough, particularly in Radlett and Bushey.

In reality, the proposed CIL levels these localities, in their own right, or in combination with the LPAs "postcode" approach to affordable housing contributions, will have a similar effect to a "housing moratorium". We therefore object to the proposals in their current form.

We are firmly of the view that following the consultation exercise the Council should adopt one of the following approaches:

- Withdraw the draft Charging Schedule
- Deferring any further to enable a more informed assessment of the economic viability of the CIL threshold proposed including their likely impact upon overall levels of housing delivery and creating mixed communities. This exercise would be undertaken using more localised data with, for example, detailed input/comments from local estate agents.
- Continue to work under the currently proposed thresholds and await the outcome of an inspectors considerations relating to the objections at Examination in due course.

I would be grateful if you could keep me informed on progress on this matter.

Regards

Neil Cottrell

**Neil Cottrell**  
Planning Manager  
**Banner Homes Group PLC**



Riverside House, Holtspur Lane, Wooburn Green  
High Wycombe, Buckinghamshire, HP10 0TJ

DL: 01628 536288  
M: 07841292877

**RES8**

**The Planning Bureau Limited on behalf of McCarthy & Stone  
Retirement Lifestyle Ltd.**





# THE PLANNING BUREAU LIMITED



Town Planners

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Architects

REPLY TO: HOMELIFE HOUSE, 26-32 OXFORD ROAD, BOURNEMOUTH, DORSET, BH8 8EZ TEL: 01202 508206 FAX: 01202 508277  
Zayed.Thomas@theplanningbureau.ltd.uk

Policy & Transport  
Hertsmere Borough Council  
Civic Offices  
Elstree Way  
Borehamwood  
Hertfordshire  
WD6 1WA

3<sup>rd</sup> April 2013

**MCCARTHY & STONE RETIREMENT LIFESTYLES LTD.  
REPRESENTATION TO THE COMMUNITY INFRASTRUCTURE LEVY PRELIMINARY DRAFT CHARGING  
SCHEDULE**

As the market leader in the provision of retirement housing for sale to the elderly, McCarthy and Stone Retirement Lifestyles Ltd considers that with its extensive experience in providing development of this nature it is well placed to provide informed comments on the emerging Hertsmere Borough Council Community Infrastructure Levy (CIL), insofar as it affects or relates to housing for the elderly.

The effect of the imposition of CIL will be to constrain land supply. This is a significant threat to land with a high existing use value and therefore to the delivery of retirement developments, which due to the nature of residents are required to be sited in close proximity to town and local centres. It is hoped that the CIL schedule can be adopted in a way that does not constrain this much needed form of development.

The CIL Guidance published in December 2012 by the Department for Communities and Local Government (DCLG) states consistently that *'In proposing a levy rate(s) charging authorities should show that the proposed rate (or rates) would not threaten delivery of the relevant Plan as a whole'* (Paragraph 29).

The CIL Guidance also stresses the importance of this principle to individual market sectors that play an important role in meeting housing need, housing supply and the delivery of the Development Plan, such as specialist accommodation for the elderly. This is relevant in the context of Paragraph 37 of the Guidance:

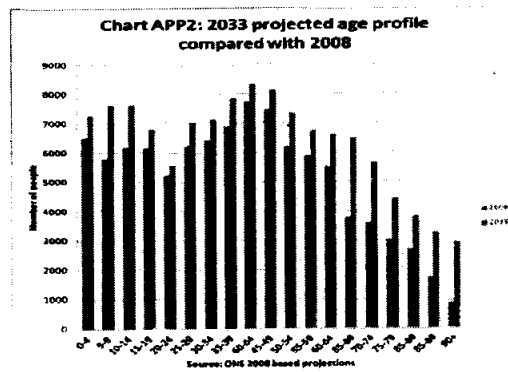
*"... However, resulting charging schedules should not impact disproportionately on particular sectors or specialist forms of development and charging authorities should consider views of developers at an early stage".*

Where the provision of specialist accommodation for the elderly plays a clear role in meeting housing needs in the emerging or extant Development Plan, by not properly considering the effect of CIL on this form of development the Council would be putting the objectives of the Development Plan at risk and thereby contravening Government Guidance. It is therefore of clear importance that the emerging CIL rate accurately assess the development of specialist accommodation for the elderly in Hertsmere Borough.

## Growing Elderly Population

The National Planning Policy Framework stipulates that the planning system should be '*supporting strong, vibrant and healthy communities*' and highlights the need to '*deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. Local planning authorities should plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community...such as...older people*' [emphasis added].

The "What Housing Where Toolkit" developed by the Home Builders Federation uses statistical data and projections from the Office of National Statistics (ONS) and the Department for Communities and Local Government (DCLG) to provide useful data on current and future housing needs. The table below has been replicated from the toolkit and shows the projected change to the demographic profile of Hertsmere Borough between 2008 and 2033.



In line with the rest of the country, this toolkit demonstrates that the demographic profile of Hertsmere is projected to age, with the proportion of the population aged 65 and over increasing from 15.97% to 22.06% between 2008 and 2033. The largest proportional increases in the older population is expected to be of the 'frail' elderly, those aged 75 and over, who are more likely to require specialist care and accommodation.

The adopted Hertsmere Core Strategy (2013) reflects this by identifying the demographic profile of the area is ageing, raising concerns over the future provision of adequate support and accommodation for the growing elderly population. The provision of suitable housing to meet the diverse needs of the population is addressed in Policy CS7: Housing Mix which states that '*To help meet local housing needs, proposals for new housing should provide an appropriate mix and size of new homes in terms of housing size and type within each tenure*'. The development of specialist accommodation for the elderly is specifically encouraged in the justification for this policy in paragraphs 3.48 which states '*The Council will encourage the development of sheltered or 'very sheltered' (extra care) housing, continuing care retirement communities and nursing or residential care homes in suitable locations*'. It is therefore clear that the development of specialist accommodation for the elderly is a priority for the Council.

In light of the above, we consider that it is of vital importance that the emerging CIL does not prohibit the development of specialist accommodation for the elderly at a time when there is an existing and urgent need for this form of development and that by not properly assessing this form of development the proposed CIL rate would threaten the delivery of the relevant Development Plan contravening Government Guidance.

### Development Scenario

As you are aware, as a national retirement housing company, McCarthy & Stone are currently submitting planning applications throughout the Country. Presently all but a handful of our schemes are unable to support policy compliant levels of affordable housing contributions and as such have required viability assessments. In light of this we obviously need to ensure that the supporting viability work for the CIL is actually representative of what is happening in the real market place for all forms of housing, as, if it is not, the adoption of CIL may prevent needed development coming forward.

The Preliminary Draft Charging Schedule, whilst differentiating between higher and lower value areas (Zones) within the Borough on the grounds of viability, provides a uniform CIL levy rate for all forms of residential development and does not differentiate between houses, flats and specialist accommodation for the elderly, despite the significant differences between these forms of accommodation

Whilst there is an understandable desire to keep the charging rates as simple as possible the broad inclusion of some retirement housing within a "general residential heading" fails to acknowledge the very specific viability issues associated with such specialist accommodation for the elderly. Given the significant differences between sheltered accommodation and standard market housing, it is unclear as to what the basis for such advice is, particularly as the Viability Assessment did not include a development scenario for sheltered housing, despite advising the Council to include sheltered housing in the residential CIL rates.

It is our understanding that Lambert Smith Hampton completed a viability assessment for private care homes (private retirement homes) on the key assumption that *"any current hotel or private residential care home would not be constructed speculatively, with the schemes instead built by owner occupiers and or with pre-lets in place. These types of developments were therefore seen as investment opportunities and therefore their profit assumptions were reduced to reflect this"* (Paragraph 6.20). While this approach may be applicable to some care home facilities it is certainly not applicable private specialist accommodation for the elderly, which is built speculatively by developers.

Indeed, such an approach represents a highly polarised view of specialist accommodation for the elderly and whilst there is an understandable desire to keep the charging rates as simple as possible, presently we would consider that the evidence base fails to acknowledge the very specific viability issues associated with this form of housing.

A crucial element of the CIL viability appraisal will be to ensure that the baseline land value against which the viability of the retirement scheme is assessed properly reflects the spatial pattern of land use in the locality.

Therefore the viability of retirement should be assessed against both likely existing site values, and just as importantly, of potential alternative (i.e. competitor) uses. Our concern is that CIL could prejudice the delivery of retirement housing against competing uses on the land suitable for retirement housing schemes.

The average age of residents in retirement housing is around 79 years old, likely to have abandoned car ownership, be of lower mobility and/or rely on close proximity to public transport. For this reason retirement housing developers will not consider sites that are over a walking distance of approximately half a mile from a town or local centre with a good range of shops and services to

meet a resident's daily needs. The result is that retirement housing can only be built on limited range of sites, typically high value, previously developed sites in close proximity to town centres. It is worth noting that Paragraph 27 of the December 2012 Community Infrastructure Levy Guidance recognises that brownfield sites are those where the CIL charge is likely to have the most effect, stating; *"The focus should be in particular on strategic sites on which the relevant Plan relies and those sites (such as brownfield sites) where the impact of the levy on economic viability is likely to be most significant"*.

The Viability Assessment should therefore provide a development scenario for a typical flatted retirement housing scheme, located on a previously developed site within 0.4 miles of a town centre.

### **Viability Assumptions**

Any CIL viability assessment should consider the effect of the imposition of CIL on a retirement apartment scheme and should be quantified using appraisal inputs specific to the retirement housing product. It is not correct to simply assume that a general needs apartment scheme is comparable to a retirement apartment scheme as there are a number of key differences which will affect the land value that can be produced by each.

The remainder of this representation will provide details of the appraisal inputs that most affect retirement housing.

### **Communal Areas**

Many forms of specialist accommodation for the elderly, such as retirement housing, provide communal areas for residents at an additional cost to developers. Specialist housing providers also have additional financial requirements as opposed to other forms of development that will only pay on 100% saleable floorspace. This does not provide a level playing field for these types of specialist accommodation and a disproportionate charge in relation to saleable area and infrastructure need would be levied.

In comparison to open market flats the communal areas in specialist accommodation for the elderly are considerably larger in size, fulfil a more important function and are accordingly built to a higher specification in order to meet the needs of the elderly than those provided by open market flatted developments. 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.

This places providers of specialist accommodation for the elderly at a disadvantage in land acquisition as the ratio of CIL rate to net saleable area would be disproportionately high when compared to other forms of residential accommodation

### **Sales Rate**

In the case of retirement housing for example there is also a much longer sales period which reflects the niche market and sales pattern of a typical retirement housing development. This has a significant knock on effect upon the final return on investment. This is particularly important with empty property costs, borrowing and finance costs and sales and marketing which extend typically for a longer time period. Currently the typical sales rate for a development is approximately one unit

per month, so a 45 unit retirement scheme (i.e. an average sized scheme) can take 3-4 years to sell out.

As a result of this typical sales and marketing fees for specialist accommodation for the elderly are typically in excess of 6% of GDV, not the conservative 3% assumed in the Viability Assessment.

### **Empty Property Costs**

Properties can only be sold upon completion of the development and the establishment of all the communal facilities and on-site house manager. These communal areas cost additional monies to construct and are effectively subsidised by the developer until a development has been completely sold out. In a McCarthy and Stone development the staff costs and extensive communal facilities are paid for by residents via a management / service charge. However, due to the nature of these developments the communal facilities have to be fully built and operational from the arrival of the first occupant. Therefore to keep the service charge at an affordable level for residents, service charge monies that would be provided from empty properties are subsidised by the Company (these are typically known as Empty Property Costs). This is a considerable financial responsibility as, as previously mentioned, it usually takes a number of years to fully sell a development. For a typical 45 unit McCarthy and Stone Later Living development the Empty Property Costs are on average £100,000.

### **Build Costs**

Whilst the Viability Assessment differentiates between the build costs between houses and apartments, excluding abnormals, it does not consider the build costs of flatted sheltered housing.

The Build Costs Information Services (BCIS) shows that the Mean Average Build Costs per m<sup>2</sup> for a region. This database consistently shows that build costs vary significantly between housing types with the cost of providing sheltered housing consistently higher than for general needs housing and apartments.

The most recent BCIS figures for Hertsmere (23<sup>rd</sup> March 2013) show that the mean cost of building one m<sup>2</sup> of estate housing is £938, while the equivalent cost for apartment developments is £1,105 per m<sup>2</sup>. Sheltered housing costs £1,165 per m<sup>2</sup> - 5.4% more expensive than the cost of building apartments and 24.2% more expensive than estate housing.

While the BCIS figures are subject to fluctuation it is our experience that specialist accommodation for the elderly tends to remain in the region of 5% more expensive to construct than apartments and generally between 15 to 20% more expensive than estate housing. No analysis of the build costs for sheltered accommodation is provided in the Viability Study.

### **Developer Profits**

In the foreseeable economic climate we would consider that the minimum anticipated developer profit required to achieve financial backing for a retirement scheme to proceed would be 20%. Similarly the incentives required to acquire land, particularly brownfield sites the type where sustainable uses such as retirement housing are best located, in the first place is likely to be at least 40%+ of current existing use market value. Obviously the market value is influenced by a number of factors which can easily be over generalised.

Developer returns of 17% as proposed by the Council would not provide sufficient incentive for developers of specialist accommodation for the elderly to take on the risk of return.

I would also like to draw the Council's attention to the recent Examiner's Report for the Greater Norwich Development Partnerships CIL which was published recently. This concluded that the Council had taken an over-optimistic approach to calculating overheads and profit margins for residential development generally and as a result the Council's CIL rate for residential development was reduced by 35%.

#### **Payment by Instalments**

Consideration should also be given to the timing of CIL payments and an allowance for payment by instalments. Whilst we appreciate that, in line with 69B of the CIL Regulations 2011, an instalment policy does not form part of the charging schedule and would not be subject to examination, we would welcome flexibility in the timing of CIL payments as on commencement would introduce an additional financial cost on the development prior to the receipt of any revenue from the proposed development. This would place an additional burden on the developer and would affect the viability of the development, and possibly in the case of residential development impinge upon the developer's ability to provide for affordable housing.

This issue is compounded in the case of specialist accommodation for the elderly, as developments need to be completed in their entirety before a single unit of accommodation can be sold. It is considered that at the earliest, part payment on **first occupation** would be fairer and would reduce unnecessary financial costs to the developer. This should then be **phased depending upon occupation levels**. For the foreseeable economic climate, such as currently being experienced, there is considerable merit in staged payments reflecting occupation levels throughout the sale of the development.

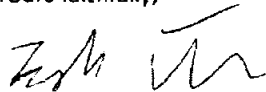
#### **Summary**

Given the extent of projected housing need for older person's accommodation it is paramount that the Hertsmere Borough Council CIL schedule recognises the potential shortcomings of providing a uniform CIL rate for all forms of residential development. The additional costs associated with the construction and initial maintenance of this form of development, coupled with the slower sales rate, make it clear that the financial viability of such developments are more finely balanced than those of houses and apartments.

It is for the above reasons that we suggest either a bespoke CIL rate is prepared for sheltered housing and other forms of specialist accommodation.

Thank you for the opportunity for comment.

Yours faithfully,



Ziyad Thomas  
Policy Planner  
The Planning Bureau Ltd.

## £/m2 study

**Description:** Rate per m2 gross internal floor area for the building Cost including prelims.

**Last updated:** 23-Mar-2013 12:19

🔄 Rebased to Hertsmere

**Maximum age of results:** Default period

Building function (Maximum age of projects)	£/m <sup>2</sup> gross internal floor area						Sample
	Mean	Lowest	Lower quartiles	Median	Upper quartiles	Highest	
<b>New build</b>							
<b>Estate housing</b>							
Generally (15)	938	484	802	916	1,038	1,950	1131
Single storey (15)	1,034	559	889	998	1,169	1,790	227
2-storey (15)	914	484	794	892	1,014	1,746	817
3-storey (15)	918	606	768	853	1,027	1,950	85
4-storey or above (25)	1,318	1,005	-	1,206	-	1,744	3
<b>Flats (apartments)</b>							
Generally (15)	1,105	560	920	1,062	1,233	3,398	646
1-2 storey (15)	1,061	626	915	1,026	1,180	1,962	177
3-5 storey (15)	1,088	560	913	1,062	1,226	2,238	421
6+ storey (15)	1,445	841	1,108	1,366	1,626	3,398	41
<b>Sheltered housing</b>							
Generally (15)	1,165	637	943	1,078	1,298	2,547	73
Single storey (15)	1,292	788	908	1,133	1,438	2,547	17
2-storey (15)	1,118	637	933	1,052	1,298	1,879	29
3-storey (15)	1,138	898	1,038	1,065	1,146	1,682	14
4-storey or above (15)	1,072	812	885	1,042	1,141	1,618	8

**RES9**

**St Albans City & District Council**





**Planning and Building Control**

My ref: HBCCIL.04.13

Please ask for: Manpreet Kanda

Telephone: 01727 814663

Fax: 01727 845658

E-mail: Manpreet.Kanda@stalbans.gov.uk

Date: 03 April 2013

Matthew Wilson  
Hertsmere Borough Council  
Civic Offices, Elstree Way  
Borehamwood,  
Hertfordshire  
WD6 1WA

Dear Matthew,

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

Thank you for consulting St Albans City and District Council on the above document.

At paragraph 2.2 the Preliminary Draft Charging Schedule makes reference to the recently updated Department for Communities and Local Government Community Infrastructure Levy (CIL) Guidance.

The updated Guidance provides a substantial change to the way in which the CIL regulations are expected to be interpreted; the considerations which need to be made in developing a charging schedule and establishing appropriate rates. It is understood, from the updated guidance, that the balance between securing additional investment for infrastructure and the economic effect of imposing the levy across the area needs to be even more so carefully considered. Hertsmere Borough Council is encouraged to ensure that this balance has been appropriately considered.

In moving forward to the next stage of consultation Hertsmere Borough Council must be confident that the updated Guidance has been fully considered and taken into account.

Yours sincerely,

Manpreet Kanda  
Spatial Planning Officer  
Spatial Planning and Design



**RES10**

**Dacorum Borough Council**

## Matthew Wilson

---

**From:** Robert Freeman <Robert.Freeman@dacorum.gov.uk>  
**Sent:** 05 April 2013 09:06  
**To:** Local Plan  
**Subject:** CIL Preliminary Draft Charging Schedule (CIL/1/MW)

Dear Mr Wilson,

Thank you for consulting Dacorum Borough Council on your CIL Preliminary Draft Charging Schedule.

Unfortunately I have been out of the office most of this week with sickness and I would therefore apologise for the lateness of this response.

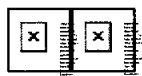
We have examined your PDCS and have no comments to make at this stage.

Robert Freeman – 01442 228663  
Infrastructure Planning Officer  
Strategic Planning and Regeneration  
Dacorum Borough Council



Tenant and leaseholder opportunities

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**RES11**

**English Heritage**



# ENGLISH HERITAGE

EAST OF ENGLAND

Ms Wood  
Hertsmere Borough Council  
Civic Offices  
Elstree Way  
Borehamwood  
Herts  
WD6 1WA

Direct Dial: 01223 582746  
Direct Fax: 01223 582701

Our Ref:HD/P 5254  
Your Ref:CIL/1/MW

30 April 2013

Dear Ms Wood

## **Hertsmere Community Infrastructure Levy (CIL): Preliminary Draft Charging Schedule**

Thank you for consulting English Heritage on the draft charging schedule for the Community Infrastructure Levy in Hertsmere Borough.

English Heritage does not wish to make detailed comments on the level at which the CIL charge is set. We recognise, however, that it will be important to ensure that the charge does not have an adverse effect on the protection that the Council affords to heritage assets. The National Planning Policy Framework (NPPF) sets out a presumption in favour of sustainable development and clearly identifies the historic environment as a relevant matter for consideration in achieving this.

In certain contexts, it may be appropriate to consider exemptions or discretionary relief where the viable future of a heritage asset is at issue, or its significance is threatened by intrusive development. The introduction of CIL could lead to proposals for more intensive development of sites, with the consequence that sensitivity to heritage assets on, or adjoining, the development is harder to achieve.

We note that section 7 of your consultation document anticipates that provision will need to be made for discretionary relief and we would urge the Council to consider such relief for cases that raise heritage concerns. Paragraph 126 of the NPPF advises that local planning authorities should set out a positive strategy for the historic environment in their local plans. We hope that you will take this forward in the CIL schedule, and its application.

The definition of infrastructure that may be eligible for funding through CIL will require some consideration and, for the historic environment, may include

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[www.english-heritage.org.uk](http://www.english-heritage.org.uk)

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some heritage assets, historic open spaces and the public realm. The specification of matters that are eligible for CIL, and those that will continue to be eligible for funding through section 106 agreements, will be important. We look forward to further consultation on those aspects.

Yours sincerely

Katharine Fletcher  
Historic Environment Planning Adviser, East of England

BROOKLANDS 24 BROOKLANDS AVENUE CAMBRIDGE CB2 8BU

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**RES12**

**EHW Architects Ltd**

**Matthew Wilson**

---


**From:** Colin Eades <CEades@ehwarchitects.com>  
**Sent:** 01 March 2013 13:02  
**To:** Local Plan  
**Subject:** CIL

This is idiocy gone rampant ! Has anyone actually thought out the consequences ?

Will this facilitate development as Central Government clamours for ? Absolutely no way! Quite the reverse, stagnation is the only result ! In order for development to be enabled one of three things will need to happen 1] Landowners give away the land for free, 2] Developers build at a loss or 3] Prices go through the roof and become unaffordable, again killing development.

Cosequently consultants like us will suffer too and this country will remain in recession in perpetuity !

**Colin Eades** AA Dip RIBA | Director  
EHW Ltd T 01462 455257 M 07899 928083  
E [ceades@ehwarchitects.com](mailto:ceades@ehwarchitects.com) W [www.ehwarchitects.com](http://www.ehwarchitects.com)



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ehw architects

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<http://www.eset.com>



**RES13**

**Resident 1**

**Matthew Wilson**

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**From:** [REDACTED]  
**Sent:** 04 March 2013 21:44  
**To:** Local Plan  
**Subject:** Community Infrastructure Levy

Dear Sir/Madam,

I would like to comment on the proposed Community Infrastructure Levy. I believe that the majority of the money generated should go towards new schools in the area as there aren't enough and the new developments attract young families who need schools for their children. The rest should go towards road maintenance as the trucks coming in to build the developments causes damage to the roads so the developers should contribute towards the repair.

Yours sincerely,

[REDACTED]  
[REDACTED]  
Borehamwood WD6 [REDACTED]

**RES14**

**Elstree and Borehamwood Town Council**

# ELSTREE and BOREHAMWOOD TOWN COUNCIL

Admin Office  
Tel: 020 8207 1382  
Fax: 020 8953 7645



Fairway Hall,  
Brook Close,  
Borehamwood,  
Herts. WD6 5BT

Matthew Wilson  
Senior Planning Officer  
Hertsmere Borough Council

by courier

27 March 2013

Dear Mr Wilson

## **Community Infrastructure Levy Preliminary Draft Charging Schedule Notice of Public Consultation**

Thank you for providing Elstree and Borehamwood Town Council with the opportunity of commenting on the above consultation.

The main comment of this authority was to ask what assurances could be provided to ensure that Town and Parish Councils were fully involved in the decision-making process when determining how and where levy monies were spent in the locality.

Some Members were also concerned that the introduction of the C.I.L. could potentially cause developers to seek work elsewhere (ie where the levy was not in place).

In addition, it was felt that the obligation on the determining body should be to spend levy monies in the neighbourhood in which they were raised so as to benefit the residents of the Community directly.

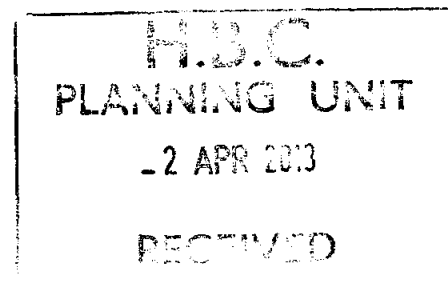
The Town Council looks forward to being kept informed of developments and would formally request to be consulted again, where appropriate.

I hope that this is helpful.

Yours sincerely

A handwritten signature in black ink, appearing to be 'H R O Jones'.

H R O Jones  
Town Clerk



**RES15**

**Aldenham Parish Council**



The Radlett Centre  
1 Aldenham Avenue  
Radlett  
WD7 8HL  
Tel: 01923 856433  
E-mail: [clerk@aldenham.gov.uk](mailto:clerk@aldenham.gov.uk)  
[www.aldenham.gov.uk](http://www.aldenham.gov.uk)

---

Mr B Tudball  
Planning Officer – Policy and Transport  
Civic Offices  
Elstree Way  
Borehamwood  
Herts WD6 1WA

20<sup>th</sup> March 2013

Dear Mr Tudball

**Community Infrastructure Levy Preliminary Draft Charging Schedule**

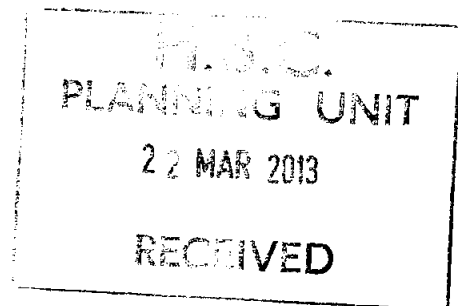
Thank you for your letter in respect of the above consultation.

This was discussed at the Aldenham Parish Council Planning Committee meeting on 18<sup>th</sup> March 2013 and our comments are given on the attached sheet.

Please do not hesitate to contact me if you need further information.

Yours sincerely

Paula Paley  
Planning Officer



## COMMUNITY INFRASTRUCTURE LEVY Preliminary Draft Charging Schedule

### Comments from Aldenham Parish Council

- Paragraph 2.3 (last bullet point) - we would suggest that this paragraph is more specific, and repeat the contents of paragraph 4.6 of the Infrastructure and Funding Report dated February 2013
- Paragraph 3.2 - there appears to be various words missing at the end of the (proposed) last sentence
  - Paragraph 4.1 – it would be helpful if this paragraph contained a reference to paragraph 7.1, dealing with exemptions; in addition, we would suggest that the introductory sentence be amended by deleting the words “CIL will be applied to the majority of new developments”
- Paragraph 6 –
  - (a) It is not immediately clear why the CIL Charging Rate for Zone 2 is being proposed at such a high figure, compared with Zone 1. It is recognised that the Stage 2 Economic Viability Assessment by Lambert Smith Hampton (“LSH”) dated December 2012 basically recommends these figures. However, it was very difficult to understand the rationale for the figures concerned
  - (b) There are some serious concerns over the appropriateness of the proposed CIL rates for the area described as “Bushey, Aldenham and Patchetts Green” in paragraph 7.4 of the LSH report of December 2012. This area is described as postcode WD23 (which in reality relates to Bushey alone). The outlying villages and hamlets outside Radlett in Aldenham West (namely Aldenham, Letchmore Heath, Roundbush, High Cross, Kemprow) either have WD25 postcodes or some have WD6 (such as the schools off Aldenham Road). In addition, one needs to consider the small collection of houses and flats on the so-called “Birds Estate” in Garston (which also have a WD25 postcode). There is an obvious concern that developments in these areas should not necessarily bear the same CIL rate as proposed for Radlett itself. In our view the nature of the majority of developments have more in common with the rest of the Borough, rather than Radlett – and thus should not be subject to the Zone 2 CIL rate.
  - (c) We have concerns about the principle of giving large swathes of postcodes the same CIL rate. Some areas of Bushey have much more in common with, say, Potters Bar. Similarly, areas of Radlett (eg the Battlers Green estate) have more in common with much of Borehamwood, than the rest of Radlett.
  - (d) Another example – it would seem to be equitable that a large part of Elstree should be treated as having a CIL rate comparable to, say, Radlett
  - (e) Overall, we have concerns about the appropriateness of the CIL rates being proposed, particularly the broadbrush, and inappropriate, nature of the postcode basis
- Paragraphs 8.2 and 8.3 – these appear to be repetitive