

**DOCUMENT CILR4**

## New Forest District Council Local Development Framework

### Community Infrastructure Levy

#### New Forest District outside the National Park February 2013

### NFDC Response Further clarification on Open Space – response to ED/5

1 This note is prepared by NFDC in response to the issues raised by the Examiner in ED/5 'Examiner's Post Hearing Note 3 – Response to CILR2 and CILR3'. The Examiner has stated:

2.3 I do not understand why a developer of a site of less than 0.5ha would be able to have all its open space requirement met by paying CIL, whereas a developer of a large site would have to provide space on site (as required by policy) and still pay the full CIL charge, without the on-site provision being treated as a payment in kind. The fact that on-site provision of informal open space in larger schemes is a policy requirement does not justify this double counting, since it is only an element of the overall open space policy standard (which the Council accepts smaller schemes will deliver by paying CIL alone). Also, the fact that the Viability Assessment rightly took into account the physical implication of having to provide informal open space on larger sites (thus lowering the density) does not mean that it should not be treated as a payment in kind if CIL is intended to provide the full open space requirement in smaller schemes.

2 The Examiner has asked the Council to reflect on whether CILR3 correctly states the matter with regards to this position. Upon reflection Document CILR3 does fully reflect the Council's position regarding the provision of open space in accordance with Core Strategy CS7. This statement intends to further clarify the situation to the Examiner.

3 The Core Strategy policy CS17<sup>1</sup> sets a minimum standard for open space of 3.5ha per 1000 population broken down as follows:

- 0.2ha per 1,000 population of designed play spaces for children and young people
- 2ha per 1,000 population of informal open space
- 1.25ha per 1,000 population of formal recreational space (rounded to 1.3)

The policy specifically states this will be provided:

- b) through requiring all new residential developments to make provision for appropriately designed public open space, either through on site provision of new open space or by financial contribution to enhance or create off-site provision and management of public open space (based on a minimum level of provision of 3.5ha per 1000 population);
- (c) through requiring all new residential developments on sites of 0.5ha or over to provide appropriately designed informal public open space on site and to include the provision of designed good quality play spaces;

4 On the basis of this policy wording, the viability assessment modelled the residential developments assuming that 2.2ha per 1,000 population was provided on site for

<sup>1</sup> Document S14: Core Strategy 2009 page 41

developments over 0.5ha. As per paragraph 5 of CILR3, the provision of onsite informal open space is therefore a separate policy requirement to CIL.

- 5 It is not often feasible for small sites (those under 0.5ha) to provide this informal open space on site as generally there will not be enough space on site to create sufficient useable space. Previously, therefore, financial contributions were collected for both informal and formal open space.
- 6 The Council cannot continue to collect pooled contributions under the restrictions of CIL Regulations 122(2) and 123(3)(b)<sup>2</sup> and therefore previously collected pooled contributions must come under the scope of CIL.
- 7 The provision of onsite open space for larger sites (those over 0.5ha) is an important policy requirement. It is important that this is secured to ensure the mitigation of the development on international designations. The onsite provision of informal open space on the larger sites will be secured via a S106 agreement and no CIL funds will be used on these sites for this purpose. This will ensure that no double counting occurs.
- 8 The viability evidence produced has assumed that on small sites those financial contributions will be replaced with CIL, and that for large sites (those over 0.5ha) 2.2ha of informal open space is provided on site together with a CIL payment. The study concluded that in both cases the developments are still viable and can afford to pay £80 per sqm.
- 9 It is therefore for the Council, through effective management of the CIL receipts to ensure that the full policy requirements, in addition to the separate onsite provision, are met. It will also be for the Council to ensure that no double counting occurs and this will be made clear in the Council's Regulation 123 list. For large sites the CIL will be spent on offsite open space provision or accepted as in kind payments where the site specific policy for onsite provision exceeds the minimum requirement.
- 10 As per the CIL guidance note it is for the Council to set an appropriate balance when setting a CIL charge. The Council has a large funding gap which includes a number of mitigation policy considerations. Therefore it does not make sense to exclude developments of 0.5ha from meeting the important onsite policy requirement and providing CIL when the evidence has shown this is viable.

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<sup>2</sup> Document POL2: CIL Regulations 2010