

DOCUMENT CILR5



New Forest District Council

Community Infrastructure Levy

**New Forest District outside the National Park
January 2014**

NFDC Response to response to ED/7 Resumption of the examination – Hearing 23 January 2014

- 1 This note is prepared by NFDC in response to the issues raised by the Examiner in ED/7 'Examiner's Note CIL Resumption'. The questions posed by the Examiner are in boxed text. The Examiner has asked:

Q2.2 Does the new IDP significantly change the justification for charging CIL. Is introducing CIL still justified?

- 2 The justification for charging CIL has not changed. There is still a significant funding gap for which CIL is required. The revised IDP has only provided more clarity on the priorities for spending CIL.

Q3.3 Does the new evidence in relation to the delivery of SANGS and other mitigation significantly undermine the VA's assumption that residual section S106 contributions will be zero? If this assumption is not justified does it undermine the justification for the CIL residential charging rate? If it does, what adjustment to the rate should be made in relation to this issue alone?

- 3 The viability work took account of government advice that CIL rates should not be set at the limits of viability and made its recommendations accordingly. Chapter 7 of the Viability Report (Document EV13) concluded that in all areas a CIL rate of £100 per sqm would not generally make residential development unviable. The Council's Charging Schedule includes a rate of £80 per sq m for residential development, giving a headroom of £20 per sq m within the viability assessment.
- 4 It is possible that CIL may have an impact on the viability of a small number of schemes, particularly in the short term, if CIL was not factored in at the time of land acquisition. The CIL is being introduced as a substitute for existing S106 charges and therefore the impact should be minimal. As stated in paragraph 6.17 of the Draft Charging Schedule Context and Rationale Document (Document EV1), the average CIL charge of £8,000 replaces an average S106 contribution of £6,500.
- 5 The Council believes that in setting the rates at the proposed levels it has struck an appropriate balance between the desirability of funding infrastructure and the potential effects upon the economic viability of development across the plan area. Paragraph 21 of the 2010 CIL Charge Setting Guidance (Document POL7) emphasises that charging authorities should take a strategic view in setting CIL charges.
- 6 Following the Inspection of the Local Plan Part 2: Sites and Development Management and the Inspector's Post Hearing Note 4 (Document ID12), the Council has proposed

in its Main Modifications (Document NFDC45, MM10, page 10) a new DM policy, DM2b. This policy requires the provision of a new on, or close to, site SANGS on developments over 50 dwellings and also contributions towards the monitoring and management of the mitigation measures proposed by the Council. Contributions towards mitigation will also be required from all other residential developments.

- 7 The Council has produced a Draft Mitigation Strategy SPD (Document NFDC46). At Chapter paragraph 7.21 (page 70), the Council sets out how the contributions towards mitigation will work once the Council adopts a CIL charging schedule. For ease, this table has been reproduced below:

	CIL contribution payable	On site informal open space allocation (2ha per 1000) in addition to CIL*	Additional 6 ha per 1,000 of informal natural green space (SANGS) required by DM2b	Future Maintenance contribution on site provision at £56k per hectare (pro-rata)	Access management measures (incl. rangering)	Monitoring (by financial contribution)
Developments of over 50 dwellings	✓	✓ (CS7 requirement)	✓ (DM2b requirement - offered as payment in kind)	✓ (pro-rata based on the full 8ha per 1,000 population)	-	£50 per dwelling
Developments with only CS7 provision on site (Less than 50 dwellings, larger than 0.5ha)	✓	✓ (CS7 requirement)	-	✓ for the CS7 informal requirement	£500 per dwelling	£50 per dwelling
Developments with no informal open space on site (less than 0.5ha)	✓	-	-	-	£500 per dwelling	£50 per dwelling

* An additional 0.2ha per 1,000 population for play space will also be required on-site for development sites larger than 0.5ha

- 8 In total, once the Council has adopted CIL, the introduction of policy DM2b brings with it a maximum additional contribution of £550 per dwelling outside of the scope of CIL. At the time of preparing the viability study, this additional cost was not expected and therefore not taken in to account in the S106 assumptions (Document EVI3, Chapter 5, page 31).
- 9 Chapter 7 of the viability study (Document EVI3) explores the viability of developments based on a range of CIL levels (£0, £60, £80 and £100). The study concluded that even at £100 per sqm CIL residential development does not in general become unviable.
- 10 On the basis of an average dwelling being 100 sqm in size, the viability evidence has demonstrated that a CIL contribution of £10,000 (at £100 per sqm) does not make residential development unviable. The Council has proposed a CIL of £80 sqm and therefore an average CIL per dwelling of £8,000. Therefore with the addition of £550 towards mitigation, collected outside the scope of that collected through CIL, would bring the average contribution per dwelling to £8,550 which on the basis of the results in the viability study does not make development become unviable.

- 11 In conclusion, the Council believes that the monitoring and management costs (which will be in addition to the CIL contribution) introduced by policy DM2b do not undermine the viability of the Council's proposed CIL rate of £80 per sqm.

Q3.5 For the Council: Does the intention, as indicated, in the SPD, to treat the on-site provision of SANGS as a payment in kind for CIL alter the Council's previously expressed view that on-site provision of open space required by policy CS7 would not be treated as a payment in kind? It would be helpful to my understanding if the Council were able to indicate how open space provision and habitat mitigation would actually be described in the Regulation 123 list that the Council would need to publish, so that I can understand how the Council will reassure developers of the larger sites that they are not spending money twice on the same type of infrastructure.

- 12 As set out in paragraph 4 of CILR4, the viability assessment (Document EV13) has assumed 2ha per 1,000 population of informal open space and 0.2ha per 1,000 population of play space is provided on site for development sites larger than 0.5ha. This is in accordance with policy CS7 of the Core Strategy (Document S12) and would not be treated as a payment in kind.
- 13 The additional SANGS requirement introduced by Policy DM2b is a new policy requirement and was not modelled as part of the Viability Assessment. However, 2 ha per 1,000 population for informal natural greenspace was already required by Policy CS7. The revisions to the Policy DM2b text proposed by the Council make it clear that informal open space required by Policy CS7 will be accepted as a part of the mitigation contribution where it is demonstrated as contributing towards SANGS requirements. This CS7 requirement was already taken into account in the CIL viability modelling, before the proposed CIL charging rate was arrived at. Therefore, where sites are required to provide SANGS on-site, 2ha per 1,000 population of this is a specific policy requirement and should not be treated as a payment in kind, as previously stated in CILR4. The remaining 6ha per 1,000 population SANGS requirement introduced by Policy DM2b can be treated as a payment in kind as this specific element was not included in the viability modelling.
- 14 Where an on-site SANGS is required by policy, no further CIL money will be spent on setting this out as a SANGS and therefore no double counting will occur. The Regulation 123 list will be informed by the specific open space and habitat mitigation projects listed in Appendix 1 of the IDP (Document NFDC48). This list does not include any on-site SANGS required as part of a development.

Q4.2 Should I take into account the evidence referred to in CILR2?

- 15 The Council believes that this evidence should indeed be taken into account.

Q4.10 Bearing all the above in mind (and on the assumption that I confirm my overall preliminary conclusion in ED3) does the available evidence for the New Forest justify a charge based on a specific description of a superstore only, without the need to justify a specific floorspace threshold? If it does, I consider that I could recommend such a change since it would be defining more narrowly developments subject to the draft retail charge rather than expanding the type of development captured.

- 16 The Council believes that charging larger retail CIL is clearly justified by the evidence. As set out in paragraph 17 of the CILR2, the 1,000 sqm threshold was selected as a

pragmatic threshold with very few new retail developments having come forward in the last 7 years.

- 17 Whilst the Council does not consider a change is necessary in relation to the retail charge, as proposed in CILR2 (paragraph 22) the Council would not object to the threshold being removed and a wording for Superstores similar to that adopted at Merton being used, namely:

“Superstores: are shopping destinations in their own right, selling mainly food or food and non-food goods, which must have a dedicated car park.”