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Chiltern and South Bucks District Councils, Community Infrastructure Levy: Charging Schedule Examination – written statement submitted on behalf of Chalfont St. Peter Parish Council (Issues 2c. and 3b.)

Introduction

This Community Infrastructure Levy (CIL) draft Charging Schedule submission is being made on behalf of Chalfont St Peter Parish Council, in response to two particular issues raised by the Examiner, Mr Geoff Salter, in the published [Hearings Programme](#) for 5 November 2019. Troy Planning + Design have confirmed their participation at the hearing on behalf of the Parish Council under separate cover.

The two issues and questions posed that are of particular concern to the Parish Council are as follows:

'Issue 2 – Residential Levy Rates

c. Is the threshold of 400 dwellings/10 ha for a zero rate appropriate? Should the areas to which this applies be clarified and, if so, how? Are school sites within such areas exempted?

Issue 3 – Other uses

b. Should a rate of £35/sq m be applied to all other development types, including schools and hospitals?'

Background

Our client's response should be read in conjunction with the [previous submission made on the Parish Council's behalf by Troy Planning + Design](#) (see page 34 of the Councils' document ED015), in response to the consultation on the [draft CIL Charging Schedule](#) (dated 22 August 2019). It is worthwhile noting that very similar points were also made in response to the Preliminary Draft Charging



Schedule consultation; although it is accepted that those earlier representations are not for consideration at this examination, the District Councils have not at any point to date amended their approach to the levy, to fully reflect our client's views.

Of ongoing and direct relevance to the examination hearing on Issue 2 in particular, our client has already fully demonstrated in the August 2019 submission that both the key assumptions underlying the residential viability assessment, and the resulting ill-conceived use of a single residential CIL rate across both Districts, are open to question.

Issue 2c., zero-rating

It also remains the Parish Council's case that the two CIL charging schedule consultations - and now the November 2019 examination - have all been/ are premature, particularly in relation to the proposed zero CIL rate for strategic sites. This view is further reinforced with the [Chiltern and South Bucks Local Plan 2036](#) having only just been [submitted](#) on 26 September; the exact size and location of any allocated strategic sites are therefore as yet unconfirmed.

In responding specifically to the Examiner's Issue 2c. for the hearing, the Parish Council has a further argument against the proposed zero-rating of sites for 400 homes or more, or in excess of 10ha. in size. It is concluded that the principle of these two thresholds being used as alternatives for zero-rating residential-led development sites is fundamentally flawed and therefore unreasonable, as explained below.

In the Councils' [viability assessment work](#) (see [ED002](#) and more particularly, [ED005](#)), the two sites within Chalfont St Peter Parish Council's area (SP BP7 and 8) are each considered to have capacity for less than 400 homes (360 dwellings on SP BP7, the National Epilepsy Centre site, and 200 on SP BP8, land to the south east of the village). Yet both sites have gross areas well in excess of 10ha. (27.97ha. and 13.71ha. respectively) - and of the two, only site SP BP7 has a net developable area of more than 10ha. (10.3ha. - see [document ED005, Appendix 2b Strategic Sites Results Appraisal Summaries](#), Table 2). While it is clear that the 400-home threshold would not be reached for either site, it is not apparent from the Draft Charging Schedule - if it were to be put in place - whether a zero rate would be applied to site SP BP7 on the basis of its net developable area, or to both of the Chalfont St Peter sites, based on their gross developable areas.

The submission Local Plan's policy BP SP1 - 'Building - Developer Contributions to Support Growth' - does not assist in this regard. It does not define the CIL zero-rated site area of 10ha. as being gross or net developable area either. It simply states:



'[...] Once the Community Infrastructure Levy (CIL) is adopted, contributions from the developments caught by the thresholds below will be secured through Section 106 and Section 278 planning obligations.

The thresholds for developments to be excluded from CIL are:

- Sites of 10 hectares and greater; or*
- Developments of 400 homes and greater; or*
- Development of 10,000 square metres and greater.'*

The supporting text for the policy (11.1) provides no further information.

It is clear that if scale and size thresholds are to remain in Local Plan policy and the CIL Charging Schedule, they have to be justified. Troy Planning + Design's submission on the Draft Charging Schedule already provides comprehensive evidence undermining the 400-home threshold in detail, and the fact that it cannot be directly or realistically compared with a threshold of 10ha. This evidence is now further supported by the Parish Council's submission that the fact that neither the emerging Local Plan, nor the Draft Charging Schedule is specific about whether the 10ha. site area is gross or net. This deficiency compounds the misalignment of the two thresholds that has already been commented on.

To resolve this situation, the Draft Charging Schedule should be revised to be self-explanatory and reasonable – and the Local Plan modified accordingly – by removing, and then replacing the current approach of incompatible, non-comparable thresholds with a reasonable and realistic alternative.

For the Parish Council to remove their objection to the use of thresholds for zero-rating, the District Councils should approach strategic sites that are to be allocated for development entirely differently. Not only should all zero-rated strategic site allocations be named in the finalised Charging Schedule, consistent with revised Local Plan policies, they should also first have been specifically - and as accurately as possible - viability-assessed individually. Their defined boundaries, realistic development options and their respective infrastructure needs each should be taken fully into account and recorded (and their site-specific s106 obligation requirements likewise too). In other words, zero-rating should not be based on any thresholds, whether for a generic number of new homes, a built area of non-residential floorspace, a particular size of site, or a specified development density. To be realistic and reasonable, zero-rating should only apply where a specified, defined site's evidenced development capacity and economics demonstrate a low/ very low viability (as the national Planning Practice Guidance (PPG) explains, [here](#) and [here](#)). Applying this principle to the Chalfont St Peter sites, with reference to document ED005, Appendix 2b Strategic Sites Results Appraisal Summaries, Table 2 - and as referred to in the Parish Council's August submission - both demonstrate development surpluses with a residential levy in place. They do not demonstrate low, or very low



viability; they would therefore clearly not qualify for zero-rating on viability grounds, nor in terms of site size or quantum of new homes.

In the current circumstances, these being the late stage reached in formulating the Charging Schedule, and the Local Plan's approaching examination, the above-suggested alternative approach to modifying both documents - to only include named strategic sites with proven low-very low viability - would be a more reasonable and realistic way to proceed.

Issue 3, other uses

With reference to Issue 3b., and whether the rate of £35/sq. m should be applied to all other development types, including schools and hospitals, the Parish Council's view is that both are categories of infrastructure that in themselves would be expected to be at least part-funded by CIL. This view is confirmed by the PPG in the clearest terms in para. 144 referring to, 'What can the Community Infrastructure Levy be spent on?'. The PPG links to primary legislation in [the Planning Act 2008, s216, Application, sub-section \(2\), parts \(c\) and \(d\)](#), which state that 'infrastructure' includes 'schools and other educational facilities' and 'medical facilities'. The Parish Council assumes that the indirect inclusion of these categories of social infrastructure in the Draft Charging Schedule as being CIL-liable is an error that will in any event be confirmed by the Councils as requiring correction post-examination. For clarity and accuracy, our client suggests that the finalised Charging Schedule simply defines the land uses that are included in (or excluded from) the 'other uses' category, whichever proves to be simplest. Those uses that are excluded from the revised Schedule should be termed zero-rated (consistent with other charging authorities' approaches – see details of the [Mayor of London's CIL](#) for a well-known, longstanding example).

Yours sincerely,

A handwritten signature in black ink, appearing to read "Troy Hayes". The signature is fluid and cursive, written over a white background.

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