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FAO Ian Kemp, Programme Officer

Chiltern District Council community infrastructure levy (CIL) examination

By email: idkemp@icloud.com

Ref: THP606

21st November 2019

Dear Mr Kemp,

Chiltern District Council: further submission on behalf of Chalfont St Peter Parish Council in response to Chiltern and South Bucks District Councils' post-hearing amendment to the community infrastructure levy (CIL) draft charging schedule

On behalf of our client, Chalfont St Peter Parish Council, this letter provides a further submission, directly responding to the Councils' now-submitted amendment to the CIL draft Charging Schedule that was introduced to participants before/ discussed at the examination hearing on 5 November 2019.

As previously, this further submission on behalf of the Parish Council should be read primarily and directly in the context of the two Chalfont St Peter strategic large sites that are proposed in the Draft Chiltern and South Bucks Local Plan 2036 to be released from the Green Belt and allocated for residential development (these sites being the National Epilepsy Centre (Policy SP BP7) and land to the south east of the village (Policy SP BP8)).

Our client requests that you confirm that this further submission is being forwarded on receipt to the Examiner, Mr Geoff Salter.

The Councils as Charging Authorities clearly consider that the amended approach now being proposed to be taken to the zero rating of Chiltern's proposed strategic sites follows national Planning Practice Guidance (PPG) (Paragraph 022 Reference ID: 25-022-20190901), in terms of using and elaborating on 'scales of development'. The Councils are now proposing refining the previously defined 'scales of development', to refer to a £0 CIL rate applying to a 'large site of 400 homes or more (gross) or 10ha. or more (gross) irrespective of land use'. This 'scale' of 'development type' is proposed to be further defined, in a footnote to Table 1 in the Charging Schedule, as follows:

'** Large sites are defined as any site allocated in an emerging / adopted Local Plan or a windfall site with 400 homes or more (gross) or 10 hectares of land or more (gross). This definition will be applied to any planning application for the whole or part of any such allocation.'

Para. 3.11.1 of the draft Charging Schedule is also proposed to be amended, to read as follows:



'The viability assessment indicates that it is appropriate for large sites to be CIL zero rated and should continue to rely on s106 planning obligations; this is due to the scale of site-specific development mitigation and infrastructure requirements on large sites, such as new schools and roads.'

In proposing this amendment to the draft Charging Schedule and its explanatory text, the Council appears to ignore the fact that the above-quoted national guidance relates to differential rates, not zero rates. If it is accepted by the examiner that a zero rate could be termed a differential rate, our client's Hearing Statement has already made a clear case that instead of thresholds for gross numbers of new homes/ gross sizes of strategic/ large sites, the PPG-termed 'geographical zones' i.e. specified strategic/ large sites should be used instead, with Local Plan-defined site boundaries (maps of these sites should also be included in the Charging Schedule).

Whether or not such 'geographical zones', or 'scales of development' should or should not be used to define zero-rating as one level of differential rate, the PPG goes on to advise on the role and appropriateness of viability in relation to zero rating as follows:

'If the evidence shows that the area includes a zone, which could be a strategic site, which has low, very low or zero viability, the charging authority should consider setting a low or zero levy rate in that area. The same principle should apply where the evidence shows similarly low viability for particular types and/or scales of development.'

Therefore, any proposed zero rating should be defined by viability; site size is not relevant and should not be referred to in evidencing a Charging Schedule, nor in the Schedule itself.

The PPG provides further guidance on viability, low or zero rating, and scale (in Paragraph: 024 Reference ID: 25-024-20190901 and Paragraph: 026 Reference ID: 25-026-20190901):

'Charging authorities may also set differential rates by scale. Rates can be set by reference to either floor area or the number of units or dwellings in a development. Again, any differential rates must be justified by reference to viability.'

[...] Low or zero rates may be appropriate where plan policies require significant contributions towards housing or infrastructure through planning obligations and this is evidenced by an assessment of viability.'

The proposed amendments to para. 3.11.1 are strongly opposed to; this further submission on them reinforces the representation submitted on behalf of the Parish Council on the draft Charging Schedule - and the subsequent Examination Hearing Statement. Both have already concluded that the District Councils' consultants' own site-specific (albeit 'high-level') viability evidence for the two Chalfont St Peter large, strategic sites does not indicate that they have low, very low or zero viability that would mean they should be CIL zero-rated ('Appendix IIb: Residential Results Summary - Larger/ Strategic Sites', Table 2). They are concluded by the Councils' consultants to be viable with a residential CIL charge of £150sqm and are both calculated to generate surpluses in such circumstances - with site mitigation s106 contributions (including schools and transport

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costs) being taken into account too. This viability-related conclusion (see paras. 5 and 9 of the Viability Assessment report) is an obvious one; neither site requires significant or exceptional infrastructure to support their development for new homes, according to the Council's June 2019 Draft Infrastructure Delivery Plan and its Appendix 2. The two Chalfont St Peter sites only require specified highway capacity and other transport-related improvements, together with the funding of education, health, and leisure and community infrastructure; no abnormal costs are identified (see para. 2.6.3 of the Councils' Viability Assessment).

In effect, this submission on the post-examination amendments to the draft Charging Schedule, combined with previous Parish Council representations and hearing comments, means that the proposed zero rating and its gross number of homes/ gross site area thresholds – at the very least for the two Chalfont St Peter strategic, large sites - are not based on appropriate evidence and should not proceed. In these circumstances, a replacement amended Charging Schedule should be prepared, taking the following approach:

1. The viability of all of the large strategic sites included as proposed allocations in the submission Local Plan should be specifically, individually and more accurately assessed on the basis of accurate development site boundaries, using realistic development options and assumptions, and up to date details of associated infrastructure needs (including s106 obligation requirements);
2. A zero rate should then only be applied to a defined allocation site, if the evidenced capacity and infrastructure needs demonstrate low, very low or zero viability; and
3. These defined sites should be named and mapped consistently in the Local Plan and the Charging Schedule.

For all of these reasons, and in light of the appropriateness of the above suggested alternative approach, Chalfont St Peter Parish Council cannot support the Councils' post-examination amendment to the Chiltern and South Bucks examined draft Charging Schedules in their entirety.

We trust that this submission will be of assistance in preparing a replacement amendment for further consultation. Please do contact me if any aspect is unclear or raises queries.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Troy Hayes', is written over a white background.

TROY HAYES BSc, MSc, MRTPI, AICP

Managing Director

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