

Hearing Amendment Response – Department for Education

Thank you for providing the Department for Education (DfE) with further opportunity to comment on the Chiltern and South Bucks CIL charging schedule.

While we welcome the removal of the 4000 sqm threshold below which D1 uses (including schools) would be charged CIL, the alterations to the charging schedule do not resolve the fundamental problem that schools below the large site threshold (most of them) will be liable to pay CIL despite not being commercially viable and constituting infrastructure in their own right. The wording requires further alteration to achieve the intended purpose. Within the scope of the changes being consulted on, DfE requests an associated amendment to the row in the CIL charging schedule for “D1 – non-residential institutions” to state, “(excluding schools)”, or an equivalent alteration that would ensure schools are zero rated for the purposes of CIL.

I provide further justification for this below:

The Councils’ viability assessment (paragraph 3.7.14) acknowledges that uses including education are not viable in a commercial sense and may be regarded as infrastructure anyway. £35 per square metre should not be considered a ‘nominal’ CIL charge. This could equate to c. £70,000 for an average sized primary school; money that is needed for the provision of children’s education, which Buckinghamshire County Council has a legal duty to provide.

Paragraph 3.7.56 of the viability assessment refers to the need to ensure that essential delivery is not unduly undermined, while paragraph 2.3.6 makes it clear that developments with build costs that outweigh or are close to their completed value are not financially viable in the usual development sense.

Schools are not included in Figure 11 of the viability assessment, which sets out indicative rental and capital value against build costs for various community uses. However, the table acknowledges a clear lack of viability particularly where public subsidy is required. State schools receive their revenue funding from the public purse, and as such must not be considered viable in a commercial sense to pay any CIL at all.

DfE has published updated [guidance for local authorities on securing developer contributions for education](#). The guidance is signposted within Planning Practice Guidance and is a material consideration. Paragraph 2 of the guidance advises local education authorities:

“...when CIL charging schedules are prepared, this engagement with local planning authorities should ensure that school developments are among those D1 uses that are viability tested. A nil rate can be applied if the viability evidence indicates this is appropriate. Local planning authorities should be made aware of the considerable public investment in community infrastructure that a school represents.”

The viability evidence in this case clearly shows that a nil rate is appropriate for community uses that require public subsidy, though school developments are not among the D1 uses that were tested. A charge of £35 per square metre could seriously undermine local education provision and is inappropriate.

Please do not hesitate to contact me if you would like to discuss this further.

Kind regards,

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