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18th November 2022

CIL Consultation
Development Strategy Team
Rugby Borough Council,
Town Hall,
Evreux Way,
Rugby
CV21 2RR

Submitted electronically

Dear Sir or Madam

RE: Community Infrastructure Levy Draft Charging Schedule

Q+A Planning Limited act on behalf of Karenor Partners Limited in respect of their ownership of Rugby Central shopping centre within Rugby town centre. On part of the site, there is a live planning application for the redevelopment of part of Rugby Central Shopping Centre to provide 210 new homes and Class E commercial space on the ground floor (reference R22/0657). This will be a major investment into the regeneration of Rugby town centre.

On behalf of our client, we hereby submit representations to the Rugby Borough Council Community Infrastructure Levy Draft Charging Schedule.

We have reviewed the relevant requirements within Section 211 of the Planning Act 2008 (as amended) and Regulation 14 of the CIL Regulations 2010 (as amended) in respect of the potential effects of the imposition of CIL on the economic viability of development across the Rugby BC administrative area. It is noted that the planning practice guidance states:

When deciding the levy rates, an authority must strike an appropriate balance between additional investment to support development and the potential effect on the viability of developments.

This balance is at the centre of the charge-setting process. In meeting the regulatory requirements, charging authorities should be able to show and explain how their proposed levy rate (or rates) will contribute towards the implementation of their relevant plan and support development across their area.

On this basis, we have reviewed the charging schedule itself and the supporting documentation which comprises the Community Infrastructure Levy Viability Assessment Review (January 2022), the Infrastructure Funding Gap (Autumn 2022) and the Public Consultation Version of the Development Contributions Supplementary Planning Document (Autumn 2022).

In our view, the approach to the CIL charging schedule has the potential to undermine the viability of residential developments on previously developed land in sustainable town centre locations. Therefore, this would frustrate some of the objectives of planning policy in the Rugby Borough Local Plan and policies within the NPPF.

In terms of the Rugby Borough Local Plan (June 2019), it is noted:

- Objective 6 states that to enhance the vitality of Rugby Town Centre, ensuring it has a complementary role to the out of town retail parks, providing a distinctive offer to both residents and visitors. In our view, providing residential development within Rugby town centre must be a key component of enhancing its vitality.
- Policy GP2 Settlement Hierarchy - confirms that Rugby town will be the main focus for development in the Borough. This will inevitably mean development within Rugby town centre for residential development, given the opportunity sites that exist.
- Policy GP3 Previously Developed Land and Conversions - notes that the Council will support the redevelopment of previously developed land where proposals are compliant with the policies in the Plan.
- Policy DS1 Overall Development Needs - sets out the overall development needs for the Borough including 12,400 new homes within two phases of the plan period and contributing to Coventry's unmet need. In meeting this requirement there is a windfall allowance of 630 homes, of which some would be expected to be provided in Rugby town centre given its sustainable location.
- Policy TC3 Primary Shopping Area and Shopping Frontages - states that residential development is encouraged within the Town Centre, providing it does not harm the retail function and character and its' vitality and viability.

The NPPF (2021) states at paragraph 86(f) that planning policies should '*recognise that residential development often plays an important role in ensuring the vitality of centres and encourage residential development on appropriate sites.*'

Paragraph 120(c) of the NPPF states that policies and decisions should '*give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs*'. Paragraph 120 (d) of the NPPF states that policies and decisions should '*promote and support the development of under-utilised land and buildings*'. Paragraph 120 (e) of the NPPF states that policies and decisions should '*support opportunities to use the airspace above existing residential and commercial premises for new homes*'. Residential proposals in town centre locations, such as the one proposed at Rugby Central, would respond to all these objectives.

There is a clear policy framework for encouraging residential development in town centres and delivering regeneration. It is the most sustainable location in the Borough and there is need for regeneration and investment to support its vitality. However, our client is concerned that the charging schedule as drafted would undermine the economic viability of residential development in town centres. This suggests that the balance of the charging schedule would have a negative effect on the viability of developments.

As part of the discussions about planning obligations in respect of application R22/0657, a site specific Financial Viability Assessment has been produced by Bidwells. This has in turn been reviewed by BNP Paribas and the findings from both consultants are similar – namely that there are currently viability challenges with delivering town centre residential development and meeting all planning obligations requirements. Whilst this of course a site specific assessment, the exercise highlights the viability challenges of delivering town centre regeneration and residential development in Rugby town centre in the current market.

If the proposed CIL charging schedule were in place, the development would be subject to a charging rate of £60 per sq.m and would be subject to allowances for existing floorspace within the calculations.

Considering the experience of our client on application R22/0657, Bidwells have reviewed the evidence base behind the draft charging schedule – namely the Community Infrastructure Levy Viability Assessment Review produced by BNP Paribas. This is attached to these representations, and we note it has highlighted that viability of flatted developments in urban or town centre locations has not been tested other than for housing schemes for the elderly, which attract a nil rated CIL charge.

The conclusions are as follows:

In conclusion, Bidwells supports much of the analysis contained in the BNPP report. We agree with BNPP that the vast majority of residential development in Rugby Borough is likely to be new housing on greenfield sites and that this type of scheme is where much of the CIL revenue that is received will come from.

We do not agree however with the proposal to charge CIL on all residential schemes because no analysis of conventional flatted schemes has been carried out to determine whether they would be viable or not. The CIL charging level proposed for urban flatted schemes is therefore unsupported by evidence.

Bidwells also considers that the BNPP Review does not consider adequately the varying Benchmark Land Values that may be applicable to Previously Developed Land. A substantially higher Benchmark Land Value by virtue of a high current use value has the potential to erode the viability headroom that is proposed by BNPP in their suggested charge level to a point where a scheme that is proposed on Previously Developed Sites may become unviable and therefore undeliverable. These circumstances may apply to regeneration schemes in particular.

Given the lack of analysis of flatted schemes on Previously Developed Land we consider that the imposition of a CIL levy on these sites is unfounded and may render many proposed schemes unviable.

We would therefore suggest that flatted development in the urban area should also be rated as nil CIL to ensure that the councils regeneration objectives can be achieved.

Based on the Bidwells review, it is requested that the CIL Charging Schedule is reviewed for flatted residential schemes in urban areas.

In addition, it is noted that there is a convenience retail charge of £100 per sq.m but a zero charge for all other uses (including all other Class E uses). Whilst the application with the Council on the Rugby Central site does not explicitly propose any convenience floorspace, it does include commercial floorspace in Use Class Class E which would include all retail categories and could conceivably include a small local convenience store.

Further inspection of the Community Infrastructure Levy Viability Assessment Review shows that the viability appraisals have in fact been undertaken based on retail supermarkets. These are typically greater than 2,500 sq.m GIA. The evidence base looks at floorspace of 3,000 sq.m in urban areas and 4,000 sq.m in edge of urban (see Table 4.1.1). There is no evidence that smaller foodstores as part of mixed use development can bear this level of CIL contribution. On this basis, it is suggested that the CIL Charging schedule is amended to apply to larger stores only to a set size threshold within a single unit. For example, it is suggested the CIL rate should apply to retail developments designed as a foodstore of 2,500 sq.m or more within a single retail unit.

We trust these comments are of use and would be grateful if the Council could keep us updated on the progress of the CIL Charging Schedule and subsequent examination.

Yours faithfully

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Director
For and on behalf of
Q+A Planning Ltd