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Briefing Note

Project:	**WDH: Rugby Borough**	**Date:**	**June 2023**
Subject:	**Rugby CIL Representations**	**Reference:**	**273901**

tor&co submits these representations on behalf of William Davis Homes Ltd (WDH) which has land interests in the Rugby Borough Council (RBC) area. These representations are made further to submissions in November 2022 to the Council's previous combined consultation on the emerging Developer Contributions Supplementary Planning Document (SPD) and Draft Community Infrastructure Levy (CIL) Charging Schedule.

Draft Community Infrastructure Levy Charging Schedule

WDH maintains its position that RBC does not need to adopt CIL as an additional mechanism to collect monies to fund new infrastructure. WDH in its previous representations outlined that the collection of monies via the Section 106 process is an appropriate and proven method in funding infrastructure that is proportionate to the growth of the Borough during the plan period.

It is also considered that the adoption of CIL will apply an additional, and inappropriate, burden on the delivery of schemes in the Borough, particularly given current economic conditions. Furthermore, the timetabling of the adoption of CIL is premature, given indications made by Government that S106 and CIL, albeit not wholly, will be replaced by a new Infrastructure Levy. As such, the Council should review their position in relation to this and delay the adoption of CIL to avoid any waste of resourcing and time.

Infrastructure Funding Gap – Section 106 Considerations

The Council has published an updated Infrastructure Funding Gap statement (dated Spring 2023) as part of the evidence base in support of the Draft CIL Charging Schedule.

It identifies that there is a significant shortfall in the funding of infrastructure in the Borough, amounting to a total of approximately £118,000,000, arising from various forms of infrastructure including education and transport. Whilst it is not contended that RBC has a shortfall in infrastructure funding, the Funding Gap statement does not fully, or appropriately, consider other sources of infrastructure funding.

The Funding Gap statement stipulates at Paragraph 4:

"*This Statement demonstrates that the Council has an aggregate and residual funding gap and thus there is a justification for CIL to be levied across the authority. The following issues have been considered in identifying its aggregate and residual infrastructure funding gap: […]*

- *Existing and known funding sources (including from S106 contributions)[…]"*

However, WDH considers that the Funding Gap has not fully addressed the potential funds that arise from Section 106 contributions. Although it is accepted that these contributions are made towards mitigation of development impacts, they are also made to implement infrastructure improvements, which would be duplicated by CIL. The Council's 2021/2022 Infrastructure Funding Statement clearly shows that RBC is in receipt of notable infrastructure funds that have not been considered as part of the Funding Gap statement. This includes £5.07 million received during the reporting year that has not been spent, as well as £7.7 million which has been allocated but not spent.

The Infrastructure Funding Statement clearly demonstrates that RBC benefits from receipt of significant financial Section 106 contributions to fund infrastructure improvements. Consequently, the Infrastructure Funding Gap statement fails to consider all potential sources of revenue for infrastructure improvement. This undermines the Borough's justification in introducing CIL, particularly against the context that it will have an intangible impact on the funding gap itself.

Infrastructure Funding Gap – Reducing the Gap and Deliverability

The Funding Gap statement is clear in its assertions that there is a significant shortfall between the funding required to improve infrastructure and potential levels of revenue. This is a primary reason for the Council's introduction of CIL.

However, the Funding Gap statement concedes that the potential level of revenue collected through CIL, calculated through an income projection exercise, would only equate to 8% towards the aggregate funding gap. Paragraph 17 of the statement highlights this contribution as being "*modest*" in its ability towards reducing the funding gap.

As such, WDH considers strongly that introducing CIL, which would only have a negligible impact on the existing aggregate funding gap, is disproportionate to the potential harm it would have towards the deliverability of new development within the Borough. If the deliverability of development is supressed, the delivery of viable developments within the Borough will be impacted, thereby reducing potential sources of Section 106 and CIL income. This would likely reduce CIL receipts in real terms and overall contribution towards infrastructure improvements, which itself is already recognised as modest by RBC.

Therefore, the Council should carefully review the balance between whether the introduction of CIL can make any meaningful contribution towards reducing the funding shortfall, against the likely harm it will have on the delivery of housing and other development in the Borough.

Infrastructure Funding Gap – Reducing the Gap and Emerging Local Planning Policy

WDH considers that the Infrastructure Funding Gap statement has not taken into account how new local planning policy and strategy will influence RBC's ability to raise sufficient funds via CIL to reduce the gap in infrastructure funding.

The draft CIL schedule outlines that strategic sites be exempt from CIL payments, as to maximise their deliverability, with Urban sites benefitting from a significant discount. This is recognised in the Viability Assessment where it establishes that both strategic sites and urban/brownfield sites experience delivery constraints, such as infrastructure provision and contamination, which can limit their viability. However, the assessment has not made sufficient consideration of the Rugby Local Plan review and its new spatial strategy.

RBC's existing spatial strategy comprises of significant strategic site allocations to deliver sufficient housing numbers to meet its own need, as well as Coventry's unmet requirement. Given the extent of Green Belt and the spatial arrangement of the Borough, it is likely that the new Plan will need to allocate additional strategic sites to meet future arising need and potentially increase density and intensity of use of its urban land. Consequently, if the CIL charging schedule in its current iteration is adopted, and the new Local Plan were to comprise primarily of strategic and urban sites, there will be highly limited opportunity to collect CIL. This will have a negligible effect in reducing the infrastructure funding gap and inappropriately apply additional burdens on the delivery of non-strategic schemes in the Rural area.

Viability Assessment

In WDH's previous representations in 2022, it was made clear that the Viability Assessment at that time did not take appropriate consideration of the macro-economic climate effecting the housing market. The assessment failed to acknowledge the impact of inflation and rising interest rates on the mortgage and lending market together with pressure applied to consumer spending.

The position of WDH remains and the updated Viability Assessment (re-issued February 2023) published as part of the latest CIL consultation continues in its failure to acknowledge or consider the implications of current market conditions. It is clear that the Viability Assessment has not been updated to take into account the latest economic conditions, specifically at paragraph 1.3 where it states that the assessment has *"[…] retained the January 2022 assumptions […],"* and makes presumptions that the increase in house values has outstripped inflation. Indeed, paragraphs 2.6 – 2.20 include no reference to the impacts of the Conservative Truss administration on the Bank of England base rate, nor provide any commentary to the effects of significant inflation on the cost of living.

Indeed, the Government's own Research Briefing, titled "*Rising cost of living in the UK*," highlights that the rate of inflation has not been falling as fast as initially expected, with the Bank of England in May 2023 revising its inflation forecast for early 2024 from 0.5% to 3.5%[1]. Furthermore, Reuters reported (as referenced in the Government's own report) in May 2023 that there was a significant increase in the likelihood that the Bank of England would uplift the base interest rate from 4.5% to 4.75% "in June 2023[2]."

As such, there is clear and demonstrable pressure on the economy that the Viability Assessment has failed to consider. This is significant because poor and unstable

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[1] https://commonslibrary.parliament.uk/research-briefings/cbp-9428/
[2] https://www.reuters.com/world/uk/uk-inflation-rate-falls-87-april-ons-2023-05-24/

macro-economic conditions will directly harm the housing market, particularly where increases in mortgage rates will reduce the affordability of housing for a significant proportion of the demographic nationally, including within Rugby Borough.

The Viability Assessment has also failed to consider the impacts of the withdrawal of Regulation 123 (lists) and the potential for developers to contribute towards infrastructure through both CIL and S106 funding mechanisms. This will inevitably result in delivery issues, particularly where developments can demonstrate marginal returns.

Additionally, developers may require the Council to demonstrate that these contributions comply with CIL Regulation 122. Where S106 contributions are being made towards a particular piece of infrastructure, but where this infrastructure is also benefits from CIL contributions also, developers will be permitted to recoup the costs on those contributions against their S106 agreements with the Council. This will apply additional bureaucratic burdens onto the Council, exacerbating existing resource and staffing problems, resulting in avoidable governance and decision-making pressures that could further constrain deliverability within the Borough.

The application of CIL in these circumstances, where the housing market is currently under significant duress, will inevitably reduce the deliverability of schemes in the Council area. The cumulative effects of a supressed housing market, increase in construction, supply chain and labour costs, and CIL/S106 requirements will cause materially adverse impacts on the ability of developers, such as WDH to deliver housing schemes. Consequently, it is vital that RBC reviews the Viability Assessment it has published in support of the adoption of CIL. This will ensure that the Council has appropriate justification in pursuing a policy which will, on balance, negatively affect the development pipeline and dampen its ability to meet its growth requirements as established in the Local Plan.

Concluding Comment

WDH upholds that the evidence base to justify the adoption of CIL is flawed. Indeed, it is has failed to acknowledge that the Borough maintains significant Section 106 revenues which can contribute towards infrastructure improvements and also fails to consider the economic conditions which are already limiting the viability of housing development.

As a result, RBC should review the basis of its justification for introducing CIL and recognise that the evidence suggests that CIL should not be adopted at this time.