

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

Date: 04 September 2023

Our ref: ACL14

Dear Sir/Madam,

Rugby Borough Council Draft Community Infrastructure Levy (CIL) Charging Schedule (July 2023)

On behalf of our client, A.C. Lloyd, we write with regard to the current consultation on the proposed Draft CIL Charging Schedule and its associated evidence base.

This consultation follows a previous consultation earlier this year. Comments are sought as the Council is now proposing a new CIL charge for industrial (Class B2), storage and distribution (Class B8) and light industrial (Class E(g)(iii)) of £5 per sq.m. This letter sets out our initial observation on the proposed introduction of this CIL charge.

Draft CIL Evidence Base

The draft CIL Charging Schedule is accompanied by the following evidence base:

- CIL Viability Assessment Review, prepared by BNP Paribas (July 2023)
- Infrastructure Funding Position Statement, prepared by RBC (July 2023)
- Interim CIL Spending Strategy, prepared by RBC (July 2023)

The CIL Viability Assessment considers whether a particular type of development can viably sustain a CIL charge and if so, at what level. With regard to employment uses (B2, B8 and E(g)(iii)), it sets out differing viability levels stating on Page 4 that the employment uses can sustain up to £7 per sq.m., but suggesting on Page 43 that it could be up to £11 per sq.m.

The viability assessment accompanying the previous CIL consultation (May-June 2023) noted that a CIL charge of £7 per sq.m. could be sustained, but concluded that “*Given the modest potential rate of CIL, we suggest that industrial developments are nil rated*”.

The proposed CIL charge is the same irrespective of the nature of the employment proposals (i.e. whether it is of local or strategic scale) and does not take account of site characteristics (i.e. whether it is greenfield or brownfield).

Robustness of the Evidence Base

We are concerned that the differing figures provided by the viability evidence accompanying the current and previous CIL consultation, together with lack of distinction between the different types and scale of employment development, mean that the evidence base is not robust enough.

The viability evidence should clearly set out the level of CIL charge considered to be viable for employment uses and be clearer in its conclusions and recommendations.

We are also of the view that consideration should be given to different sites and scales of development. Brownfield sites will generally have higher abnormal costs than greenfield site, potentially impacting the ability to pay a CIL charge, or the level of it. Strategic scale employment sites will generally provide their own infrastructure requirements as of the development secured through s106 agreements. Consequently, implementing CIL for strategic scale employment could potentially add 'double counting' as infrastructure costs would be caught by both CIL and s106.

It should also be noted that not all the uses in the 'employment' category carry the same value, with quite large differentials across the market between light industrial and warehousing for example. The flat rate across these various uses therefore appears to require more careful consideration.

Conclusions

As set out in this response, we would question the robustness of the evidence base underpinning the revised Draft CIL Charging Schedule for the following reasons:

- The CIL Viability Review is contradictory – it suggests two different figures that could be viable (£7 sq.m and £11 sq.m). It is unclear which is the basis for the Viability Assessment.
- Change from recent CIL consultation – As recent as June 2023, a £nil charge on employment uses was proposed and it is not clear what has changed since then.
- Type of site/use – there is no differentiation between greenfield/brownfield sites, or employment categories, and also whether sites are strategic (providing their own infrastructure) or not. This should have been considered.

We consider that the Viability Assessment should be revisited in light of the issues highlighted above, and then the advice adjusted accordingly.

Should you have any questions or wish to further discuss these comments please do not hesitate to contact me or my colleague [REDACTED].

Yours faithfully,

[REDACTED]
Senior Associate

T: [REDACTED]

E: [REDACTED]