

14 August 2020

Delivered by email

Planning Policy & Economic Development Team
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Dear Sirs

Runnymede Borough Council Community Infrastructure Levy (CIL) Draft Charging Schedule (DCS) Statement of Modifications Consultation: Representation on behalf of [REDACTED]

Purpose

This concise letter has been prepared by [REDACTED] Viability service on behalf of [REDACTED] ('TW'). TW is the promoter of land at Chertsey Bittams Parcel A (site allocation reference SL14), which is allocated within the adopted Runnymede 2030 Local Plan ('the Local Plan') for development of a minimum of 175 residential dwellings.

This letter forms a representation to the Runnymede Borough Council ('the Council') Community Infrastructure Levy ('CIL') Draft Charging Schedule ('DCS') Statement of Modifications ('SoM') and supporting evidence base, which has been published for consultation until Friday 15th August 2020¹.

This letter follows the representation submitted on behalf of TW to the Council's consultation on the CIL DCS, which closed in April 2020 (the 'CIL DCS representation'). Where it is considered that matters raised within the CIL DCS representation remain unresolved, this is raised within this letter.

CIL DCS SoM

Modification No.1 & No.2

The shifting backwards of the timescale for approval of the CIL Charging Schedule is deemed sensible (assuming it is recommended as such by the Examiner, and supports the dates proposed).

However, there remains substantive uncertainty as to the implications of the Novel Coronavirus ('COVID-19') on the economy, consumer expenditure and the property market. There is no consensus or certainty that the rebound from technical recession² will be 'v-shaped'. In fact the Bank of England (BoE) has downgraded its expectations for economic recovery, with GDP and employment likely to take substantially longer to reach pre-COVID-19 levels. Moreover, the BoE cites this forecast as having substantive downside risks – notably, the impact on labour markets and consumer expenditure arising from the

¹ Note: The Council has confirmed via email that it will accept representations until Monday 17th August 2020.

² <https://www.ons.gov.uk/economy/grossdomesticproductgdp/articles/coronavirusandtheimpactonoutputintheukeconomy/june2020>

withdrawal of Government support in Autumn 2020, and the potential implications on the economy of a 'second wave' of COVID-19 cases³.

It is considered that it would be prudent for the Council to consider further delaying the approval and adoption of the CIL Charging Schedule until Q2 2021, when the full implications of COVID-19 on the property market are expected to be evident.

It is noted that the CIL charging rates have been modified to reflect sensitivity testing of COVID-19 impacts, which are commented upon under Modification No.3.

Modification No. 3

This modification, which represents a very significant set of fundamental changes to the CIL DCS, firstly substantially reduces the scale of residential charging Zone A and changes both the spatial scale (via expansion) and location within the borough of Zone B.

Secondly, the modification also adjusts the residential CIL charging rates proposed for Zone B from £235/m² to £300/m².

Planning Practice Guidance ('PPG') CIL sets out clearly in para. 034 that:

Charging authorities should avoid making substantive changes to the draft charging schedule between publication and submission to the examiner. Substantive changes should always be avoided, unless they have been sufficiently consulted on.

Due to the timing of the consultation, being over late July / early August, there is some concern that not all parties will have had the opportunity to comment in full or at all.

The CIL DCS SoM is underpinned by new evidence documentation in the form of the following:

- Representations Response Paper / CIL Viability Review ('CILVR'): this is undated and no author is cited, but it is assumed it has been produced by Andrew Golland Associates ('AGA') in July 2020.
- Runnymede CIL Technical Background Document Addendum (July 2020) ('Technical Addendum'): as above, no author is cited, but it is assumed it has been produced by the Council with AGA's input.
- Summary of CIL Representations & Responses: this is assumed to have been authored by AGA and incorporates responses to the representations submitted by stakeholders to the CIL DCS consultation.

Whilst the revisiting of the viability evidence base is welcome in response to stakeholder representations, having reviewed the substantive additional technical evidence published, there are technical matters and requests for clarifications raised within the CIL DCS representation have not been satisfactorily resolved or responded to by AGA and the Council. These issues raise concerns regarding the validity and reliability of the results of the CILVR. There is a genuine concern that the modelling overstates the viability of sites

³ <https://www.bankofengland.co.uk/-/media/boe/files/monetary-policy-report/2020/august/monetary-policy-report-august-2020>

and the propensity to provide 'residual value' for CIL liability. These points are summarised as follows for brevity⁴:

- Market pricing evidence: it remains of concern that the evidence base continues to rely on an opaque and dated market evidence base that has simply been indexed. It remains unclear as to whether the original dataset is representative of the modern unit types and sizes of properties that are required to be delivered via the Local Plan. A key question therefore remains as to whether this evidence can be deemed available, reliable and up-to-date for the purpose of CIL setting within the borough⁵.
- Garage provision: AGA suggests that garages are excluded from the CILVR and wider CIL viability evidence base as they are not required by Local Plan policy. We would highlight that housebuilders will typically include garages in 3+ bedroom units to ensure their marketability in competition with existing stock. It is a market norm and necessity. It would be interesting to understand if AGA's comparable evidence used to set market pricing was predicated solely on residential transactions of units that did not have any garage provision? If market pricing is predicated on comparable transactions that included units with garages, and provision represents normal/expected practice upon residential developments in the Runnymede market, it is necessary for this to be represented within the CILVR.
- Finance: it is unclear how and to what finance (debit interest) costs have been applied within testing and whether the debit rate applied has been set against both land and development costs, as is appropriate and reflective of industry practice.
- BLVs: it appears that AGA and the Council is seeking to maintain flexibility in respect of the BLVs adopted. It is assumed that £2m/ha represents the BLV that has been utilised for CIL setting purposes and will be recognised as such thereafter.
- Development programme: The CILVR remains inconsistent with both the NPPF and PPGV in this respect for it does not provide any details regarding the development and sales programmes applied to site typologies, nor does it provide any cashflows of the DAT model. This is straightforward – not a request for DCF modelling or simulations as has been interpreted by AGA. Stakeholders simply require transparency. As it stands AGA's DAT model is a 'black box' and opaque approach which makes it challenging for stakeholders to fully analyse the data and for any reliance to be placed upon the results. This must be resolved.

It is, however, welcomed that AGA and the Council has acknowledged the risks and negative implications of COVID-19 and moderated the CIL rates within the CIL DCS as a result. This has, however, been undermined somewhat by reducing the buffer from 50% to 30% on the allocated sites.

Alongside the CIL DCS SoM consultation, the Council has issued a parallel consultation upon the *Runnymede 2030 Local Plan Draft Infrastructure Delivery & Prioritisation SPD July 2020* ('draft IDP SPD'). The draft IDP SPD now (for the first time) confirms the Council's intentions to seek to recoup 100% of HIF monies from the allocation sites contingent on A320 improvements specified in the HIF award.

⁴ Note: the points should be cross-referenced against the full submitted CIL DCS representation.

⁵ Note: appropriate available evidence' as defined in the section 211(7A) of the Planning Act 2008

The Examination Document RBC_LP_52 A320 Update Paper, as submitted to the Inspector for consideration during the Local Plan Examination process, previously introduced the Council's intention to seek to recoup up to 25% of the HIF monies.

Whilst the Council state in the draft IDP SPD that the recouping of HIF monies from allocation sites will be subject to viability, this now places the onus on the applicant (at the point of submission of a planning application) to demonstrate that they cannot repay the full 100% pro-rata contribution (to be secured via S106 Agreement) in a negotiated process. This is inappropriate and inconsistent with both the NPPF (2012, 2019) and PPG Viability ('PPGV').

Paragraph 173 of the NPPF (2012), against which the Local Plan was examined, states that,

...the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened.

PPGV is clear from the outset (para. 001) that Local Plans should set out the contributions expected from development and viability assessment should take into account all policy costs including the cost implications of CIL rates/liability and planning obligations (under S106).

PPGV follows this at para. 002 by confirming that assessment should ensure that policies are realistic and achievable such that the total cumulative cost of all relevant policies will not undermine deliverability of the plan.

From this, PPGV is clear that policy requirements (including CIL, as above) should be set such that there is no need for further viability assessment at the decision making stage. The Council's approach in respect of both CIL setting and the draft IDP SPD are in clear conflict with PPGV in this regard.

Further detailed commentary in respect of the draft IDP SPD is set out in the representation to the consultation submitted by Turley on behalf of TW.

Modification No. 4

The same headline observations apply to Modification No.4 as set out in respect of Modification No.3.

Modification No.4 adjusts the residential CIL charging rates proposed for Zone C from £185/m² to £180/m².

In the case of the Chertsey Bittams Parcel A site allocation, the net impact of the modifications to the CIL DCS SoM, and the recouping of A320 HIF moneys proposed in the draft IDP SPD, is an increase in costs of circa £1.87m⁶.

It therefore clearly represents an additional policy cost on development, which should be tested within the CIL viability evidence base in order to determine whether this requirement is realistic, reasonable and deliverable at the CIL rate(s) proposed. However, there is no reference to this cost within the CILVR or Technical Addendum. This should be addressed via further modelling and consultation.

Review of *Table 5-4: CIL Rates with 30% Buffer for Local Plan Allocation Sites* within the Technical Addendum indicates that, when allowing for the reduced 30% buffer and reflecting the COVID-19 moderated revenues/costs, that the Chertsey Bittams Parcel A site allocation only has sufficient 'residual

⁶ Note: predicated upon indicative figures set out in Table 3-4 of the draft IDP SPD.

value' to meet the £190/m² CIL rate (as proposed in the CIL DCS SoM). Taking this at face value (and before resolution of the technical objections restated above), the evidence base itself demonstrates that payment of the additional A320 HIF contributions would not be possible, without rendering the site financially unviable.

In order to retain a buffer of 30% (as proposed) or 50% (as would be prudent in a time of economic uncertainty and when taking into account the high CIL rates proposed), it is expected that this would necessitate further moderation downwards of the proposed residential CIL rates within the CIL DCS SoM.

Given the changes proposed within the CIL DCS SoM are clearly substantive, supported by new evidence (requiring scrutiny and cross-reference to additional policy costs within the draft IDP SPD consultation), it is recommended that the Council re-consults on the CIL DCS SoM for a further period of four weeks, commencing in September 2020 (or later). This should be underpinned with further viability evidence to rectify the objectionable matters raised herein.

Modification No. 5

The modification to Replace Plan 1 in the CIL DCS with the Appendix A Plan in the CIL DCS SoM is acknowledged, in the context of the comments made regarding Modification No. 1-4.

Conclusions & Next Steps

This letter has set out representations to the Council's CIL DCS SoM consultation.

We request that the Council and AGA revisit the issues identified, update the underpinning viability evidence base to resolve the existing deficiencies, and adjust the proposed CIL rates for residential development typologies accordingly.

It is requested that a further public consultation then is undertaken for a minimum period of four weeks prior to submitting the CIL DCS (with the CIL DCS SoM) to PINS for independent examination.

