**Warwick District Council**

**CIL Viability Study: Residual Section 106 Assumptions**

**Introduction**

1. During the examination in public on 6 July 2017, the Examiner requested additional information to assist him in his consideration of Warwick District Council, as follows:
2. Justification for the assumed level of residual Section 106 obligations
3. Additional appraisals of 150 and 250 units on greenfield and brownfield land
4. Expanded version of Table 4.4.3
5. Viability model for older persons’ housing (30 to 50 units)
6. Review of definitions of retail use

This note addresses point 1).

1. The CIL Viability Study, November 2016 (CIL7) which was undertaken to support the Council’s submitted CIL Charging Schedule, includes a range of assumptions about values and development costs. One of these assumptions is about Section 278 and Residual Section 106 costs. The approach to this is set out in paragraphs 4.24 and 4.25 of the study report. In summary, the study incorporates an allowance of £1,500 per unit for non-strategic sites and £13,000 per unit for strategic sites.
2. At the CIL Examination Hearings held on 6th July 2017, the Examiner asked the Council to provide recent data to support these assumptions. This paper and its two appendices set out the updated analysis undertaken by the Council.

**Data Sources**

1. The Council maintains a Section 106 spreadsheet which captures all section 106 Agreements with outstanding payments. This provides the basis for the updated analysis. The analysis only considers Section 106 Agreements drafted since 2011 and only those associated with schemes involving C3 dwelling houses.
2. The analysis also excludes Section 106 contributions towards affordable housing. These do not have a financial value associated with them and assumptions regarding affordable housing are taken account of separately within the CIL Viability Study (see para 4.6). For this reason, schemes that are predominantly for affordable housing are also excluded from the analysis.

**Methodology**

1. In Appendix 1, the Council has captured the direct financial costs associated with Section 106 contributions for each of the applications within the scope of the study. Other contributions (such as onsite open space) are noted.
2. In Appendix 1, the financial costs have been added for each scheme and then divided by the number of dwellings to give an overall cost per dwelling.
3. The table in Appendix 1 has been divided into four categories: schemes of up to 50 dwellings; schemes of 50 to 100 dwellings; schemes of 100 to 300 dwellings; and schemes over 300 dwellings. The average cost per dwelling for each category is shown.
4. Appendix 2 takes samples from each of the four categories and considers the specific Section 106 contributions in the context of CIL by discounting all elements that are included in the Regulation 123 list.
5. Whilst the drafted Regulation 123 list is sufficiently specific about the need to discount some contributions, there are a number of instances where it depends on specific circumstances and it is therefore difficult to draw firm conclusions about the appropriate assumptions. In these cases, Appendix 2 shows the costs both including and excluding these “grey areas” and thus provides a range of potential residual Section 106 costs.
6. Section 278 costs are very site-specific and are used to provide access to sites that would otherwise be unable to accommodate development at all, or at the density proposed by applicants. Given the purpose of these payments (i.e. to open up the development potential of sites where development would otherwise be unacceptable), these should be reflected through an adjustment to land value. The landowner cannot expect to achieve the significant uplift in land value that will arise upon grant of planning permission unless a modest part of that land value is used to resolve access issues.

**Conclusions**

**Strategic Sites** (sites over 300 dwellings):

1. Appendix 1 shows that the Section 106 costs associated with strategic sites ranges from £8696 per dwelling to £25119 per dwelling with an average cost of £16643.
2. Taking account of the items identified on the Council’s Regulation 123 list that will be collected through CIL following adoption as shown in Appendix 2, the residual Section 106 costs are likely to be around £13,000 per dwelling if highways and education contributions are included in full. In the case of larger sites, this is a reasonable assumption to make as the size of site is likely to be included within the sites that are pooled for infrastructure projects and the impacts of the sites on schools and highways are likely to be more strategic in nature. This is consistent with the assumptions made in paragraph 4.25 of the CIL Viability Study, November 2016 (CIL7).

**Non-Strategic Sites** (sites below 300 dwellings)

1. Section 106 costs for sites below 300 dwellings have varied widely from nil per dwelling up to £17359 per dwelling.
2. In general, a pattern can be identified whereby larger sites attract higher Section 106 costs.
3. After netting off items that will be collected through CIL following adoption, the residual Section 106 costs for **sites below 50 dwellings** in Appendix 2 are in the range of £75 to £1589 per dwelling. In most cases it is reasonable to assume Section 106 costs will be less than £1500 per dwelling. In this context, the assumption of £1500 per dwelling for sites below 50 dwellings is likely to be on the high side once CIL is in place. The viability of these schemes may therefore be stronger than the Viability Study indicates..
4. After netting off items that will be collected through CIL following adoption, the residual Section 106 costs for **sites between 50 and 100 dwellings** in Appendix 2 are in the range £311 to £787 if education and highways costs are excluded. In general, it is reasonable to assume that contributions to education for this size of site will be covered by CIL. Pooling restrictions will generally mean it is not possible for these sites to contribute to the new or expanded schools specified in the Infrastructure Delivery Plan. Consequently the impact is less likely to be at a scale that requires major school expansion. Highways contributions are likely to be very dependent on the specific location of sites and in some cases there will be no highways contributions (as in the Spring Lane example). In other cases a contribution may be justified but is unlikely to be strategic in nature and, in the context of CIL, is unlikely to warrant the level of contribution for 22 Wellesbourne Road, Barford. In any event, pooling restrictions will mean that highways contributions from Section 106 and Section 278 will be confined to localised schemes to tackle localised issues. The costs of these projects can therefore be expected to be substantially lower than the kinds of contributions that have been applied previously. In this context, the assumption of £1500 per dwelling is considered to be appropriate.
5. After netting off items that will be collected through CIL following adoption, the residual Section 106 costs for **sites between 100 and 300 dwellings** in Appendix 2 are in the range £678 to £3482 if education and highways costs are excluded and in the range £3842 to £12,283 if education and transport contributions are included. This category of development is the most difficult to assess accurately as the specific circumstances and locations of sites will influence the extent to which a) the development has strategic highways and education infrastructure impacts and b) the extent to which these impacts can be addressed through schemes on the Regulation 123 list. It is reasonable to assume that the Section 106 costs will be substantially lower than the range of costs that include education and highways contributions in full (such as Land North of Harbury Lane). This is because the combination of Regulation 123 schemes and pooling restrictions will mean that, in general, contributions will be confined to more localised impacts. In addition, for education, it is unlikely that the pupil numbers generated by these sites will individually trigger the need for school expansions or new schools. Taking all this in to account, the level of contributions is likely to vary with some sites below £1500 and some above. However, in general the evidence does not indicate that additional costs will be significant enough to invalidate the assumptions in paragraph 4.24 of the Viability Study.
6. In any event, land values should reflect site-specific Section 106 costs where these are above typical levels, as the contributions are used to address specific issues that would otherwise prevent planning permission being granted. It is not unreasonable for landowners in these situations to make a modest contribution to such costs through a reduction in land value.
7. The Council will also need to continue to balance the need for development to contribute towards the provision of essential supporting community infrastructure with the requirement to provide affordable housing. On sites where higher site-specific mitigation through planning obligations is required, there may be a need to adopt a flexible approach to the tenure mix and/or overall percentage of affordable housing. Provision for such flexibility is built into the Council’s Local Plan policies, as outlined at the hearing and in the Council’s response to the Examiner’s matters and issues papers. We note the Examiner’s comments regarding the Mid Devon Examiner’s approach to affordable housing[[1]](#footnote-1), but this was solely in relation to CIL and not Section 106. Given that Section 106 obligations must be used only for site-specific issues and are negotiable, it is reasonable to assume that part of this negotiation will include other obligations, including affordable housing. This is an approach the Council has used in the past.
8. This study shows that the assumptions regarding Section 106 contributions set out in paragraph 4.24 and 4.25 of the CIL Viability Study (CIL7) are justified by recent evidence. Although the evidence shows that there is likely to be some variation (particularly for sites between 100 and 300 dwellings), the conclusions of the CIL Viability Study (CIL7) remain valid and the resulting charging rates proposed in the Draft Charging Schedule will not put the delivery of the Local Plan as a whole at risk.

1. In relation to Mid Devon, this was a relatively early examination and precedes other examinations where the interaction between CIL and affordable housing was considered in greater depth, including, for example, Royal Borough of Kensington & Chelsea. [↑](#footnote-ref-1)