

Community Infrastructure Levy Consultation 2023

QUESTION SUMMARIES

DATA TRENDS

INDIVIDUAL RESPONSES

All Pages –

Respondent #57 –

“

”

COMPLETE

Started: Monday, February 27, 2023 11:46:39 AM

Last Modified: Monday, March 27, 2023 9:01:34 PM

Time Spent: Over a week

IP Address:

[REDACTED]

Page 1: Survey Information

Q1

Do you confirm that you have read and understood the privacy notice? You must select 'Yes' in order to take the survey.

Yes

Page 2: Register for consultation

Q2

Your name:

Eamonn Keogh

Contact details:

Organisation (optional) O'Neill Associates

Address

[REDACTED]

Address 2

[REDACTED]

City/town

[REDACTED]

Post code

[REDACTED]

Email address

[REDACTED]

Q4

Do you wish to notified of future updates to CIL by the council? If yes we will use contact details provided above

Yes

Q5

Do you wish to participate in the CIL examination? If yes we will use contact details provided above

Yes

Page 3: Your response

Q6

1a. The Community Infrastructure Levy (CIL) Viability Study informed the production of the proposed rates in the draft CIL Charging Schedule. Do you have any comments on the content of the CIL Viability Study?

Yes - See attached representation document

Q8

2a. Do the proposed levy rates set out in the draft CIL Charging Schedule appropriately reflect the conclusions of the CIL Viability Study?

See attached representation document submitted in response to Question 1a

Q10

3a. Do the proposed levy rates set out in the draft CIL Charging Schedule provide an appropriate balance between securing infrastructure investment and supporting the financial viability of new development in the area?

No - See attached representation document submitted in response to Question 1a

Q12

4a. CIL rates should not be set at a level which could render new development financially unviable. To ensure the financial viability of new development in the area, and to take into account variations in land prices and development costs throughout the authority's area, the draft CIL Charging Schedule proposes variable rates for different kinds of development. Do you have any comments on the proposed CIL rates?

Yes - See attached representation document submitted in response to Question 1a

Q14

5a. Should any types of development be charged a different CIL rate, and if so, why? Where alternative rates are proposed, please provide evidence to demonstrate why a proposed rate should be changed.

Yes - See attached representation document submitted in response to Question 1a

Page 4: Your response

Q16

6a. To support the financial viability of new development in the area, the draft CIL Charging Schedule includes an Instalments Policy which allows specified levels of levy charges to be paid in instalments over a set period of time. Do you have any comments on the draft Instalments Policy?

Yes - See attached representation document submitted in response to Question 1a

Q18

7a. Part 6 of the CIL Regulations (as amended) allows the Council to give discretionary relief for certain types of development from paying the levy. The Council has not identified any types of

development which may require this beyond the compulsory relief and exemptions outlined in the Regulations. Is there a need to provide discretionary relief from the levy to any types of development, and if so, why?

Yes - See attached representation document submitted in response to Question 1a

Q20

8a. Do you have any other comments on the draft CIL Charging Schedule?

Yes - See attached representation document submitted in response to Question 1a

Q22

9a. Do you have any other comments on the CIL evidence base?

Yes - See attached representation document submitted in response to Question 1a

Powered by  SurveyMonkey

Check out our [sample surveys](#) and [create your own now!](#)

City of York Community Infrastructure Levy Consultation

27 March 2023

Response on behalf of Galtres Garden Village Development Company

INTRODUCTION

- i. These representations are made on behalf of Galtres Garden Village Development Company (GGVDC) in response to the City of York Community Infrastructure Levy (CIL) Consultation March 2023.
- ii. The Council's decision to introduce a CIL is welcomed because it provides greater certainty in terms of development costs, however the evidence base and charging schedule is fundamentally flawed and unsound.
- iii. There has been no meaningful consultation with the development industry prior to the publication of the consultation documentation, except for a workshop with development industry representatives on 22 September 2016. Paragraph 1.11 of the CIL Viability Study (CVS) states that little further evidence was submitted to inform the assumptions in the CVS. However, the presentation at the workshop stated that there would be a public consultation on the preliminary draft charging schedule before this formal consultation period.
- iv. It is hugely disappointing that the consultation on the preliminary draft charging schedule has not happened, as promised, and a significant weakness of the CIL evidence base that it has not been properly informed by specialists who work in the development industry day to day Planning Practice Guidance (PPG) Viability (paragraph 2, Reference ID: 10-002-20190509 states that *"It is the responsibility of plan makers in collaboration with the local community, developers and other stakeholders, to create realistic, deliverable policies. Drafting of plan policies should be iterative and informed by engagement with developers, landowners, and infrastructure and affordable housing providers"*
- v. The CIL is proposed at a time of considerable uncertainty in terms of both the economy, and central government's changes to the developers contributions regime proposed by the Levelling Up and Regeneration Bill. At the time of writing

inflation was expected to be falling but instead has increased to 10.4% (up from 10.1%) and interest rates have risen for 4.0% to 4.25%.

- vi. This wider economic picture of rising costs has fed through to rapidly increasing construction costs. Barbour ABI, the market leading provider of construction project information, reported that "Price rises were at record levels over summer 2022, with many goods seeing 25 per cent annual inflation. This has now dropped closer to 15 per cent, but some products still hover well above 20 per cent and insulation products have recently jumped to 50 per cent.
- vii. Against this uncertain economic background, the government has decided to delay the full introduction of its proposed new Infrastructure Levy by up to 10 years due to uncertain of impact on the delivery of development. These same uncertainties exist with the current CIL system.
- viii. We request to be notified about:
 - submission of the CIL Draft Charging Schedule to the Examiner in accordance with Section 212 of the Planning Act 2008;
 - the publication of the recommendations of the Examiner and the reasons for those recommendations; and
 - the adoption of the charging schedule by the charging authority.
- ix. In accordance with Regulation 21 of the CIL Regulations 2010 we wish to exercise our right to be heard by the examiner either as a consortium or as an independent stakeholder organisation.
- x. The questions (1-9) posed by the Council as part of this consultation and our responses are set out below.

QUESTIONS AND RESPONSES

1) Do you have any comments of the content of the CIL viability study?

Response

- i. There is no Infrastructure Funding Statement as part of the consultation. As such it is unclear what will be delivered through CIL and what will be required to be provided by developers through s106 obligations to make a development acceptable in planning terms. Without this detail, it is not possible to fully understand the viability position of schemes.

- ii. The Council's approach to on-site open space provision highlights this issue. Currently, the Council applies Policy GI6 (new open space provision) of the Publication Draft Local Plan states 'all residential development proposals should contribute to the provision of open space for recreation and amenity. This is based The Open Space and Green Infrastructure Update 2017 (referred to in the local policy) which requires 40.5 sq m of amenity space for a 1 bed dwelling and 17.8 sq m towards sports. This is not typically possible to provide for on urban sites proposing even low densities (there is not the space). As such the Council typically requires an off-site contribution.
- iii. Clearly, both on site and/or s106 contributions have a significant impact on viability which has not been considered in the CIL viability study. An example of the application of open space policy/ contributions can be found with reference to planning permission 19/00979/OUTM dated 1 July 2020 which relates to a former gas works that had viability issues even without CIL and therefore would have been undeliverable if the draft CIL charging schedule was applied
- iv. Similarly, the Council's approach to sustainable travel contributions and travel plan obligations which are also applied and are not considered as part of the CIL evidence base.
- v. Although the CVS takes account of S106 obligations the assumption about values and costs are averages. Paragraph 5 of the Consultation Information Booklet published with the CVS is explicit in stating "it is not required, and would be impossible, to look at every type of development individually, hence the use of typologies.
- vi. In practical terms what this means is that where a residential scheme liable for CIL has higher development costs that affect viability, and given that CIL is non-negotiable, it is the section 106 requirements such as affordable housing, that will be negotiated down. Delivery of affordable housing is a key objective of the emerging local plan which will be severely threatened by the introduction of the draft CIL Charging Schedule. Similarly, the Council has fallen short of its local plan targets for housing delivery for many years which is likely to worsen rather than address the existing backlog.
- vii. The potential impact of the CIL on affordable housing delivery is particularly relevant go the GGVDC. The company's proposal for a new Garden Village includes

affordable housing proviso at 40% - higher than the maximum level of 30% set out in Policy H10 of the Draft Plan. The residential CIL rate of £200 would severely impact on the delivery of this level of affordable housing or would impact on the viability of the scheme or both.

- viii. Paragraph 4.44 of the CVS states that brownfield sites are assumed to include the necessary strategic infrastructure from their existing or previous use. However, this assumption understates the requirement on many brownfield sites to provide reinforced or completely new infrastructure. For example, the Council's drainage and flood risk policies require a 30% betterment for surface water drainage/ SuDS, and flood risk mitigation. As the Local Plans spatial strategy directs development to brownfield sites and the urban area this requirement will impact on a considerable number of development schemes
- ix. Similarly, the majority of the city centre is located within an area of archaeological importance, and historic core conservation area. Both of these designations, and associated local plan policies increase development costs and have significant viability implications which are overlooked by the CVS.
- x. Viability evidence base is outdated and doesn't take any account of significant shifts in market conditions in Q3/4 2022.
- xi. Viability evidence relies on RICS BCIS build costs. We understand that other respondents have submitted evidence to demonstrate that these costs are too low and backward facing, particularly at a time of persistent high inflation.
- xii. The Planning Practice Guidance (PPG) plan making (paragraph: 039 Reference ID: 61-039-20190315) requires local planning authorities to *"prepare a viability assessment in accordance with guidance to ensure that policies are realistic and the total cost of all relevant policies is not of a scale that will make the plan undeliverable"*. This has not been undertaken for the emerging local plan in relation to its latest iteration given most policies have been subject to change during the course of the local plan examination.
- xiii. Similarly, National Planning Policy Framework paragraph 34, and PPG Paragraph: 002 Reference ID: 10-002-20190509 states that *"The role for viability assessment is primarily at the plan making stage. Viability assessment should not compromise sustainable development but should be used to ensure that policies are realistic, and that*

the total cumulative cost of all relevant policies will not undermine deliverability of the plan.”

- xiv. The latest modifications to the emerging local plan increase policy requirements for most developments, particularly major developments. These policies have a cumulative cost impact when taken together. The Council does not appear to have fully considered how sites can also bear CIL given this demanding policy context. A full viability review and justifiable evidence of the modified policy requirements will be necessary. Policy requirements include (not exhaustive), the majority of which are not considered in the CVS:
- a) 75% carbon reduction aspirations – policy CC2 (modification) (this is considered within CIL Viability study)
 - b) 10% Bio diversity net gain (this is considered within CIL Viability study)
 - c) Accessible Housing Standards (this is considered within CIL Viability study)
 - d) Archaeology – much of the city centre is within an archaeology area of importance which, taken on its own, gives rise to considerable risk and significant additional development costs
 - e) H10(i) states “higher rates of (affordable housing) provision will be sought where development viability is not compromised”. This implies that development may be subject to additional affordable housing if it can be viably provided, and that a viability assessment will be required for all applications over 5 units which will delay the determination period significantly, particularly given to limited capacity of the district valuer. Policy H10 requires all viability assessments to be reviewed by the district valuer.
 - f) Changes to policy H7 and the requirement for nominations agreements.
 - g) Air Quality assessments/mitigation for all major applications
 - h) Flood mitigation measures. Policy requires a 30% betterment for surface water runoff which typically requires attenuation or SuDS, and much of the city centre is within high flood risk area. Again, taken on its own, flood mitigation gives rise to considerable risk and significant additional development costs.

- i) Heritage policy. The vast majority of the city centre is within the York Historic Core Conservation Area and contains amongst the highest concentration of listed buildings and scheduled ancient monuments in England. These heritage constraints arising from national and local heritage policies, taken on their own, flood mitigation gives rise to considerable risk and significant additional development costs.
- j) Travel Plan obligations e.g. car clubs, free bus travel, cycle equipment contributions, travel plan coordinator.
- k) Green infrastructure/ on-site open space provision – the local plan including its evidence base prescribes totally undeliverable targets with regards for open space as part of new development and currently s106 payments are sought for any shortfall. Will this now be provided through CIL and does this mean no on site provision is required? If not, on site provision has significant viability impacts.

2) Do the proposed levy rates set out in the draft CIL Charging Schedule appropriately reflect the conclusion of the CIL Viability Study?

Response

No, the conclusions of the CVS is fundamentally flawed, contains a number of errors and does not justify the draft CIL charging schedule, for the reasons set out below:

- i. the proposed rate or rates would seriously undermine the deliverability of the emerging local plan, particularly with regards to residential delivery; delivery of affordable housing; new open space delivery; and brownfield first principles, amongst others.
- ii. It is essential that the CIL rates are set at a level which ensures that most developments remain robustly viable over time as development costs change – most likely upwards. As such CIL rates should not be set at a marginal viable point. It is vital for the Council to build in a significant degree of flexibility to ensure durability of the CIL charging schedule. The submitted evidence has been overtaken by rapidly changing economic circumstances and an evolving planning policy context and fails to take account of the following, amongst other aspects:
 - a. National consultations on changes to NPPF and CIL
 - b. Changes in the housing market and house prices

- c. Changes in inflation, interest rates and the cost of borrowing
 - d. Changes in build costs
- iii. The residential rates are too high, unjustified and are amongst the highest, if not the highest across the entirety of Yorkshire and Humber, even when allowing for indexation since adoption in other charging authorities. The Council has not provide comprehensive, robust and up-to-date justification for these charges as required by regulation 14(1) of the CIL Regulations (as amended).
- iv. The CVS has not properly understood development costs, particularly for brownfield sites. The notion that allocated sites within the local plan incur greater development costs than other residential sites in unjustified. Significantly, the CVS has not adopted a comprehensive and robust 'policy on' approach with the full cost of the emerging local plan policies (including affordable housing) being accounted for, and taking precedence over, the introduction of CIL rate setting.
- v. Planning applications will no longer be submitted for retail uses, instead they will refer to Class E of the use class order. How will the Council apply the charging schedule to planning permissions that simply apply for class E and do not distinguish between retail or office for example?
- vi. It is counter-intuitive that development costs of brownfield sites are lower than greenfield sites for Extra Care accommodation. The proposed CIL rates are contrary to Government and local plan objectives of brownfield first.

3) Do the proposed levy rates set out in the draft CIL Charging Schedule provide an appropriate balance between securing infrastructure investment and supporting the financial viability of new development in the area?

Response

No, the proposed CIL rates do not support delivery of the emerging local plan and would have a disastrous effect on local development projects for the reasons set out below:

- i. The 'appropriate balance' is the level of CIL which maximises the delivery of development and supporting infrastructure in the area. This has not been justified and there is a lack of clarity in how the CIL will be allocated and spent.

- ii. The *CIL Infrastructure Funding Gap Assessment (IFGA)* and *Consultation Information Booklet (CIB)* documents issued with the Draft Charging Schedule set out to identify the cost of infrastructure required to support new development and where it is to be spent. However, there is a lack of clarity between the documents. For example, the IFGA identifies a cost of £47.3 million required for “Education”. However, section 10 of the CIB, states that Infrastructure for the purposes of CIL spend “can” include transport, flood defences, schools, hospitals and other health and social care facilities.
- iii. This provides no certainty or clarity, for example, for residential developers as to whether they will be paying CIL and a Section 106 contribution for education; flood alleviation; or health facilities.
- iv. The Charging Schedule therefore needs to state clearly what the CIL will be spent on so that developers can make a proper assessment of whether the CIL and S106 costs on a scheme be viable or whether necessary development will be inhibited.

4) Do you have any comments on the proposed CIL rates?

Response

- i. We would question the appropriateness of the proposed CIL rates given the current uncertain economic environment facing the property and construction sectors. Viability is becoming more challenging as high levels of inflation in build costs are proving persistent and sales values remain static or at best are increasing at below the rate of build cost inflation.
- ii. With regards to the Residential CIL rate, this must be considered in the context of the acknowledged poor delivery of housing in the City over a long run period. Evidence we have presented to the Local Plan Examination, using the Councils own data, demonstrates that in the 10 years 2013/13 to 2021/22, house completion rates fell below the OAH of 790 in 7 of those years. However, the Council’s housing completion data includes student accommodation. If student accommodation is excluded, housing completions fell below the OAHN for 9 of the 10 years.
- iii. Furthermore, the Council’s Housing trajectory set out in supporting evidence to the Local Plan Examination, shows that a cumulative undersupply of housing will persist until 2023/24 – i.e. 7 years into the Plan period. Our analysis indicates it will persist until 2024/25, 8 years into the Plan period (See Appendix A).

- iv. In this context of long-term undersupply of housing, the imperative is clearly to implement the NPPF requirement to significantly boost the supply of housing. Against this background, the proposed £200 psm rate for housing, the highest rate in the Yorkshire region, seems clearly anomalous and could seriously impede the delivery of housing so desperately required to make good more than a decade of undersupply.

5) Where alternative rates are proposed, please provide evidence to demonstrate why a proposed rate should be changed

Response

- i. The CIL viability report should be updated to account for changed economic circumstances and current build costs and values.

6) Do you have any comments on the draft Instalments Policy?

Response

Yes, as set out below:

- ii. There is no certainty with regards to larger schemes over £500,000. For example, what happens if the developer and Council are unable to agree a project specific payment schedule?

7) Is there a need to provide discretionary relief from the levy to any types of development, and if so, why?

Response

- i. Development schemes that provide for a higher level so affordable housing than required by policy should be eligible for discretionary relief.

8) Do you have any other comments on the draft CIL Charging Schedule?

Response

We reserve the right to update our evidence at the Examination taking account to circumstances prevailing at the time.

9) Do you have any other comments on the CIL evidence base?

Response

We reserve the right to update our evidence at the Examination taking account to circumstances prevailing at the time.

APPENDIX A

Table 1 Revision to the "Table 1 CYC Housing Trajectory, August 2022" in Housing Trajectory Note August 2022 CYC/EX/107/1

