

**CHRISTCHURCH AND EAST DORSET COUNCIL'S
COMMUNITY INFRASTRUCTURE LEVY SCHEDULE EXAMINATION
14 MAY 2015
CLEMDELL'S RESPONSE TO THE PROGRAMME NOTE**

1.0 GENERALLY

1.1 In response to the Programme Note of 7 May 2015 Clemdell would wish to make the following points. Clemdell has also submitted a response to the consultation on the EFM Modifications in SD16..

1.2 Clemdell's main concern is that the overall effect of the Modifications is to further penalise smaller sites.

2.0 PART ONE

2.1 The reason for the introduction of CIL, as explained in the DCLG "*An Overview*" document [May 2011], is to provide a "*tariff-based approach*" to "*fund infrastructure to unlock land for growth*". In deciding the levy's rate the charging authorities are required to "*strike an appropriate balance between the desirability of funding infrastructure from the levy and the potential effects of the levy upon the economic viability of development across their area*".

2.2 The proposed higher local levy rate of £150 psm for small sites is both unjustified and inequitable. The revised government guidance, both in the Ministerial Statement of 28 November 2014 and PPG, as amended on 26 March 2015 (after the first day of the Examination Hearing) is clear in its intention. It explicitly seeks to remove as a burden on developments of 10 units or fewer, the costs of tariff based infrastructure contributions. It does not make reference to an ability to pay or to the desirability or otherwise of local planning authorities 'repatriating' the saving through other means.

2.3 Indeed, the Minister in the November Statement could not have been clearer: "*We estimate that the policy will save, on average, £15,000 in Section 106 housing contributions per new dwelling in England—some councils are charging up to £145,000 on single dwellings. Further savings will be made from tariffs, which may add additional charges of more than £15,000 per dwelling, over and above any housing contributions. Taken together, these changes will deliver six-figure savings for small-scale developers in some parts of the country.*" It is clear that the second

part of this statement differentiates s.106 housing contributions (i.e. affordable housing) from "tariffs". Both are intended to be eliminated from small sites development costs

- 2.4 There is no doubt that the Government's intention was that the full saving should benefit these small scale developments. The proposed higher rate local tariff flies in the face of this Government policy by seeking to penalise developments that the policy seeks to assist. The CIL Regulations do not require Charging Authorities to charge the maximum they think they can get away with but to *"strike a balance"*. In making the balancing judgement they must consider not only the viability assessments but also other material policies including national planning policy as set by central Government.
- 2.5 The proposed higher levy fails to *"strike an appropriate balance between the desirability of funding infrastructure from the levy and the potential effects of the levy upon the economic viability of development."*
- 2.6 Further, the proposed Modifications do not give smaller sites the clear opportunity to offer land suitable for SANG as payment-in-kind for CIL. EFM3 confuses the matter.
- 2.7 SANG, by definition, must serve a strategic and not a site-specific purpose. Therefore there is no reason why any SANG land provision should not be off-site if it serves that strategic purpose. Potential SANG sites will be identified and allocated through LP2, and the planning process.

3.0 **PART 2**

- 3.1 The Schedule proposes that a rate of £70 is applied to sites other than those identified as zero rated. This is said in EFM3 to be to avoid double counting. The principle of valuing on-site SANG to offset against CIL has been tested through eg the Surrey Heath Examination. The Regulations, properly defined, provide a valuation mechanism. There is thus no regulatory or practical difficulty in avoiding any potential double counting.
- 3.2 Given that these sites will generate demands on the infrastructure, a zero rate is not going to *"strike an appropriate balance between the desirability of funding infrastructure from the levy and the potential effects of the levy upon the economic viability of development across their area"*.

4.0 **CONCLUSION**

4.1 There should be a positive encouragement for smaller developments to pay CIL by way of payment-in-kind. This will assist expediting, for example, the delivery of SANG.

4.2 There is no regulatory bar to any development site providing land suitable for SANG, affordable housing, or other infrastructure as payment in kind for CIL.

4.3 Clemdell requests that:

- The proper balance is struck for sites of 10 units or less to ensure the intention of national policy is not frustrated;
- EFM3 makes it clear that sites of less than 40 dwellings (and non-residential developments) may make CIL payment in kind for land to be used, inter alia, as SANG and would propose the following wording is added at Section 5:

5.9 Sites of fewer than 40 dwellings may provide payment in kind including land suitable for SANG, affordable housing or other purposes identified as infrastructure in Appendix A (the Regulation 123 List) in accordance with Appendix C (CIL Payment in Kind Policy).