

Examination of the Christchurch and East Dorset Community Infrastructure Levy Charging Schedule

Submission on behalf of the SW HARP Planning Consortium

Introduction

1. This submission should be read alongside the main representation submitted by Tetlow King Planning on behalf of the SW HARP Planning Consortium, of which Spectrum Housing Group is a member. **We will be present at the examination to discuss the following matters.**
2. Spectrum Housing Group is bringing forward the strategic site at the former St Leonards Hospital, allocated under Policy VTSW7 of the adopted Christchurch and East Dorset Core Strategy.
3. It is a previously developed site in the Green Belt and has been allocated in predecessor plans in an attempt to secure its regeneration. It is a site with a chequered history and known viability constraints which have precluded various permissions being delivered in the past, for example a recently expired care village consent. Part of the reason is the numerous physical constraints which severely restrict the level of development, as well as the approach to density and design that can be taken.
4. In addition to its Green Belt designation, it is highly ecologically sensitive containing three Priority Habitats of the Dorset Biodiversity Strategy 2003 which afford its designation at Dorset County level as a Site of Nature Conservation Interest (SNCI). The essential elements of this are lowland heathland and dry acid grassland. The grounds host a European Protected Species (sand lizard) alongside common species of reptiles, amphibians and bats. It is within five kilometres of a number of Sites of Special Scientific Interest (SSSIs) and internationally protected Special Areas of Conservation (SACs), Special Protection Area (SPAs) and Ramsar Wetlands of International Importance.
5. During the last two years, we have been working proactively with East Dorset District Council and consultees to secure a viable option for redevelopment. A hybrid planning application (reference: 3/14/0871) was submitted in September 2014 for the demolition of existing buildings and redevelopment of the site to provide 210 dwellings, a care facility (up to 80 beds), a replacement cricket pavilion, informal open space and recreation, an onsite Nature Reserve and associated works and landscaping. The application is currently pending.
6. It was originally intended that the application would be granted prior to Christchurch and East Dorset Councils adopting their Charging Schedules, and an operational Planning Performance Agreement (PPA) expressly seeks to achieve that, noting that

imposition of CIL would be of concern. We are working with the case officer and consultees to achieve a resolution in accordance with the PPA.

7. However, the need for further discussions to agree a detailed and comprehensive ecological mitigation strategy during the determination period has altered projected timelines, and there is now the potential that the granting of consent will occur after the adoption of CIL.
8. The purpose of this representation is to demonstrate that this allocated, strategic site will not be viable should CIL be adopted and charged at the currently proposed rate of £70 per sqm. In line with the approach to the other strategic sites within the chargeable area, a CIL rate of £0 per sqm should be identified for this strategic allocation.

Selection of Strategic Sites

9. The pba report on viability testing of strategic sites, dated November 2014 (CD02) identifies 13 of such sites from the Core Strategy namely the New Neighbourhoods: 11 in East Dorset and two in Christchurch (paragraph 1.3.2). Paragraph 1.4.1 then identifies those 10 sites which were tested; with three sites omitted as they are anticipated to be approved very shortly (paragraph 1.3.3).
10. CD02 tested the viability of these sites to deliver CIL alongside the s106 contributions necessary to address their particular on-site infrastructure requirements. It clearly found that there is little scope for a CIL charge across any of the 10, and that this lack of scope is even more evident when applying a viability buffer (paragraph 7.1.1). The entire basis for this distinction in viability, between strategic and other development sites, is the SANGs and s106 requirements pertaining to development proposals on the strategic sites. It resolves the issue of 'double dipping' for SANG contributions via the proposed CIL charge plus on-site provision which we raised in our earlier representation on the Draft Charging Schedule (letter ref. FT M5/0103-12 and M4/0514-14).
11. pba also considers s106 Agreements to be a more pragmatic approach to securing infrastructure for these complex sites than CIL, at point with which we concur (paragraph 7.1.2).
12. It is unfortunate that the pba report has omitted to test the St Leonards Hospital site. Alongside the three sites identified in paragraph 1.3.3 of CD02, we suspect this may be due to the assumption that permission would be obtained well in advance. However, reviewing the evidence used to support the nil CIL rate for strategic sites, it is evident that a similar justification is appropriate for this strategic allocation.

Policy Requirements

13. The adopted Core Strategy, Policy VTSW7, identifies St Leonards Hospital as a strategic allocation on previously developed land in the Green Belt. See extract, below:

Policy VTSW7

St Leonards Hospital Previously Developed Site in the Green Belt

Land at St Leonards Hospital is identified as a Previously Developed Site in the Green Belt, in accordance with the provisions of the National Planning Policy Framework.

Prerequisites for development include:

- Approval of a development brief by the Council.
- A wildlife strategy to be agreed with the Council that ensures that no harm to the Moors River SSSI, the Site of Nature Conservation Interest on the site and the adjacent internationally protected heathland will derive from the development. The Applicant will need to show that they have avoided harm to priority habitats and species. The layout of the site is likely to require compensatory measures which may include SANG provision where recreational pressure is generated. Particular regard to the water environment will be needed and in this respect the use of Sustainable Drainage Systems to mitigate any potential impacts will be expected to form part of this strategy.
- Agreement of a comprehensive travel plan.

14. A Development Brief was finalised in June 2014 (enclosed). This was a result of lengthy and productive discussions between the applicant, landowner (the HCA), East Dorset District Council, statutory consultees and other interested parties. It is a requirement of Policy VTSW7 and was adopted by East Dorset District Council in 2014. It details the applicability of adopted Core Strategy policies on the development site, and outlines site specific considerations and development requirements, namely:
- a requirement to deliver 40% affordable housing (84 no.) at Code for Sustainable Homes Level 3 and split of 30% shared ownership and 70% affordable rented tenures;
 - identification that the site is particularly ecologically sensitive and therefore requires significant on-site ecological works, including Nature Reserve creation and subsequent management in perpetuity;
 - provision of a SANG and subsequent management in perpetuity (80 years);
 - provision of on-site public open space;
 - provision of new cricket pavilion;
 - use of SUDs;
 - de-contamination (notably asbestos removal and Japanese Knotweed Treatment); and
 - highway works to provide linkages to the strategic road network (new feeder road and priority junction).

Costings

15. The pba report uses generic estimates of costs for site specific measures on the tested strategic sites to derived a total 'per dwelling' s106 figure. This is typically £10,000, as opposed to the £1,000 per dwelling baseline figure defined in the pba CIL Viability Assessment of June 2013 (CD04). In the case of Stone Lane, individual costs are not itemised but the £10,000 per dwelling figure is still assumed: this is a particularly pertinent example as it assumes fewer planning obligations than necessary at the St Leonards Hospital site.
16. In the case of the St Leonards Hospital site, owing to the advanced nature of the proposal and the fact that the applicant's appointed Quantity Surveyor has already scheduled costings for tendering purposes, it is possible to give true figures as an indicator of the viability constraints. These are as follows:

| Site Specific Costed Items | Costed Figures (February 2015) |
|---|--|
| On-site Ecological Mitigation Strategy (including extensive habitat and species translocation within site, Nature Reserve creation and management and Japanese Knotweed treatment - as agreed with East Dorset District Council and consultees) | £816,600 |
| Provision of SANG on adjoining land in Hurn Forest as site constraints preclude direct provision and as agreed with East Dorset District Council, consultees and landowner (the Forestry Commission) | £300,000 ransom payment plus £300,000 capital cost and £300,000 management cost to set out SANG and maintain in perpetuity |
| Strategic Access Management and Monitoring (SAMM) payment requested by Natural England in accordance with Consultation Draft Dorset Heathlands Planning Framework 2015-2020 SPD | £48,915 |
| Off-setting payment to compensate for SNCI loss (costing provided by Natural England) | £44,120 |
| Public open space | £104,400 |
| New cricket pavilion | £533,200 |
| SUDs | £586,500 |
| De-contamination (primarily removal of asbestos prevailing in buildings, sub-structures, tip and some soils) | £460,755 |
| Highway works (feeder road and priority junction off Boundary Lane) | £389,100 |

Build Costs: Site Preparation and Servicing Plots

17. Using the generic build costs attributed per m2 in the strategic sites appraisals in Appendix A of the pba report at CD02, and applying these to the quantum of development in the hybrid planning application, we have calculated a total unit build cost of £18,333,000¹. We do not disagree with this figure.
18. We are, however, concerned that the allowances made within the viability appraisals in CD02 for site preparation and servicing, do not provide sufficient funds to allow for the completion of these initial works, given the particular site specific requirements and considerations at St Leonards Hospital.
19. Paragraph 1.6.2 of CD02 indicates that a £20,000 allowance per plot should be included in the viability appraisals, through an adjustment of the land value, to make the land serviceable. The viability appraisals then include a 10% allowance on build costs to account for external works; for example internal roads, pavements, sewers, utilities, street lighting and landscaping.
20. These calculations amount to the following when applied to this site:
 - 210 x £20,000 = £4,200,000
 - 10% of build cost (£18,333,000) = £1,833,300
 - Total: £6,033,300.
21. This figure is significantly below the current costings to make the site serviceable. The total current figure is £10,220,000. This includes allowances for de-contamination at £460,755, installation of SUDS at £586,500², internal roads at £3,250,000, electricity works and mains services at £700,000, utility infrastructure upgrading at £400,000, acoustic bund at £75,000, perimeter treatment at £70,000, on-site sewers, pumping stations and storm water attenuation £963,500 and on-site clearance and preparatory groundworks at £450,000.
22. This clearly demonstrates that the viability constraints affecting this particular strategic allocation are greater than those modelled in CD02; adding emphasis to the requirement to attribute a nil CIL rate across this strategic site.

SANG

23. Paragraph 1.5.2 of the pba report assumes a SANGs cost per net developable hectare of £20,000; this is identified as the key factor in identifying a nil CIL rate for strategic sites (paragraph 2.1.7). On account of the Green Belt and ecological constraints, the developable area of the St Leonards Hospital site is reduced to approximately 6.4ha

¹ 210 units @90m2 at £970 per m2 from Appendix A of CD02.

² Provision of SUDS is a requirement of Policy VTSW7, and will be a legislative requirement from April 2015.

which equates to a projected SANG cost, in accordance with pba's assumptions, of £128,000.

24. At £900,000, the actual, costed SANG provision for this scheme is £772,000 higher than the indicative £128,000, which is clearly significant. However, in deriving the £128,000 figure from the £20,000 base we note that pba has *"assumed that there is a SANGS cost per net developable hectare of £20,000, based upon our understanding of the Dorset Heathlands Planning Framework SPD 2012-2014 (September 2012)"* (paragraph 1.5.2 of CD02). There is no reference in pba's report to any real-life examples which would bear out the appropriateness of this assumed cost; this in contrast with this particular site for which costings are available.
25. £300,000 of this can be accounted for by the ransom payment to the Forestry Commission enabling the placement of the SANG in the adjoining Hurn Forest, in recognition that the various constraints preclude provision on-site; accordingly this is the position established in the adopted Development Brief. The ransom position is non-negotiable with reference to Case Law³ and we understand from East Dorset District Council that ransom payments have similarly been secured by landowners accommodating other SANGs in East Dorset and Christchurch.
26. The £300,000 management cost funds the Forestry Commission's maintenance of the SANG for 80 years in perpetuity, which is the period requested by East Dorset District Council in consultation with the relevant bodies.
27. The residual £300,000 capital cost relates to the setting out of the SANG in accordance with the specific requirements of the current Dorset Heathlands Planning Framework SPD, adopted in East Dorset in 2012. The SANG Strategy (enclosed) submitted as part of the planning application details the specification from which the capital cost has been derived, again in consultation with the Forestry Commission and Natural England. This is essentially focussed on improving walking routes for all abilities of user, information and way-marking, seating, and associated landscape and ecological enhancements in the Hurn Forest.
28. It is therefore clear that the particular constraints of this site, and the design solution of providing SANG on neighbouring land results in a delivery cost significantly higher than that attributed by pba, based on apparently unqualified assumptions. The SANG is necessary work to make the development acceptable in planning terms and the ransom payment is an absolutely essential component of delivering this.

s106/s278

29. The pba report identifies the s106 requirements for the 10 tested strategic sites. Reviewing the above requirements from the Development Brief, and the detailed costings, it is clear that there are a number of requirements which would still be

³ For example, Stokes v. Cambridge Corporation (1961) 13 P & CR 77.

delivered through a s106 or s278 Agreement, even with the adoption of a Charging Schedule.

- Ecological Mitigation Strategy - £816,600.
 - SAMM payment - £48,915.
 - Public open space - £104,400.
 - SCNI offsetting payment - £44,120.
 - New cricket pavilion - £533,200.
 - Strategic highway works - £389,100.
30. These contributions total £1,936,335 which equates to a contribution of £9,220 per dwelling. This is broadly comparable with the s106 cost attributed to the strategic sites within CD02, at £10,000 per dwelling.

CIL Viability: C3 Housing

31. Utilising pba's methodology, it has clearly been demonstrated that the site specific requirements of the redevelopment of St Leonards Hospital render the development unviable with the imposition of a CIL charge, based upon the same reasoning as that given in CD02 to present a nil rate for the tested strategic sites.
32. Based on the detailed costings provided above (paragraphs 21 and 24), there is a quantifiable difference of £4,958,700 between the SANG and build cost values assumed in CD02. The minor surplus from the s106 allowance, totalling £163,800, makes no substantive change to this costing shortfall.
33. Whilst the appraisals within CD02 assume a 5% contingency allowance, utilising the same methodology, this would equate to £1,029,357. Evidently, the particular viability constraints of this site would not be addressed with the assumed 5% contingency allowance, but would result in a fall in both landowner return and developer profit, below those levels considered acceptable in the viability appraisals.

C2 Use

34. This strategic allocation is seeking to bring forward a care home development to meet the identified local need for such specialist provision. Whilst the Councils' CIL evidence base considers such a development as a separate proposal, it is clear in this context, that the viability of the proposed C2 use is dependent on the viability of the entire strategic site.
35. The Draft Charging Schedule proposes a CIL charge of £40 per sqm for care homes. Reviewing the pba Viability Assessment at CD04, we are concerned that even on the basis of the assumptions used within the appraisal in Appendix 1, the profit on development cost with the imposition of CIL is 18%, rather than the expected 20%.

36. Beyond this, it is noted that the appraisal in CD04 does not include any allowance for s106 payments for care homes, when it is evident that there are a range of s106 costs which may be payable on such a scheme; including in this instance, ecological mitigation, strategic highway works and public open space provision.
37. We are concerned that that the viability appraisal in CD04 does not consider the need to provide affordable care provision. While Core Strategy Policy LN6 'Housing and Accommodation Proposals for Vulnerable People' does not require any affordable housing provision from developments in the C2 Use Class, it does set out the prerequisite that Dorset County Council must be satisfied with the proposal. It is therefore pertinent to the circumstances of this particular site that Dorset County Council's Strategic Commissioning Manager, in his planning application consultation response, has requested affordable provision as he does not wish for the entire 80 beds to be assigned to private care (enclosed).
38. To satisfy his requirements and thus ensure Dorset County Council is satisfied in accordance with the policy pre-requisite, it is necessary to ensure some affordable care provision in the proposal and 16 (equivalent to 20%) of the 80 care beds are to be made available to people who need public funding via the housing benefit route for these placements. Spectrum will work with the NHS Trust and the Directorate to identify the local needs and allocate accordingly.
39. As the value of the care development is calculated using a market rental value per unit, and as such does not include any provision for affordable delivery, the sale value attributed to care homes in CD04 would not be achievable in this instance, and as a result the return would be significantly lower than that identified in the viability appraisal.
40. As already noted, the viability of this site must be considered in its entirety. The viability of the C2 development is intrinsically linked to the viability of the C3 housing development. The land transaction will consider the viability across the whole site rather than each element individually.
41. It has been demonstrated above that the particular site specific requirements indicate that the delivery of the C3 housing element will be challenging. It is to be noted that a number of the s106 costs and SANG provision whilst attributed above to the C3 element, should be met to some extent by the care home development. It is thus clear that an element of the 'profit' identified within CD04 would be used to meet the site wide requirements, and as such would significantly impact on the viability of the C2 development.
42. In this instance, the site specific characteristics of delivering a care development on the strategic site justify that a nil CIL rate is applied across the strategic allocation, and in relation to all potential land uses. This will ensure that the viability of the site as a whole, and its site specific characteristics and development requirements can be effectively delivered through onsite works and s106 contributions.

Summary

43. It is clearly demonstrated that the strategic allocation, Policy VTSW7, is not deliverable based upon the currently proposed CIL charges.
44. This failure to account for the deliverability of the site is a result of a change in the projected timelines of delivery. If it had become evident at an earlier stage of the Charging Schedule's development that the site would not be permitted before adoption, it would have been one of the strategic sites tested by pba.
45. The NPPG requires the CIL evidence base to demonstrate that the imposition of CIL would not impact on the deliverability of the Local Plan. The scale and role of this strategic allocation, goes to the heart of the adopted Core Strategy, and as such the viability concerns raised by CIL are of significant importance to the appropriateness of the Charging Schedule.
46. It is posited that based upon the evidence submitted above, that a modification to the proposed Charging Schedule, to identify this strategic allocation as a strategic site subject to a nil rate across all land uses, would not only be appropriate in this instance but necessary to ensure the delivery of this strategic site. Failure to do so would result in the non-delivery of this strategic site.
47. We therefore seek modification of the Charging Schedule to take this into account.

Documents Enclosed

'Redevelopment of the former St Leonards Hospital: Development Brief', dated June 2014.

'SANG Strategy for St. Leonard's Hospital', by Cordle Design.

Natural England, Consultation Response to pending Planning Application, dated 23/12/2014.

DCC Strategic Commissioning Manager, Consultation Response to pending Planning Application, dated 23/10/2014.