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Dear Sirs

EAST DORSET DISTRICT COUNCIL & CHRISTCHURCH BOROUGH COUNCIL – PARTIAL REVIEW OF THE COMMUNITY INFRASTRUCTURE LEVY (CIL) CHARGING SCHEDULES

Savills made representations on the East Dorset and Christchurch Draft Charging Schedule in 2013 and 2014 outlining a number of concerns regarding the viability evidence underpinning the proposed CIL charging rates and the intended application of the Charging Schedule.

The Councils were due to adopt their individual CIL Charging Schedules in September 2015 following receipt of the Examiner's report (10th July 2015). However, the recent High Court decision (Reading and West Berkshire Councils, 31st July 2015), quashed the Government policy setting out that affordable housing contributions should not be sought on sites of 10 units or less (with a maximum combined gross floor space of 1,000 square metres)¹. The Council was subsequently advised by the Planning Inspectorate that a Partial Review of the Charging Rates for residential development of less than 40 dwellings (which do not provide an on-site SANG) was required.

A further consultation was been undertaken by the Councils on the Revised Preliminary Draft Charging Schedule (RPDCS) from the 11th September until the 9th October 2015, prior to the current consultation on the Revised Draft Charging Schedules (RDCS).

Savills response to the RPDCS highlighted a number of concerns regarding the inclusion of a proposed differential rate for residential development of 10 units or less contingent on possible future legislative change. We do not consider that these concerns have been adequately addressed in the RDCS.

Our response to the consultation is set out below.

Offices and associates throughout the Americas, Europe, Asia Pacific, Africa and the Middle East.

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Revised Draft Charging Schedule (RDCS)

Having reviewed the PDCCS, we note that the Councils are proposing to include the following CIL rates within their respective Charging Schedules:

Table 1 – Christchurch and East Dorset Revised Residential CIL Rates

Development Type	CIL Rate (£psm)
<u>Residential (other than New Neighbourhoods or sites providing on-site SANG) (other than New Neighbourhoods or sites providing on-site SANG). This rate will also apply on sites of 10 units or less or less than 1000sqm floorspace, subject to the introduction of national legislation or guidance introducing this threshold for affordable housing provision)</u>	£70
<u>Residential on sites of 10 units or less or less than 1000sqm floorspace (only applicable if there is a legislative change or change in national guidance where no affordable housing provision is required on sites of 10 units or less or less than 1000sqm floorspace).</u>	£150

In Savills opinion, the proposed CIL rates appear to be an attempt by the Councils to effectively reserve their position in case there are future, hereto unknown, legislative changes. The revised residential CIL rates therefore revert back to the previously proposed flat residential rate of £70 psm for development on non-strategic sites, with a ‘fall-back’ rate of £150 psm that would only be applicable if there is a legislative change or national guidance on affordable housing requirements for small sites.

We have a number of concerns with this proposed approach, notably whether it is lawful or within the spirit of the Regulations and applicable Statutory CIL Guidance, which are set out in greater detail below.

Differential CIL Rates

Under the CIL Regulations 2010 (as amended) and the supporting guidance outlined in the National Planning Policy Guidance (NPPG), Charging Authorities are able to introduce differential CIL rates:

“The regulations allow charging authorities to apply differential rates in a flexible way, to help ensure the viability of development is not put at risk. Differences in rates need to be justified by reference to the economic viability of development. Differential rates should not be used as a means to deliver policy objectives.

Differential rates may be appropriate in relation to -

- *geographical zones within the charging authority's boundary*
- *types of development; and/or*
- *scales of development.*¹

This clearly states that Charging Authorities are able to introduce differential CIL rates where they are based on one of the three basis above and they are supported by viability evidence. Based on this, we do not therefore believe that the Councils' proposed CIL rates applicable for "*Residential on sites of 10 units or less or less than 1000sqm floorspace (only applicable if there is a legislative change or change in national guidance where no affordable housing provision is required on sites of 10 units or less or less than 1000sqm floorspace).*" will meet the clear tests outlined in the CIL Regulations. Neither the Regulations or Guidance outlines an ability for a Charging Authority to set a CIL rate based on presumptions over future changes to law or policy.

Current Policy Requirements

In addition to the above, it should be noted that the NPPG requires Charging Authorities to take into account current policy requirements:

"A charging authority should take development costs into account when setting its levy rate or rates, particularly those likely to be incurred on strategic sites or brownfield land. A realistic understanding of costs is essential to the proper assessment of viability in an area.

Development costs include costs arising from existing regulatory requirements, and any policies on planning obligations in the relevant Plan, such as policies on affordable housing and identified site-specific requirements for strategic sites."

This is in-line with the National Planning Policy Framework (NPPF), which refers to the "**cumulative impacts**"² of standards and policies relating to the economic impact of these policies (such as affordable housing) and that these should not put the implementation of the plan at serious risk. Existing policy requirements should therefore be considered when assessing the impact of CIL on development viability.

We therefore believe it is inappropriate to consider potential future changes to policy requirements (such as affordable housing) in setting CIL rates. Doing so would set a precedent of uncertainty, and introduce a potentially endless list of potential scenarios, which would undermine any form of objective analysis of a CIL Charging Schedule at Examination.

¹ NPPG, paragraph 21, reference ID 25-021-20140612, accessed 8th October 2015

² Paragraph 174, NPPF

Review Mechanism

Under the CIL Regulations 2010 (as amended), a Charging Authority is able to undertake a review of the Charging Schedule in order to amend the implemented CIL rates³. We would therefore suggest that the Councils have suitable flexibility under the CIL Regulations to revise their CIL Rates accordingly in the event that national policy requirements change.

Conclusion

For the reasons set out above, we strongly object to the proposed amendments to the residential CIL rates in the Councils' respective PDCS. In particular, the fact that the proposed changes:

- i) Do not meet the grounds for differential rates as set out in the NPPG;
- ii) Are not based on current policy requirements and attempt to fix the viability impact of unknown future changes to affordable housing policy; and
- iii) Unnecessary given the flexibility afforded Charging Authorities within the CIL Regulations to review their Charging Schedules.

We therefore strongly urge the Councils to remove the proposed CIL rate linked to future changes in policy requirements, as we do not believe that they meet the tests outlined in the CIL Regulations or NPPG.

Yours sincerely

For and on behalf of Savills (UK) Ltd

Tim Hoskinson
Associate Director

³ Ibid. Paragraph 043, reference ID 25-043-20140612