



Caerphilly County Borough Council and Merthyr Tydfil County Borough Council

Draft Community Infrastructure Levy (CIL) Joint Examination

Hearing Session Statement – Session 3 –Viability Evidence and Modelling - Residential (S106 and CIL Costs Comparison)

Examination January 2014

Caerphilly County Borough Council Submission:

Examination Statement reference :

ES3

Submission date :

January 2014

Hearing Session Statement – Session 3 –Viability Evidence and Modelling - Residential (S106 and CIL Costs Comparison)

1 Introduction

- 1.1 This Hearing Session Statement has been prepared by Caerphilly County Borough Council (CCBC) in order to help facilitate appropriate discussion in respect of “Site specific infrastructure costs (S.106 and S.278)” set out as part of the Examination Session 3 discussions. This statement addresses information in respect of planning obligations (namely Section 106 agreements) for residential developments. The statement sets out what has happened in respect of Section 106 agreements over the past 5 – 7 years, it identifies what the costs to development have been over that time and the considers how these costs would have been addressed under a CIL regime.
- 1.2 The S106 information has been taken from council records and data from agreements signed between 1 January 2006 and 31 December 2013 have been included. The Statement sets out information in respect of the number and value of S106 agreements although, due to a change in the way data was recorded, information relating to the number of S106 agreements relating to all applications for CIL eligible residential development covers the period 2008 to present, whilst the S106 information itself, including the financial information, covers the period 2006 to present.

2 The Data

- 2.1 Representors to the Draft Charging Schedule have raised the issue of planning obligations as a cost to development that needs to be taken into account in considering residential development viability. In order to do this consideration needs to be given to the extent that S106 agreements are used in residential developments.
- 2.2 A table is included at Appendix 1 that sets out the number of residential developments that have been determined between 1 January 2008 and 31 December 2013 and the number of s106 agreements that these developments have realised. It should be noted that only residential applications that would be liable to a CIL Charge have been included, to reflect the fact that the impacts are related to CIL eligible developments. Consequently residential developments comprised of conversions, and extensions are not included as it is assumed that existing floorspace would rule out CIL Liability. Redevelopments of sites have been included where they realise a number of residential dwellings. However redevelopments for one, two or three units have not been included, again on the grounds of existing floorspace. It should be noted that a detailed assessment of floorspace for these developments has not been undertaken as it is considered that this would be contrary to the spirit of the viability assessment process.
- 2.3 It should also be noted that, in respect of S106 agreements, the date of the agreement for a development is taken to be the date the first agreement for the development was signed. It is acknowledged that some developments have been subject to multiple amendments, in the form of deeds of variation, but using these would likely confuse the situation. It should also be noted that the financial

implications of the agreements does include all subsequent changes to the value of the S106 after the date of first signing.

2.4 A table is included in Appendix 2 that sets out the cost implications of S106 agreements and how these costs would be dealt with under a CIL Regime. The table also makes a comparison of S106 costs against CIL Regime costs, identifying what differences there are between the two and the relative impact S106 will have in respect of CIL. This table considers this information across the three proposed charging ranges and across three time periods, namely:

1. 2006 to Present – covering the period for which data is available
2. 2008 to Present – Covering the same period as the planning application information
3. 2011 to Present – Covering the period when the LDP has been in force.

3 The Relationship between CIL and Section 106 Agreements

2.1 Appendix 1 sets out the information relating to the number of CIL-eligible permitted developments and the numbers of S106 agreements these applications have realised. This data is set out to reflect the three proposed Residential Charging Zones and across 2 time periods, namely

1. 2008 to Present – Covering the same period as the planning application information
2. 2011 to Present – Covering the period when the LDP has been in force

2.2 Appendix 1 identifies that, generally, a comparatively small number of S106 agreements are realised from the total of CIL-eligible residential developments. This is most marked in the Low and Mid Viability Zones, where between 10 and 15% of developments realise a S106 agreement across the assessed period. The High Viability Zone exhibits a very much higher incidence of S106 agreements, 72.7% and 84% respectively. This is a very high level of incidence for S106 agreements, but this can be attributed to the implementation of the council's Strategic Highway Obligation in the Caerphilly Basin in 2008. The Obligation seeks a set contribution from every new residential unit that is developed, including single dwellings. As a result all housing developments in the Caerphilly Basin will have a S106 agreement setting out this contribution. The only housing development in the High viability Zone that would not realise a S106 agreement would be developments in the Risca area.

2.3 The table in Appendix 1 identifies the effect of the Caerphilly Basin Obligation as it includes calculations of the percentage of S106 agreements where agreements that only set out the Obligation requirement, and relate to no other matter, have been removed. This would be the situation under a CIL regime, as the Obligation would no longer be in operation because the infrastructure would be required to be funded through CIL and would not be eligible for inclusion in S126 agreements. In this scenario the level of S106 agreements is dramatically reduced to levels only slightly above the other two zones.

2.4 The very high incidence levels in the High Viability Zone have translated to the strategic views and have skewed the results accordingly. The County Borough as a whole realising S106 incidences slightly over 35% since the adoption of the LDP and the CIL-paying zones realising slightly under 50% . However, these figures

change dramatically when the effect of the Caerphilly Basin Obligation has been removed, with levels dropping to just 16.5% across the county borough and only 17% for the CIL-Paying zones, which brings the strategic assessment more in line with the individual zones.

- 2.5 When considered strategically the highest level of S106 incidence, when the effect of the Caerphilly basin Obligation has been removed, is 17%, meaning that less than 1 in 5 developments realise s106 agreements and their associated costs.
- 2.6 Appendix 1 also considers the overall cost of S106 and what implications this has in respect of the CIL regime. To do this it is necessary to identify how much of the S106 Agreement value would become funded through IL (and so not be a s106 cost) and how much would remain a S106 cost to the development. The nature and extent of the identified S106 Agreements have been considered and the funded elements of each S106 have been considered against the Council's Draft Regulation 123 List of Infrastructure (ES1) to determine whether each element would be CIL-funded or remain a S106 cost to development under the CIL regime.
- 2.6 As can be seen from the Appendix the vast majority of S106 costs will be subsumed within CIL and would, therefore, not be subject of S106 agreements under the CIL Regime. In this scenario the Mid Viability Zone exhibits the lowest level of S106 being subsumed into CIL, even though this is over 80%. When considered strategically the figures are remarkably uniform, with between 92.4% and 94.4% of total S106 costs being subsumed into CIL.
- 2.7 In conclusion, the evidence suggests that, should CIL be implemented, less than 20% of all residential developments would be subject to a S106 agreement and, where they are subject of such agreements, the overall costs would be less than 10% of the cost of current obligations.

3 Comparison of CIL Regime Costs and S106 Costs

- 3.1 Appendix 2 sets out the cost implications of S106 agreements and considers the costs of developments under the CIL Regime. To do this the amount of S106 cost that would be subsumed into CIL is calculated and the remaining S106 costs have been added to a calculated CIL Charge to provide the total cost to development under the CIL Regime. To do this the total number of CIL-chargeable dwelling units has been identified, by deducting the number of affordable units from the total permitted number of units. In order to calculate the value of the CIL Charge, the number of CIL-chargeable units have been multiplied against the CIL Rate for the zone and then multiplied against an assumed average footprint area of 100 sq.m.
- 3.2 Both the S106 costs and the CIL Calculated costs are identified for total cost to development, cost per unit for all permitted units and cost per unit for CIL-chargeable developments. The respective S106 and calculated CIL figures are then compared by deducting the S106 cost from the CIL cost. This calculation realises a negative result where the S106 cost is higher and a positive result if the CIL cost is higher.
- 3.3 The Low Viability Zone, due to the fact that all S106 is subsumed into CIL and there is no CIL Charge, and the High Viability Zone, by virtue of the fact that the Highway Obligation is subsumed into CIL, both realise significantly lower CIL charges than those realised as S106 agreements. Conversely the Mid Viability Zone realises

higher CIL rates than those realised by S106 Agreements. When considered strategically the results indicate that CIL costs are significantly lower than S106 costs, particularly over the plan period where CIL costs are nearly £60 per square metre less than the equivalent S106 costs.

Appendix 1 – CIL & S106 Relationship

CIL & S106 Applications								
Area	Period	Total Number of CIL Eligible Developments	Number of CIL Eligible Developments Subject of S106	Percentage of CIL Eligible Developments Subject of S106	Original S106 Cost To Development	S106 Cost Subsumed Into CIL (On Councils Reg 123 List)	Percentage of S106 Cost Subsumed Into CIL	S106 Cost Not Subsumed Into CIL
LOW Viability Zone	2008 - Present	91	10	11.0%	£1,802,650.00	£1,802,650.00	100.0%	0.0%
	2011 - Present	39	6	15.4%	£146,250.00	£146,250.00	100.0%	0.0%
MID Viability Zone	2008 - Present	128	14	10.9%	£978,666.11	£811,333.11	82.9%	17.1%
	2011 - Present	50	7	14.0%	£213,318.55	£178,318.55	83.6%	16.4%
High Viability Zone	2008 - Present	77	56	72.7%	£4,061,843.00	£3,846,797.00	94.7%	5.2%
	2011 - Present	38	32	84.2%	£2,472,361.00	£2,337,523.00	94.5%	5.5%
High Viability Zone (Excluding Obligation Only S106 Agreements)	2008 - Present	77	11	14.3%				
	2011 - Present	38	8	21.1%				
CIL Levy Zones (Mid & High)	2008 - Present	205	70 (25)	34.1% (12.2%)	£5,040,509.11	£4,658,130.11	92.4%	7.5%
	2011 - Present	88	39 (15)	44.3% (17.0%)	£2,685,679.55	£2,515,841.55	93.7%	6.3%
All Zones (Low, Mid & High)	2008 - Present	296	80 (35)	27.0% (11.8%)	£6,843,159.11	£6,460,780.11	94.4%	5.5%
	2011 - Present	127	45 (21)	35.4% (16.5%)	£2,831,929.55	£2,662,091.55	94.0%	6.0%

Appendix 2 – S106 Cost Implications for The CIL Regime

S106 Cost Implications for The CIL Regime												
Area	Period	Permitted Units	CIL Chargeable Units	Original S106 Cost To Development	Original S106 Cost Per Unit (All Units)	Original S106 Cost Per Unit (CIL Chargeable Units)	S106 Cost Subsumed Into CIL	Percentage of S106 Cost Subsumed Into CIL	S106 Cost Not Subsumed Into CIL	Percentage of S106 Cost Not Subsumed Into CIL	S106 Cost Not Subsumed Into CIL Per Unit (All Units)	S106 Cost Not Subsumed Into CIL Per Unit (CIL Chargeable Units)
LOW Viability Zone	2011 - Present	94	61	£146,250.00	£1,555.85	£2,397.54	£146,250.00	100.0%	£0.00	0.0%	£0.00	£0.00
	2008 - Present	435	374	£1,802,650.00	£4,144.02	£4,819.92	£1,802,650.00	100.0%	£0.00	0.0%	£0.00	£0.00
	2006 - Present	465	404	£1,838,650.00	£3,954.09	£4,551.11	£1,838,650.00	100.0%	£0.00	0.0%	£0.00	£0.00
MID Viability Zone	2011 - Present	135	97	£213,318.55	£1,580.14	£2,199.16	£178,318.55	83.6%	£35,000.00	16.4%	£259.26	£360.82
	2008 - Present	582	331	£978,666.11	£1,681.56	£2,956.70	£811,333.11	82.9%	£167,333.00	17.1%	£287.51	£505.54
	2006 - Present	770	497	£1,274,878.11	£1,655.69	£2,565.15	£1,107,545.11	86.9%	£167,333.00	13.1%	£217.32	£336.69
High Viability Zone	2011 - Present	421	255	£2,472,361.00	£5,872.59	£9,695.53	£2,337,523.00	94.5%	£134,838.00	5.5%	£320.28	£528.78
	2008 - Present	759	536	£4,061,843.00	£5,351.57	£7,578.07	£3,846,797.00	94.7%	£215,046.00	5.3%	£283.33	£401.21
	2006 - Present	893	670	£4,743,262.00	£5,311.60	£7,079.50	£4,324,216.00	91.2%	£419,046.00	8.8%	£469.26	£625.44
CIL Levy Zones (Mid & High)	2011 - Present	556	352	£2,685,679.55	£4,830.36	£7,629.77	£2,515,841.55	93.7%	£169,838.00	6.3%	£305.46	£482.49
	2008 - Present	1341	867	£5,040,509.11	£3,758.77	£5,813.74	£4,658,130.11	92.4%	£382,379.00	7.6%	£285.14	£441.04
	2006 - Present	1663	1167	£6,018,140.11	£3,618.85	£5,156.93	£5,431,761.11	90.3%	£586,379.00	9.7%	£352.60	£502.47
All Zones (Low, Mid & High)	2011 - Present	650	413	£2,831,929.55	£4,356.81	£6,856.97	£2,662,091.55	94.0%	£169,838.00	6.0%	£261.29	£411.23
	2008 - Present	1776	1241	£6,843,159.11	£3,853.13	£5,514.23	£6,460,780.11	94.4%	£382,379.00	5.6%	£215.30	£308.12
	2006 - Present	2128	1571	£7,856,790.11	£3,692.10	£5,001.14	£7,270,411.11	92.5%	£586,379.00	7.5%	£275.55	£373.25
Area	Period	CIL Rate	CIL Charge	CIL Regime Cost to Development	CIL Regime Cost Per Dwelling (All Units)	CIL Regime Cost Per CIL Chargeable Unit	Comparison of CIL Regime to S106 Regime Total Cost To Development (CIL Cost - S106 Cost)	Comparison of CIL Regime to S106 Regime Cost Per Dwelling (All Units) (CIL Cost - S106 Cost)	Comparison of CIL Regime to S106 Regime Cost Per Dwelling (CIL Chargeable Units) (CIL Cost - S106 Cost)	Comparison of CIL Regime to S106 Regime Cost Per SQ. M. (CIL Chargeable Units) (CIL Cost - S106 Cost)		
LOW Viability Zone	2011 - Present	£0.00	£0.00	£0.00	£0.00	£0.00	-£146,250.00	-£1,555.85	-£2,397.54	-£23.98		
	2008 - Present	£0.00	£0.00	£0.00	£0.00	£0.00	-£1,802,650.00	-£4,144.02	-£4,819.92	-£48.20		
	2006 - Present	£0.00	£0.00	£0.00	£0.00	£0.00	-£1,838,650.00	-£3,954.09	-£4,551.11	-£45.51		
MID Viability Zone	2011 - Present	£25.00	£242,500.00	£277,500.00	£2,055.56	£2,860.82	£64,181.45	£475.42	£661.66	£6.62		
	2008 - Present	£25.00	£827,500.00	£994,833.00	£1,709.34	£3,005.54	£16,166.89	£27.78	£48.84	£0.49		
	2006 - Present	£25.00	£1,242,500.00	£1,409,833.00	£1,830.95	£2,836.69	£134,954.89	£175.27	£271.54	£2.72		
High Viability Zone	2011 - Present	£40.00	£1,020,000.00	£1,154,838.00	£2,743.08	£4,528.78	-£1,317,523.00	-£3,129.51	-£5,166.76	-£51.67		
	2008 - Present	£40.00	£2,144,000.00	£2,359,046.00	£3,108.10	£4,401.21	-£1,702,797.00	-£2,243.47	-£3,176.86	-£31.77		
	2006 - Present	£40.00	£2,680,000.00	£3,099,046.00	£3,470.38	£4,625.44	-£1,644,216.00	-£1,841.23	-£2,454.05	-£24.54		
CIL Levy Zones (Mid & High)	2011 - Present	Mixed	£1,262,500.00	£1,432,338.00	£2,576.15	£4,069.14	-£1,253,341.55	-£2,254.21	-£3,560.63	-£35.61		
	2008 - Present	Mixed	£2,971,500.00	£3,353,879.00	£2,501.03	£3,868.37	-£1,686,630.11	-£1,257.74	-£1,945.36	-£19.45		
	2006 - Present	Mixed	£3,922,500.00	£4,508,879.00	£2,711.29	£3,863.65	-£1,509,261.11	-£907.55	-£1,293.28	-£12.93		
All Zones (Low, Mid & High)	2011 - Present	Mixed	£1,262,500.00	£1,432,338.00	£2,203.60	£3,468.13	-£1,399,591.55	-£2,153.22	-£3,388.84	-£33.89		
	2008 - Present	Mixed	£2,971,500.00	£3,353,879.00	£1,888.45	£2,702.56	-£3,489,280.11	-£1,964.68	-£2,811.67	-£28.12		
	2006 - Present	Mixed	£3,922,500.00	£4,508,879.00	£2,118.83	£2,870.07	-£3,347,911.11	-£1,573.27	-£2,131.07	-£21.31		