

Merthyr Tydfil County Borough Council

Consultation Report – Preliminary Draft Charging Schedule June 2013

Miss J Jones
Head of Town Planning
Merthyr Tydfil CBC
Unit 5
Pentrebach
Merthyr Tydfil
CF48 4TQ

Introduction

Regulation 15 of the Community Infrastructure Levy Regulations 2010 (as amended) require that any charging authority preparing a CIL Charging Schedule must prepare a preliminary draft charging schedule for consultation. The council, as the charging authority, prepared its Preliminary Draft Charging Schedule (PDCS) and formally placed it on consultation for six weeks between 7th March 2013 and 18 April 2013.

In conjunction with the PDCS, the council also published its evidence base which consisted of the Study into the Economic Viability of Charging Community Infrastructure Levy in Caerphilly, Merthyr Tydfil and Rhondda Cynon Taf County Borough Councils (Viability Report), and the Merthyr Tydfil County Borough Council Infrastructure Report.

In accordance with Regulation 15, a copy of the consultation documents were sent to the consultation bodies and comments were invited on the documents. A copy of the consultation documents, along with details of the consultation period, were made available on the Council's website, at the Council offices and at the public libraries in the County Borough, and a Statutory Notice was placed in the Merthyr Express.

Responses

A total of 4 duly made submission were received during the consultation. Whilst 4 submissions were received, each submission does not necessarily cover a single issue. In order to deal with all issues raised, each issue is recorded as a separate representation. As a consequence a total of 26 representations have been made.

It should be noted that the Representation Form that was used for the consultation set out a list of 10 "Yes/No" questions on issues related to CIL. The reason for setting out these questions was for the council to gauge views on issues of uncertainty or where inadequate guidance was available. Whilst a text box for comments was provided after each question, some of the submissions addressed the questions directly and then provided separate commentary through use of a separate document. Of the 26 representations received, 13 relate to the Response Form Questions, whilst 13 relate to issues raised in separate documentation.

The following individuals/organisations made submissions:

- Caerphilly CBC – 10 representations;
- Natural Resources Wales – 2 representations;
- The Theatres Trust – 1 representation;
- Savills (on behalf of Developer Consortium) – 13 representations.

Format of the Consultation Report

Section 2 of this report sets out the representations made by each representor, with each issue being given a representation number and then addressed in turn. The details of each representation will be set out, along with the Council's response and a recommendation on what action, if any, needs to be taken.

Next Steps

This Consultation Report will form part of a report that is intended to be presented to Full Council in July 2013. Prior to presentation to Full Council, the CIL Steering Group will convene to discuss this report and other relevant issues.

If, at the council meeting in July, the recommendations are endorsed, it is anticipated that public consultation on the Draft Charging Schedule and associated document will take place during July/August 2013.

Issues Raised

Representor 1: Caerphilly County Borough Council

Representation Number: 1.1

Issue: CCBC agrees that the assumptions and method set out in the viability report are robust, and that the report is an appropriate basis for determining the level of CIL viable in the County Borough.

Councils Response: The support is noted and welcomed

Recommended Changes: None

Representor 1: Caerphilly County Borough Council

Representation Number: 1.2

Issue: CCBC supports the differential residential rate as the different zones are justified on viability grounds as set out in the viability report.

Councils Response: The support is noted and welcomed

Recommended Changes: None

Representor 1: Caerphilly County Borough Council

Representation Number: 1.3

Issue: CCBC agrees with the different rates for residential development in each charging zone as the rates are justified on viability grounds as set out in the viability report.

Councils Response: The support is noted and welcomed

Recommended Changes: None

Representor 1: Caerphilly County Borough Council

Representation Number: 1.4

Issue: CCBC believe that affordable housing should be delivered through Section 106 agreements.

Councils Response: The support is noted and welcomed

Recommended Changes: None

Representor 1: Caerphilly County Borough Council

Representation Number: 1.5

Issue: CCBC believe that the flat rate for A1, A3 and Primary Healthcare uses across the County Borough is justified on viability grounds as set out in the Viability Report

Councils Response: The support is noted and welcomed

Recommended Changes: None

Representor 1: Caerphilly County Borough Council

Representation Number: 1.6

Issue: CCBC believe that the different rates for A1, A3 and Primary Healthcare uses are justified as set out in the viability reports.

Councils Response: The support is noted and welcomed

Recommended Changes: None

Representor 1: Caerphilly County Borough Council

Representation Number: 1.7

Issue: CCBC agree that the viability evidence identifies that B1, B2, B8 and D2 uses cannot support a CIL charge, as set out in the viability report/

Councils Response: The support is noted and welcomed

Recommended Changes: None

Representor 1: Caerphilly County Borough Council

Representation Number: 1.8

Issue: CCBC agree that the proposed levels of CIL represent an appropriate balance between the desirability of funding infrastructure and ensuring development remains viable. The rates proposed in Merthyr Tydfil CBC reflect the rates proposed in corresponding market areas in Caerphilly and RCT when affordable housing targets have been taken into account.

Councils Response: The support is noted and welcomed

Recommended Changes: None

Representor 1: Caerphilly County Borough Council

Representation Number: 1.9

Issue: CCBC believe that whilst the principle of offering discretionary relief is to be supported, identification of what exceptional circumstances are needs to be detailed in order to ensure that the relief is implemented on a fair basis.

The Council should provide more detail on what exceptional circumstances are in order to ensure that such relief can be implemented appropriately.

Councils Response: The consultation documentation did not set out an exceptions policy, but the Council are now considering one, which will be publicised during the next public consultation on the Charging Schedule.

Recommended Changes: No amendment is made to the PDCS, but the representors' comments will be taken into account when considering an exceptions policy.

Representor 1: Caerphilly County Borough Council

Representation Number: 1.10

Issue: CCBC state that the Council should adopt the position as set out in the latest version of the Regulations with regard to spending receipts in local communities.

Councils Response: The latest version of the regulations identify 15% of receipts to be passed to local communities via appropriate organisations

Recommended Changes: No amendment to the Charging Schedule in respect of this application.

Representor 2: Natural Resources Wales

Representation Number: 2.1

Issue: Reference to Environment Agency and Countryside Council for Wales should be amended where appropriate to Natural Resource Wales. At Appendix 1 of the Infrastructure Report, NRW (or predecessors) are mentioned as potentially contributing funding towards projects, this is not the case, but NRW can still be mentioned as a delivery partner.

Councils Response: The suggested amendments will be made in accordance with the representors' comments.

Recommended Changes: Appendix 1 of the Infrastructure Report to be amended to reflect the change to Natural Resources Wales, and any reference to NRW providing funding towards projects.

Representor 2: Natural Resources Wales

Representation Number: 2.2

Issue: NRW would like to be notified when the proposed infrastructure list that will be funded through CIL is published, and that it will be subject to consultation.

Councils Response: NRW will be notified when the infrastructure is published. This will take place during the public consultation on the Draft Charging Schedule where NRW will be open to comment.

Recommended Changes: None

Representor 3: The Theatres Trust

Representation Number: 3.1

Issue: Theatre uses are generally unable to bear the cost of CIL for viability reasons. If a rate were to be applied to sui generis uses The Theatres Trust recommends either the setting of a nil rate, the application of charitable or discretionary reliefs, applying D1/D2 rates where differential rates are proposed, or recycling the charge to the theatre development where a single rate is proposed.

Councils Response: The viability report has tested a range of sites across a variety of uses, and has proposed rates of CIL where viable. Rates cannot be set with political reasons in mind, essentially, where it is viable to charge CIL, it should be charged. The uses the representor refers to have been assessed and it has been shown that they could not support a CIL charge (apart from Primary Healthcare uses).

Recommended Changes: None

Representor 4: Housebuilders consortium

Representation Number: 4.1

Issue: The consortium agrees that Affordable Housing should continue to be delivered through Section 106 agreements to ensure flexibility is maintained in respect of the characteristics of individual sites.

Councils Response: The representor seeks to ensure that affordable housing is provided through S106 agreement, rather than through CIL itself, as the flexibility provided by the ability to negotiate S106 agreements provides a cushion for the viability of development sites.

It should be noted that the council's stance is also that affordable housing should continue to be provided through S106 agreement to ensure sufficient flexibility and recognise that more affordable housing will be delivered by S106 than by CIL.

The Regulations currently state that CIL receipts cannot be spent on affordable housing and the charging schedule reflects this position.

Recommended Changes: None

Representor 4: Housebuilders consortium

Representation Number: 4.2

Issue: The consortium agree with the use of Discretionary Relief in principle, however, the CIL Regulations heavily restrict circumstances in which this applies and as such, a CIL rate which ensures that most development can proceed should be set in the first instance.

Councils Response: The Consortium believes that it is important that the Council makes available exceptional circumstances relief from the date of adoption of the CIL. In setting the CIL rates the Council has sought to strike a balance between the costs of providing infrastructure needed to support new development and the potential effect of the imposition of the levy on the economic viability of development across the County Borough. The Council therefore, does not consider that it is necessary offer relief at this time. The Council will review the need for exceptional circumstance relief as part of the annual monitoring process.

Recommended Changes: None

Representor 4: Housebuilders consortium

Representation Number: 4.3

Issue: The consortium do not agree that the proposed level of CIL represents an appropriate balance between the desirability of funding infrastructure through CIL and ensuring that development remains viable.

Councils Response: The Council believes that the proposed levels of CIL represent an appropriate balance between the desirability of funding infrastructure through CIL and ensuring that development remains viable. The submission from the Consortium raises specific issues as to why they disagree with the levels of CIL proposed, these issues will be dealt with as separate representations outlined in the remainder of this report.

Recommended Changes: None

Representor 4: Housebuilders consortium

Representation Number: 4.4

Issue: In principle, the consortium considers the overall methodology of seeking to determine viability on a residual valuation exercise as being appropriate.

Councils Response: The support is noted and welcomed

Recommended Changes: None

Representor 4: Housebuilders consortium

Representation Number: 4.5

Issue: The consortium considers that the Preliminary Draft Charging Schedule potentially does not provide an up to date, consistent and well informed evidence base of economic viability in order to test various scenarios against CIL rates.

Given the focus of CIL as being supportive of development it is important that the test of viability considers those sites/ areas which are central to the delivery of the Council's strategy as set out in the adopted LDP. The updated guidance clearly states that "the focus should be in particular on strategic sites on which the relevant plan relies and those sites (such as Brownfield sites) where the impact of the levy on economic viability is likely to be more significant". It would not be acceptable to simply dismiss some sites as being rendered unviable purely because some are considered to be viable without due consideration of wider planning and corporate objectives of the Council. There needs to be a reasonable 'viability buffer' so that development at the margin of viability is not unduly prejudiced.

Councils Response: The Council believes that the proposed charge for each land use and in each zone is set at an appropriate level and will not be detrimental to the delivery of new housing in the County Borough. In setting the CIL rate the Council has sought to strike a balance between the cost of providing the infrastructure needed to support new development, and the potential effect of the imposition of the levy on the economic viability of development across the County Borough.

The updated guidance does state that there should be a particular focus on strategic sites that the relevant development relies upon. The Merthyr Tydfil Local Development Plan does not actually contain any sites defined as strategic sites and relies upon a more dispersed allocation of land in order to meet the plan's housing requirement. Whilst it may appear that a relatively low proportion of brownfield sites have been tested in Merthyr Tydfil, the area covered in the Viability Study needs to be considered as a whole, with a wide range of appropriate sites assessed.

In setting the rates the Council has considered the wider planning and corporate objectives and does not feel that the delivery of the LDP will be put at risk. The CIL values generated by the sites in the County Borough are all positive in the areas where the Council is proposing to charge CIL. The only sites that generated a negative value for CIL lie in the areas of the County Borough where the Council is not proposing to charge CIL at present.

The Council believes that a reasonable 'viability buffer' has been included in the rates of CIL proposed. The recommendations of the Viability Report stated a range of CIL charge that could be levied in the different zones. The Council has decided to charge towards the lower end of the range in order to create a buffer in terms of viability, and to attempt to ensure that the majority of development remains viable

Recommended Changes: None

Representor 4: Housebuilders consortium

Representation Number: 4.6

Issue: It should be noted that the very limited amount of housing delivery in the Borough is principally as a result of the inability of developers to procure viable development as a result of weak sales values and slow rates of sale, and not because of the lack of supply of deliverable development land. Many house builders will not currently consider opportunities in the Borough and those that are present report sluggish sales rates and values which reduces their confidence in the Borough going forward. Therefore the perception is that the majority of residential development in the Borough is already unviable if fully compliant affordable housing provision is delivered and therefore any further financial burden would only fuel that issue.

The power to seek Section 106 contributions in addition to CIL remains, albeit reduced in scope. The recent CIL guidance recommends that as background evidence, the charging authority should prepare and provide information about the amounts raised in recent years through S106 agreements and this should include the extent to which affordable housing and other targets have been met. The Consortium considers that this information should be made available through the consultation process so that the level of proposed CIL levy can be analysed and compared with the current S106 regime.

Councils Response: The representor suggests that limited housing delivery in the Merthyr Tydfil is principally as a result of low sales values and slow sales rates in the County Borough. It would be hard to dispute that the wider economic downturn has affected the housing market in Merthyr Tydfil, however in spite of this, the last six years have still seen a level of housing delivery that has not been seen in the County Borough for several decades, with completions averaging approximately 180 per year, roughly 40% higher than the average for the preceding 20 years.

The representor has not raised an issue with the sales values included for Merthyr Tydfil in the viability study, and these values are consistent with the values used in the corresponding areas of Rhondda Cynon Taff and Caerphilly where the representor does not believe low sales values are limiting housing delivery.

With regard to the rate of sales, the volume housebuilders that are currently on site in the County Borough have been positive about the rates that the sites are currently selling at, and these rates reflect the development timescales used in the Viability Study.

For clarification, the timescales used were determined as follows:

"The development periods adopted within the cash flows were based on a combination of market intelligence and the BCIS construction duration calculator." (paragraph 5.45 of viability study).

The development timescales vary from site to site, dependent upon their respective land uses. On the residential side timescales relate to site-specific sales rates of between 1 to 4 dwellings per month. On the commercial sites development timescales have been based on the construction duration calculator (*paragraph 5.45 of viability study*).

With regards to information about the amounts raised in recent years through S106 agreements and the extent to which affordable housing and other targets have been met, the Council will provide this information alongside the Draft Charging Schedule in order to provide background evidence and improve the overall robustness of the evidence base.

Recommended Changes: Information on recent S106 agreements and associated targets to be provided. No changes to the Charging Schedule.

Representor 4: Housebuilders consortium

Representation Number: 4.7

Issue: The proposed CIL rate has been supported by evidence produced by DVS. Owing to the key test of Regulation 14(1) it is important that the viability appraisal prepared is fit for purpose. It is clear that at Examination, the Charging Schedule will need to be supported by “**relevant evidence**” (Regulation 11(1) (f) / 19(1) (e)).

The fundamental premise is that to enable delivery, sites must achieve a credible land value for the willing landowner and the required return on investment for a willing developer, otherwise development will not be delivered.

The DVS viability assessment considers 8 sites across the County Borough, 3 in the North of the Borough, 3 in the south and 2 in the mid valleys. 6 of the 8 developments are on Greenfield sites, despite the LDP strategy allocating a significant amount of brownfield sites for housing development. Based on the DVS analysis, of the six sites located in the North and South regions, only three of them are capable of delivering a CIL rate in excess of the proposed £25 per sq m, therefore rendering the remaining 50% of the sites assessed unviable if a £25 per sq m charge rate was levied.

The DVS study has assumed at 17.5% developers profit on GDV for the private housing element which is lower than the returns required by developers in the current market and, as importantly, that their funding partners are able to accept. A more realistic developer profit on market sales, based upon the current risks in house building is a minimum of 20% of GDV, which has been accepted in other adopted charging schedules in England and accepted by the planning inspector in respect of a recent case dealing with viability issues, *Land at the Manor, Shinfield, Reading – Appeal Ref: APP/X0360/A/12/2179141* where the inspector concludes “*that the national housebuilders’ figures are to be preferred and that a figure of 20% of GDV, which is at the lower end of the range, is reasonable*”.

DVS have provided analysis at Appendix O of their viability assessment based on 20% profit which shows that on this basis, only 2 of the 6 sites referred to above are viable (33% of the sample) with the remaining 4 showing a negative residual land value even before a CIL allowance i.e. the scheme is unviable even if CIL was £0. This assumes the remaining development cost assumptions within the DVS report are reasonable.

Councils Response: The representor suggest that the as only 8 residential sites where tested in Merthyr Tydfil, the Viability Study is not representative of the housing market in the County Borough, and therefore is not robust evidence.

As part of this study Merthyr Tydfil along with its partner authorities provided the DVS with details of the likely schemes and sites that will deliver new development of that type within each authority over the course of their respective LDPs.

Paragraph 26 of the DCLG guidance document “Community Infrastructure Levy – An Overview” states:

“In practice, charging authorities may need to sample a limited number of sites in their areas and in England, they may want to build on work undertaken to inform their strategic housing land availability assessments. Charging authorities that decide to set differential rates may need to undertake more fine-grained sampling to help them to estimate the boundaries for their differential rates.”

This guidance clearly identifies that only a limited number of sites need to be considered in establishing the CIL rates. A total of 8 sites, located across the County Borough were assessed as part of the viability assessment for residential development. It should also be noted that, in order to establish charging zones, the assessment was taken across the study area as a whole and, as such, the assessment consists of 31 sites across the study area. This is, if anything, far in excess of the guidance, and is certainly a higher-level assessment than some English authorities have used to establish their residential charges.

The Council is content that the number of sites assessed as part of the viability assessments is fit for purpose and provides a robust basis for establishing the residential charges, and is in line with the guidance contained in the DCLG Community Infrastructure Levy Guidance – April 2013.

With regard to the issue that half the sites would automatically be unviable with a £25 per sqm CIL charge, again the study area as whole needs to be considered with the majority of sites in corresponding charging zones able to cope with this level of CIL charge.

The allowance for developer profit of 17.5% has been identified from DVS experience and market intelligence, which indicates an easing of developer profit levels has taken place in recent times, from 20% which developers sought immediately following the market crash (2007). As such it is the council’s opinion that the developer profit allowance of 17.5% is appropriate.

Recommended Changes: None

Representor 4: Housebuilders consortium

Representation Number: 4.8

Issue: The Consortium's principle area of concern in relation to the viability assessment and one which has significant impact on viability is the allowance made for "External or Additional Development Costs" above and beyond the basic build costs.

The principle of estimating the basic build costs from the RICS Build Cost Information Service after adjusting for location and allowing a contingency is accepted, as is an allowance of 17.5% as an average to cover standard External Works and the additional sustainability requirements to comply with CfSH Level 3 + 1 credit ENE1. However, it must be noted that this makes no future cost allowance for any enhancement to the sustainability obligations currently proposed by WG, and is only agreed on the acceptance that external costs only allow for straight forward site development costs (On site utilities, drainage and highways etc.) and take no account of additional development costs which are common on the significant majority of developments throughout South Wales and which should be accounted for in addition to the 17.5% provision.

A more appropriate allowance for External Works and Additional Development costs would be between 25% and 35% of build costs.

Councils Response: The site assessment methodology includes a 17.5% allowance for external works and sustainability as noted in the Viability Report (*Paragraph 5.22*). In the residential appraisal included as Appendix H to the Viability Report, this allowance amounts to £1.6m for a development of 137 dwellings, equivalent to £11,678 per house.

In respect of the issue regarding Code 3, the BCIS information is primarily informed by RSL data, which includes such costs and, in some cases a portion of the evidence will be for schemes in excess of Code 3. In addition to this DVS advise that local RSL developers have seen a fall in construction tender costs since the market downturn, which is indicative of the market generally, and these savings have offset increasing sustainability costs.

DVS have also advised that recent viability submissions, put forward by applicants and their consultants, often include construction rates inclusive of Code requirements and, when compared to BCIS information, are typically comparable to BCIS rates.

Finally the typical benchmark for external works is 15%. The 17.5% allowance includes an additional 2.5% notional allowance for sustainability costs.

Overall the council is satisfied that external and sustainability costs are adequately considered in the Viability Report.

The Council also acknowledges that some future development sites will be affected by abnormal costs. In establishing the methodology for the assessments the authorities, along with the DVS, conclude that it was not possible to establish and implement differential CIL rates for sites without abnormal costs and sites with abnormal costs. This is primarily due to

the fact that abnormal costs are just that, abnormal, and can vary greatly in nature, scale and cost. Given the potential variance of such costs it would be inappropriate to viability test sites using an assumed cost, because this would undoubtedly result in over-burdening sites with high levels of abnormal costs, whilst under charging sites with little or no abnormal costs, both situations being inequitable. Consequently it would be inappropriate to include abnormal costs in the Viability Report methodology and it is the council's view that such costs should be considered on a site-by-site basis.

Recommended Changes: None

Representor 4: Housebuilders consortium

Representation Number: 4.9

Issue: The build costs included in the DVS Study do not cater for the additional costs which will result from the Welsh Governments (WG) stated policy intentions for proposed improvement in Part L (40% improvement) and providing fire sprinklers into new homes in Wales from 2013. Despite WG confirming that developers seeking land for development beyond 2014/15 should take a cautious approach and should plan for both the inclusion of a 40% improvement and residential sprinklers in their bid assumptions.

As part of the consultation document for the proposed change to Part L of Building Regulations and Fire Sprinklers, there was documentation that provided information on potential additional construction costs for the proposed changes. The average additional costs per dwelling are set out below:-

- 25% Reduction - £3,300
- 40% Reduction - £4,200
- Sprinklers - £3,075

Based on the DVS analysis and assumptions, implementation of these measures would render all of the sample sites in the DVS assessment unviable based on their assumptions on development costs and profit at 17.5% of GDV.

Councils Response: The appraisals in the Viability Report have an element of allowance for sustainable development costs built into the methodology, with part of the 17.5% allowance for external and sustainable costs being prescribed to sustainable costs. In addition BCIS information already reflects sustainable construction costs that, in some cases, are designed to higher standards than currently required. However the costs set out in this representation relate to prospective changes to Building Regulations, requiring additional build costs to current housing designs. As such, whilst an element of the above cost provisions could address an element of these additional costs, it is unlikely that it will cover them in their entirety.

It is important to note, however, that these changes have not been issued in final form and, as a consequence, are not requirements at the current time. Whilst the Viability Report could have taken account of the anticipated costs set out in Welsh Government documentation, it cannot be certain that the amendments will be implemented or the costings identified will be sufficiently reflective of the actual costs to make their consideration appropriate. Consequently the Viability Report has not taken account of these changes. The CIL Charging Schedule has only reached its first formal stage and will be subject of further consultation and amendment as it progresses through the procedure to Adoption. If greater certainty arises during this procedure the Charging Schedule, along with its evidence base, can be amended to reflect the changing circumstances.

Further to this, once adopted, CIL will be monitored annually to consider whether its implementation results in undesirable impacts on viability and development. The monitoring process will determine whether the CIL Charging Schedule still represents an

appropriate balance between CIL revenue and development viability. Where the balance becomes inappropriate a review of the CIL will be undertaken to address the underlying issues. In this way the CIL can react to any significant changes in circumstances, such as the imposition of new building requirements, once the CIL has been adopted.

It must be noted that it is not always possible to take account of potential future changes and, even where potential changes are known, until they are formally published there is always uncertainty over content and when they will become a requirement. Consequently the Viability Report has not made any allowance for the costs associated with the changes (although some element could be subsumed into allowances already made in the methodology), although provisions in the preparation procedures and monitoring post adoption provide opportunities to review the CIL changing circumstance require such action.

Recommended Changes: None

Representor 4: Housebuilders consortium

Representation Number: 4.10

Issue: The profit level suggested by DVS for the affordable housing element of 4.76% is set at a totally unacceptable level. Given that grant is no longer available in the majority of cases, the private housing element of any development is subsidising the provision of affordable housing with the affordable land element having a negative land value. Based on 42% of the Welsh Governments Acceptable Cost Guidance, the transfer value of a 4P3B dwelling is £58,254, which based on the DVS assumption would yield a profit to the developer of £2,773. This is an untenable position and as a result, the profit level of the affordable element should be the same as that for the private element of the scheme.

Councils Response: Affordable housing is a planning obligation. As such it would be inappropriate to provide the obligation as a profit. The profit allowance for affordable housing, at 4.76%, is equivalent to 5% on costs, which is a contractor return seen by some RSLs in the construction market and also recommended within the 3 Dragons South Wales Toolkit.

Recommended Changes: None

Representor 4: Housebuilders consortium

Representation Number: 4.11

Issue: No allowance for planning promotion costs has been made within the DVS viability assessment, and whilst the extent of this will vary depending on the nature of the site, cost allowances should be reflected within the appraisal.

Councils Response: The representor contends that no allowances have been made for planning promotion costs. However, it should be noted that planning promotion costs are included in the allowance for professional fees. Consequently that issue has been addressed in the Viability Report.

Recommended Changes: None

Representor 4: Housebuilders consortium

Representation Number: 4.12

Issue: The DVS adopt a debit finance rate of 6%, which when taking account of entry, exit and monitoring fees we consider to be lower than the current market dictates. In addition, the DVS adopt a credit rate of 5.2% based on the “opportunity cost” of scheme revenue and we consider this level of credit rate to be wholly unacceptable in the current lending markets where there has to be a reasoned balance between the amount of reserves used to pay down debt and that reinvested into the house building business.

We are aware of other recently adopted CIL Charging Schedules where debit interest rates of between 6.5% and 7% have been adopted with no corresponding credit rate.

Councils Response: Financing arrangements are specific to each individual developer, and some developers may well have overall debit rates of 7% (or possibly even higher in some cases). However, interest rates are at a historic low (at 0.5%) and with the 3 monthly UK LIBOR now only marginally above this, even a 4% lending margin is still only a lending rate of circa 4.5%. DVS experience and market intelligence identifies that developers are working to these rates, with some RSLs having access to borrowing at sub 4% rates. Consequently it is the council’s opinion that 6% allowance in the methodology is appropriate.

The User Guide to the Homes & Communities Agency DAT sets out the following guidance:-
“There is also a credit interest rate, which is applied should the cumulative month end balance be positive. If the developer has other variable borrowings (such as an overdraft), or other investment opportunities, then the value of credit balances in reducing overall finance charges is potentially the same as the debit interest charge. If not, and the developer would simply put the funds into the bank, then a lower rate is appropriate.”

Since (even with closely matched credit and debit rates) most development cash flows will not show any positive net borrowing balance until the latter stages of a development the opportunity cost of development income is equal to the offset borrowing requirement.

If at the final stages of the development a positive cash flow balance is achieved then receipts could be used for offset borrowing on other concurrent (though less advanced) developments. It is acknowledged that this may not be possible for every developer and therefore a slightly reduced credit rate of 5.2% is used to reflect this and other costs of finance.

It should be noted that developers might chose not to offset borrowing within the subject development. Where this occurs it will be because the debt is being paid down elsewhere in the business (logically at a higher rate of interest) or reinvested elsewhere in the business (Either a strategic business decision (e.g. expansionist policy) or at a correspondingly higher rate of return than the development specific borrowing cost).

It should be noted that the viability testing in the Viability Report assumes a 100% borrowing requirement will fund developments. However this will not always be the case as, for example equity / shareholder funding will be invested by developers in some cases.

The allowance made for credit rate is appropriate

Recommended Changes: None

Representor 4: Housebuilders consortium

Representation Number: 4.13

Issue: It would appear that no Section 106 costs, in addition to the CIL levy have been included within the DVS viability appraisal, whereas in reality there are likely to be site specific circumstances where Section 106 payments are sought to mitigate the impact of development including on-site provision of Public Open Space and site access improvements which should be catered for within the viability appraisals that inform the CIL rates, and we would suggest that an allowance in the order of £1,000 per plot should be allowed for within the viability appraisal.

Councils Response: In undertaking the site appraisals the three authorities took a strategic decision not to make an assumption in respect of S106. This decision was taken for the following reasons:

Only a minority of planning applications in Merthyr Tydfil are the subject of S106 contributions. As a result the vast majority of of planning applications are unaffected by S106 costs. Therefore applying a cost assumption for S106 would mean applying a cost element to this vast majority of developments, which would not incur such costs. Doing so would undermine the ability to raise CIL revenue intended to provide infrastructure to support development in accordance with the Development Plan, a prime objective of the implementation of CIL.

A review of all S106 agreements in place in the County Borough illustrates that the main elements of infrastructure secured through S106 process relate to education provision; affordable housing; strategic and local transport improvements; leisure provision and ecological mitigation. The Council proposes to use CIL revenue to fund educational and strategic/core transportation network improvements along with some elements of leisure provision (for more detail see Draft Regulation 123 List of Infrastructure). These elements will therefore no longer be funded through S106 agreements.

The Viability Study took into account the requirements of the Council's affordable housing policy when assessing sites. The only elements that have not been considered relate to on site public open space and ecological mitigation. When taking LDP Policy AS17: New outdoor sport/play space into consideration, new on-site leisure provision is only going to be required on a handful of sites that remain undeveloped and ecological mitigation is again only required on a small number of sites due to the overwhelming majority of residential allocations being made on land with little ecological interest.

The Council considers that, given the above, the CIL rate for residential development proposed in the Preliminary Draft Charging Schedule strikes an appropriate balance and reflects the evidence contained in the Viability Study.

Recommended Changes: None

