

18 April 2013

The Savills logo consists of the word "savills" in a lowercase, sans-serif font, colored red, set against a bright yellow rectangular background.

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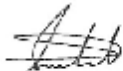
Dear Sir

**Merthyr Tydfil County Borough Community Infrastructure Levy (CIL)
Preliminary Draft Charging Schedule Consultation**

We act in conjunction with HBF on behalf of a consortium of housebuilders including Llanmoor Homes, Persimmon Homes/Charles Church, Redrow Homes and Taylor Wimpey and have been commissioned to make representations in respect of the above consultation on their behalf.

As such please find attached representation form together with supporting documentation.

Yours faithfully

A handwritten signature in black ink, appearing to be "S. Caldwell", written over a horizontal line.

Scott Caldwell MRICS
Director

Encs

Merthyr Tydfil Community Infrastructure Levy

Representation Form: Preliminary Draft Charging Schedule

Completed forms should be returned by 4pm on Thursday April 18th 2013 to:

Head of Town Planning
Merthyr Tydfil CBC,
Unit 5,
Pentrebach Industrial Estate,
CF48 4TQ.

Or via email to devplanning@merthyr.gov.uk

Contact details

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Office Use Only

Representor Number
Submission Type
(email, web, letter etc)
Representation number

- 1 (a) Do you agree that the assumptions and/or method set out in the viability report are robust, and that the report represents an appropriate basis for determining the level of CIL that would be viable in the County Borough?

Yes No

- (b) If not what is your justification?

Please see separate consultation response submitted with this form as supporting evidence.

- 2 If you support the differential residential rate, do you think that the boundary between the different zones as shown is an appropriate boundary? If not, please say what boundaries should be used instead and include justification. (Please attach map illustrating any amendments)

- 3 Do you agree with the different rates for residential development proposed in each charging zone? If not, which do you not agree with and what is your justification?

- 4 If given the choice, and subject to any updated regulations, do you think that affordable housing should be delivered through CIL or Section 106 agreements? Please include your justification.

Affordable housing should continue to be delivered through Section 106 agreements to ensure flexibility is maintained in respect of the special characteristics of individual sites.

- 5 Do you agree with the proposal to set a flat rate levy for A1, A3 and Primary Healthcare* uses across the whole County Borough? If not what is your justification
*Excludes all other uses within Class D1 of the Town & Country Planning (Use Class) Order 1987

- 6 Do you agree with the different rates for A1, A3 and Primary Healthcare uses? If not, which do you not agree with and please include justification.

- 7 Do you agree with the proposed £0 charge for B1, B2, B8 and D2 uses? If not, what do believe the charge should be and what is your justification?

- 8 Do you 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? Please include your justification

No. Please see separate consultation response submitted with this form as supporting evidence.

- 9 Do you agree with the use of Discretionary Relief in exceptional circumstances where it can be demonstrated that a Section 106 planning obligation attached to a development exceed the cost of the CIL amount levied, whereby CIL would have an unacceptable impact on the economic viability of the development. If not, what is your justification?

Yes, but the 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.

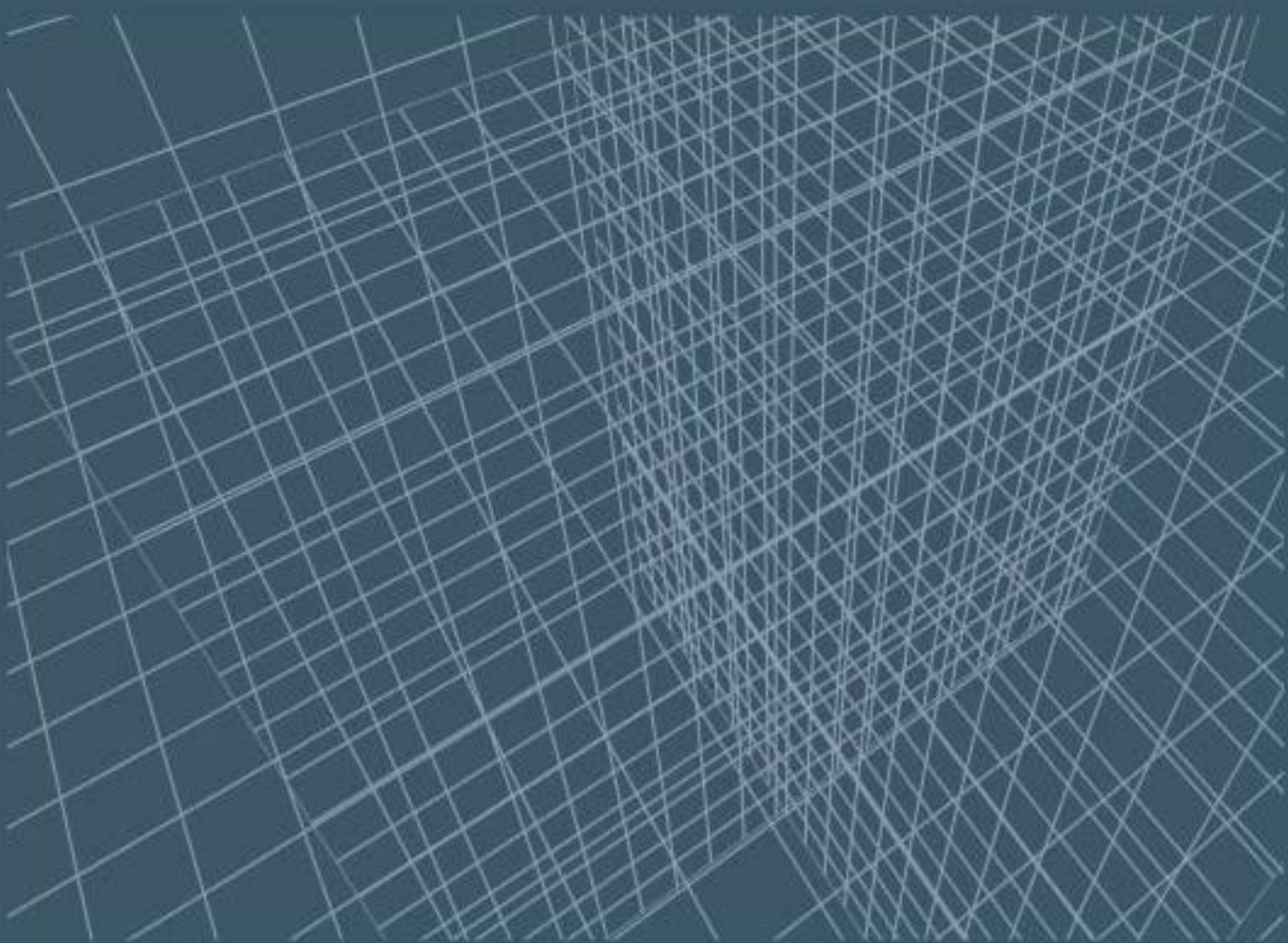
- 10 Subject to any updated Regulations, it is proposed that a proportion of the net receipts of CIL be passed to local communities, through the appropriate organisations. Do you agree with this approach? If so, what do you believe the percentage should be and what is your justification?

Thank you for your comments on the Preliminary Draft Charging Schedule

Please note that all representations received will be made available for public inspection and cannot be treated as confidential.

FOR FURTHER INFORMATION OR ASSISTANCE PLEASE CONTACT THE PLANNING POLICY SECTION AT devplanning@merthyr.gov.uk or 01685 726277

CONSULTATION RESPONSE
MERTHYR TYDFIL COUNTY BOROUGH COUNCIL
COMMUNITY INFRASTRUCTURE LEVY (CIL)
PRELIMINARY DRAFT CHARGING SCHEDULE



In Conjunction with HBF for
the Housebuilder Consortium

18 April 2013



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APPENDICES

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Executive Summary

This representation has been prepared by Savills in conjunction with the Home Builders Federation (HBF) on behalf of a developer and landowner consortium (the Consortium) to influence the emerging Community Infrastructure Levy (CIL) Charging Schedule proposed by Merthyr Tydfil County Borough Council (the Council). The representation is made in respect of the Preliminary Draft Charging Schedule and Infrastructure List and relates only to residential development.

We recognise that Local Authorities in setting the rate of CIL need to strike an appropriate balance between the desirability of funding from CIL against the potential effects of the imposition of CIL on the economic viability of development (Regulation 14(1) of the 2010 Community Infrastructure Levy, England and Wales Regulations (as amended)). However, the margins of development viability across the Borough are, as evidenced in the DVS report already at low thresholds even based on their assumptions, and therefore setting any fixed levy on development is likely to detract further the level of interest and enthusiasm from developers and encourage them to seek development in areas where there is greater confidence in achieving target returns. This places the delivery of sufficient housing development to meet housing demand, (which is currently at very low levels) in the Borough at significant risk.

Residential developers should be encouraged to stimulate growth by the delivery of good quality housing in the Borough, particularly given that the Council acknowledge themselves that the quality and mix of housing within Merthyr Tydfil is not of a high standard and needs to be improved. Imposing a fixed, inflexible levy on development will do nothing to improve the current lack of developer appetite and is likely to severely restrict the creation of new residential development in the Borough.

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 area. Based on DVS own analysis, out of these, 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 within the north and south areas unviable if a £25 per sq m charge rate was levied. If a realistic developers profit was assumed in the DVS viability assessment, this would reduce to 2 sites capable of supporting a £25 CIL rate.

If realistic development costs were allowed for in the viability assessment, all of the sites would be unlikely to support a CIL rate of £25 per sq m and this is before allowing for the potential additional costs which will result (if implemented) 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 were introduced.

This goes against the spirit of Regulation 14(1) of the 2010 Community Infrastructure Levy England and Wales Regulations (as amended) (No. 948) which identifies a clear requirement to ensure that **most** developments are able to proceed.

Our submission demonstrates that the extent of development costs allowed for within the DVS viability assessment are insufficient to cover **typical** development costs associated with developing sites in this part of Wales and are therefore, not robust enough to demonstrate that residential development in the County Borough can support any CIL levy.

Based on our analysis and assessment of the DVS Viability Assessment, we are of the opinion that there is no justification for any positive CIL charge being levied throughout the Borough and a £0 CIL rate should be adopted, with S106 obligations remaining the appropriate method of levying planning gain on a case by case basis, where viability allows. This should be capable of review at a time when market conditions are improved.

1.0 Introduction

1.1 This Representation has been prepared by Savills in conjunction with HBF on behalf of a landowner and developer consortium comprising:

- Llanmoor Homes
- Persimmon Homes/Charles Church
- Redrow Homes
- Taylor Wimpey

Hereafter known as ‘the Consortium’.

1.2 The Consortium represents a significant proportion of the residential developers present in the Borough and our comments herein relate to the proposed charges for “Residential Development”.

1.3 This representation has been submitted to influence the emerging Community Infrastructure Levy (CIL) Charging Schedule and Infrastructure List proposed by Merthyr Tydfil County Borough Council (the Council). The representation is made in respect of the Preliminary Draft Charging Schedule placed for public consultation in the period 7 March – 18 April 2013.

1.4 There is currently a significant amount of land allocated for housing development in the Borough, but an extremely limited amount of take up and housing delivery, with a weak appetite from residential developers to commit to the area. In addition many of the LDP allocations are Brownfield in nature, whereas 6 of the 8 sites assessed by DVS are Greenfield. As such, the Consortium’s particular comments relate to the robustness of the inputs into the Economic Viability Assessment provided by District Valuer Services (DVS) and whether in its current form it can be considered as sufficient evidence to justify the proposed CIL rates.

1.5 The margins of viability in the DVS report are at low thresholds even based on their assumptions and therefore setting any fixed levy on development is likely to detract further the level of interest and enthusiasm from developers and encourage them to seek development in areas where there is greater confidence in achieving target returns. This places the delivery of sufficient housing development to meet housing demand in the Borough at significant risk.

- 1.6 In setting the rate of CIL, Regulation 14(1) of the 2010 Community Infrastructure Levy, England and Wales Regulations (as amended) (No. 948) states that **“an appropriate balance”** needs to be struck between **“a) the desirability of funding from CIL (in whole or in part)”** against **“b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development”**. There is a clear requirement to ensure that **most** developments are able to proceed. The Government provides further guidance on the meaning of the appropriate balance from paragraph 7 of the Community Infrastructure Levy Guidance – Charge Setting & Charging Schedule Procedures (March 2010).
- 1.7 The Consortium considers that it is imperative that the evidence supporting CIL:
- clearly identifies the key infrastructure projects required to support development (this being the key test of the Regulations);
 - provides an up to date, consistent and well informed evidence base of economic viability in order to test various scenarios against CIL rates.
- 1.8 The Consortium consider that the Preliminary Draft CIL Charging Schedule potentially fails the second test, and further consideration of the inputs into the viability assessment and review of the evidence contained herein is required before it can be considered as sufficient evidence to justify the rates of CIL proposed in the Preliminary Draft Charging Schedule.
- 1.9 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.
- 1.10 Three of the key tests of the examination of a Charging Schedule are that 1) **“the charging authority’s draft charging schedule is supported by background documents containing appropriate evidence”**, 2) **“the proposed rate or rates are informed by and consistent with, the evidence on economic viability across the charging authority’s areas”** and 3) **“Evidence has been provided that shows the proposed rate would not put at serious risk overall development of the area”** (Sections 212(4) and 221 of the

Planning Act 2008). The assessment of planned development and its viability is therefore an inherent test of the Examination and consequently it is important to ensure that too high a CIL rate for the area does not put at risk the delivery of the development plan.

- 1.11 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.
- 1.12 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.

2.0 Viability Appraisal

- 2.1 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)).
- 2.2 **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.**
- 2.3 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.
- 2.4 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.
- 2.5 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”*.
- 2.6 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.

- 2.7 This goes against the spirit of Regulation 14(1) of the 2010 Community Infrastructure Levy England and Wales Regulations (as amended) (No. 948) which identifies a clear requirement to ensure that **most** developments are able to proceed.
- 2.8 In principle, our clients consider the overall methodology of seeking to determine viability on a residual valuation exercise as being appropriate and our specific comments relate to the inputs and assumptions made.
- 2.9 The DVS report provides little detail of the development appraisals that they have undertaken and our comments herein are based primarily on the comments in respect of the assumptions that DVS have made in undertaking their appraisals.
- 2.10 Our 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.
- 2.11 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.
- 2.12 The consortium have demonstrated in previous CIL consultation for adjoining authorities that based on actual development costs, the combined amount of External Works plus Additional Development Costs range between 25% and 35% of base build cost with an average of 27%. A copy of the schedule evidencing this is at **APPENDIX 1**. The evidence provided at Appendix 1 must be treated in strict confidence and only be provided to the person who is directly involved in reviewing the information on behalf of the Council for CIL viability purposes. Any data or information supplied to the Council must not be made available or provided to any persons or organisations without explicit agreement by Savills, the HBF and the named house builders in the attached schedule.
- 2.13 This accords with the analysis undertaken by the Homes and Communities Agency, completed by BCIS for the Housing Corporation in 2007 which indicated that the average

cost of external works and infrastructure on residential schemes started since 2003 was equivalent to an additional 27% of build costs.

- 2.14 This clearly demonstrates the extent of development cost associated with developing sites in this part of Wales and that the allowances within the DVS viability assessment are insufficient to cover **typical** development costs.
- 2.15 These costs 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.
- 2.16 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
- 2.17 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.

Other Costs

- 2.18 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.

Developer Profit (Affordable Housing)

- 2.19 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.

Finance Costs

- 2.20 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.
- 2.21 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.

S106 Costs

- 2.22 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.

Overall

- 2.23 The Consortium consider that the cost assumptions applied within the DVS appraisals are not reflective of current market practice and applying these rates in setting a CIL levy will place the delivery of housing development in the Borough at risk.
- 2.24 The cost assumptions need to be more robust, based on fact and in line with actual development costs within the Borough before the Economic Viability Assessment provided by DVS can be considered as sufficient evidence to justify its conclusions and those of the Council in setting its Draft Charging Schedule.

3.0 Conclusions

- 3.1 This Representation has been prepared by Savills in conjunction with HBF on behalf of a landowner and developer Consortium.
- 3.2 The assumptions within the viability assessment are not robust enough to demonstrate that residential development in the County Borough can support any CIL levy and our supporting evidence compounds this position.
- 3.3 There is a very limited amount of housing delivery in the County Borough, even now, prior to the implementation of CIL and this is principally as a result of the inability of developers to deliver viable development, and not due to any 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 at each site and therefore any further financial burden would only fuel that issue.
- 3.4 Based on our analysis and assessment of the DVS Viability Assessment, we are of the opinion that there is no justification for any positive CIL charge being levied throughout the Borough and a £0 CIL rate should be adopted, with S106 obligations remaining the appropriate method of levying planning gain on a case by case basis, where viability allows. This should be capable of review at a time when market conditions are improved.

APPENDIX 1



Development Site	Location	Developer	Site Purchase (or donation date)	No of Units	Site Area Gross Acres	Site Area Net Acres	Sq Ft	Sq M	Affordable Housing (%)	S106 (£)	Additional Build Costs (£)	External works (£)	Units Per Net Acre	BCIS Build Cost @ £70 psf	S106 Cost per dwelling Sq Ft	S106 Cost per Sq Ft	S106 Costs per Sq Ft	Additional Build Costs per Net Acre	Additional Build Costs as % of Build Costs	External Works as % of Build Costs	Additional Cost & External Works as % of Build Costs	Comments
Bryn Celyn	Llanharry	Lovell	24/02/2012	88	9,77	7,1	82,631	7,677	20% - 18 units LCHO £525k Equity Discount Off Site Contribution £95,480	£493,820	£1,292,779	Not Provided	12,39	£5,784,170	£5,612	£64	£192,082	22,35%	N/A	N/A	N/A	
Milford Park	Rhydfelin	Pensimmon	01/02/2013	48	4,3	3,38	51,807	4,813	20% - 50% Social Rent 50% LCHO	£49,000	£802,341	£461,000	14,20	£3,626,490	£1,021	£1	£237,379	22,12%	12,71%	34,84%	Pre Code 3+ Permission	
Not Released	Hawthorn	Charles Church	16/11/2012	79	7	4,5	76,733	7,129	20% - 50% Social Rent 50% LCHO (10 units)	£97,000	£685,500	£981,000	17,95	£5,371,310	£1,228	£1	£152,333	12,75%	18,26%	31,03%		
Parc Dan Y Bryn	Tonyrefail	Redrow	01/01/2011	51	4,15	3,72	54,944	5,104	20% - 50% Social Rent 50% LCHO	£139,104	£895,969	£123,776	13,71	£3,846,080	£2,798	£3	£240,322	23,24%	3,22%	26,46%	Pre Code 3+ Permission	
Woodland Meadow	Llanharan	Redrow	2012	97	9,01	7,43	107,932	10,027	20% - 50% Social Rent 50% LCHO	£349,820	£1,458,494	£817,627	13,06	£7,555,240	£3,606	£3	£196,298	19,30%	10,82%	30,13%		
Paifield Court	Tonyrefail	Llanmoor	03/08/2011	137	13,88	10,96	144,792	13,452	15% all LCHO (70% MV)	£307,000	£1,622,900	Not Provided	12,50	£10,135,440	£2,241	£2	£148,075	16,01%	N/A	N/A		