

## Merthyr Tydfil Community Infrastructure Levy

### Representation Form: Draft Charging Schedule

Completed forms should be returned by 4pm on Thursday September 5th 2013 to:

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

Or via email to [devplanning@merthyr.gov.uk](mailto:devplanning@merthyr.gov.uk)

#### Contact details

Your details		Agent's details <i>(if relevant)</i>
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Name:	Home Builders Federation and Consortium of Housebuilders	Scott Caldwell
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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)

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

- 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?

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

- 4 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

We are only instructed to respond in relation to residential development.

- 5 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.

We are only instructed to respond in relation to residential development.

- 6 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?

We are only instructed to respond in relation to residential development.

- 7 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

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

- 8 Do you agree with the Regulation 123 list set out with the Draft Charging Schedule?

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

- 9 Do you agree with the Council's Draft Instalment Policy?

No, but we understand that the current regulations do not allow instalments to be paid on delivery of a % of housing units which would be more appropriate.

- 10 As a representor you have the right to request to be heard by the Examiner at the CIL Examination. Please indicate whether you would like to:

Appear at examination to give evidence

X

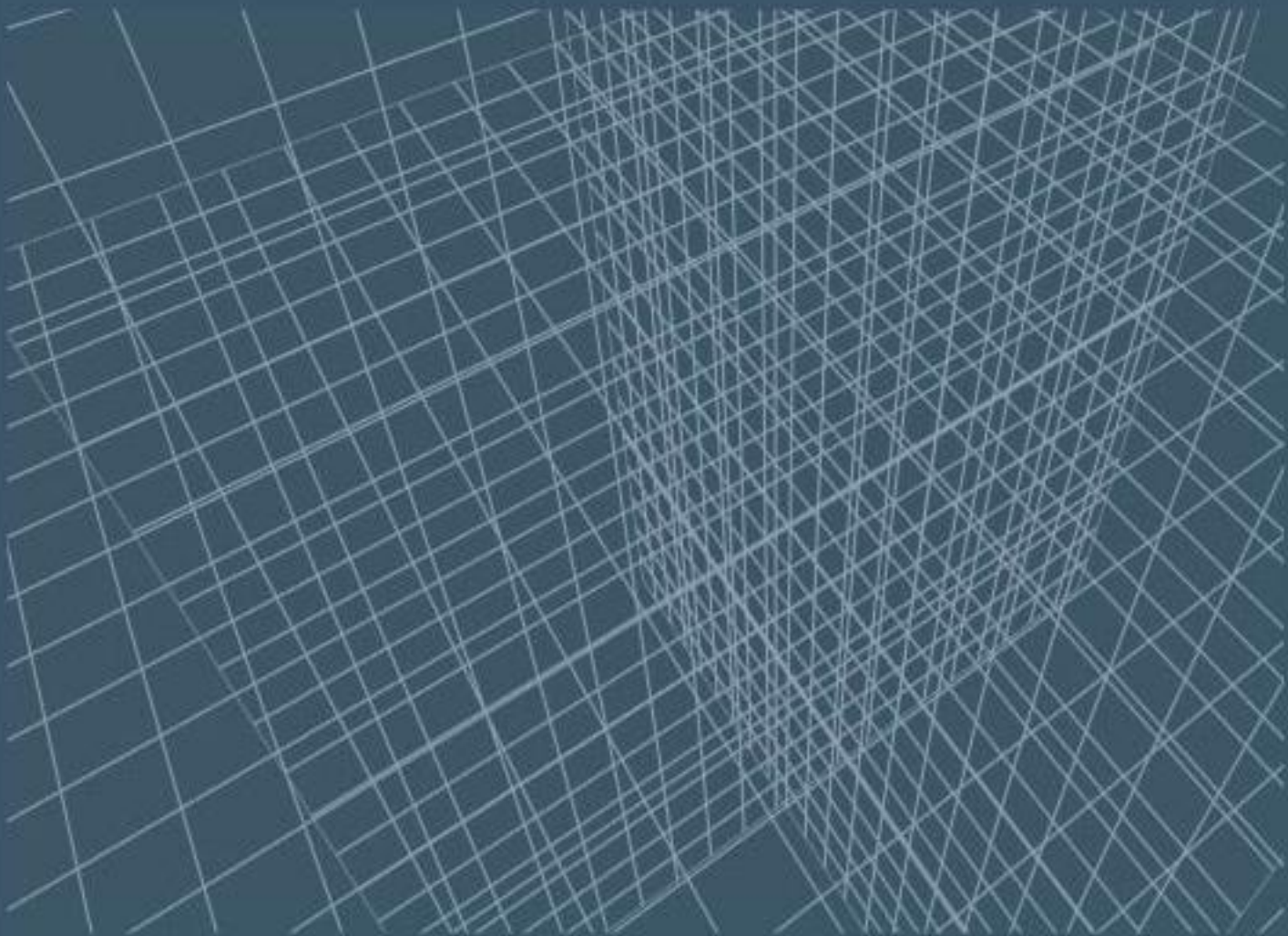
Rely upon written representations

**Thank you for your comments on the 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](mailto:devplanning@merthyr.gov.uk) or 01685 726277

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



In Conjunction with HBF for  
the Housebuilder Consortium

5 September 2013



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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 Draft Charging Schedule and Infrastructure List and relates only to residential development.
- This response does not intend to re-state many of the comments made in our earlier consultation response but responds to the consultation report on the preliminary draft charging schedule prepared by the Council and reflects the Consortium's current position in respect of the viability review that has been undertaken to justify the rates of CIL proposed.
- The table below summaries the CIL residual outputs of the Councils own viability evidence of sites assessed within the north and south of the borough at both 17.5% developer profit level (the Council's base value) and at 20% developer profit level (what we consider as a minimum developer profit).

Ref No	Location	CIL Residual (£psm) @17.5% Profit	CIL Residual (£psm) @ 20% Profit
14	South	£32	£0
17	South	£5	-£23
21	South	£17	-£11
15	North	£56	£28
19	North	£76	£46
20	North	£22	-£11

- This demonstrates that, based on the Council's own evidence and assumptions (developer profit of 17.5%), only one of the three sites reviewed in the south (site 14) and two in the north (sites 15 and 19) are capable of supporting a CIL rate of £25 per sq m.
- 17.5% developers profit 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, 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 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*(Shinfield case) 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”*.

- When applying the minimum developers return (20%), none of the southern sites produce any residual for CIL, with 66% of the sample in the north and south of the borough, proving unviable, before applying the CIL charge.
- The residual for CIL as set out in the table above are taken from the Council’s own viability evidence, and are based on the assumptions of District Valuer Services (DVS) as their appointed consultant. They relate to Merthyr Tydfil Council only and not those neighbouring authorities also included in the report. In our view, viability should be assessed on an authority by authority basis as not to distort the outputs by the inclusion of other authorities.
- The residual for CIL in the above table makes no allowance for abnormal development costs, additional S106 payments or proposed costs of the recently confirmed introduction of fire sprinklers to be installed into all new and converted houses and flats from January 2016.
- The CIL regulations make it clear that CIL should not be charged “up to the margins of viability” to cater for issues such as this and a viability buffer should be provided so that **most** developments are able to proceed. Based on the Council’s evidence summarised in the table above, a CIL rate of £25 per sq m would render **most** developments **unviable** when a reasonable level of developers profit is allowed for within the viability appraisal.
- 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, the assessment is not robust enough to demonstrate that residential development in the County Borough can support any CIL levy 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 limited amount of 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 25 July – 5 September 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 sited 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 with the evidence insufficient to support or justify the proposed CIL rate.
- 1.9 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)**. We do not consider that the evidence satisfies these three tests.

## 2.0 Response to Consultation Report

- 2.1 Representation No 4.5 – The Council’s response states “*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*”. We do not agree and consider that in order to demonstrate viability within the borough of Merthyr Tydfil, a range of sites within that borough should be tested, particularly given the Brownfield nature and/or prevalence of ground affected by past mine workings of a significant number of sites in the Borough. The Joint Housing Land Availability Study identifies that 77% of all housing completions in 2012 took place on Brownfield sites. The key test of Regulation 14(1) states it important that the viability appraisal prepared is fit for purpose and it is clear that at Examination, the Charging Schedule will need to be supported by “**relevant evidence**”.
- 2.2 Also in their response to representation No 4.5, the Council state that “*the CIL values generated by the sites in the county borough are all positive in areas where the Council is proposing to charge CIL*”. We accept this (based on the Council’s assumptions), but as can be identified from Appendix N to the viability report and the table below (which summarises Appendix N), whilst they may be positive, only 50% of them could support a CIL rate of £25 per sq m as proposed, and this is without allowing a “viability buffer”.

Ref No	Location	CIL Residual (£psm) @17.5% Profit	CIL Residual (£psm) @ 20% Profit
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The Council state they “*believe that a reasonable viability buffer has been included in the rates for CIL proposed*” but this view is based upon an average across three local authorities. However, when you consider this based on the evidence from the viability report relating to Merthyr Tydfil alone, this is clearly not the case.

- 2.3 Representation No 4.6 – The Council state “*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.”*

We have commented in respect of sales values for the adjoining authorities in the respective consultation responses for each of those authorities. Nowhere have we specifically commented within those representations on low sales values limiting housing delivery, and this assumption by the Council should be retracted. This consultation and representation relates to Merthyr Tydfil council and our comments are limited to that authority.

The Council also state that they will provide information about the amounts raised in recent years through S106 alongside the Draft Charging Schedule in order to provide background evidence and improve the overall robustness of the evidence, but we are not aware of this information being made available.

- 2.4 Representor No 4.7 – The Council state *“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”*.

This is not the experience of the consortium or Savills in the current market place, nor of the planning inspector in relation to the Shinfield case. We have not seen any evidence from the Council or their advisor to justify this position. Developers could often relax profit margins in times of house price growth. However, this is not the case in areas such as Merthyr Tydfil, where house prices have remained flat since the market downturn, and it is wholly realistic for developers to expect a reasonable profit margin in areas of low viability and limited growth prospects (and therefore higher risk) such as Merthyr Tydfil.

- 2.5 Representor No 4.8 – The Consortium have undertaken further analysis and now accept that 17.5% of build costs can be accepted (as an average) to account for external works and the sustainability requirements to comply with CfSH Level 3+1 credit ENE1. This is on the basis that external works only account for on site roads, services and drainage and takes no account of additional development costs which are common on developments throughout South Wales and which should be accounted for in addition to the 17.5% provision.

In consulting on the Rhondda Cynon Taff Council CIL, the consortium undertook analysis on actual sites to establish true site development costs and the details of these are identified on the schedule at **Appendix 1**.

Our assessment provides a schedule of total ‘site costs’ for actual delivery of each site which range between 25% and 35% of base build cost which is significantly higher than the 17.5% allowance made by DVS within their assessment which we trust sufficiently demonstrates the extent of **typical** development costs associated with sites within the region, and that the allowances within the DVS viability report are insufficient to cover typical development costs.

These cost levels accord with the Homes and Communities Agency analysis 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 building costs, including a wide range of site specific circumstances. In addition, the viability analysis undertaken by GVA for Torfaen Council in respect of the South Sebastopol development further supports this position.

We consider it appropriate therefore to make allowances of at least 27% of base build costs within the viability appraisal to cater for typical “external” development costs encountered within the Borough. This is not at the upper range of our evidence, but is the average.

2.6 Representor No 4.9 – Since our original submission to the Preliminary Draft Charging Schedule consultation, the Minister for Housing and Regeneration has announced the introduction, through amendments to Part L of Building Regulations, a requirement to reduce greenhouse gas emissions by 8% from 2010 levels. This is lower than the anticipated 40% originally consulted upon and is therefore unlikely to have any additional cost impact on development, and as such we accept that no allowance should be made in the viability report for these costs.

In the same announcement, the Minister also confirmed that fire sprinklers will need to be installed in all new and converted houses and flats from January 2016, and as a result, the viability review should include the average cost of £3,075 per dwelling as arrived at within the Welsh Government’s own study into this matter. It is appreciated that the CIL levy is likely to come into force prior to January 2016. However, given the confirmation from the Housing Minister, developers will need to factor these costs into their land buying assumptions and will therefore impact on scheme viability, earlier than January 2016.

2.7 Representor No 4.10 – The Council state “*Affordable housing is a planning obligation. As such, it would be inappropriate to provide the obligation as a profit*”. In the majority of cases

where no grant is available, affordable housing is provided at a net loss. However, where we have seen split rates of profit applied in other CIL viability assessments, they have generally been on the basis of 20% Private and 6% Affordable, (not 17.5%/5%), and we would consider 20/6% to be reasoned and appropriate in the current market.

- 2.8 Representor No 4.11 – The inclusion of planning promotion costs within the allowance for professional fees is accepted.
- 2.9 Representor No 4.13 – We note the comments in respect of why the cost of complying with S106 obligations have not been allowed within the viability appraisal. However, on this basis, it is important that a sufficient viability buffer is allowed to cater for sites that may have an additional S106 cost burden, yet based on the Borough wide evidence, a viability buffer has not been allowed when setting the rate of CIL.

### 3.0 Conclusions

3.1 The table below summaries the CIL residual outputs of the Councils own viability evidence of sites assessed within the north and south of the borough at both 17.5% developer profit level (the Council's base value) and at 20% developer profit level (what we consider as a minimum developer profit).

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3.2 This demonstrates that, based on the Council's own evidence and assumptions (developer profit of 17.5%), only one of the three sites reviewed in the south (site 14) and two in the north (sites 15 and 19) are capable of supporting a CIL rate of £25 per sq m.

3.3 17.5% developers profit 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, 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 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”.

3.4 When applying the minimum developers return (20%), none of the southern sites produce any residual for CIL, with 66% of the sample in the north and south of the borough, proving unviable, before applying the CIL charge.

3.5 The residual for CIL in the above table makes no allowance for abnormal development costs, additional S106 payments or proposed costs of the recently confirmed introduction of fire sprinklers to be installed into all new and converted houses and flats from January 2016.



- 3.6 The CIL regulations make it clear that CIL should not be charged “up to the margins of viability” to cater for issues such as this and a viability buffer should be provided so that **most** developments are able to proceed. Based on the Council’s evidence summarised in the table above, a CIL rate of £25 per sq m would render **most** developments **unviable**.
- 3.7 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. Therefore, 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.