South Somerset Community Infrastructure Levy

Charging Schedule Examination

South Somerset District Council Hearing Statement

Issue 5 – Other Matters

July 2016

(i) What criteria will the Council use to determine whether exceptional circumstances are appropriate?

5.1 Regulation 55 of the Community Infrastructure Levy Regulation (2010) (as amended) states that a charging authority may grant relief from liability to pay CIL in respect of a chargeable development – this provision is known as *"relief for exceptional circumstances"*. This relief may be granted if it appears to the charging authority that there are exceptional circumstances which justify doing so; and the charging authority considers it expedient to do so. The following conditions must be met in order to consider a claim for relief:

- a section 106 agreement must exist on the planning permission permitting the chargeable development; and
- the charging authority must consider that paying the full levy would have an unacceptable impact on the development's economic viability; and
- the relief must not constitute state aid[1].

5.2 Relief may only be granted if a charging authority has made relief for exceptional circumstances available in its area. At present, the Council does not believe that there is a need to prepare and give notice that relief for exceptional circumstances is available in South Somerset. The Council's viability work [ED6 – ED10] demonstrates that a CIL is viable for certain uses in certain locations, and this evidence is reflected in the Draft Charging Schedule Submission version [ED5].

5.3 Furthermore, the CIL rates in the Draft Charging Schedule are sufficiently modest for the liability on individual sites to be of insufficient scale to render a scheme unviable. With the CIL liability equating to a little over 1% of development costs, the CIL liability cannot reasonably be said to place a development at risk; movements in build costs and sales values over the course of a development programme have a much more significant bearing on viability.

5.4 The powers to offer relief can be activated and deactivated at any point after the charging schedule is approved[2]. Therefore, should the viability of development be consistently compromised, the Council will reassess the situation and consider producing an exceptional circumstances relief policy.

5.5 The Council also considers that there is sufficient flexibility in other local plan policies for the CIL to be accommodated without a significant impact on viability. As noted in the Council's response to Issue 2, a modest adjustment to affordable housing percentages or tenure mix would fully mitigate the CIL, if that were considered necessary.

[1] National Planning Practice Guidance ID 25-129-20140612.
[2] National Planning Practice Guidance ID 25-130-20140612.

(ii) What criteria should be included within a policy covering instalment rates?

5.6 Regulation 69B of the Community Infrastructure Levy Regulation (2010) (as amended) allows a charging authority to have an instalment policy, which can set out the number of payments, the amount and the time due. When appropriate, an instalment policy can be revised or withdrawn.

5.7 The Council have prepared an instalment policy in order to assist the viability and deliverability of development, recognising that few if any developments generate value until they are complete either in whole or phases. This approach reflects Government guidance, which makes clear that willingness to allow an instalment policy can be a material consideration in assessing the viability of proposed levy rates[3].

5.8 The Council's instalment policy includes criteria relating to the CIL liability, number of instalments and amount payable, and payment period. This was prepared in response to comments received on the Preliminary Draft Charging Schedule, which stated that such a policy was essential to reduce cash-flow issues at the early stages of site delivery. There was general support during consultation for the proposed instalment policy that was presented in the Draft Charging Schedule, although specific concerns were raised relating to the range of payments being too narrow, and the lack of an upper limit above £300,000.

5.9 South Somerset's development profile has a mixture of very small-scale developments and large-scale developments. The Council has sought to strike a balance between, on the one hand, gaining certainty over payments at an earlier stage in the development cycle; and on the other hand, the potential effects on cash-flow and viability for developers. The Council currently consider that the instalment policy strikes the right balance on these two issues, although this will be subject to ongoing review and amendments will be made if deemed necessary in accordance with CIL Regulation 69B.

(iii) Is the proportion of CIL expenditure allocated to the Parish Councils at the appropriate level, bearing in mind the corporate and spatial priorities of the Council?

5.10 The proportion of CIL expenditure that will be allocated to Town/Parish Councils is set by the Community Infrastructure Levy Regulation 58A and 59A (2010) (as amended), this prescribes that 15% of CIL receipts are passed directly to those Town/Parish Councils where development has taken place, subject to a limit of £100 per existing council tax dwelling each financial year[4].

[3] National Planning Practice Guidance ID 25-055-20140612.
[4] CIL Regulation 59A.

5.11 Where a neighbourhood plan is in place, having successfully passed a local referendum, the Town/Parish Council will receive 25% of CIL receipts – this amount is not subject to an annual limit per existing dwelling[5].

5.12 The District Council considers that the proportion of CIL expenditure allocated to Town/Parish Councils should reflect the Regulations. In addition, it is important to ensure that the District Council has access to funds that will be necessary in delivering strategic infrastructure requirements in South Somerset as set out on the draft Regulation 123 List. This will deliver the Council's corporate and spatial priorities, whilst also supporting development in Town and Parish Councils across the District. The District Council will monitor its position on this matter, and review its approach if appropriate in the future.

5.13 Once CIL is in place, the Town/Parish Councils should work closely with the District Council to agree on infrastructure spending priorities. If priorities are shared, the District Council may well look to partner with the Town/Parish Council to maximise the use of both the Town/Parish percentage split and the District Council's central pot. Furthermore, and in addition, where priorities are shared it may also be the case that the Town/Parish Council agrees that the District Council should retain the neighbourhood funding to spend on a particular piece of infrastructure[6].

(iv) In terms of the overall costs of the scheme, broadly what would be the impact of CIL in percentage terms for the various land uses?

5.14 For residential development, the proposed CIL rate of £40 per square metre equates to between 1.02% and 1.43% of total development costs. This is well within the level generally accepted by other CIL examiners.

5.15 The proposed rate for supermarkets equates to 2.47% of total development costs on schemes developed on out of town greenfield sites and 3.18% of total development costs on brownfield sites. Again, both these rates are well within the range accepted by other examiners.

(v) What is the rationale behind sticking to the S106 method for providing the necessary infrastructure for the major expansion areas in the District? Is there not a danger that the limitations of S 106 funding for multiple developments in the major residential expansion areas will restrict the potential for funding for necessary infrastructure?

5.16 The Council has considered the impact of the pooling restrictions contained within the Community Infrastructure Levy Regulation (2010) (as amended) and the impact they may have on securing contributions towards infrastructure. It is unlikely that the Council will need to pool contributions from more than five planning obligations to deliver the infrastructure that the SUEs will require.

5.17 In the main, the Council expects SUEs to make a significantly greater contribution to infrastructure than smaller sites. The Council estimates that total Section 106

[5] CIL Regulation 59A.
[6] National Planning Practice Guidance ID 25-078-20140612.

contributions will be in the region of £10,000 per unit, in comparison to a much lower sum raised through CIL and residual Section 106 on smaller sites (£4,361 per unit on average).

5.18 The Council is also mindful of the practicalities of delivering the on-site infrastructure that the SUEs will require. For example, if the Council were to opt to collect contributions from an SUE for an on-site school, it could be many years before the full contributions are collected, due to the phased delivery of outline planning permissions. This would mean that the Council may not be able to deliver the school until most housing has been occupied, by which time the need for the school already exists and would have to be catered for elsewhere. This would be difficult to accommodate as the need for a school would have arisen as there is no spare capacity elsewhere. Opting for the Section 106 route would enable the Council and developer to agree a timescale for delivery so that the school is in place when demand arises.