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26th July 2013 **BY EMAIL**

Dear Sirs,

Consultation on the Warwick District Preliminary Draft Charging Schedule

We are instructed by Gladman Developments to review the proposed residential tariff for CIL charging within Warwick District. In undertaking our work, we have reviewed the following documentation –

- Warwick District Community Infrastructure Levy – Preliminary Draft Charging Schedule (June 2013)
- Warwick Community Infrastructure Levy Viability Study – Final Report (June 2013)
- Revised Development Strategy – (June 2013)
- Affordable Housing Viability Assessment (November 2011)

We have also had regard to the provisions of the emerging Warwick Local Plan and related evidence base.

The PDF version of the Community Infrastructure Levy Viability Study available on the Council's website has no content under the final three appendix headings, although it appears that this content is all grouped together at the end of the Study Report. This form of presentation makes the Study workings harder to follow.

The proposed residential Charge Rates (per sq m) included in the Preliminary Draft Charging Schedule, are as follows:

	Zone A	**Zone B**	**Zone C**	**Zone D**
Residential	£50	£170	£120	£180
Strategic Sites	£30	£90	£70	£110

Our considered view is that the proposed residential tariff has not been robustly evidenced, and if implemented without modification, would have an adverse impact on the delivery of new housing (including affordable housing) in the area. In addition, it is considered that the proposed Charging Zones are unduly complex and will lead to an inequitable CIL cost burden.

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Although each CIL charging schedule needs to be locally evidenced, to take account of local circumstances, the proposed rates for Warwick District (Zones B and D) are the second highest currently proposed of any authority in the East or West Midlands (refer CIL Watch, Planning Resource). The only higher rate, proposed by Dudley Metropolitan Borough, covers only a small part of the Borough, and is reduced to £125 per sq m where 25% or more affordable housing is to be provided.

Warwick District Council is not proposing a differential residential CIL rate to take account of the percentage of affordable housing to be provided. What is more, Zones B and D (refer Appendix A – Residential Zones Map) cover approximately 90% of the District.

The Community Infrastructure Levy: Viability Study (June 2013) notes that one of the risk factors in setting a high residential charge rate (that vastly exceeds the current levels of Section 106 Obligations) is that it could 'shock' the land market - with a consequential risk that land supply falls (paragraph 6.16). The Viability Study does not provide any evidence against which to assess the likely cost differential for different forms of development under the Section 106 regime and CIL Charging Schedule – but in the rural parts of the District, under the current proposals, it is likely that there will be a substantial increase in the sums to be paid from new residential schemes towards infrastructure.

Indeed, the Warwick Affordable Housing Viability Assessment (November 2011) included an allowance for Section 106 costs of just £6,650 per residential unit – a figure determined by a review of the contributions recently secured from residential planning permissions in Warwick District. This figure is significantly below the proposed cost per residential unit in Charge Zones B and D (non-strategic sites), with the average 3-bedroom house attracting a CIL charge of circa £18,500.

We would suggest that with the Charge Rates currently proposed, there is a very real risk of a 'shock' to the land market. To reduce this risk, it is recommended that the gap between the level of Section 106 contributions currently secured per unit, and the per unit CIL Charge Rates for much of the District be reduced by lowering the proposed CIL Charge Rates for Zones B and D.

Charging Zones

The proposed boundaries for the Charging Zones are not robustly justified. Whilst we understand the broad premise for the Charging Zones, it is not clear how the District Council has arrived at the proposed boundaries, or how it has determined the need for more than one Charging Zone in and around certain villages.

For example, in the case of Radford Semele, much of the built up area of the village, and some of the adjoining greenfield land is in Charging Zone A (£50 sq m), whilst other parts of the village and other areas of adjoining land are in Charging Zone D (£180 sq m). Where differential rates are proposed, there will clearly always need to be boundaries drawn – but there is no obvious justification for such a significant difference in the CIL Charging Rate within and adjoining the same village.

We would agree that Radford Semele falls within the urban fringe of Leamington Spa, and respectfully suggest that all of the village and adjoining land (potentially capable of accommodating the emerging Local Plan housing allocation for Radford Semele) be included within Charging Zone A.

Moving on to the key assumptions made in the CIL Viability Report, we comment as follows:

Residential Development Scenarios

A major factor influencing development value, and therefore development viability, is the scale and density that is achievable on a site. BNP Paribas has recognised in their Viability Study that in many cases the gross site area will need to be netted down, to make an allowance for site specific constraints, open space provision and landscaping. On large strategic sites (10 hectares or more) the Viability Study assumes only 50% of the gross site area will be used for housing. On other greenfield sites, the assumption is that 67% of the gross site area will be used for housing.

Carter Jonas endorses the allowances that have been made to move from gross site area to net developable area. Paragraph 4.10 of the Viability Study suggests that for modelling purposes, BNP Paribas has considered development densities in the range of 30 – 60 dwellings per hectare. Table 4.11.1 shows that BNP Paribas has modelled 20 dwellings per hectare.

In rural areas, on the edge of settlements, it will often be appropriate to reflect the pattern of existing development and for any new housing to provide a soft interface between the village and countryside beyond. Furthermore, the current market trend is for predominantly two storey traditional housing schemes, that provide in the main a mix of 2, 3 and 4 bedroom houses, with a strong preference for detached and semi detached properties. Taken together, these factors suggest that the Viability Study should test low development densities, including the 20 dwellings per hectare shown in Table 4.11.1.

Lower density assumptions will deliver lower Gross Development Values, and all other things being equal, a reduced sum of money being available for CIL payments.

Affordable Housing Assumptions

BNP Paribas have assumed for their modelling purposes that 40% of the units on qualifying sites will be provided as affordable housing, with a tenure split of 80% rented housing and 20% intermediate housing. The appraisals assume no grant funding for affordable housing.

The assumed value of the affordable housing units is considered reasonable.

Where we do have some general concern, is in relation to how the assumptions used in the Viability Study fit with those made in the Affordable Housing Viability Assessment (November 2011) – the latter document being that which currently underpins the affordable housing policy in the emerging Local Plan.

The Affordable Housing Viability Assessment assumes Section 106 costs of £6,650 per unit, when assessing the viability of different percentages of affordable housing. This level of contribution is broadly equivalent to the CIL contribution required in Charge Zone A, but is below the level of contribution required in Charge Zone C, and significantly below the contribution required in Charge Zones B and D. On non-strategic sites in Charge Zone D, the contribution per 3-bedroom unit will be circa £19,000.

The delivery of more affordable housing in Warwick District remains a priority for the Council. It is therefore concerning that the Viability Study accepts that as result of the proposed CIL Charge

Rates, a number of developments will only come forward if the Council accepts less than 40% affordable housing provision.

Financial Assumptions

The Viability Study is light on evidence in relation to average sales values. Reference is made at paragraph 4.2 of the Viability Study to having '*considered comparable evidence of transacted properties in the area and also properties on market to establish appropriate values for testing purposes'.*

We would like to see and review the evidence collected by BNP Paribas in relation to sales values, and in particular whether when considering properties on the market, what discount has been made against the marketing price. Carter Jonas would recommend using a 10% discount on new build properties.

The allowance of £1,500 per dwelling (on non-strategic sites) for s278 contributions and any residual s106 contributions is considered to be low.

All residential developers assess development margin requirements against the Gross Development Value of the scheme. Whilst the minimum developer return will vary between house builders at any one time depending upon their own particular circumstances, there is a much closer degree of consistency with traditional bank funders' minimum requirements. For a standard build, the minimum return has been on average 20% of Gross Development Value (for the last two to three years).

BNP Paribas has used 20% of Gross Development Value in their viability modelling. As noted above, this is the minimum return that should be allowed for, with no allowance for non standard builds.

BNP Paribas has included a 5% contingency provision on build costs. This is supported, and is a basic bank funding requirement, without which funding will not be available.

Benchmark Land Values

The proposed benchmark values have been converted into £ per acre for comparison purposes –

BLV1 (Commercial) £1.05m per hectare = £425k per acre
BLV2 (Former Community sites) £500,000 per hectare = £202k per acre
BLV3 (Greenfield – CLG high end of range) £370,000 per hectare = £150k per acre
BLV4 (Greenfield – CLG low end of range) £250,000 per hectare = £101k per acre

The Viability Study commentary on benchmark land values makes no reference to the two leading documents on planning and viability – the RICS Financial Viability in Planning and Viability Testing Local Plans. This is an important and significant oversight. Furthermore, the Viability Study makes reference to a number of appeal decisions published between 2007 and 2009. These decisions were made in a different economic time, and pre-date publication of the RICS Financial Viability in Planning and Viability Testing Local Plans.

Taking a step back, and in terms of the guidance on how to arrive at appropriate bench mark land values, paragraph 3.4.3 of the RICS Financial Viability in Planning (FVIP) is a key consideration:

"The residual land value (ignoring any planning obligations and assuming planning permission is in place) and current use value represent the parameters within which to assess the level of any planning obligations. Any planning obligations imposed will need to be paid out of this uplift but cannot use up the whole of this difference, other than in exceptional circumstances, as that would remove the likelihood of the land being released for development."

The gap between the two parameters needs to be understood and a judgement reached in each case as to how the market would assess the "competitive return" for the landowner. In the context of 'competitive returns to a landowner', consideration also needs to be given to Viability Testing Local Plans (VTLP) advice, which complements the RICS advice, stating that:

"….threshold land value should represent the value at which a typical willing landowner is likely to release land for development…"

For greenfield sites, VTLP recommends the use of benchmarks based on local market evidence and typical minimum price provisions used in developer / site promoter agreements involving similar sites. No such evidence is provided in the BNP Paribas Viability Study.

Planning appeal decisions and Secretary of State determinations prior to the publication of FVIP were made in the absence of professional guidance on viability testing. Future decisions / determinations are likely to have regard to the FVIP - so some of the conclusions made in earlier decisions / determinations may now be considered historic.

In January 2013, the first substantive post FVIP appeal decision on land value benchmarking was published (APP/X0360/A/12/2179141) relating to land at Shinfield. The Inspector used FVIP as an authority, rejecting the alternative use value proposed by Wokingham Borough Council, and instead allowing that the uplift between the base land value and a full residual site value should be split between the parties to ensure a competitive return for the landowner.

The figure accepted by the Inspector was £250,000 per acre on the core area and £25,000 per acre on the urban fringe areas. It is worth noting that the core area was contaminated with a significant costs associated (i.e. the land value was discounted to reflect that cost).

The residential sale values for the Shinfield area were circa £275 per sq ft, which sits in the middle of the sale values range outlined in the BNP Paribas Viability Study for Warwick District. Comparable evidence, including the recent independent view on the Shinfield scheme, suggests that both BLV3 and BLV4 are too low. A more appropriate base land value range would be focused around £225,000 - £320,000 per net developable acre, on the basis that as a general rule of the thumb, £k per acre will be roughly equivalent to £ per sq ft housing value.

The affect of using higher (and more appropriate) base land values, will be to reduce the ability of development to carry the relatively high Charge Rates currently proposed for Warwick District.

We respectfully suggest that BNP Paribas and Warwick District Council revisit the justification for the base land values assumed in the Viability Assessment, and having run more appropriate land values through the model, lower the proposed CIL Charge Rates accordingly.

<u>Conclusions</u>

The comments provided above address both the approach and assumptions used by BNP Paribas in preparing their Viability Report. In summary terms:

- The proposed Charge Rates are high when compared with other authorities in the East and West Midlands.
- The four different residential charge zones are unduly complex, with apparent boundary anomalies (for example, in relation to Radford Semele). We respectfully suggest that all of the Radford Semele and adjoining land (potentially capable of accommodating the emerging Local Plan housing allocation for the village) be included within Charging Zone A.
- The significant difference between recent Section 106 payments per unit, and CIL Charge Rates could well 'shock' the land market, slowing the delivery of new housing. The CIL Charge Rates should be lowered.
- The proposed Charge Rates are likely to reduce the delivery of affordable housing in Warwick District.
- The two lowest base land values assumed in the BNP Paribas Viability Study are too low, with a more appropriate base land value range being in the order £225,000 - £320,000 per net developable acre (or £556,000 - £791,000 per net developable hectare).

The cumulative impact of the issues summarised above, is likely to lead to a very different view on the viability of the proposed Charge Rates for residential development in Warwick District.

We reserve the right to make further comments, once the further information requested is made available.

Please let me know if you have any queries in relation to the above.

Yours faithfully

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Partner
for and on behalf of Carter Jonas LLP

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