SMITHSGORE

Shropshire Council

Developer Contributions SPD consultation draft

Response from The Hereford Diocese

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Contents

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1.0 Introduction

1.1 The purpose of this response, which has been prepared by Smiths Gore on behalf of The Hereford Diocese is to comment on those issues within the 'Developer Contributions SPD' consultation draft that are considered to be of greatest significance to the future development of Shropshire. As a significant land and property owner in Shropshire The Hereford Diocese is keen to ensure that the mechanism for securing developer contributions for infrastructure provision is appropriate. There is a real concern that if Shropshire Council does not strike an appropriate balance (i.e. between securing funds for infrastructure and ensuring the financial viability of developments) the delivery of development over the coming plan period may not be satisfactorily achieved.

2.0 Planning obligations

2.1 When considering the appropriate level of contribution to be derived from a particular development it is important that the Local Planning Authority has a detailed, up to date, evidence base that outlines the infrastructure requirements within Shropshire. In this regard Shropshire Council is in the process of producing 18 Place Plans that summarise the infrastructure and investment requirements needed to deliver the vision and aspirations in each of Shropshire's communities. This is to be applauded as it provides developers with an indication of what will be required to make a proposed development acceptable in planning terms and is also useful as it informs developers of known infrastructure constraints which might impact certain developments. This provides developers with a much needed sense of certainty which has previously been missing.

2.2 An important point made within paragraph 2.6 of the document is that *'developer contributions will remain only a small proportion of total infrastructure funding*'. As such it is important that the Local Planning Authority do not set planning obligation requirements at such a level that would impact upon the financial viability of developments. In trying to secure developer contributions through planning obligations it is of the utmost importance that the Local Planning Authority gives serious consideration to the potential impact of such requirements on the financial viability of developments. It is essential that an appropriate balance is achieved that weighs the desirability of securing funding for infrastructure against the potential effects of the imposition of these additional costs on the economic viability of development.

2.3 Responding to the economic downturn

A notable omission from the Developer Contributions SPD consultation draft is the impact of the recession on development viability. This is considered to be a significant oversight as development viability should be a key consideration when setting the level of infrastructure requirements from developments. The economic downturn has had a major impact upon the ability of land values to support the planning obligations required for development to take place in accordance with planning policy. There are a number of factors which have made financial viability difficult to achieve. Firstly developers are finding it more difficult to sell the properties that they are building as far fewer people are able to access mortgages. As a result house prices have dropped due to low demand and low consumer confidence. However, building costs have remained the same, which means that developers are making less profit, particularly if they are not able to sell all the properties that they build.

2.4 Although developers vary in their approach to profit and risk, the key point is that if a development is not sufficiently financially viable then they will not commence the development. In such cases, they will either await better market or financial circumstances or seek permission for a more profitable scheme instead.

2.5 The economic downturn has had a major impact on the ability of land values to support the level of affordable housing required by Local Planning Authorities to allow development to take place. National policy allows for financial viability to be taken into account both when setting affordable housing targets in policy and when negotiating affordable housing contributions on a site by site basis. In order to ensure that housing developments are deliverable over the coming years it will be important for the Local Planning Authority to take a flexible approach when seeking to secure affordable housing through planning obligations. The Homes and Communities Agency (HCA), the government's main national housing and regeneration agency in England published a guidance document in July 2009 regarding the recommended approach to planning obligations during the recession ('Investment and planning obligations – Responding to the downturn'). In this document the HCA advocates taking an innovative and flexible approach to promote the delivery of developments during the downturn. It suggests that Local Planning Authorities' policy approaches should be consistent and allow room for flexibility where necessary and appropriate.

2.6 Where a development can be built out in phases, policy requirements for planning obligations for affordable housing could be deferred in early phases, and the viability of achieving them in subsequent phases (i.e. in a recovering market) considered before the commencement of each phase. The Council will need to consider whether or not the benefits of achieving delivery of development now outweigh the potential uncertainty of achieving the deferred obligations in a changing market.

2.7 To ensure that development is not unduly constrained by planning obligations the written Ministerial Statement: Planning for Growth (23rd March 2011) calls on all local authorities to reconsider, at developers' request, existing section 106 agreements that currently render schemes unviable. Where possible Local Planning Authorities should be open to modifying those obligations to allow development to proceed; provided this continues to ensure that the development remains acceptable in planning terms.

2.8 The Local Planning Authority should therefore be willing to re-negotiate existing planning obligations on a case by case basis, where developers raise viability concerns which are evidenced by a viability assessment. The Council should be willing to forgo some obligations where this will enable developers to proceed with development in the short term. It will of course be important to ensure that developers do not simply 'bank' such concessions and wait until the market improves before commencing development. As such it would be sensible for the Local Planning Authority to place a time limit on such concessions where they are granted so that they become void if certain delivery targets are not achieved.

2.9 When renegotiating existing planning obligation requirements and indeed when considering requirements for new developments, The Hereford Diocese would like to encourage Shropshire Council to engage in an open dialogue with developers. By encouraging developers to take an 'open book' approach it will be possible for both parties to work together and come to an agreement on what level of contribution can be realistically achieved without compromising the financial viability of development schemes.

3.0 Community infrastructure levy

3.1 Shropshire comprises a large number of small to medium sized settlements, many of which will accommodate a relatively small amount of development over the coming plan period. Whilst individual small scale developments will often have an insignificant impact on local infrastructure, when their collective impact is considered the impact increases cumulatively. The Hereford Diocese therefore acknowledges that the burden placed on infrastructure requirements should be shared proportionally between all developments, as long as this does not jeopardise the financial viability of the scheme.

3.2 Striking an appropriate balance

It is important that the Local Planning Authority strikes an appropriate balance between the desirability of funding infrastructure from the levy and the potential effects of the imposition of the levy upon the economic viability of development across their area. As such the charging authority should prepare detailed evidence about the effect of the levy on economic viability in their area which demonstrates that the proposed rates do strike an appropriate balance and will not put the overall development across the area at risk. If this balance is not achieved there is a real concern that many developments in Shropshire will become financially unviable, leading to many developers opting to locate developments outside of the county.

3.3 The Local Planning Authority must take into account the fact that Shropshire is a large and varied county. As such it would be inappropriate to apply a uniform CIL level across the whole of Shropshire, or indeed across all types of development. As such setting an appropriate CIL level will clearly differ depending on the location and type of development proposed.

3.4 Reflecting changing circumstances

It is important that CIL charges are not simply determined based on the economic conditions at a given point in time. For example what was economically viable in 2007 most certainly does not apply today. As such the Local Planning Authority must be able to demonstrate, using appropriate evidence, that it's proposed charging rates will be robust over time. In setting a CIL rate, the Local Planning Authority will need to bear in mind that the economic circumstances and land values could change significantly during the lifetime of the development plan. Shropshire Council seems to have recognised this issue and have made a commitment to regularly update the Local Development Framework Implementation Plan and the 18 Place Plans on a yearly basis. The Hereford Diocese strongly supports this commitment.

3.5 Residential development in rural areas

The 'Developer Contributions SPD' consultation draft states that a higher levy of £80/m^2 will be enforced on residential developments within rural areas compared to £40/m^2 in the market towns. Whilst it may be justifiable to set the CIL rate at a higher level in rural Shropshire to reflect the differences in land values, there is a concern that setting it at double that of urban areas will serve to prevent sufficient homes being developed in Shropshire's rural communities over the plan period. The justification for this higher levy rate, given within paragraph 3.6 is that it will *'open up development opportunities that would otherwise not be available'.* This is a somewhat strange justification as clearly imposing higher costs to development will serve to stifle, rather than encourage, development.

3.6 It is concerning that the Developer Contributions SPD consultation draft appears to undervalue the importance of housing development in rural areas to meet the needs of their communities. This seems to reflect the statement put forward within the Levy Rationale Background Paper which states that *'a reduction in development in the rural area would not put at risk the development strategy'.* This approach would seem to be contrary to the development strategy which states that rural areas will accommodate a significant proportion (35%) of residential development.

3.7 It is important that an adequate supply of housing is brought forward over the plan period in order to support and enhance sustainable communities and economies. It is of course important to meet the infrastructure needs of rural communities, however if the CIL rate is set to high it could have the effect of making development in rural areas unviable. If this is the case rural communities will be in danger of stagnation and failing to meet the needs of their communities. The resulting lack of local housing and employment development will mean that many local people and those working in the community will be priced out of the area and the viability of local shops and services will be put at risk.

3.8 Economic development in rural areas

The key aim underlying Greg Clark's Ministerial Statement: Planning for Growth (23rd March 2011) is to ensure that the planning system does everything possible to support economic growth, of which residential development is an important part, in order to help rebuild the nation's economy. The Government's top priority is for all bodies involved in planning to prioritise sustainable economic growth and jobs. An important element of this will be for Local Planning Authorities to ensure that additional costs, such as those imposed through the CIL, will not adversely impact on the ability of developers to deliver growth over the coming years.

3.9 Development proposals which seek to provide new jobs, services and facilities, or indeed leisure facilities already provide local communities with significant benefits. This is rightly reflected within policy CS13 if the Core Strategy which seeks to '*plan positively to develop and diversify the Shropshire economy supporting enterprise, and seeking to deliver sustainable economic growth and prosperous communities'.* The Hereford Diocese considers that the imposition of any constraints that would lead to a reduction in employment related development will have significant economic and social consequences. The Hereford Diocese therefore supports the Council's decision to set the CIL rate for employment related uses at 'nil' as the likely impact on the economic viability of such developments outweighs the desirability of securing funding from the CIL. Of course as the market recovers over coming years it will be appropriate to review the levy again in light of changing economic circumstances.

3.10 Spending the CIL locally

The government requires that charging authorities allocate a meaningful proportion of levy rates generated within a particular neighbourhood back into that neighbourhood. This is very important as it will ensure those neighbourhoods that are most heavily impacted by development receive sufficient funds to manage those impacts. Unlike planning conditions and planning obligations, the CIL should not be used to generate funds linked with a specific development. Even so it is considered that the spending of the money generated from development by the levy should be linked to the locality in which the development occurred. It would seem as though Shropshire Council have taken steps to ensure that this is the case through the production of 'Place Plans' which are being prepared, using input from local communities, to highlight local priorities with regards to infrastructure provision.

3.11 The Local Planning Authority must ensure that revenue generated through the CIL is focussed on the delivery of new infrastructure provision and should not be used to remedy pre-existing deficiencies in infrastructure provision unless those deficiencies will be made more severe by the new development. It will also be important to ensure that there is no duplication of funding generated through the CIL and through planning obligations.

4.0 Conclusions

4.1 In responding to this consultation the following key points have been made:

- Shropshire Council has based its decisions regarding developer contributions on a sound evidence base. This and the Council's commitment to review the level of contributions on a yearly basis should be applauded and is strongly supported.

- The Local Planning Authority must ensure that developer contributions generated through planning obligations and CIL should form only a small part of total infrastructure funding.

- The Government's top priority, as outlined within the Ministerial Statement: Planning for Growth (23rd March 2011), is for all bodies involved in planning to prioritise sustainable economic growth which includes facilitating the provision of sufficient housing development. As such the Council should be willing to reconsider previously agreed section 106 agreements where they render developments unviable. It will also be important to ensure that additional costs on development, such as those imposed through the CIL, will not adversely impact on the ability of developers to deliver the required housing and employment growth over the coming years.

- Whilst The Hereford Diocese supports the Council's position with regards to a 'nil' levy on employment generating developments, it is concerned by the significant difference in levy rates between urban and rural areas. With a significant proportion of housing growth over the coming plan period to be provided within rural Shropshire it is imperative that development viability is not unduly constrained by overly high CIL rates.

- The Local Planning Authority should take steps to ensure that money generated through CIL is spent within the neighbourhood in which it was originally derived. It is only right that those areas which are directly affected by development receive sufficient funding to overcome the associated impacts on local infrastructure.

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