

Shropshire Levy Draft Charging Schedule: Representations Form



Community Infrastructure Levy
Draft Charging Schedule

Representations Form

Please return to:

Planning Policy Team, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND, preferably by email to planning.policy@shropshire.gov.uk

BY 21st April 2011

1. Personal Details*

**If an agent is appointed, please complete only the Title, Name and Organisation boxes below but complete the full contact details of the agent in 2.*

2. Agent's Details (if applicable)

Title	<input type="text"/>	Mr
First Name	<input type="text"/>	Mark
Last Name	<input type="text"/>	Sackett
Job Title (where relevant)	<input type="text"/>	Senior Director
Organisation (where relevant)	Persimmon Homes	RPS Planning & Development
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Shropshire Levy Draft Charging Schedule: Representations Form

Matters on which representations may be made

The purpose of the examination is to consider whether the Draft Charging Schedule meets the following statutory tests in accordance with sections 212(4) and 221 of the Planning Act 2008:

- (a) That the charging authority has complied with the requirements of the Planning Act 2008 and the CIL Regulations;
- (b) That the charging authority has used appropriate available evidence to inform the draft charging schedule;
- (c) That the charging authority has had regard to the Statutory Guidance, "Charging setting and charging schedule procedure guidance" (March 2010).

Representations must relate to these matters. Other matters may be outside the scope of the examination and will be subject to the Inspector's judgement as to their relevance.

All representations will be considered by the Inspector as written representations. In addition, any persons or organisations making representations have the right to be heard in person at the examination, should they choose to appear. The examination will take the format of a hearing, using an informal 'round table' format under the direction of the Inspector.

Q1. Please indicate whether you wish to be present at the Hearing

a) Yes	Yes
b) Possibly: to be decided at a later date and confirmed with the Council in May / June (we will write to you to confirm)	
c) No: please treat my representation as a Written Representation (note that equal weight will be given by the Inspector to written representations)	

(a) Procedural and Legal Points

Q2. Do you wish to make representations regarding matters of technical compliance with the Planning Act 2008 or the CIL Regulations?

a) No	No
b) Yes <i>(please detail using continuation sheets if necessary)</i>	

(b) Appropriate Available Evidence

Q3. Do you have any representations regarding the evidence that has been used to inform the Draft Charging Schedule?

(please detail using continuation sheets if necessary)

Yes - see attached representation statement

Q4. Do you have any representations regarding the Council's interpretation or use of the evidence?

(please detail using continuation sheets if necessary)

Yes - see attached representation statement

Q5. Do you have any other representations regarding the statutory test, "That the charging authority has used appropriate available evidence to inform the draft charging schedule"?

(please detail using continuation sheets if necessary)

Yes - see attached representation statement

(c) Regard to the Statutory Guidance

Q6. Do you have any comments on the proposed Levy rates for residential development, of £40/m² in Shrewsbury, the towns and key centres and £80/m² in the rural area?

(NB. Comments relating to charging zones should be addressed in Q7 and comments relating to affordable housing should be addressed in Q8)

(please detail using continuation sheets if necessary)

Yes - see attached representation statement

Q7. Do you have any comments on the boundary line between the two Charging Zones?

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(please detail using continuation sheets if necessary)

No

Q8. Do you have any comments on the proposed nil Levy rate for affordable housing?

(please detail using continuation sheets if necessary)

No

Q9. Do you have any comments on the proposed Levy rates for any other type of development (commercial, industrial, employment, retail, hotels, residential institutions, assembly and leisure, agricultural or other uses)?

(please detail using continuation sheets if necessary)

No

Q10. Do you have any other comments relating the Council's Charging Schedule?

(please detail using continuation sheets if necessary)

Yes - see attached representation statement

Comments on other matters

Please note that comments on the Accompanying Notes or any other matters that do not form part of the Charging Schedule will not be considered in the examination, but will be included as part of the responses to the concurrent consultation on the Developer Contributions Supplementary Planning Document. This includes comments on the types of infrastructure on which the CIL may be spent in the future.



SHROPSHIRE LOCAL DEVELOPMENT FRAMEWORK

RESPONSE TO SHROPSHIRE COUNCIL – COMMUNITY INFRASTRUCTURE LEVY (CIL) DRAFT CHARGING SCHEDULE AND DRAFT DEVELOPER CONTRIBUTIONS SUPPLEMENTARY PLANNING DOCUMENT

ON BEHALF OF PERSIMMON HOMES

21 APRIL 2011

Introduction

RPS Planning & Development (RPS) is retained by Persimmon Homes (Persimmon) in respect of the company's interests across Shropshire in the context of the current consultation on the 21 April 2011 Community Infrastructure Levy Draft Charging Schedule (CIL DCS) and Developer Contributions SPD (DCSPD). RPS is expressly retained in the context of Persimmon's land interests in East Shropshire. Other consultants are retained in respect of land interests in other parts of the Local Planning Authority's area.

Representations were made on behalf of Persimmon to the January 2011 CIL Preliminary Draft Charging Schedule consultation. These representations are also in respect of references to the CIL within the Draft Developer Contributions SPD due to the cross-over between the documents, and also include comments directly on the DCSPD.

The latter was also published on 19 January 2011 but requires amendment to be aligned with the CILCS. It is understood that the Council proposes to consider the adoption of the DCSPD at the July 2011 Cabinet meeting with the intention of ensuring an aligned position with the CILCS is achieved at the time of the examination also in July 2011.

Shropshire Council has determined that it will establish a combination of Community Infrastructure Levy (CIL) and S106 Planning Obligations to address the infrastructure requirements of new development in Shropshire.

The CIL DCS indicates that it is proposed to apply only to residential developments of Use Class C3. This includes S106 requirements for affordable housing which has 100% relief from CIL. Contributions from other forms of development will be considered through S106 Planning Obligations.

The CIL DCS includes a series of Charging Zone maps for the urban areas. These include defined buffers around the urban edges which will ensure that potential peripheral site allocations are included within the 'urban charging zones' which is the intention of the Shropshire CIL approach. This is considered sound and acceptable, and has the advantage of avoiding the need for a formal review of the Charging Schedule following the adoption of the *Site Allocations and Management of Development* Development Plan Document (SAMDev). This approach was introduced following the Developer Panel meeting held on 28 February 2011 at which issues relating to the CIL



DCS were discussed with industry representatives (which included RPS representing Persimmon and others).

The first draft CIL DCS included an appendix comprising a list of eligible infrastructure items that CIL would deliver or contribute towards. The revised CIL DCS no longer includes such a list of qualifying infrastructure and has removed the previous Charging Zone distinction between the SUEs and the rest of the urban locations. Persimmon's position is that it must be clear what is intended to be covered by CIL and what may be sought through additional contributions under a S106 planning obligation or to satisfy planning conditions. The requirement to fund the maintenance of public open space is an example where there is a lack of clarity in RPS's view.

RPS and Persimmon have concerns over the level of £40/sqm for the urban areas charging rate on the basis that it was selected as a level that was accepted by the development industry to be affordable and viable in comparison with the levels of contributions secured previously under S106 planning obligations. However, that level included significant costs associated with commuted sum payments for open space maintenance which would now be sought in addition to the CIL charges. An alternative approach is set out below, in the context of consideration of the evidence and rationale for the level of contribution.

RPS supports the CIL DCS in respect of excluding existing permitted floorspace within the chargeable rate as this equitably relates the amount payable for any change of use or redevelopment schemes only to the additional floorspace created.

RPS supports the provisions for phasing of payments and discretionary relief where S106 obligations require very high levels of additional contributions. The principle of discretionary relief where a planning obligation has been entered into for a sum greater than the chargeable CIL amount is supported. It is recognised that a viability assessment would be needed in such cases.

RPS and Persimmon support the principle of the differential between urban and rural areas which is aligned with the Core Strategy approach of positively directing development to the defined towns and other Key Centres and encouraging locally generated proposals for housing growth in the rural areas, particularly at Community Hubs and Community Clusters. Housing growth in rural areas can therefore be complemented by more significant new funding towards local infrastructure priorities. In the earlier draft proposal a very high rate of £120/sqm had been suggested for the rural areas. Following discussion *inter alia* with the development industry panel, the proposed charging rate has been reduced to £80/sqm and is accepted. At this reduced level the rate is considered less likely to deter investment in the rural areas of Shropshire on viability grounds. The strength of the housing market is not uniform across the rural areas and the charging rate must be sensitive to the least strong areas in the far north and west of the area which contrasts significantly from the generally higher value south east of Shropshire.

The proposal to ensure that at least 90% of CIL money is retained locally for investment in infrastructure is supported. However, the potential for 10% of CIL to be used for strategic or Shropshire-wide infrastructure is particularly important given the use that all



residents of the area will make of infrastructure improvements such as to the A5(T) junctions at Shrewsbury, broadband speeds and availability and the public transport network.

The Charging Rate for Shrewsbury, the Market Towns and Other Key Centres

As stated above, the differential approach between urban and rural locations is supported in principle and is considered to be aligned with the Core Strategy vision and strategic objectives.

The January 2011 *Rationale* for the CIL DCS explained that the proposed setting of the level of the charging rate for the urban areas and SUEs at that time had been influenced by an assessment of the average S106 contributions secured on housing proposals in Shropshire in recent years. This was presented to the development industry representatives on 28 February 2011 at a specially convened meeting at which there was a consensus among the industry representatives that setting the level at that rate would be acceptable and would be unlikely to deter the delivery of housing schemes on that basis. It was also noted that, as the CIL would 'bite' on future smaller housing schemes that had not been required to contribute previously, there would be a significant overall increase in the scale of contributions towards infrastructure in Shropshire from residential developments as a result of introducing CIL.

However, it was clearly expressed by the developer panel members on 28 February 2011 that the comparison would only be valid if was 'like for like'. The £40/sqm average S106 yield included the significant element of commuted sum payments associated with the maintenance of on site public open space. Whether this is paid to Shropshire Council (as in the past through S106 payments), or to another body through a separate agreement to secure on-going maintenance of open spaces (as required through the planning process), it will remain a significant cost to development which will affect the assessment of overall scheme viability.

The CIL charging rate for Shrewsbury, the market towns and other key centres remains at £40/sqm (£4,000 per 100m² dwelling) is considered by Persimmon and RPS to be realistic for development in these areas provided that maintenance payments are covered by CIL along with the capital costs of play equipment on Public Open Space provision either on or off site.

The more recent *rationale* background paper to CIL (March 2011) does not refer to the average S106 costs evidence base, and so does not provide any support for selecting £40/sqm for the urban charging rate. RPS therefore considers it to be unreasonable to charge this rate if it does not include all contributions to Public Open Space including maintenance payments. If this change is not incorporated, the appropriate remedy will be to reduce the charging rate proportionately. A reduction of 20% would be a reasonable basis for dealing with this issue, such is the scale of the costs associated with this element of S106 obligations previously.



Developer Contributions Supplementary Planning Document (SPD)

There is evidently significant interaction between the CIL DCS and the Developer Contributions SPD. The latter was also published in draft in January 2011. It was written to complement the January draft of the CIL DCS and is no longer consistent with the current draft CIL document issued in March 2011. The SPD anticipated that a separate charging rate category would apply to the SUEs for example. There is a need to clarify the position on what is strategic infrastructure that will be able to be funded through part of the CIL from all residential developments in Shropshire. Further, clarification of open space maintenance costs and their relationship with CIL needs to be recognised in the SPD.

It is understood that non-residential developments will be assessed through the SPD for the need to contribute towards infrastructure to address impacts arising from the development. This is likely to include transport improvements for example.

In addition, the principle that there will be some on-site works that will be required to address the impact of development for both housing and non-residential uses and generally these will not be covered by CIL funding is accepted, for example the provision of landscape buffers.

Paragraph 3.7 of the draft Developer Contributions SPD states that for the SUEs:

‘on-site design and section 106 obligations will also be an important part of the package that is required to ensure that development in these locations is sustainable ... and this is reflected in the Levy rate for the sustainable urban extensions.’

RPS does not support this statement remaining as there is no longer proposed to be a separate Levy Rate for the SUEs.

Place Plans

The Council has undertaken an extensive assessment of infrastructure requirements and plans across a range of sectors in Shropshire which has been collated in the Local Development Framework Implementation Plan (LDFIP), which includes a series of Place Plans. The Place Plans deal individually with the main settlements and surrounding areas relating to Shrewsbury, the Market Towns and other Key Centres and the Rural Areas, including for example Much Wenlock. The Place Plans are agreed to be an essential tool for identifying the infrastructure needs of each area and determining priority status between the categories of *critical*, *priority* and *key* and therefore the delivery programme for infrastructure towards which CIL will contribute along with S106 payments.

In the January 2011 version, Paragraph 2.7 of the Draft Developer Contributions SPD refers to the Place Plans and the identification of ‘critical’ and ‘priority’ infrastructure. The paragraph stopped in mid-sentence after *‘Development is expected to...’*. RPS received a revised version completing the paragraph on 28 April 2011. The additional text usefully confirms RPS’s understanding of the operation of Core



Strategy Policy CS9, the priority categories and the role of the LDF Implementation Plan (LDFIP) and the Place Plan infrastructure schedules.

Eligible Infrastructure for CIL

The SDP should provide a clear explanation of how CIL and S106 funding will interact and how eligible infrastructure for CIL contributions will be identified.

The LDFIP includes costs for infrastructure items and grades them between 'critical', 'priority' and 'key' categories in order of priority for attracting contributions or CIL expenditure. The January 2011 consultation on the Preliminary CIL DCS included a list containing the eligible infrastructure which can benefit from CIL payments.

It is understood that this is not a requirement of the CIL Regulations. However, any assessment of the reasonableness of the proposed charging rate requires an understanding of what is eligible and what is excluded. It is understood that the Inspector has requested that an infrastructure list is available for the Examination of the Shropshire CIL DCS as the current (March 2011) consultation draft does not contain a list.

It is understood that a CIL infrastructure list will be included and revised within the annual review of the LDFIP. As, therefore, an appropriate list will be available for public viewing at all times through the operation of CIL, RPS considers that there should be reference to this in the CIL Charging Schedule if not actually included as an appendix as it was previously.

Strategic and Local Infrastructure

It is stated at paragraph 3.14 of the SPD that although the majority of the levy will go towards local infrastructure provision, a small proportion will be used for strategic infrastructure. Although the SPD does not state how much this will be, Shropshire Council has proposed CIL contributions for strategic infrastructure will be up to 10%, as indicated in the draft 'Code of Practice', which is suggested will be included as a supplement to the SPD.

The CIL Preliminary DCS January 2011 proposed to exclude certain strategic infrastructure within the eligible infrastructure list, identifying for example A5 junction improvements as such exclusions. RPS takes the view this is a Shropshire *strategic infrastructure* item which should attract CIL contributions from all residential development across Shropshire, and not be confined to sites in Shrewsbury and Oswestry, as part of the proposed rates for the urban and rural areas.

RPS understands that the Council may be mindful of the need to confirm that A5 junction improvements are properly regarded as strategic infrastructure for CIL purposes. On this basis, DCSPD paragraphs 2.9-2.10 will need to be amended. For the avoidance of doubt, it is necessary that it be clearly established that the proposed A5 improvements are classed as strategic infrastructure for Shropshire as a whole and local infrastructure respectively for the Shrewsbury and Oswestry and surrounding areas Place Plans.



S106 Administration Fees

The Local Planning Authority is proposing to apply a 2% administration fee for S106 agreements in the SPD. RPS considers this may be reasonable for smaller schemes which would generally have smaller developer obligations. However, larger schemes including the SUEs may be likely to generate a much higher level of developer contributions. It will be appropriate to introduce a cap at £10,000 for such an administration fee which would apply to all agreements securing £500,000 or more in contributions.

Other Comments

In setting levy rates for the main towns, SUEs and market towns, RPS agrees that there should be an appropriate balance between CIL funding for infrastructure requirements, and the economic viability of implementing CIL (SPD Para. 3.6). RPS considers it appropriate that the Council recognises that 'caution' is applied in setting the levy rate to achieve a suitable balance.

SDP Paragraph 3.13 needs to be amended to clarify how the 'ring-fencing' will work in practice, as this is not clear from the explanation provided.

Conclusions

Persimmon's response to CIL DCS and the Planning Obligations SPD is that:

- (a) **Comment:** generally they commend the intentions of Shropshire Council to create and operate an effective CIL and Planning Obligations policy environment which will encourage the delivery of necessary development alongside associated infrastructure;
- (b) **Object:** although they broadly support the overall approach to setting a realistic CIL level in Shropshire's towns and key centres of £40/sqm (and the reduction of the levy for the rural area to £80/sqm, with a significant differential between urban and rural areas), this support is **subject to a necessary change to the Council's statements confirming that CIL money will be used towards on-going maintenance of public open space provided on site by developments and no additional cost will be required from development for this purpose;**
- (c) **Object:** they seek **identification of strategic infrastructure items for Shropshire as a whole which will attract contributions via CIL from residential development across the whole of Shropshire (as well as from the local infrastructure CIL funds for affected localities, for example the A5 junction improvements at Shrewsbury and Oswestry and their surrounding areas;** and
- (d) **Object:** they seek **a cap on the level of administration fee on S106 planning obligations.**



Mark Sackett at RPS Birmingham will be pleased to discuss this representation on behalf of Persimmon with the intention of resolving many, if not all, of the issues before the SPD is adopted by Shropshire Council and the Examination hearing is held into the CIL DCS.