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Boyer

UK House
82 Heath Road
Twickenham
TW1 4BW

T 020 8843 8211
F 020 8843 8219

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Mrs Katie Child
C/O Chris Banks
Banks Solutions
64 Lavinia Way
East Preston
West Sussex
BN16 1EF

Dear Inspector,

South Oxfordshire District Council – Community Infrastructure Levy

Boyer is instructed by Wates Developments Ltd who is seeking to develop a site of 85 homes incorporating 40% affordable housing along with associated onsite infrastructure and environmental enhancements in the Wallingford area.

This submission focuses primarily on residential development and the Inspector's Issues 2, 3 and 4. Consistent with our earlier submissions, we remain concerned about the proposed residential CIL rate of £150 psqm across the majority of the South Oxfordshire District Council (SODC). Much of the viability evidence provided in the accompanying Viability Study prepared by BNPP is considered generic with little explanation of the assumptions used. Our overarching view of the Draft Charging Schedule (DCS), which is discussed in detail below, is twofold –

1. The approach taken to the highest value areas of Henley and Goring is more cautious than other areas despite them being better able to absorb CIL and them being less critical to housing delivery; and
2. The approach to strategic sites, particularly the 3 sites nil rated, is not sufficiently evidenced, is lacking in detail compared to other recently adopted DCS and appears overly cautious compared to medium sized schemes such as our clients.

Evidence Base

SODC is faced with a significant challenge in terms of ensuring actual housing delivery keeps pace with housing demand. While SODC should be praised for instigating an early review of its adopted Core Strategy (2012); the need for the review is based on the daunting prospect of having to find an additional 5,900 homes across South Oxfordshire by 2031 on top of the number already allocated. This challenge is set in a context of an ever growing local population where South Oxfordshire's growth rate (Core Strategy para 2.24) is much higher than England as a whole at 7.28% vs 2.57%. The size of this challenge is even more difficult when you consider that recent housing completions have been below the annual requirement set out in the Core Strategy.

For the above reasons it is doubly important that the SODC *'strike an appropriate balance between the desirability of funding infrastructure from the levy and the potential impact upon the economic viability of development across their area'* as required by CIL guidance. If an appropriate balance isn't struck housing delivery will continue to not meet demand and housing affordability will continue to worsen and further undermine the SODC's 40% affordable housing target. These issues are discussed in no uncertain manner by the Core Strategy -

"2.19. There is a very strong need for more affordable housing in the district. The Housing Needs Assessment identified an annual level of outstanding affordable need of 530 units. This is almost equal to the full annual housing allocation of 547 units in the period 2006 to 2027.

2.20. Property prices within the district are relatively high. South Oxfordshire's average house price is 14% above the Oxfordshire average and 30% above the average for the South East19. There are severe affordability problems. For example, you would have needed an individual income of £43,400 to afford a one bed flat in Wallingford. However, 82 per cent of those who were seeking a home of their own had incomes below the local average of £27,300 p.a.20.

2.21. Modelling carried out for the Oxfordshire Housing Market Assessment suggests that in a worst case scenario there could be four households for every affordable dwelling available by 2026."

SODC's decision to not adopt the recommendations of the Viability Study (in full) has resulted in a DCS based on an inconsistent approach to setting buffers, and therefore inconsistent application of the evidence base. For instance three residential zones included in the Viability Study are now discounted differently as follows within the DCS –

- Zone 1 identified in the Viability Study has been discounted by 57% from a maximum CIL of £345 psqm to £150 psqm in the DCS;
- Zone 2 identified in the Viability Study has been discounted by only 30% from a maximum CIL of £220 psqm to £150 psqm in the DCS; and
- Zone 3 identified in the Viability Study has been discounted by only 30% from a maximum CIL of £125 psqm to £85 psqm in the DCS.

While we appreciate the argument around ensuring the charging schedule not being too complex with multiple charging zones, the Viability Study and wider delivery of the Local Plan for that matter do not appear to support the decisions made.

In effect the DCS is providing the highest buffer (57%) to those areas most able to absorb a CIL charge. These higher value areas of Henley and Goring are also earmarked to provide only 400 homes meaning the Local Plan is less reliant on these areas to meet its housing targets. The result is that the remaining zones (2 and 3) identified in the Viability Study, which are comparatively less able to absorb a CIL charge and are more critical to housing delivery (in excess of 10,000 homes), are afforded a less cautious approach with only a 30% buffer.

In our opinion this is an inconsistent approach for a charging authority struggling to meet its housing targets. At the very least the 57% buffer should be applied across all residential charging zones.

Strategic Sites

In a similar vein the CIL rates applicable to strategic sites have been discounted from the maximum rate proposed by BNPP by 100% to a nil charge outside of Henley / Goring. While we appreciate that larger strategic sites are critical to the delivery of the Local Plan and can include significant costs around site preparation and infrastructure provision, the generic evidence used by BNPP to propose a rate of £245 in its zone 1 and nil rate elsewhere is not considered robust. Neither is the Council's subsequent decision to nil rate the 3 strategic sites being the North East site in Didcot, Ladygrove East site in Didcot and Site B in Wallingford.

As stated in our previous responses the Viability Study applies a s106 of £10,000 per dwelling for strategic site 9. This equates to circa £125 psqm (at an average of 80sqm per dwelling). Therefore, it appears that the SODC is saying that £125 psqm is not viable for strategic sites but £150 psqm for all other schemes across the majority of the charging area is. If you add the £15,000 per unit for infrastructure costs for site 9 this equates to a total s106 and onsite infrastructure contributions of nearly £12.5 million. Other than sites 8 and 9 no other development scenario is afforded any onsite infrastructure costs including sites of between 50 and 249 homes (such as our clients) when in reality schemes of this size do bare significant onsite infrastructure costs.

The Council has consistently noted that the 40% affordable housing requirement makes the 3 strategic sites unable to pay CIL; notwithstanding affordable housing is a requirement of all schemes greater than 10 units as stipulated by the NPPG. Given the importance of strategic sites one generic development type (site 9) of 500 homes is not sufficient. Given the 3 strategic sites mentioned are in effected allocated through the Core Strategy any known infrastructure requirements, either in terms of policy requirements such as the need for a school or site specific characteristics should be considered as part of determining a BLV for each strategic sites (or at least a sample of them). This would assist in better understanding how specific site constraints, policy designations and infrastructure requirements can affect viability both in terms of GDV and land value. This is considered a far more robust approach than using the 4 generic BLVs chosen and applying them across all schemes from 1 unit to 500 units. Given the 3 sites together have the potential to provide over 3,000 homes we would expect substantially more evidence to be collated to support a nil rate. Even a modest CIL charge applied to even one of the 3 strategic sites would run into several million pounds which can be used to fill the Council's infrastructure funding gap.

The SODC has consistently mentioned that the 3 strategic sites being nil rated in additional to affordable housing is because they will need to provide a school. We have not been able to locate where this requirement for sites delivering 500 homes or more must deliver a school as a general rule.

Regardless the Core Strategy and Infrastructure Delivery Plan are clear on school requirements. What we don't understand though is how does the £10,000 per unit of s106 costs and the £15,000 for onsite infrastructure for site 9 relate to infrastructure costs outlined in the Infrastructure Delivery Plan.

If the BNPP appraised s106 and onsite infrastructure costs are applied to the quantum of housing allocated for each nil rated strategic site rather than the arbitrary and much lower 500 homes tested under site 9 the combined totals are –

From our reading these figures are significantly higher than what is required for schools for each strategic site identified in the Infrastructure Delivery Plan.

Whilst we fully appreciate these figures are high level and don't take into account existing floorspace nor other onsite infrastructure figures, the scale of these monetary sums appear to support the assumption that infrastructure costs have been over estimated for strategic sites and underestimated for sites of 50-249 units such as our clients where no onsite infrastructure provision has been made within the Viability Study.

While we accept a range of generic schemes is appropriate for calculating CIL charges across a wide area, we do not accept that this same level of detail is appropriate for strategic sites. Here we would expect broad land use mix; density; site coverage; and approximate onsite infrastructure costs to be determined and viability tested along with area wide build costs and sales values. We would also expect that a site specific BLV is determined which takes into account site constraints and relevant policy designations including the needs for any onsite infrastructure using relevant figures from the infrastructure study. This work should replace the generic appraisal for site 9.

The application of CIL in relation to strategic sites has been discussed recently at the examinations into the London Borough of Tower Hamlets and London Borough of Hackney's CIL Charging Schedules. While these are very different areas the principles remain the same in that strategic sites were critical to the delivery of each authority's respective Local Plans, both for housing and other land uses, and that strategic sites have particular costs and risks to development given their longer build out programmes and infrastructure requirements. To test these issues appropriately specific policy compliant schemes were tested as part of preparing their respective CIL charging schedules to determine the applicable CIL charge. Broad site specific infrastructure requirements where calculated by the Council in consultation with the site promoters. Where disagreements arose a cautious stance was taken. The results of this more detailed process was that not all strategic sites are the same with the end result being some were shown to be able to pay a CIL while other where not.

In the circumstances where SODC currently only has 3 nil rated strategic sites, and given the potential CIL receipts available this type of testing work is considered essential and would establish a more considered basis upon which these sites have been assessed. Currently we feel strongly that the approach taken to strategic sites as part of SODC's DCS is inadequate, having the effect of adding additional costs of £6,500 and £15,000 to generic development schemes 8 and 9 but not considering infrastructure requirements for medium sized schemes such as our clients.

Appraisal Assumptions

Other than for strategic sites critical to a Local Plan's delivery, it's accepted that testing every site is not possible. The most effective way around this is to test a range of generic but representative schemes across the charging area. What we have difficulty with are the generic schemes chosen particularly the limited density ranges used. With reference to Table 4.7.1 of the Viability Study, schemes between 50-250 homes have been tested at the one density of 30 units per hectare, while the largest strategic site of 500 homes has been tested at only 35 units per hectare. Why has no variation been tested to ascertain any impact this would have on viable CIL rates?

For example our client has a 4 ha site and has submitted a planning application for 85 homes incorporating 40% affordable housing along with associated onsite infrastructure and environmental enhancements. This equates to a density of 21 units per hectare which reflects local character and is significantly below the 30 used in the Viability Study for similar size schemes. The only generic development schemes tested with a similar density are sites 1 and 2 tested at a density of 20 units per hectare. These schemes are for 1 and 2 homes respectively meaning they are in no way representative of our client's site where a planning application has been submitted for 85 homes.

In essence lower site densities will reduce the GDV of schemes which could have an impact on the ability of schemes to absorb CIL at certain levels. Finally with regards to density, the Core Strategy in numerous locations promotes mixed use development particularly in town centre locations. It appears this development typology has not been tested for CIL purpose at part of the Viability Study with its associated impact on CIL rates determined.he highest density range tested in the Viability Study is 80 units per hectare for a flatted development. This density is outside the maximum of 60 units per hectare considered appropriate in para 4.3.2 of the Affordable Housing Viability Study. No justification has seemingly been provided for this departure.

Linked to the issue of density is site coverage. Again we feel the range of assumptions used is not representative of the range of site development opportunities that exist in South Oxfordshire. Similar with density, Table 4.7.1 of the Viability Study includes too narrow a range with respect to site coverage. For instance significant sites of 50 to 125 homes (sites 6 and 7) are tested at extremely high site coverage of 80% and 90%; yet for larger sites this drops significantly to 60%. Again no justification is provided for the ranges used. In reality site coverage can be much lower as acknowledged by the publication 'Viability Testing Local Plans,' Local Housing Delivery Group (p36) which states –

'The net area can account for less than half of the site to be acquired (that is, the size of the site with planning permission) once you take into account on-site requirements such as formal and informal open

space, sustainable urban drainage systems, community facilities and strategic on site infrastructure etc. On larger sites, sometimes the net area can be as little as 30%.'

Some further sensitive testing at lower site coverage particularly for medium sized sites should be undertaken to assess any impact on viable CIL rates. Again with reference to our client's site the proposed site coverage as submitted for planning is less than 50% meaning it again is not represented in the assumptions tested.

In terms of s106 assumptions, the Viability Study provides little detail as to why the various appraisals incorporate an allowance of £1,000 per unit to address any Section 278 and residual Section 106 costs for development schemes 1 to 8, increasing to £10,000 per unit for the strategic site (site 9). The NPPG states a charging authorities approach to s106 should be based on evidence. Whilst this evidence is absent from the Viability Study it is partially addressed in the CIL Infrastructure Funding Gap Report (October 2014) which states that *'the average amount of S106 secured per dwelling for the past five years is £10,879'*. Whilst the NPPF and NPPG note s106 obligations will be scaled back alongside CIL, the use of £1,000 per unit for development schemes 1 to 8 in the Viability Study represents a 90% reduction on what was previously collected through s106. This appears excessive. This nominal amount is unlikely to meet the needs of site specific mitigation in many instances, particularly given the CIL Regulations place no such restriction on Section 278 contributions covering highways and transport costs. Again these important assumptions need to be further evidenced, potentially by benchmarking what charging authorities that have a CIL in place have secured in terms of s106 for CIL liable development. Obviously this should be in as comparable location(s) as possible with similar viability characteristics and by nature similar CIL charges. S106 assumptions should also be analysed in more detail for strategic sites as discussed above.

The NPPG also requires the charging authority to set out its proposed approach to s106 contributions. Other than the Regulation 123 List little other detail is included as to what s106 mitigation will be sought. Other charging authorities have typically published their replacement draft Planning Obligations SPD alongside their DCS. The benefit of this approach is that it helps establish what types of site mitigation will typically be sought through s106 and provides a useful cross check as to the assumptions being tested in the accompanying CIL Viability Studies.

Comparison with other CILs

While we appreciated that each CIL charging authority is required to source local evidence in the preparation of their charging schedules, it is still worth benchmarking the DCS against other nearby areas. In this regard both Oxford City and Reading have lower residential charges of £100 psqm and £140 psqm as do Bristol and Norwich at £70 psqm and £85 psqm respectively. Vale of Whitehorse is also proposing a rate £120 psqm for sites delivering 11 or more units. Again given the challenges SODC is facing around housing delivery why has a less cautious stance been taken relative to other areas, particularly in those areas of South Oxfordshire most critical to housing delivery?

NPPG requirements

Recent changes to the NPPG restricts contributions from being sought from developments of 10 units or less, which have a gross floor area of no more than 1,000 sqm. It appears this significant change has not been tested as part of SODC's CIL setting process meaning the proposed CIL rates are unfairly impacting schemes that provided 11 or more units. The SODC has stated in its response to respondents that it will review its position against the NPPG requirement as part of the current Local Plan review and when reviewing the CIL charging schedule. This response is considered wholly inadequate especially considering these changes were made in November 2014 allowing scope for them to be considered as part of the Viability Study dated February 2015 as either an addendum or as part of the main report. In essence this is a known and potentially significant impact on the ability of schemes of greater than 10 units to pay CIL and should not be ignored within the DCS. What is the incentive for developers to bring forward sites under the current regime (should it be found sound) when their CIL liability may be reduced as part of a future review? This will not help SODC in delivery the housing it needs given, with reference to Table 18.1 of the Core Strategy, that the majority of its housing is projected to come forward between 2017/18 to 2021/22. Therefore the SODC obviously can't afford for developers to delay bringing sites forward until after a future review of its CIL Charging Schedule.

<u>Conclusion</u>

It is our view that important medium sized schemes such as our clients earmarked to provide 85 homes at 40% affordable are unfairly treated by the DCS.

For these sites higher density and sites coverage is used in the Viability Study than is possible in many instances. This has resulted in the ability of medium sized schemes to pay CIL being inflated in the Viability Study and subsequent DCS. In addition no onsite infrastructure costs have been applied to medium sized schemes which underplay the cost to their development in reality. Strategic sites on the other hand are treated far more leniently in terms of density, site coverage and have been afforded significant onsite infrastructure costs as part of the Viability Study. The result being they have been nil rated outside of the most expensive areas.

To remedy this situation we ask for a more consistent approach is applied to residential development and that all residential charging zones are discounted by at least 57% from their maximum CIL rates, but potentially higher once onsite infrastructure costs are taken into account.

Yours sincerely

[redacted]

Asher Ross
Director

Tel: [redacted]
Email: [redacted]