5 February 2014

WEST OXFORDSHIRE DISTRICT COUNCIL COMMUNITY INFRASTRUCTURE LEVY CONSULTATION

This is the response of **Eynsham Parish Council**.

1. Do you agree that there is a need to introduce the Community Infrastructure Levy (CIL) in West Oxfordshire?

Yes. A fixed, calculable rate would allow developers to assess more easily whether a particular development is viable and economic. It would eliminate the s106 negotiations with the county council, district council and parish council and speed up the planning process.

2. Do you support the recommended CIL rates for residential uses set out in Table 1?

No. The objections to the high, medium and low value zones are set out in the reply to question 4 below. Given the arbitrary nature of these zones, the rates of £200 and £100 for sheltered and extra care housing respectively are inequitable. This is based on the hypothetical modelling of the Aspinall Verdi CIL Viability Study (AV) which assumes (at 6.23 and 6.24) a margin available for CIL purposes.

The DCLA Community Infrastructure Levy Guidance April 2013 says (at 30) that 'charging authorities should avoid setting a charge right up to the margin of economic viability....' Guidance 2013 further says (at 28) 'A charging authority's proposed levy rate (or rates) should be reasonable given the available evidence, but there is no requirement for a proposed rate to exactly mirror the evidence, for example, if the evidence pointed to setting a charge right at the margins of viability. There is room for some pragmatism.'

The need for sheltered and extra care housing is District-wide. To impose a selective rate at the limit of viability on some areas and none for others is contrary to the aspirations of the Draft Local Plan Core Policy 7 which says 'Particular support will be given to proposals for "extra care" housing to meet the needs of older people.' Sheltered and extra care housing should be considered part of the social infrastructure of the District as a whole and be £0 rated throughout the District.

There is concern about the consequences of the £200m^2 rate for 6+ units, particularly in conjunction with the lowering to this level of the on-site affordable housing requirement. From the figures provided or referred to in the AV Survey, there would appear to be little difference to the costs, and profit margins, of developments of 15+ dwellings compared to

the present system of s106 planning obligations and on-site affordable housing requirements. These are developments of a size more likely to be built by large national builders.

The concern is about the impact on the smaller regional and local builders who would be most likely to deliver housing developments of 6 to 14 dwellings. The AV Study's hypothetical modelling indicates this range is within AV's margin of 'viability'. But, the higher cost and risk to smaller builders could mean some small developments are in reality seen as unviable and would not be built.

This could lead to, in order to achieve WODC's housing targets, more planning consents being granted to larger, anonymous developments which do not relate to the character of the environment around them, such as Taylor Wimpey's 100 unit development at Swinford Green in Eynsham.

By contrast, smaller local builders would be more likely to make the best use of available land and create dwellings more in character with the surrounding area. Also, being local, they would put money back into the local economy and provide jobs for the residents where the dwellings were built, which the large national builders would not necessarily do.

3. Do you agree that small-scale residential schemes of 1-5 dwelling should be exempt from CIL and instead pay a commuted sum towards affordable housing?

No. Single dwellings should be treated separately from developments of 2 to 5 dwellings. The AV Study has clearly targeted this category as 75% of units constructed in the last three years were single dwellings (AV 5.5). Even though it is admitted this is a response to the current affordable housing policy of on-site provision everywhere in the District (except for Witney, Carterton, Chipping Norton and Eynsham) for developments of 2 or more dwellings (Local Plan 2011, Policy H11(b)(ii)). The draft policy is intended to remedy this.

The proposed Commuted Sum on a single dwelling would be punitive or prohibitive to low budget self-build projects or homeowners wishing to rebuild a substandard or inadequate dwelling. Similarly, for a homeowner wishing to build a separate dwelling within the curtilage for dependant relatives. The average new house, according to the RIBA, is 76m^2. According to AV Table 4.7, the high value area construction cost would be £1,224m^2. Notwithstanding there is no threshold land value and gross development value is not applicable, the imposition of the High Value Commuted Sum of £55,000 would be over 37% of the total construction cost. If this rendered the building cost prohibitive, dependant relatives would likely be forced into sheltered or extra care housing.

Single dwellings built by the landowner for the occupation of himself or his family should be separately rated at a lower rate which would contribute to affordable housing but reflect the fact these dwellings are not going to enter the housing market. Alternatively, such

dwellings could be £0 rated with a covenant in the planning consent, or land charge, requiring the Commuted Sum to be paid upon sale at market value. Single dwellings constructed for sale at market value should be rated the same as developments of 2 to 5 dwellings.

Developments of 2 or over dwellings will in almost all cases be for the financial gain of the landowner and builder. On these sites on-site affordable housing is much less viable as even the AV hypothetical models show. If these market value dwellings are to contribute to the provision of affordable housing, an exemption from CIL and a fair and reasonable commuted sum provides a known and calculable method of securing this contribution.

4. Do you agree with the extent of the high, medium and lower value zones illustrated at Figure 1?

No. The proposed High, Medium and Low Charging Zones are too arbitrary to form an equitable tax base map and would create a postcode lottery for future development.

The Planning Act 2008 (S212(4)(b)) says WODC should use 'appropriate available evidence to inform the draft charging schedule'. Guidance 2013 (at 25) says, 'It is recognized the available data is unlikely to be fully comprehensive or exhaustive'. However this Guidance also says (at 28), '[WODC's] proposed levy [rates] should be reasonable given the available evidence....'

Rather than using the available evidence to 'inform', the AV Study approach relies on an over-simplification of previous WODC affordable housing needs and viability studies together with Land Registry post code based data collection methods. None of these were designed for or intended to be directly relied on to provide a tax base map for CIL purposes. Where there are admitted gaps in the evidence these are filled with assumptions. (AV 5.27-5.41)

The creation of two High Value bands on the 'Cotswold' east of the District and the 'Oxford' west (including Eynsham) appear to be for the convenience of the hypothetical AV Study rather than an informed reliance on the available evidence to create an equitable rate based on actual market and threshold land values in any given area. In fact, the West Oxfordshire Housing Needs Assessment Final Report 2008, on which the AV Survey heavily relies, shows house prices in West Oxfordshire are lower than the neighbouring areas, except for Cherwell and Swindon (Table 6-3).

Guidance 2013 says (at 37), 'Charging authorities that plan to set differential levy rates should seek to avoid undue complexity, and limit the permutations of different charges that they set within their area. However, resulting charging schedules should not impact disproportionately on particular sectors or specialist forms of development....'

The AV approach results in arbitrary charging zones within the District which are not fairly based, either within the zones or in comparison with each other, on either market value or affordable housing need. This disproportionality is particularly evident when the proposed affordable housing Commuted Sums for 1 to 5 dwellings are applied. Of two similar development sites in this sector, in close proximity and with similar market value and affordable housing needs in the area, one could be subject to a Commuted Sum two or four times the other, based solely on the proposed post code zones. The obvious result would be a skewing of development within the District.

5. Do you support the recommended CIL rates for retail uses set out in Table 2?

No. If the purpose of CIL is to fund infrastructure required by development, the demand on infrastructure of such development should be a factor in CIL rates along with economic viability. Exemption from, or the discounting of, CIL rates on non-residential development only shifts a greater burden on to the residential sector.

The selected hypothetical models in the AV Study for shops, supermarkets and retail warehouses are based solely on the models' viability with no reference to infrastructure impact. Following Guidance 2013, at 37 (see above) to avoid complexity, and considering impact, there can be little justification for such a differential rate between town centre and district-wide shops. Particularly with a much lower town centre rate when the infrastructure demand is likely to be more costly than in smaller, more rural areas. The infrastructure impact of edge of town supermarkets and retail warehouses would be similar and should be rated the same.

6. Do you agree that offices and industrial uses should be exempt from CIL?

No. While the one AV hypothetical model for each of office and industrial use shows that CIL is 'unviable' this conclusion also seems to be heavily influenced by the AV consultations with estate agents and developers. The AV study says (at 7.39) 'Note that the general consensus amongst the agents and stakeholders consulted was that speculative commercial development was not viable in the current market'. So, setting a reasonable rate for offices and industrial buildings would make no difference.

Large office developments, and particularly industrial premises, can have a considerable impact on the infrastructure need in their area. Basing an exemption on the immediate economic climate is not justified. The economy is more likely to change faster than the CIL rate, particularly if it is set at a £0 rate.

A blanket exemption for new office and industrial developments would also provide no incentive to reuse brownfield sites. Whereas, if a reasonable rate were in place, it would provide a tax incentive for reuse, even where the redevelopment resulted in a larger gross area than the original building.

7. Do you agree that where A2-A5 uses (financial and professional services, restaurants and cafes, drinking establishments and hot-food takeaways) have the potential to be used for A2-A5 uses as well as A1 retail (e.g. as part of an 'open' consent for A-class development such as a District Centre) they should be charged the proposed CIL retail rate?

Yes. The A1 to A5 Use Classes are intended for planning and not tax gathering purposes. They also contemplate the use of planning obligations to deal with the impact on infrastructure of the development. As the impact would be generally similar, and to avoid complexity, lumping them together at the retail rate is justifiable.

8. Do you agree that in relation to sui generis uses (e.g. car showrooms) that come forward pursuant to a retail consent on greenfield 'main road' locations, it would be reasonable to levy the proposed CIL retail rate?

Yes. For the reasons set out in the reply to question 7, sui generis developments should be included at the retail rate.

9. Do you agree that CIL should not be levied on C1 uses (hotels) D1 uses (non-residential institutions) D2 uses (assembly and leisure) and agricultural development?

No. Planning Use Classes are not appropriate in all cases for CIL purposes. While the AV Study seeks to draw a distinction within C1 between boutique 'country house' hotels (AV 9.6) and modern edge of town chain hotels (AV 9.7), these are developments which also have their own demands on infrastructure which should be reflected in an appropriate CIL rate, if not the retail rate.

As for D1 and D2 Class developments, a distinction should be drawn between those which form social infrastructure (such as health centres, nurseries, schools, libraries, etc.) which should be £0 rated and commercial leisure operations which, like Classes A1-A5 and C1, should pay their fair share towards the demand for infrastructure they create.

There is less justification for CIL on agricultural development. As set out at AV 9.18, this would result in little or no development gain, make little demand on public infrastructure and such buildings are generally an integral part of the existing farm. This is notwithstanding that such buildings could be later used or sold for office or industrial use. In which case, any net gain in area resulting from redevelopment should be charged at the appropriate rate in force at that time. Any buildings constructed purely for retail use (i.e. a farm shop or for commercial leisure use) should be rated accordingly.

10. Are there any other comments you wish to make?

Section 106 planning obligations are to be scaled back in favour of CIL as the primary means of funding infrastructure through planning and development. It is therefore important that the implementation of the initial structure and rates set a precedent for the future. CIL rates will only be viable if they are assessed on a fair and reasonable basis that reflects not only the economic viability of the development but also the development's impact on the infrastructure the tax is designed to fund.