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WDC's Response to Issue 2 - Are the charging rates informed by and consistent with the evidence?

Residential Development:

a.) Does the evidence support differential residential rates for C3 and C4 uses in different parts of the District?

1.1 The Council was aware at the outset of the work on CIL that there were vast differences in the residential market across the District. This was evidenced by previous viability studies to support the affordable housing policy in the Development Management Policies DPD (Document B7) and the sites in the Site Specific Allocations DPD (Document B8). Paragraphs 4.21 to 4.22 and Table 4.21.1 of the CIL Viability Study (Document B3) illustrate the differences in the residential market. At the low-end, the inner areas of Lowestoft only command sales values of £1615 per square metre whilst in Southwold, sales values are over double this at £4,660. Additionally, the area covered by the Lake Lothing and Outer Harbour Area Action Plan, which includes the largest housing allocation in the District, is in an area of high development costs associated with on-site infrastructure, flood mitigation and remediation.

1.2 The CIL Viability Study shows that a zero rate would be necessary for the strategic development sites in the Lake Lothing area. Therefore, it was immediately clear that a single rate would not be appropriate. The CIL Viability Study also showed that in Inner Lowestoft, a CIL of only £45 per square metre could be achieved. Given that the rest of the District (where the majority of development will occur with the exception of Lake Lothing) has a higher value the Council would not want to set the rate at this level across the District. Therefore, the Council has chosen to set differential rates according to the viability of different parts of the District. Although this creates a more complex Charging Schedule, it allows the Council to maximise CIL revenues in order to help fill the funding gap.

1.3 Hektor Rous (Comment ID 1) objects to the differentiation of CIL charges based on geographic zones. He is concerned that differentiation of zones will result in more development occurring in one area than the other. He recommends a single rate of £45 per square metre across the District. The Council does not support such a change as it would be setting CIL based on the lowest values in the District (Inner Lowestoft) and would result in significantly less income from CIL. As detailed above, given the vast differences in sales values across the District there is a need for differential rates, based on viability, to maximise the CIL income to meet the funding gap. Even if all residential development in the

District (excluding that in the Lake Lothing and Outer Harbour Area Action Plan area) was charged at £150 per square metre, the funding gap would still not be closed. The CIL Viability Study (Document B3) shows that the rates proposed in each area of the District can clearly be met. It must be remembered that CIL rates can only be differentiated by viability not infrastructure need. As developers will normally pass the cost of CIL (and other planning policy requirements) on to the landowner in the form of a reduced offer for the land, it is effectively the landowner who pays CIL. Unless the same landowner owns developable land both sides of the charging zone, the differential rates will not favour one area over another.

b.) Are all parts of the District allocated to the correct charging Zones based on the economic viability evidence?

2.1 Section 3 of Document B1 explains the rationale for the different rates proposed. In summary, the Charging Zones largely reflect the market areas identified in the CIL Viability Study (Document B3). However, the market areas of Outer Lowestoft, Beccles, Bungay and Halesworth have been combined following evidence submitted by Savills and Badger Building as part of their comments on the Preliminary Draft Charging Schedule. The other main difference is that the higher rated zone of £150 per square metre has been confined just to the Parishes of Reydon and Southwold. As explained in Document B1, this is due to the variance in sales values across the rural parishes and a lack of transactional evidence to draw boundaries between the rural areas. A such it is considered that the boundary between the £60 per sqm zone and the £150 per square metre zone is more defensible.

2.2 Comments raised by Barton Willmore (Comment ID 21) raise concern that Beccles is placed in the wrong charging zone. They argue that Beccles should be located in the same charging zone as Outer Lowestoft and Inner Lowestoft and subject to a charge of £45 per square metre. Barton Willmore claim that sales values for Beccles are more in the region of Inner Lowestoft. Barton Willmore do not provide any evidence of sales values to support this claim. Therefore the Council disputes their argument. Page 17 of the CIL Viability Study shows that the sales values of Beccles are approximately £1,916 per square metre compared to only £1,615 per square metre for Inner Lowestoft. The sales values were based on comparable evidence and through discussions with 12 local agents. The CIL Viability Study demonstrates that sales values of £1,916 per square metre can viably support a charge up to £80 per square metre in the majority of scenarios. Evidence submitted by Badger Building as part of their representation on the Preliminary Draft Charging Schedule (PDCS) (Document C5, pages 5 and 6) argued that Beccles, Bungay and Halesworth were a single market. They also provided evidence of sales values which would indicate values in the £2000 per square metre region.

2.3 Barton Willmore also questioned why the Council accepted evidence submitted by Savills in a representation on the PDCS on sales values in Halesworth yet didn't accept Savills conclusions that a rate of £45 per square for Beccles would be suitable. The Council provided a robust response to the representation made by Savills (pages 43-55 of Document C5). In summary, the Council did not accept the arguments put forward by Savills with respect to the assumptions in the CIL Viability Study that led them to conclude a rate of £45 per sqm would be appropriate. It should be noted that Savills did not follow up their objection at the Draft Charging Schedule stage. Barton Willmore do not present any evidence themselves as to why a £60 per square metre rate would not be viable in Beccles, whilst a £45 per square metre rate would be.

Commercial Development:

c.) Has the rate for supermarkets, superstores and retail warehouses been justified by the economic viability evidence? Is there sufficient clarity as to the development to which the charge would apply?

3.1 The evidence presented in the CIL Viability Study (Document B3) and the additional viability evidence in Document B4 shows that the rates proposed for supermarkets, superstores and retail warehouses are justified by the economic viability evidence. This is summarised in the Council's response to the Examiner's initial matters (Document D3). Supermarkets/superstores and retail warehouses are clearly defined in the footnotes to the Draft Charging Schedule. The Council considers that the use of the definitions will ensure that development which most people would consider to be a retail warehouse or a supermarket/superstore would be subject to the charge.

3.2 Aspinall Verdi on behalf of WM Morrisons (Comment ID 13) raised a number of concerns about the viability appraisal and the Council's comments on these are detailed in its response to Issue 1(f). The effect of their concerns does not alter the conclusions that supermarkets/superstores can support a CIL rate of £130 per square metre.

3.3 Indigo Planning on behalf of Sainsbury's (Comment ID 20) stated that it is not possible under the provisions of Regulation 13 of the Community Infrastructure Levy Regulations 2010 (as amended) to differentiate between different types of retail development as the Council has. The Council believes, and has always believed that it is possible to differentiate between different uses within a use class. The new CIL Guidance (December 2012) helpfully clarifies this at Paragraph 35. It is the Council's position that supermarkets, superstores and retail warehouses have different intended uses to other types of retail and importantly have differing viability to absorb CIL.

3.4 It is quite clear that supermarkets and superstores are used differently to a town centre comparison store. Floor space in supermarkets/superstores is used mainly for selling food whereas the floor space in a town centre comparison store is used mainly for selling non-food goods. The former Planning Policy Statement 4 identified sufficient difference to separately define supermarkets, superstores and retail warehouses and the Waveney Charging Schedule uses the definition of retail warehouses from this document. Types of retail use are often differentiated in planning practice and the Government's Planning for Town Centres (Companion guide to PPS4) recommends differentiating between comparison and convenience goods for the assessment of retail need and impact assessments.

3.5 The Examiner's reports into Wycombe, Havant, Plymouth and Fareham all agree that it is possible to differentiate between different types of retail developments. The Wycombe Draft Charging Schedule and the Plymouth Draft Charging Schedule use very similar definitions to those used in the Waveney Draft Charging Schedule

3.6 The Council does not need local evidence (as suggested by Indigo Planning on behalf of Sainsbury's) to justify that a supermarket is a different intended use to a town centre comparison store or another type of retail store. The intended use of a supermarket is the same whether it is in Waveney, Wycombe or Plymouth. If a supermarket, retail warehouses and other forms of retail development can be considered different intended uses in Wycombe they also can be in Waveney.

3.7 Where the Council does need local evidence is about the viability of the different types of retail in which it seeks to differentiate the charge. The Council believes that the CIL Viability Study (Document B3) and Document B4 clearly demonstrates that supermarkets, superstores and retail warehouses can support a CIL charge of £130 per square metre whilst other types of retail such as town centre comparison or local centre comparison cannot. The table below from Document D3 which summarises the viability results from Documents B3 and B4, demonstrates this neatly.

Type of Retail Development	**Viable?**
Non-food town centre retail (units of less than 280 sqm floorspace)	Marginal
Local centre non-food (units of less than 280 sqm floorspace)	No
In town retail (500sqm trading floorspace) (non food)	Marginal
Retail Warehouse (3500sqm trading floorspace)	Yes with £130 sqm CIL
Retail warehouse (5000sqm trading floorspace)	Yes with £130 sqm CIL
Retail Supermarket (3500sqm trading floorspace)	Yes with £130 sqm CIL
Supermarket of (3000sqm trading floorspace)	Yes with £130 sqm CIL
Supermarket of (1500sqm trading floorspace)	Yes with £130 sqm CIL
Small in-town food store (250sqm trading floorspace)	Yes with £130 sqm CIL

3.8 In contrast to the position taken by Indigo Planning on behalf of Sainsbury's (Comment ID 20), Savills on behalf of Brookhouse Group(Comment ID 4) argue that differential rates for different types of retail should be applied based on the value generated. They argue that no evidence has been provided as to why the same flat rate should be applied to supermarkets, superstores and retail warehouses. The Council considers that there is sufficient evidence in the CIL Viability Study (Document B3) and the additional retail appraisals contained with Document B4 to justify why retail warehouses can support a £130 per square metre charge. Whilst supermarkets generally have higher capitalised values, they are more expensive to build, hence the viability of both types of retail are similar as shown from the results of the viability study. No viability evidence has been presented to challenge this. Additionally, no suggestion as to what would be appropriate differential rate for retail warehouses has been presented.

3.9 Brookhouse Group(Comment ID 5) have suggested that CIL is only charged for retail warehouses, supermarkets and superstores above a threshold of 280sqm as the CIL Viability Study (Document B3) suggested that only supermarket, superstore and retail warehouse developments of 280sqm or more should be charged . The Council objects to such a threshold. As stated in the Council's response to the Examiner's initial matters (Document D3) the Council considers that a threshold would be difficult to operate in practice. Additionally, Document B4 shows that smaller supermarkets below 280sqm are viable with the £130 per square metre charge. Documents B3 and B4 do not consider the viability of a retail warehouse under 280sqm as it is considered that there would unlikely be any retail warehouses developed under this size.

3.10Whilst most shoppers would be able to distinguish between a supermarket, a retail warehouse and a town centre comparison store, it is important that there are robust definitions in the Charging Schedule for these uses given that CIL is essentially a tax. In response to concerns raised by Indigo Planning on behalf Sainsbury's the Council amended the Draft Charging Schedule prior to submission to strengthen the definition of supermarkets and superstores to remove subjective words.

d.) Has the rate for holiday lets been justified by the economic viability evidence?

4.1 The rate for Holiday lets has been based on the advice in the CIL Viability Study (Document B3). The CIL Viability Study states at paragraphs 6.33 to 6.35 (page 39) that holiday lets could have the same charge as residential development with a buffer of 30% to take into account factors such as void periods and availability of mortgages. Holiday lets are only likely to occur in Zones 3 and 4 of the residential rates. In order to keep the Charging Schedule simple, the Council therefore based its proposed charge at £40 per square metre which is approximately 30% below the Zone 3 residential rate (£60 per square metre rate).

4.2 NLP on behalf of Bourne Leisure (Comment ID 14) suggests that the Draft Charging Schedule is amended to clarify that 'holiday lets' do not include visitor accommodation such as chalets and caravans sited in holiday villages and resorts. The Council does not consider this change as necessary and believes the description in footnote 2 of the Draft Charging Schedule is sufficiently clear as to what buildings fall under the definition of a holiday let. The CIL Regulations and Planning Act 2008 dictate that CIL can only be charged on buildings, therefore caravans and chalets that meet the definition of a mobile home would not be liable for CIL as they are not normally considered as buildings.

e.) Have nil rates for all other development including hotels, residential institutions, industrial and office uses been justified by the economic viability evidence?

5.1 The CIL Viability Study (Document B3) clearly shows that most development types other than residential, holiday lets and supermarkets, superstores and retail warehouses are either not viable or are of only marginal viability. Therefore, there is no scope to charge CIL. Document B5 re-examines the viability of care homes in light of comments made by AKA Planning on behalf of Care UK. Document B5 shows that across the majority of the District, care home development is not viable.