

## **Selby District Council Statement on the Representations on the Draft Charging Schedule July 2014**

Selby District Council received 25 Representations in accordance with Regulation 17 of the Community Infrastructure Levy Regulations 2010.

### **Representation Summary of Main Issues:**

#### Inputs used in the Economic Viability Assessment

A representation received by G L Hearn on behalf of Gladman Developments objected that the model Peter Brett Associates had used in the EVA contained a number of errors. Therefore this suggested the charging zones and rates were based on an incorrect EVA. This was reinforced by the fact G L Hearn have recently made the same argument at Hambleton and Ryedale Council's CIL examination which resulted in the EIP being withdrawn pending further investigation into the inputs and assumptions. Peter Brett Associates were also the consultant used by Hambleton and Ryedale Council and it would seem that the same incorrect inputs may have been used in both EVA pieces of work.

#### Regulation 123 list

A number of representations were submitted suggesting that the council adopt a more detailed Regulation 123 list while some new items were suggested to be added to the list for future funding.

#### Exceptions Policy

The Exceptions Policy has been welcomed by representors and no changes are proposed as a result of the consultation.

#### Instalments Policy

The addition of an Instalments Policy has been welcomed by representors although those who commented on the policy commented it was not generous enough towards developers

#### Retail definitions

Two representations on behalf of Sainsbury's and Asda raised an objection to the EVA and the Councils approach of separating Supermarket, Convenience and Retail Warehouse use classes.

### General Comments

From the representations received it was recognised that there is still a lot of confusion and misinterpretation of the regulations and CIL process by Parish Councils and members of the public.

## Selby District Council Responses to representations on the Draft Charging Schedule July 2014

<b>REPRESENTOR</b>	<b>AGENT</b>
Asda Stores	Thomas Eggar
Church Commissioner	Barton Willmore
English Heritage	
Environment Agency	
Stephensons	
Gladman Developments	GL Hern
Ian T Hinchey	
Jennifer Hubbard	
MCM Developments	
National Farmers Union	
Marine Management Organisation	
Natural England	
North Duffield Parish Council	
North Yorkshire County Council	
NYCC Local Highways Authority	
Redrow Homes - Hillman	Johnson Brook
Redrow Homes - Newton Kyme	Johnson Brook
The Coal Authority	
The Theatres Trust	
Sainsbury's Supermarkets Limited (SSL)	Turley Associates
Wakefield Council	
Whitley Parish	
York Consortium of Drainage Boards	
Yorkshire Ambulance Service	Johnson Brook
Yorkshire Wildlife Trust	
<b>TOTAL</b>	<b>25</b>

REPRESENTOR	SDC Response
<p><b>Asda Stores</b></p> <p style="text-align: right;"><b>Thomas Eggar</b></p>	
<p>We act for Asda Stores Limited (“Asda”) and are writing on behalf of Asda to make representations in respect of the Council’s Draft Charging Schedule.</p> <p>Under Regulation 14 of the Community Infrastructure Levy Regulations 2010 (“CIL Regulations”) the Council’s primary duty when setting the level of Community Infrastructure Levy (“CIL”) charge is to strike an appropriate balance between the desirability of funding the cost of infrastructure required to support development from CIL and its potential effects on the economic viability of development.</p> <p>In our view, the approach taken to assessing the Draft Charging Schedule does not achieve an appropriate balance between these two objectives.</p> <p>We wish to object to the approach taken to assessing the Draft Charging Schedule on the following grounds:</p> <ol style="list-style-type: none"> <li>1. The major changes to the Community Infrastructure Levy Regulations 2010 by the Community Infrastructure Levy (Amendment) Regulations 2014/385;</li> <li>2. the impact on policies enhancing economic performance;</li> <li>3. the financial assumptions and viability assessments contained in the Council’s Viability Study;</li> <li>4. the proposal to split convenience and comparison retail development;</li> <li>5. issues relating to State Aid; and</li> <li>6. concerns about the Council’s approach to setting CIL charges generally.</li> </ol> <p><b>1. Impact of Community Infrastructure Levy (Amendment) Regulations 2014/385</b></p> <p>As the Council will be aware, the Community Infrastructure Levy (Amendment) Regulations 2014/385 came into effect in February.</p>	<p>Following the consultation of the CIL Draft Charging Schedule the Council has instructed Peter Brett to update the modelling and assumptions used to inform the retail charging rates. The full details can be found in the Community Infrastructure Levy Revised Draft Charging Schedule Report November 2014.</p>

These regulations have made a number of wide-reaching changes to the CIL regime, the most important of which, for the purposes of this letter, are summarised below:

- Regulation 14 has been amended so as to strengthen the obligations on the Council objectively to justify the adopted charging rates. Reg 14 now states that a Council “must strike an appropriate balance” as opposed to simply aiming to do so;
- Examiners are now being asked to assess whether an appropriate balance has, in fact, been struck;
- The Regulations governing payment in kind have been amended to allow local authorities to accept items of infrastructure as well as the transfer of land;
- Draft Regulations 123 lists should now be made available much earlier in the rate-setting process and these will be capable of being examined at inquiry; and
- There have been significant changes to the various CIL exemptions; which will significantly affect the Council’s expected levels of receipts.

Although the viability report has been reassured since the Preliminary Draft Charging Schedule was published, the Draft Charging Schedule and the addendum viability report on which it is based, still do not consider the impact of these amendments and contain a number of assertions which are not incorrect. In particular, the viability assessment was drafted to enable the Council to “aim” to strike an appropriate balance between the desirability of funding the cost of infrastructure required to support development from CIL and its potential effects on the economic viability of development; it is not sufficiently detailed or well evidenced to establish that this balance has, objectively, been struck.

We would urge the Council to undertake a further, more detailed, viability appraisal based on the CIL regime as it now is, and to re-consult on the Draft Charging Schedule once the results of this second appraisal are available.

## **2. The impact on policies enhancing economic performance**

We will not repeat the Council’s strategic objectives contained in its Local Plan in full here, but

The council is aware of the regulations and together with its consultant Peter Brett believes it has struck an appropriate balance.

The council is under no obligation to take a payment in kind and will consider this on a case by case basis.

The Draft R123 list was made available for this round of consultation.

The change in CIL exemptions have been brought in at a national level and do not affect the proposed rates as the rates are based on viability not the amount of funding they can generate.

Following the consultation of the CIL Draft Charging Schedule the Council has instructed Peter Brett to update the modelling and assumptions used to inform the retail charging rates. The full details can be found in the Community Infrastructure Levy Revised Draft Charging Schedule Report November 2014.

<p>in order to achieve its Vision and Overall Objectives, it will be important for the Council to set an appropriate CIL charge to encourage new development and promote redevelopment to create employment and ensure a range of shopping choices for consumers and enhance the vitality and viability in district and local centres.</p> <p>The proposed retail CIL rates would discourage larger retail developments and would not ensure that the relevant retail and employment aims of the Vision and Overall Objectives are met. This could have the effect of reducing the range, variety and choice of retail shopping and, if no redevelopment or regeneration schemes are put forward, then existing buildings are unlikely to be refurbished and re-used.</p> <p>It is our view that if the retail changes set out in the Draft Charges Schedule are adopted, there will be several consequences across the Borough that will put the Council's ability to achieve its key objectives at risk. For example:</p> <ul style="list-style-type: none"> <li>• All other forms of development will receive a significant subsidy at the expense of retail schemes; and</li> <li>• There will be a corresponding disincentive (and market distortion accordingly) to investment in this sector of the local economy.</li> </ul> <p>The Government is keen to encourage the creation of additional employment across the economy and the retail sector as a whole is one of the largest employers and the largest creator of new jobs at the present time as well as being one of the most dynamic and innovative sectors within the UK economy.</p> <p><u>Asda Example 1</u> ASDA has a proven track record of investing in local communities and of creating jobs within these areas. For example, of the 123 colleagues recruited for the ASDA store in Tunbridge Wells, 76 colleagues (71%) were previously unemployed.</p> <p>The supporting papers do not acknowledge this trend nor do they fully assess the role of retail within the national economy. They simply assert that large scale retail is performing stronger in comparison to the other aspects of the retail sector and accordingly, it implies that large scale retail establishments have the capacity to pay potentially very large sums of CIL, whereas the</p>	<p>The Council cannot set a CIL rate based on strategic objectives, it has to be set on viability evidence and any suggestion that the rate be set artificially to support a strategic objective is against the regulations.</p> <p>The viability evidence and the November 2014 update clearly demonstrate that large retail is viable at the proposed rates and therefore does not discourage development. No evidence has been submitted in point 2. to suggest the rates are unviable.</p> <p>No other form of development will receive a subsidy from CIL as all receipts will be spent on items on the R123 list which are strategic infrastructure items to benefit the entire district including large retail developments.</p> <p>The Council supports the governments creation of additional employment which is why it has struck an appropriate balance when setting retails rates.</p> <p>The proposed CIL rates must be based on viability evidence not the developments job creation figures as this is not a factor recognised in the regulations.</p> <p>Therefore quite rightly large scale retail has a higher rate as it has a higher level of viability as detailed in the viability evidence. Any suggestion that the rates should be</p>
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<p>Town Centre comparison and small convenience retail rates are much lower.</p> <p>Any CIL schedule that imposes a substantial CIL charge on superstores or supermarkets and a very low or nil rate on all other uses could effectively undermine the retail function of local and town centres, detracting from their viability as large scale retail developers would be discouraged by the imposition of CIL.</p> <p><u>Asda Example 2</u></p> <p>Asda stores regularly rejuvenate and regenerate existing centres, and the surrounding areas, and draw new shoppers to them, which benefits the existing retailers, and those who open stores in Asda-anchored centres in their wake. For example in 2006, Asda opened a store in Romford, transforming a derelict brownfield site through an extension of an existing retail mall and creating 347 jobs. This helped to propel Romford into the top 50 UK retailing cities. Indeed, due to the success of the store in attracting more footfall to that part of the town’s Primary Shopping Area, the local authority redrew the town centre boundary to include the edge of centre Asda store into the heart of the Romford town centre.</p> <p><b>3. The financial assumptions and viability assessments contained in the Council’s Viability Study</b></p> <p>We also have a number of concerns about the addendum study Peter Brett conducted in the April 2014 (the “Viability Study”).</p> <p>The Viability Study contains retail development assumptions that in our view are inadequate as they do not make sufficient allowance for the costs involved in obtaining planning permission for a development scheme.</p> <p>By excluding the true cost of residual planning for a commercial development, the Council has underestimated the true cost of retail developments and artificially inflated the residual land values used for the financial viability modules. This will, in turn, have inflated the amount of CIL proposed for these uses.</p>	<p>set artificially low to reward Asda for creating local jobs is against the regulations.</p> <hr/> <p>Romford is not comparable or relevant to Selby and as already stated any suggestion that the rates should be set artificially low against the viability evidence for any reason is against the regulations.</p> <hr/> <p>No evidence is submitted here to demonstrate what the responder believes ‘sufficient allowance for the costs involved in obtaining planning permission for a development scheme’ are. Therefore this information cannot be investigated further.</p> <p>No evidence is submitted as to why this is considered low and therefore without further evidence the Council is assumes the figure is correct.</p> <p>The Guidance is clear that even under a CIL regime S106</p>
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The Viability Study does make an allowance for residual s106 and s278 agreements, in addition to CIL, they may be borne by developers within retail and allows £100 per sqm allowance. For a retail supermarket of 3000 sqm this will be an allowance of £300,000. We are concerned that this is rather a low allowance and urge the Council to reconsider this.

Although the Council will not be able to pool section 106 contributions once CIL is adopted, the types of commonly pooled contributions tend not to make up a large proportion of the contributions sought from commercial schemes – which are usually focussed on site specific highways and access works, employment and training contributions, environmental mitigation works and other, site specific, requirements. This is demonstrated by the Council’s draft Regulation 123 list, which makes it clear that any site specific green infrastructure or network improvements, not listed, that are needed to mitigate the impact of the development and to make it acceptable in planning terms, may still be required to be funded through section 106 and section 278 agreements.

Taking the example of a 300sqm supermarket, this sized store, with total building costs of £3,480, 000 would be expected to bear a CIL payment of £330,000 (£110 per sqm) approximately and, in addition, potentially fund all of the following potential costs out of the £300,000 allowance stated above:

- Demolition, remediation and on site highways works
- The cost of extending the Council’s CCTV or public transport network to include the scheme (including the costs of creating new bus stops, real time information and providing new bus services to serve the site);
- Monitoring costs of compliance with employment/apprenticeship schemes and travel plans;
- Environmental off-set contributions to mitigate the loss of habitat or greenery caused by the scheme;
- The cost of any remediation and decontamination works to be carried out by the Council on the developer’s behalf;
- Payments for town centre improvements intended to mitigate the impact of the development on the town centre and neighbouring areas; and
- The costs incurred by the council of maintaining any site specific infrastructure required by the development.

contributions can still be sought but such contributions must be a) necessary to make the development acceptable in planning terms, b) directly related to the development and c) fairly and reasonably related in scale and kind to the development. However, if an item of infrastructure is included on the Reg123 list then contributions from S106 cannot be sought for the same item of infrastructure. Clearly any contributions sought under the S106 mechanisms must pass these tests and each development will be judged on a ‘case by case’ basis.

It is accepted that for some schemes significant works may be required to make the scheme acceptable in planning terms. However, this is unlikely to be the case for all developments. In this context it is difficult to make assumptions with respect to site specific items of infrastructure, which could easily be misplaced/ill-informed and prejudice the assessment. Instead the Draft Charging Schedule has taken these points into consideration when setting the rates and has set the supermarket rate well below the maximum £150 that the viability evidence suggests.

To put this in context:

- The section 106 Contributions incurred in relation to a c.3,000 sqm food store in Ware, Hertfordshire amounted to £871,800. These sums related to bus service contributions; development of a community centre, nursery, education contributions; various highway safety improvements; youth service contribution; residents parking schemes and open space contribution. In addition to these Contributions, green travel plan contributions, monitoring fees and architectural lighting on pedestrian routes between the store and city centre were also incurred.
- The section 106 Contributions incurred in relation to a c.6,700 sqm food store in Newhaven, East Sussex amounted to £1,345,544. These sums related to contributions for improvements to and an extension of the local bus network; economic initiatives; contributions for relocating local habitats; improvement of recreational space; recycling contributions; residential and retail travel plan auditing; transportation and town centre contributions.

With this in mind, we again, suggest that the Council has significantly underestimated the impact of CIL on the viability of such developments and request that the underlying viability evidence be revised accordingly.

Hertfordshire and Newhaven are neither directly relevant nor comparable to Selby.

The s106's stated here are also based on pre CIL adoption, therefore the amounts are not directly comparable with CIL s106 requirements.

There will also be plenty of UK supermarket developments which have had to pay a low amount of s106 due to site specific conditions, however the council can no more model this into the viability evidence than these examples of high s106 payments. Therefore the council has used the benchmark figures based on local and industry accepted models which have been updated in the Community Infrastructure Levy Revised Draft Charging Schedule Report November 2014.

The majority of site specific S106 contributions as they are now would also be negotiable and if there was a demonstrable viability concern the council will look at these on a case by case basis. As the responder has already pointed out the Council may also consider a payment in kind rather than the required CIL payment.

#### **4. The proposal to split convenience and comparison retail development**

It is our view that the Council's proposal to apply differing CIL rates to 'comparison' and 'convenience' retail falls outside of the scope of differentials permitted in the CIL regulations.

Clause 13(1) of the CIL Regulations states that a charging authority may set different rates for different zone in which development would be situated; and/or by reference to the size of those schemes.

While the CIL regulations do not expressly define 'use', they regularly adopt definitions from the planning system and other planning legislation (in particular the Town and Country Planning Act 1990 (as amended) and the Planning Act 2008). As the Use Classes Order is widely accepted to be the starting point for definitions of Use within the planning system, it is reasonable to expect that the CIL Regulations reflect those definitions.

It should be noted that Poole, Mid-Devon and Elmbridge Councils have withdrawn their proposals to charge large supermarkets a higher CIL rate than other retail development, on the grounds that this approach is potentially unlawful. Similarly, New Forest District Council has also had its "large supermarket" rate struck out at Inquiry, as the inspector held that the threshold at which it had been set had not been sufficiently justified by the viability evidence provided.

In addition, the Council's proposal to distinguish 'comparison' and 'convenience' retail also poses practical problems for retail developers and the Council themselves in assessing the charge, as most supermarkets and superstores contain a mix of convenience and comparison floorspace. The Council's current proposals will potentially result in two different CIL rates being charged for floorspace within the same building or development. Such an approach adds undue complexity to the CIL calculations.

We wish to bring it to your attention that there will be EU State Aid issues arising out of the

The difference in use between supermarkets and neighbourhood convenience stores is clear and distinct and reflected in the definitions set out.

The points raised in 4. Are answered in detail in the Revised Draft Charging Schedule Report November 2014.

setting of differential rates for different types of commercial entity within the same use class. Introducing such differential rates confers a selective economic advantage on certain retailers depending on the size of the shop they operate out of, or their type of business. For example, setting the levy for comparison retail schemes at a lower rate than an equivalent convenience retail scheme provides an economic advantage to comparison retailers. Alternatively, basing rate differentials on the size of a store favours smaller retailers over their larger competitors.

As far as we are aware, the UK government has not applied for a block exemption for CIL. CIL charges do not form part of the UK's taxation system and there does not appear to be an exemption in place to cover any State Aid issues that may arise. With this in mind, we would be grateful if the Council adopted a flat levy rate for comparable sectors of the economy/use classes or, if it is not prepared to do so, providing an explanation as to why State Aid issues are not engaged by the setting of differential rates within use classes to the Inspector at the Inquiry.

#### **ASDA's SUGGESTIONS**

##### **1. Instalment Policy**

We note that the Council intends to introduce a draft instalments policy for CIL alongside its draft Charging Schedule. We endorse the Council's decision to introduce such a policy because managing cash flow during development is often key in determining whether a scheme will be successfully delivered. However we recommend that the Council's also allows this instalment policy for CIL payments below £50,000 to manage cash flow further.

##### **2. Exceptional Circumstances Relief**

We note that the Council also intends to adopt an Exceptional Circumstances Relief Policy.

We endorse the Council's decision to do so. By adopting Exceptional Circumstances Relief the Council will have the flexibility to allow strategic or desirable, but unprofitable, development schemes to come forward, by exempting them from the CIL charge or reducing it in certain circumstances.

Support Welcomed/Comments Noted.

Support Welcomed.

<p><b>3. Provision of Infrastructure as a Payment in Kind</b></p> <p>As stated above, the latest set of amendments to the CIL Regulations have now made it lawful for authorities CIL contributions to be paid by the provision of infrastructure in certain circumstances. Given that the provision of infrastructure is often key to unlocking unimplemented planning permissions and enabling developments, we would urge the Council to seriously consider adopting a policy to allow payment in kind in this manner.</p> <p><b>CONCLUSION</b></p> <p>For these reasons, we would ask that the Council undertakes a rethink of its position and substantially alters its Charging Schedule in so far as it relates to retail development.</p> <p>Accordingly, we would request that the Council:</p> <ul style="list-style-type: none"> <li>• Revisits its viability assessments for retail development, to address the concerns set out above;</li> <li>• Adopts an instalment policy for CIL payments of below £50,000 as well as above;</li> <li>• Adopt an Exceptional Circumstances Relief Policy; and</li> </ul> <p>Considers the allowing developers to pay their CIL Liability through the provision of infrastructure.</p>	<p>The Council will intends to do so.</p> <p>The points raised in this consultation response have been looked at in further detail in the Revised Draft Charging Schedule Report November 2014.</p>
<p><b>Church Commissioner</b></p>	<p><b>Barton Wilmore</b></p>
<p>Further to the review of the Selby Draft Charging Schedule and associated evidence base, and having considered the Council’s response to our previous comments to the Preliminary Draft Charging Schedule, we wish to make the following further comments to the current consultation.</p> <p>Developer’s Profit</p> <p>Further to our comments to the Preliminary Draft Charging Schedule (PDCS), we note the revisions made to now adopt the use of 20% of GDV when determining developer profit in</p>	<p>Support Welcomed.</p>

order to align with good practice and therefore have no further comment on this issue.

#### Infrastructure Planning / Section 106 Costs

Paragraphs 12 to 16 of the 2013 CLG guidance highlights the importance of Infrastructure Planning, not only to assist in identifying its infrastructure funding gap, but also to provide transparency on what the charging authority intends to fund in whole or part through the levy and those known matters where section 106 contributions may continue to be sought.

Paragraph 22 also requires that Charging Authorities should provide information about the amounts raised in recent years through Section 106 Agreement, as background evidence. Paragraph 29 requires that in preparing their evidence to inform their proposed levy rates, charging authorities should also show how they have taken into account other development costs arising from existing regulatory requirements in order to demonstrate that the proposed rates will not threaten the delivery of the relevant Plan.

Paragraphs 84-89 in particular then provides further guidance on the interaction between the CIL and section 106 agreements, helping to clarify to developers what they will be expected to pay and through which route, to ensure that there is no actual or perceived 'double dipping'. It continues that the Regulation 123 List will assist at examination in confirming those projects or types of infrastructure that it intends to fund through the levy. Paragraph 88 notes in particular that where the Regulation 123 list includes a generic item (such as education or transport), section 106 contributions should not normally be sought on any specific projects in that category.

At the PDCS stage, it was acknowledged at paragraph 4.7.2 of the Economic Viability Assessment (EVA) that the authority was not sufficiently advanced with its infrastructure plan to develop their thinking on infrastructure and that over the coming months it would begin the process of distinguishing the collection mechanism between section 106 and CIL. On that basis, for the purposes of the EVA, the assessment made an assumption of a 'residual' S106 contribution of £500 per dwelling, albeit this assumption was not evidenced.

To date, no further progress appears to have been made in updating its infrastructure planning

The £500 is based on previous s106 requirements and is in line with the regulation requirements and is evidenced in the EVA.

The IDP is a living document and has now been updated

<p>evidence further to the Draft IDP of January 2014 included as supporting evidence at the PDCS stage. Furthermore, whilst we note the Council’s response to our previous comments at the PDCS stage in its Consultation Statement in relation to the assumptions made regarding on-going S106 contributions, no further evidence is provided other than the very limited evidence at Table 5.3 of the Addendum Report. This relates to 6 historic planning permissions dating back to 2005 with the only intended purpose appearing to be to provide a benchmark to compare S106 contributions with future CIL charges.</p> <p>In terms of our previous comments, the Council state in its Consultation Statement that more detailed analysis of its data on S106 receipts has since been undertaken, although this information has not been provided in full within the supporting documents (other than as referred to above in respect of Table 5.3 of the Addendum Report). Notwithstanding this, whilst some adjustment has been made to address our previous concerns by increasing the allowance made in the appraisal for S106 contributions from larger site scenarios (i.e. an increase from £500 to £2,500 for 5 ha sites), we still remain concerned that this underestimates the likely ongoing S106 costs to future developments once CIL is in place – the upshot being that in underestimating other development costs, this invalidates the viability evidence and as a result, may put at risk the delivery of the Plan.</p> <p>The Council state in the Consultation Statement that recycling contributions of £50 per dwelling are likely to be the only S106 costs that will be required post-CIL, with contributions towards recreational open space and education the only other S106 contributions that are now intended to be funded by CIL. Nonetheless, the Council state that it has assumed an allowance of £500 per dwelling for sites of 1 ha or less, and £2,500 per dwelling for the 5 ha, larger site scenarios. However, as detailed within the draft Regulation 123 List which accompanies the Draft Charging Schedule (DCS), this appears to be contradicted on the second page where it lists all other matters that will continue to be addressed through S106 Agreements as follows, noting the list is non-exhaustive:</p> <ul style="list-style-type: none"> <li>• Affordable Housing (although we acknowledge this is not subject to CIL)</li> <li>• Employment and skills agreements</li> <li>• Provision of waste handling</li> <li>• New bus connections or services and cycle / pedestrian routes and connections</li> </ul>	<p>September 2014.</p> <p>Comments Noted.</p> <p>The Council does not believe it has underestimated the costs of on-going s106 and has previously amended the figure from £500 to £2,500 for 5ha sites.</p> <p>Sites will only be required to make a s106 payment for education if it is required on site to make it acceptable in planning terms and at this stage it is too premature in the Site Allocations and Policy Plan (SAPP) to know which these sites are. The CIL may need to be reviewed at the adoption stage of SAPP.</p> <p>The Guidance is clear that even under a CIL regime S106 contributions can still be sought but such contributions must be a) necessary to make the development acceptable in planning terms, b) directly related to the development and c) fairly and reasonably related in scale and kind to the development. However, if an item of</p>
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- Local junction / highway improvements and access to the site
- Primary schools/extensions as a direct result of large sites or groups of up to 5 sites
- On-site recreational open space, greenspace and public realm improvements
- On-site drainage and flooding solutions

We therefore remain concerned that assumptions regarding likely ongoing S106 costs have been underestimated. This is further demonstrated by the lack of certainty and detail within the draft Regulation 123 List, referring to it as a list of projects or types of infrastructure that it intends 'will be, or may be, wholly or partly funded through the CIL'. It continues by noting that the list is 'Indicative' and establishes 'Broad Areas' that the Council intends to fund through CIL, which is 'to be refined and revised upon adoption of the CIL'. This confirms to us that there is insufficient evidence on infrastructure planning in conflict with the 2013 CLG guidance (in particular paragraphs 12-16), especially as no specific projects are identified in the draft list – paragraph 16 advises that if an authority considers that its infrastructure planning underpinning its Plan is weak or does not reflect its latest priorities, it may need to undertake additional bespoke work. If there is a lack of sufficient evidence and therefore no certainty by which route projects or types of infrastructure are to be funded, how can there be any transparency over what developers will be expected to pay and confidence that there will be no 'double dipping'?

infrastructure is included on the Reg123 list then contributions from S106 cannot be sought for the same item of infrastructure. Clearly any contributions sought under the S106 mechanisms must pass these tests and each development will be judged on a 'case by case' basis.

It is accepted that for some schemes significant works may be required to make the scheme acceptable in planning terms. However, this is unlikely to be the case for all developments. In this context it is difficult to make assumptions with respect to site specific items of infrastructure, which could easily be misplaced/ill-informed and prejudice the assessment. Instead the Draft Charging Schedule has taken these points into consideration when setting the rates and has not only set the £500-£2500 allowance but has also added in an extra buffer by setting the rates well below the maximum.

The majority of site specific S106 contributions as they are now would also be negotiable if there was a demonstrable viability concern which again the council will take on a case by case basis.

The Draft R123 has been prepared in line with the regulations and it is not considered appropriate at this time for the Council to be any more specific, for instance, it is not the role of the R123 list to identify spending priorities within or amounts within it.

The R123 list has been written so that it is clear what CIL

	<p>will be spent on and is to ensure no double dipping occurs. The CIL expenditure also has to be published and the council believes its approach is transparent and clear.</p>
<p><b>Build Costs</b></p> <p>We previously stated that evidence of the local market provided by Smiths Gore suggests that the Build Cost assumptions made at Paragraph 5.6.33 are too low and that a figure of £970 per square metre should be adopted. The Council, in its Consultation Statement has responded by stating the build costs have been taken from the industry standard BCIS database and to deviate from this would require very robust evidence. It is also noted that notwithstanding our concerns that the build costs are too low, the Addendum Report has actually reduced the assumptions regarding Build Costs compared with the assumptions made within the original EVA.</p> <p>We are advised by Smiths Gore that generally, it is widely know that build costs are actually increasing rather than decreasing. Furthermore, evidence has been provided from the BCIS database, rebased to Selby dated 9th August 2014 and is attached for information. This indicates that the average build base cost is £927 psm, excluding externals, contingencies, etc which is significantly higher than the £830 to £850 psm range used at Table 2.1 of the Addendum Report. This we believe provides empirical evidence to support the contention that build costs have been underestimated within the viability appraisals.</p> <p><b>Other Assumptions</b></p> <p>We previously made comments in relation to the assumptions made in the EVA regarding Service Costs. Paragraph 5.6.35 of the EVA referred to on-site secondary infrastructure assumptions for small and large sites at £150,000 per hectare and £250,000 per hectare respectively. Research undertaken by the HBF/Savills referred to in representations to the Mid Devon Draft Charging Schedule indicated that in respect of large sites, average site servicing costs equated to approximately £250,000 per net developable acre (or £617,500 per hectare), or otherwise £20,000 per dwelling. Advice of the local market provided by Smiths Gore however suggested that at the very least, these costs should be £400,000 per hectare.</p>	<p>Build costs have now been updated and SDC will welcome comments at the next round of consultation.</p> <p>A review of all the key assumptions that underpin the viability assessments have been undertaken, to ensure that they adequately reflect the appropriate available evidence of current market conditions in Selby. November 2014.</p>

The Addendum Report now states at paragraph 2.3.2 that the assumptions regarding benchmark land values are that all sites will be cleared, remediated and fully serviced so that they are readily developable or 'oven ready'. It continues that where sites are not in this condition, the costs of making them 'oven ready' would ordinarily be subtracted from the gross land value in the offer any rational developer would make to a landowner. Whilst it may be right that infrastructure costs come off the land value, they must be accounted for in any appraisal as they are intrinsically tied to the Land Value. Allied to our earlier points above, particularly in respect of build costs going down and with infrastructure costs excluded, it is considered that any appraisal will not therefore be accurate.

In conclusion, in light of the above comments, we consider that the various assumptions made and utilised within the Addendum Report and its associated viability appraisals would suggest that overall, the results continue to raise concerns that the proposed CIL rates in the DCS will seriously bring into question the viability of development proposed within the relevant Plan as a whole.

#### Draft Instalments Policy

Further to our previous comments which fully supported the introduction of an Instalments Policy in principle, we welcome the Council's decision to do so. As previously highlighted, we stressed that this must ensure that it seeks to reduce the financial burden on the developer, particularly on larger sites where the initial costs of supporting infrastructure and construction costs early on are likely to be significant. In order to achieve this, particularly in the case of larger developments, alongside the general principle of introducing instalments per se, it would further assist if provision was made to a less than proportionate payment in the first instalment to reflect the cash flow issues associated with the early phases of development on larger schemes. We provided a number of examples where such an approach has been adopted as follows:

- Wycombe DC – first instalment for CIL liability over £100,000 is 15% within 60 days
- Bristol CC - first instalment for CIL liability over £35,000 is 15% within 60 days
- Poole - first instalment for CIL liability over £75,000 is 20% within 60 days

A review of all the key assumptions that underpin the viability assessments have been undertaken, to ensure that they adequately reflect the appropriate available evidence of current market conditions in Selby. November 2014.

Support Welcomed.

We also referred to an alternative approach by Huntingdonshire Council which have a policy that whilst requiring 25% of the CIL liability to be paid in the first instalment, allows a longer time period within which to make the payment depending on what the overall CIL Liability is – i.e. £50,000-£100,000: 120 days, £100,000-£500,000: 150 days and £500,000+: 180 days.

Whilst we are generally content with the draft policy, we believe further recognition of the upfront costs associated with the early phases of development on larger scheme with a CIL liability over £100,000 could be a little more realistic in terms of the proportion and/or the timing of the first payment and in particular, we consider that 35% to be too high and consider this could be amended along the following lines:

CIL Charge	First Instalment	Second Instalment	Third Instalment	
Draft Instalment Policy as proposed				
£100,001 and over within 9 calendar months	35% within 90 days	35% within 6 calendar months	35%	
Option 1				
£100,001 and over within 9 calendar months	20% within 90 days	30% within 6 calendar months	50%	
Option 2				
£100,001 and over within 12 calendar months	25% within 120 days	35% within 8 calendar months	40%	

£/m<sup>2</sup> study

Maximum age of results: 5 years

Building function

(Maximum age of projects)

£/m<sup>2</sup> gross internal floor area

Sample

Mean Lowest Lower quartiles Median Upper quartiles Highest

New build

Housing, mixed

The current Draft Instalments Policy (DIP) is considered to be fair and appropriate to Selby. The Government is clear that in the change from current s106 to CIL councils don't need to provide an instalments policy at all as the idea is to stop developments not hitting agreed s106 targets that release payments. However it is worth noting that the new regulations do allow for phasing of developments and this is something the council will support.

<p>developments (5)  927 494 811 909 1,029 1,802 367</p> <p>Estate housing  Generally (5) 905 526 781 875 999 1,717 690  Single storey (5) 1,024 672 864 1,039 1,145 1,662 97  2-storey (5) 880 526 766 857 955 1,717 548  3-storey (5) 952 589 800 907 1,087 1,529 44  4-storey or above (5) 960 - - - - 1</p> <p>Estate housing detached  (5)  888 685 742 839 965 1,250 6</p> <p>Estate housing semi  detached  Generally (5) 905 642 785 879 982 1,662 171  Single storey (5) 1,039 680 865 1,039 1,179 1,662 29  2-storey (5) 875 642 775 858 940 1,478 133  3-storey (5) 922 663 807 886 1,069 1,296 9</p> <p>Estate housing terraced  Generally (5) 904 589 760 862 990 1,717 132  Single storey (5) 1,094 785 861 1,126 1,260 1,483 11  2-storey (5) 874 605 732 850 935 1,717 104  3-storey (5) 960 589 827 903 1,075 1,529 17</p> <p>Flats (apartments)  Generally (5) 1,107 519 926 1,072 1,255 2,811 242  1-2 storey (5) 988 726 895 987 1,060 1,370 47  3-5 storey (5) 1,095 519 938 1,089 1,250 2,080 158  6+ storey (5) 1,334 801 1,090 1,303 1,456 2,811 34  11-Aug-2014 17:34 © RICS 2014 Page 1 of 1</p>	
<p><b>English Heritage</b></p>	
<p>Dear Sirs,</p> <p>Selby Local Plan - Community Infrastructure Levy (CIL) Draft Charging Schedule</p>	<p>Support welcomed</p>

Thank you for consulting English Heritage about the Selby Community Infrastructure Levy Draft Charging Schedule. English Heritage recognises the importance of Community

Infrastructure Levy as a source of funding to deliver the infrastructure required to underpin the sustainable development of the District. We have the following comments to make on the draft Charging Schedule:-

#### Proposed rates of CIL

· We have no comments to make regarding the rates of CIL which are proposed for the various categories of new development. In terms of our area of interest, the rates of CIL

Which, are being proposed are unlikely to impact upon future investment in developments which could help secure the future of the heritage assets of the area.

#### Exceptional circumstances Policy

· We support the intention to allow discretionary relief to be offered in exceptional circumstances. We consider that CIL relief should be offered where the requirement to pay CIL would have a harmful impact on the economic viability of developments which involve heritage assets, particularly those which are at risk.

#### Indicative draft Regulation 123 List

· The draft list of projects set out in the Infrastructure Delivery Plan, included a number which would have been likely to benefit the historic environment of the District. These included

Support welcomed

Support Welcomed

<p>works to create a community venue at Abbot's Staith and public realm improvements associated with Selby Town and Olympia Park. In addition, a number of the Policies in the Adopted Core Strategy include proposals for townscape and environmental improvements in several of the settlements within the plan area (Policy SP14, for example, makes mention of strengthening the role and performance of the</p> <p>town centres of Tadcaster and Sherburn-in-Elmet through environmental improvements). These would seem precisely the types of projects that could be funded through CIL since they are only likely to be delivered through pooling of any revenues generated and, as such, consideration should be given for including them within the Regulation 123 List.</p> <p>If you have any questions regarding the points raised above or would like to discuss anything further, please do not hesitate to contact me.</p> <p>Yours faithfully,</p> <p>Ian Smith</p>	<p>Comments Noted</p>
<p><b>Environment Agency</b></p>	
<p>CIL Draft Charging Schedule/IDP update</p> <p>Thank you for consulting us on your draft charging schedule and updated IDP. Overall, we are pleased to see that the documents within this consultation recognise and emphasise the importance of flood risk and green infrastructure. We have provided the following comments which hopefully you'll find useful:</p> <p>Flood risk infrastructure schemes</p> <p>After considering your list of planned and proposed infrastructure projects, our planning and strategic overview team have highlighted the following schemes as being a priority from a flood risk perspective:</p> <p>Tadcaster:                   improvements to defences (£5million scheme)</p>	<p>Comments Noted</p>

<p>Cawood: improvements to defences (£10million scheme)  Ulleskelf: rebuilding the defences (£10million scheme)</p> <p>They would also like to point out that improvements to the culvert are required at South Milford. This scheme (which is likely to cost several million) should be included within your IDP, or on a reserve list of projects/schemes.</p> <p>We have highlighted these projects as a priority as they would provide the greatest level of benefit in terms of the number of homes and businesses they would protect. As such, we recommend that they are the initial recipients of any CIL funding for flood risk infrastructure. However, it may also be helpful to include some smaller schemes, such as reducing the floor risk at Kirby Wharf. This could be a valuable use of CIL, particularly if demand from other sectors is lower than expected. As this scheme would only provide protection for 3 to 4 properties, current FDGiA cost-benefit rules mean it would be hard for us to justify an investment in this location. Nevertheless, improving the defences here would cost in the tens of thousands so may make a good project, especially if there is an underspend from the CIL 'pot'.</p> <p>Payment in kind</p> <p>Page 20 of the CIL Economic Viability Study (produced by Peter Brett Associates) includes a section on payment in kind. It would be helpful if this could be extended to include paying for the creation of compensatory flood storage areas, and the creation of compensatory green infrastructure where development has resulted in a loss, particularly where such an approach can help to reduce impacts at a scale larger than the individual site.</p> <p>Green Infrastructure</p> <p>Whilst we welcome the approach to GI within the IDP, it could be enhanced by highlighting the contribution that well thought out GI can play in reducing the risk of flooding on and off-site. Furthermore, the GI section should highlight the role that high quality GI can play in strengthening a local economy. For evidence supporting this, please refer to Natural England's website: <a href="http://publications.naturalengland.org.uk/publication/6264318517575680">http://publications.naturalengland.org.uk/publication/6264318517575680</a></p>	<p>Comments Noted</p> <p>Comments Noted</p>
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If you have any further questions, or require any more information, please do not hesitate to contact me.

Yours sincerely

### **Stephenson's (Property Group)**

Dear Sirs

We shall be pleased if you would treat these representations as an objection to the Council adopting CIL arrangements. Our opinions are based on the following:-

1. The relationship between CIL and Section 106 obligations is not clear and we believe it will lead to double charging.
2. It is unclear as to how CIL will be distributed, and this is not acceptable. This issue should be decided before CIL is adopted and in place.
3. Parish Councils seem to have no idea as to what CIL involves and it appears from a recent report that Parish Councils have only received 1% of CIL receipts to date, as opposed to the 15% suggested in SDC's current proposals.

The Draft R123 List has been prepared in order to clearly identify what the CIL may be spent on and therefore will not lead to charging twice through both the CIL and S106s in line with the Regulations. SDC would not support or condone double charging. The council will also publish all CIL spending annually to be clear and transparent.

The Draft R123 has been prepared in line with the regulations and it is not considered appropriate at this time for the Council to be any more specific, for instance, it is not the role of the R123 list to identify spending priorities or amounts within it.

SDC agrees Parish Councils currently have a poor understanding of CIL and are looking to hold a number of workshop and events in the coming months to bring Parish Councils up to speed. SDC does not currently have a CIL in place so reports of 1% or otherwise are not relevant to SDC.

4. Assuming CIL is introduced in April 2015, it is debatable whether there will be any large scale payments of CIL, bearing in mind that the largest developments proposed for Selby District at Olympia Park and at Sherburn in Elmet will not be contributing, bearing in mind that they already have planning permission. It is also highly likely that other larger type residential developments will be granted planning permission before April 2015. It would therefore appear that there will be no significant receipts received to support infrastructure developments across the district.

5. The subdivision of the district into two charging areas is, at best, flawed and, in our opinion is grossly unfair. It is quite amazing that in respect of CIL there are apparently two housing markets, whereas there are six housing markets identified in the Core Strategy, but only one as far as affordable housing is concerned.

6. It remains our opinion that there is absolutely no necessity for CIL to be introduced in Selby District, bearing in mind that the provisions of the section 106 Agreement appears to be working successfully.

Yours faithfully

Nicky Kay BA (Hons), pgDip, MRCIS

The Core Strategy has a minimum target of 450 dwellings pa until the end of the plan period 2027. When the Olympia Park development of 800 dwellings, which will be built over a number of years is taken into account it does not come close to meeting the housing target up to 2027. Therefore at a minimum of 450 dwelling pa up until 2027 there is clear revenue that can be expected from CIL.

The viability evidence has been re-modelled for private market housing with a change to the residential rates and zones. SDC will welcome further comments at the next round of consultation.

It is not clear if this comment is a criticism towards CIL as a UK wide policy and a departure from the current s106 system or to SDC. As from April 2015 the s106 system for the UK ceases to exist in its current form and will be drastically scaled back. If Selby does not introduce a CIL then it can no longer charge s106 for example on education contributions as it does now. This means that SDC will lose out on average of £5,500 (total CIL) per dwelling in the high value area if CIL is not in place. Staying with education as an example if the 450 dwellings pa is met over the plan period to 2027 the council will not be able to pay for schools or other infrastructure as a result of new development if it does not have a CIL in place and the current s106 system no longer exists. The CIL system is not one SDC has devised however there is a clear need to adopt CIL to mitigate new developments

	once the current s106 system ends.
<p><b>Gladman Developments</b> <span style="float: right;"><b>G L Hern</b></span></p>	
<p>Dear Sirs</p> <p>Consultation on Selby District Council Draft Charging Schedule</p> <p>We have been asked by our clients, Gladman Developments, to review the proposed residential tariff for CIL charging within the Selby District Council area which is currently proposed at varying rates within the area.</p> <p>The proposed charge levels for private market houses (excluding apartments) remain unchanged from those proposed in the Preliminary Draft Charging Schedules in April 2013 at:</p> <ul style="list-style-type: none"> <li>• Low value areas £25/sq m</li> <li>• All other area £45/sq m</li> </ul> <p>We have reviewed the Selby Community Infrastructure Levy Viability Assessment Final Report of September 2013 produced by Peter Brett Associates and their subsequent Selby Community Infrastructure Levy Addendum Report. We set out below our main comments on the assumptions which have been used. Many of our previous comments remain unaddressed and it would appear not considered.</p> <p>We have also compared the report prepared by Peter Brett Associates with those they have also recently completed and we have reviewed for Hambleton and Ryedale councils. In all cases the same viability model has been used. This model has been found to contain a number of errors at the initial Hambleton CIL Examination which have a significant impact on the appraisals. These errors will need correcting prior to any Draft Charging Schedule being considered at examination for the Selby District Council area.</p> <p>We therefore remain convinced that the level of tariff proposed has been incorrectly assessed and if implemented would have a significant adverse effect on the delivery of new housing in the area.</p>	<p>Following this representation SDC instructed the Consultants Peter Brett to look at the points raised in detail.</p> <p>This has resulted in a change from 2 to 3 charging zones which are now:</p> <p>Low Value Zone £0  Medium Value Zone £35  High Value Zone £50</p> <p>Full details of the changed inputs are available in the Community Infrastructure Levy Revised Draft Charging Schedule Report November 2014.</p> <p>SDC will go through a second round of consultation and will welcome further comments.</p>

## Residential Viability Assessments: Errors in Model

In the September 2013 report other assumptions were set out on page 32. At paragraphs 5.53 it stated that

“The model also enables us to input the cost of acquiring the land and to calculate all the other principal costs associated with development, including construction costs, fees, and contingency and finance costs, amongst others.”

As stated above we have recently made representations to both the Hambleton and Ryedale Draft Charging Schedules and following the initial Examination Hearing for Hambleton, a number of errors have been identified in the PBA viability model. This being the case we have checked the methodology used for the Selby appraisals as set out in Appendix B of the PBA Addendum Report. It is clear that the same errors and omissions have been carried forward here too.

To illustrate the points, we have attached a copy of the 1 Hectare Low Value Area Appraisal using Argus

Developer, a recognised industry appraisal software programme. We have initially attempted to copy as closely as possible the value and cost assumptions from the PBA Viability Assessments. This has been complicated by the use of fractions of dwellings in the PBA appraisals which clearly cannot be replicated in actual developments and therefore cannot be inputted into Argus which only allows whole numbers of dwellings. To compensate for these parts of dwellings we have adjusted the rates and areas to balance as closely as possible the revenues and costs in the PBA appraisal. Similarly, as we do not have full details of cash flow, build period and sales assumptions we have adjusted the interest rate to match the total cost of finance in the PBA appraisal.

In the PBA appraisal the residual land value is stated as £514,670 however it is clear from our appraisal

summary that this is not correct, the residual value is in fact in the order of £488,232 and it is the land value plus the cost of stamp duty, agent fees and legal fees that equates to £514,670. It would appear that there has been a “double counting” of the purchaser costs, as has been

identified at the Hambleton Examination. The same error is repeated in all the other appraisals.

Correcting this error reduces the residual value per hectare to in the order of £513,928, not the £541,758 stated at the top of the appraisal summary and in table 2.2 on page 7 of the Addendum Report.

In addition to the miscalculation of residual land value it was also identified at the Hambleton Examination that the allowance for S106 obligations has only been applied to the market dwellings. This is incorrect and should be applied to both market and affordable units. This being the case the correct S106 value for this appraisal is £19,000 based on £500 per unit. The same error is repeated in all the other larger site appraisals.

Again as was identified at the Hambleton Examination the level of allowance for sales and marketing within the development appraisal falls well short of the 3% referred to at paragraph 5.56 of the September 2013 Final Report and confirmed as carried forward at 2.3.14 of the Addendum Report.

For the 1 Hectare low Value Appraisal the total sales and marketing budget of £98,325 equates to just 1.85% of the schemes Gross Development Value. Again this reduced marketing budget has been applied in all the PBA appraisals in Appendix A of the Addendum Report. For the 1 Hectare High Value Appraisal, the total marketing budget is £91,645 which is only 1.63% of the development's GDV.

The minimum budget expected by funders would be 4% of the total Gross Development Value, made up of 1.5% agent's fees, 2% marketing and 0.5% legal fees. This is therefore the minimum level that we include in all market appraisals and valuations that we currently carry out for a variety of clients. In areas with lower than average values, or with a sub optimum development mix, or where sales rates are below average, the marketing percentage would need to be higher at 3 to 4%.

On the basis of a 3% marketing budget with only legal costs applied to the affordable units (as proposed by PBA) within the 1 Hectare Low Value Appraisal the total cost would be £132,064 and not £98,325. We would maintain that this is insufficient and a more realistic marketing

budget would be over £200,000 for a site of this type.

When the 1 Hectare Low Value Appraisal is corrected to reflect the above additional errors, the residual land value is reduced to in the order of £449,001. The net land value per hectare should therefore be £472,633 per hectare not £541,758 as stated at the top of the appraisal summary and in table 2.2 of the Addendum Report. On this basis the development overage would be reduced to £22,633 or £9.93/m<sup>2</sup> for the 1 Hectare Low Value Site.

Whilst we have not re-run the appraisals for the other sites it is clear the same errors has been made in all instances and needs to be addressed prior to any examination of the proposed Draft Charging Schedule.

#### Development Costs Assumptions

In addition to the above we would wish to restate a number of points regarding other appraisal assumptions which do not reflect conservative appraisal assumptions as recommended within the current CIL guidance:

Affordable Housing – Within the development appraisal assumptions 70% of the full market value is assumed for intermediate housing. This is too high and does not reflect the level of current offers received from RSL providers where no grant funding is available. The maximum allowance should be 65% for this tenure.

Benchmark Land Value – At paragraph 2.3.14 of the Addendum Report it states that “The revised assumptions used in the modelling are summarised in table 2. Other assumptions not mentioned in the summary table below remain unchanged.” In the September 2013 report other assumptions were set out on page 32. At paragraph 5.53 it stated that “In addition to the above build cost, a range of other costs of development are taken into account in our viability assessments. We make an allowance for on-site secondary infrastructure (e.g. utilities extensions, spine roads, strategic landscaping and drainage systems and the like, which are part of ordinary

development costs and would not be part of any S106 contribution) of £150,000 per ha in respect of 0.25 ha sites, increasing to £200,000 per hectare for 1 ha sites. In respect of larger sites this figure increases to £250,000 per ha, reflecting the need to a greater level of on-site secondary infrastructure provision.”

We have now concluded that the Benchmark Land Values quoted by Peter Brett are based on serviced sites so are not actually the net price that the landowner will receive. The land values will effectively need to be reduced by the cost of servicing etc. In the low value areas larger sites of 3.5 hectares would have their effective net land value reduced to just £200,000 per net hectare when adopting PBA’s own service cost allowance of £250,000 per hectare. In the high value areas the effective net land value is £650,000 per hectare.

This being the case we remain of the view that the Benchmark Land Values adopted in the Peter Brett

Appraisals are too low and do not provide landowners with sufficient return to encourage them to bring sites forward for development or redevelopment from existing uses. At the Preliminary Draft Consultation stage the cost of On Site Secondary Infrastructure was included within the development appraisal costs and not deducted from the landowners return. This should either remain the case or the costs of these works added to the Benchmark Land Values so as to provide landowners with a realistic level of return.

At 2.3.4 of the PBA Addendum Report they state that “We have also asked representors on several occasions to provide details of comparable transactions which may support assertions that previous assumptions were too low. No information was forthcoming.” We would however point out this is not correct and that we did provide an example of a recent land transaction that was provided to us by Linden Homes, a developer active in the area who attended the original workshop. This was detailed in the final paragraph on page 2 of our representations of the 28 February 2014 to the Preliminary Draft Charging Schedule. This transaction remains good evidence of a realistic level of land value in the area and should have been given due consideration when reassessing the Benchmark Land Values.

Discount from Marketing Prices – It is common practice at present for developers to offer significant sales inducements such as free soft furnishings, stamp duty payments, contributions to deposits, etc. in addition to any actual price reductions. The total value of these sales inducements will average in the region of 10% of the gross asking price and needs to be reflected in the sales revenues applied. At present it is unclear from the content of paragraphs 5.6.20 to 5.6.27 what level of discount has been allowed for in the Peter Brett sales values.

Development Period – Paragraph 5.6.38 of the Peter Brett report states that they have assumed sales rates of between 3 per quarter for small 0.25 hectare sites and 12 per quarter for larger 5 hectare sites. This is too optimistic in current economic conditions, particularly for the larger sites and will lead to an under estimation of interest costs.

Prudent developers, in close liaison with their funders, will tend to build out sites at a rate at which they expect to achieve plot sales. This is to avoid having large amounts of stock properties, to limit the size of work in progress on sites and to keep to minimum funding requirements (and the associated costs) which are currently both in short supply and costly. From commencement of development on site for smaller sites we would expect first potential sales completions to occur in month 6. Sales rates on sites remain at modest levels. A realistic average sales rate for sites of this type in this area would be around 2 sales per month from month 6 onwards, this period would be extended for larger sites requiring more initial infrastructure work or on brownfield sites requiring demolition and remediation works.

New sites in the best locations may achieve above the average when sales are first launched however, over the lifetime of the development they will fall back, and in the majority of cases will end up back around the average of 2 to 2.5 per month as pent up localised demand is met and the choice of properties on the site reduces.

Development Margin – We note that our previous comments regarding development margin being assessed against the Gross Development Value (GDV) of the scheme and not against Total Development Costs have been taken into account.

At paragraph 2.1.12 of the Selby Community Infrastructure Levy Addendum Report, PBA state they have

now amended their appraisals following the feedback received at the preliminary draft consultation stage. Development profit is now calculated at 20% of GDV for private housing and 6% of GDV for affordable housing. We would contend that this is still insufficient and makes little material difference to the overall profit margin of each development. This is illustrated by the sample appraisals at Appendix A. On this basis overall profit on GDV is 17.09%, which equates to 21.61% on costs.

The vast majority of developers of any scale will not fund developments entirely from their own cash reserves. That being the case they must be able to secure funding from banks or other lending institutions. It is the requirements of the funder that is the overriding factor and their margin requirements have remained broadly unchanged for a number of years. They still require an overall return of around 20% of Gross Development Value.

The capital value of affordable housing units for shared ownership is broadly equivalent to total development cost and for social and affordable rented properties it is considerably lower than total development cost. For affordable rented properties 6% of the GDV would only equate to about 3.50% return on total development costs as appraised by PBA. Given the only development risk that is mitigated by providing affordable housing on site is that associated with the sales revenue ultimately achieved, there remains considerable development risk in all other areas which is not reflected within the potential return currently proposed.

**Build Costs –** The build costs assumptions have decreased from those used in the Preliminary Draft

Charging Schedule. The Addendum Report states that build cost assumptions have been updated to reflect the latest information available from the BCIS. In response to our previous comments requesting clarification and stating that the BCIS will underestimate build costs, the Consultation Summary Report states that BCIS cost (indexed for Selby) applied is the median average for 'Estate Housing Generally'.

We have checked the proposed base BCIS costs for the Selby area. For Q4 of 2013 the Estate

## Housing

Generally Median Cost for the default (15 year) period was £819m2, (although it is more normal practice to adopt average costs, which are £837m2), this appears to compare favourably with the revised build cost set out in table 2.1 and applied within the appraisal summaries included at Appendix B of the Addendum Report.

The proposed allowance of 10% for external works has been applied to the base build cost and 5% for contingency has been applied to base build costs and external works. These percentages are carried forward from the assumptions made in the September 2013 report as confirmed at paragraph 2.3.13 of the Addendum Report. We would however point out that the contingency should be applied to all development costs not just base build costs and external works as explained further below.

External Works – This is normally adopted at 20% of the base construction cost when using BCIS cost data as a base cost, the 10% adopted in the appraisals is therefore too low.

Contingency – This should be a minimum of 5% of the total development costs for standard two storey new build residential development. Higher contingency sums of 7.5 to 10% are normally sought by funders for brownfield sites and refurbishment projects to reflect the greater uncertainties on costs and development periods. These are basic bank funding requirements without which development loans will not be available.

We note that the 5% contingency has only been applied to the basic build costs and external works which is incorrect. It should also apply to policy costs, professional fees and marketing costs.

Code for Sustainable Homes – There are few schemes for standard estate housing that have been developed for anything other than the current level of building regulations, which is now roughly equal to code 3 level. Given the council will be seeking new residential developments to accord with national standards and the move towards higher levels of the code as outlined in policies SP15 and SP16 of the Selby Core Strategy, we would have expected an additional

cost allowance would have been included to reflect the costs of achieving code level 4. When advising other Councils with similar policy requirements PBA have increased build costs to reflect policy requirements for achieving higher levels of the code for sustainable homes.

Cost research carried out by Sweets for the DCLG would suggest that the extra cost from current building regulations to achieve a code level 4 rating is in the order of 8.5% on top of the correct BCIS base build cost.

Bank Funding Costs – This has been included at 7%. Interest rates charged by funders are currently in the range of 6.5 to 7.5% for residential development and therefore the rate suggested would appear appropriate.

There are also additional costs that need to be included in all appraisals. Whilst there is significant variation in the market between funders and the terms offered to different developers, all funders will charge significant arrangement fees payable when funding is agreed for a project, monthly arrangement fees throughout the life time of the project and exit fees at the end of the project. Typical minimum fee levels are:

- 1% of the funding facility required as an arrangement fee;
- Monthly management and monitoring fees of at least £1,000; and
- 1% of the GDV as an exit fee.

#### Conclusion

We would recommend that the residential appraisal summaries are revisited to take into account the issues raised above and made available as soon as possible so that all interested parties can fully consider the revised methodology that has been applied. At present we must conclude that the proposed CIL levy is set too high. The consequence of too high a CIL levy would be to adversely affect housing delivery rates throughout the Selby Council Area.

We would welcome the opportunity to enter into further discussions with the council and their advisors to help ensure that the correct level of charge is adopted.

Following this representation SDC instructed the Consultants Peter Brett to look at the points raised in detail.

This has resulted in a change from 2 to 3 charging zones which are now:

Low Value Zone £0

Medium Value Zone £35

High Value Zone £50

Full details of the changed inputs are available in the Community Infrastructure Levy Revised Draft Charging Schedule Report November 2014.

<p>Yours faithfully</p>	<p>SDC will go through a second round of consultation and will welcome further comments.</p>
<p><b>Ian T Hinchey</b></p>	<p><b>Member of the Public</b></p>
<p>Sir/Madam,  Call it a failure of imagination on my part, but I fail to see how unsolicited and unwanted material – unread, but filed as potential future evidence - apropos the Community Infrastructure Charge invented to cover-up the expense to Selby tax payers of six years of criminality and its consequences.  And for the protection of which criminal Core Strategy I have suffered three false arrests and three kangaroo courts – the first kangaroo court timed to coincide with the ending of the lawful six-week period from the 22nd October 2013 Adoption by an Emergency Meeting of the FULL Council, up until the 3rd December during which protest and grievance against the adoption can take place by Judicial Review, and a final day timed to coincide with my 3rd December 2013 Hearing on charges manufactured by Selby Police working in conjunction with Selby District Council/York &amp; Selby Magistrates’ Court (the same court which defrauded me of Statutory Right relating to the criminal Core Strategy previously in 2011) so no evidence of criminality could possibly interfere with the unlawful Adoption of a Criminal Core Strategy because predetermined-ly based on an unlawfully chosen ‘core strategic site’ Olympia Park by the Emergency meeting!  With no regards whatsoever  Ian T Hinchey Ousebank where 37 families have for 6 years to date been forced to live under threat to life and limb and livelihood CONTRARY TO LAW; Section 17 Crime &amp; Disorder Act 1998, as it embeds in Planning Law, National Planning Policy Framework Section 8 Paragraph 69 Bullet Point 2, 2012, and DEFRAUDED of CONSULTATION MANDATED BY PARLIAMENT IN Section 16.2 Countryside &amp; Rights of Ways Act 2000</p>	<p>Comments Noted.</p>
<p><b>Jennifer Hubbard</b></p>	<p><b>Planning Consultant</b></p>
<p>Dear Sirs,   I should be grateful if you would treat – and acknowledge – these representations as an</p>	<p>Comments Noted.</p>

objection in principle to the Council adopting the CIL arrangements and to the detail of the arrangements as currently proposed:

- Having spoken to a number of Parish Councillors (representing different Parishes), it is my firm view that the majority of Parish Councils and local residents have no idea what CIL involves.

- The relationship between CIL and Section 106 Obligations is unclear with a strong likelihood that this will lead to double charging (though I accept the intention is that this should not happen).

- How CIL will be distributed is even more unclear. It is not acceptable or appropriate to leave such issues to be decided once CIL is up and running.

A recent report (summary attached) has identified that Parish Councils within areas where CIL is in operation have received only 1% of CIL receipts as opposed to the 15% suggested in the Council's current proposals. At the very least, all Parish Councils in the District should be informed of this latest research and given an opportunity to submit further representations before the Council takes any further decisions on the matter.

- In discussion with interested/involved/knowledgeable parties, it has been suggested

SDC agrees that Parish Council knowledge of CIL is not what it should be while there is also lot of misunderstanding and misinformation regarding CIL. SDC intends to hold a number of workshops and events in the coming months to work with Parish Councils and get them up to speed.

The Draft R123 List has been prepared in order to clearly identify what the CIL may be spent on and therefore will not lead to charging twice through both the CIL and S106s in line with the Regulations. SDC would not support or condone double charging. The council will also publish all CIL spending annually to be clear and transparent.

The Draft R123 has been prepared in line with the regulations and it is not considered appropriate at this time for the Council to be any more specific, for instance, it is not the role of the R123 list to identify spending priorities or amounts within it.

The attached Planning Resource Magazine article is not considered relevant to SDC as it has not yet adopted a CIL. The council will put in place a robust and transparent monitoring procedure and as mentioned above is looking to strengthen ties and communications with Parish Councils in regards to CIL and will ensure all CIL receipts due to a Parish are paid over.

The CIL regulations are clear that CIL is liable from

that the Council resolved to adopt CIL in order that the benefits of CIL receipts from large scale residential developments might be shared across the District. The relevant date for the payment of any CIL (should the Council go ahead with the proposals) is the date on which the residential development which generates the payments is granted planning permission. Assuming CIL is introduced in April 2015, the question needs to be asked - has the Council assessed which large scale developments are likely to remain without planning permission on that date and hence will be able to contribute to the actual as opposed to the theoretical yield to the District-wide fund? Clearly, two of the largest development areas (Olympia Park and land at Sherburn) will not be contributing. Has North Yorkshire County Council responded to the CIL consultation given that the County Council owns very large areas of land at Crosshills Lane, Selby, identified as proposed housing sites in the SADPD Preferred Option Plan but which do not have and are very unlikely to have the benefit of planning permission before April 2015?

· So – where are the significant receipts expected to come from to support the infrastructure developments across the District identified in the 123 list?

· The sub-division of the District into two charging areas, supposedly based on average house prices, is (a) flawed; (b) grossly unfair/unrepresentative and inconsistent with how the Council views market areas within Selby District for other purposes: specifically, in respect of CIL there are (apparently) only 2 housing market areas; in respect of the Core Strategy, there are 6 housing market areas, but only 1 as far as

*'commencement of development'* which is when a shovel goes in the ground. This is outside of the councils control.

The CIL regs are clear that all developments over 100 sq.m must contribute CIL therefore it is not only large scale developments that contribute. Therefore within the regulations every one of the 450 dwelling pa of the core strategy targets until 2027 must make a CIL contribution. It is also too early in the SAPP process to identify large scale developments but again all dwellings must make a CIL payment unless exempt under the regulations.

NYCC has been consulted at all stages of consultation and has commented at this draft stage, *'On the basis of evidence provided within the Viability Study, the County Council feels that the levy rates proposed for residential development are reasonable and justified'*

CIL receipts are not expected to be 'significant' the purpose of CIL is to 'plug the gap' the same way the current s106 system is expected to until it is abolished in its current form in April 2015. As all development over 100sq.m is expected to pay CIL the core strategy target of 450 dwellings pa is the development that is expected to fund CIL.

The CIL charging zones are not based on average house price but on a range of inputs and modelling scenarios as set out in the EVA.

The viability evidence has been re-modelled for private

affordable housing is concerned. It can't be all of them, so which is it?

· The explanation of the "CIL" sub-division appears to be that particularly, in the smaller settlements in the north western part of the District (i.e. the relatively wealthy settlements within the influence of the Leeds housing market), so few properties change hands that it would be wrong, statistically, to take these high-value property transactions into account. This is a clear example of the administrative tale wagging the policy dog. If there are practical reasons why it is not possible to subdivide the District into representative housing market areas each with a charging rate appropriate to the locality, then rather than continue with a fundamentally flawed process, the Council should not proceed with the CIL arrangements.

· Arrangements for reviewing the 123 list are not transparent – probably because no one knows how, why or when review(s) may occur. If the list must be reviewed (and could be changed) on an annual basis, it will be very difficult (impossible?) for anyone, whether those administering CIL or within the private sector, to know who exactly is required to pay what and when and for what purpose?

How has (or has?) the potential impact of the self-build exemption been taken into account in assessing the likely yield from CIL, particularly bearing in mind the government's strong support for self-build developments? Loopholes in what qualifies as a self-build project are already being exploited by national volume housebuilders. CIL proceeds are very likely to be significantly lower than anticipated (as suggested in the research at the fourth bullet point above).

market housing with a change to the residential rates..

This has resulted in a change from 2 to 3 charging zones which are now:

Low Value Zone £0

Medium Value Zone £35

High Value Zone £50

Full details of the changed inputs are available in the Community Infrastructure Levy Revised Draft Charging Schedule Report November 2014.

SDC will go through a second round of consultation and will welcome further comments.

The draft R123 list sets out it will be reviewed at least once a year.

The R123 list is in place to avoid double dipping when a development pays CIL so that a development cannot also pay a s106 on the same item. It is not a list for developers to know who to pay CIL revenue to or when. CIL will be paid directly to SDC on commencement of development and SDC will then 'pool' CIL receipts to spend on items on the R123 list as and when it deems appropriate. A transparent report of what the council spends the money on will be made available annually.

The self-build exemption is nationwide and outside of the control of SDC. The effects of this are still unclear as nationwide the CIL experience is still in its infancy. However early on it seems there are very few loopholes which self-build could be used for except for actual self-build developments. This is a situation the council will monitor and if this is a situation that appears to open to

<p>· It is very likely that Selby (town) will be able to claim the greatest justification for infrastructure improvements. Have Members representing the rest of Selby District a clear idea of what actual benefits might accrue from CIL to the areas they represent?</p> <p>· The administration of CIL is an unnecessary burden on the Council and the 5% of proceeds proposed to be “top sliced” to cover these costs would be better directed to providing community benefits through the existing S106 system.</p> <p>· IF CIL were to be rolled out nationally with clear and consistent rules then it may provide some benefits but the current piecemeal arrangements are confusing and (as with the distribution of landfill tax receipts), it is likely that in practice the distribution of funds will be controlled by a very small number of very focussed individuals and the receipts will not be spread fairly across the District.</p> <p>In conclusion  CIL has many of the characteristics of the Private Finance Initiative (PFI) system which was initially embraced by numerous Councils because it seemed a good idea at the time – but has proved to be an inefficient and costly system. It’s not too late for the Council to decide that CIL will represent poor value for the community as a whole, and particularly for the rural areas which are likely to be disadvantaged most.</p> <p>Yours faithfully,</p>	<p>abuse it is expected the regulations will be amended.</p> <p>This is a discussion for elected members and is not part of the CIL Draft Charging Schedule consultation and is not part of the EIP.</p> <p>The existing s106 system ceases to exist from April 2014, the CIL 5% administration cost is minimal compared to losing the current s106 revenue for community benefits and not adopting a CIL.</p> <p>Comments Noted.</p> <p>The current s106 system ceases to operate from April 2015, if the council does not adopt CIL then it can no longer mitigate against development and the whole of the district will lose out regardless of wealth or location.</p>
<p><b>MCM Developments</b></p>	
<p>I refer to the invitation to comment on the CIL re Consultation.</p> <p>In my opinion, the CIL concept is wrong in principal - another taxation amount that is added to</p>	<p>The CIL is not in addition to what is currently paid it replaces the current s106 tariff system as of 6<sup>th</sup> April 2015</p>

the cost of the dwelling that ultimately is borne by the purchaser? Inflating the price and adding to the affordability problem. (another £3000 per unit)

It should be remembered that each new house contributes each year with a community charge (rates) and this money should be used for infrastructure.

I do not accept the concept that you need to develop a tax system to pay for infrastructure that is not relevant to your particular building project or that sites having such infrastructure paid for by others will make the sites appeal somewhat more attractive to other developers (Oven ready)? Why should someone have to pay an extra £3000 from their purchase towards the CIL? added to the mortgage over 25 years (what is the true cost?)

The worthiness of the CIL document which for the most part is based upon a best guess land value and other unknowns e.g. G.D.V profits of 20% is laughable. Will the Council refund if the Developer does not make 20%? Why not ask for the levy to be paid after completion when the profit can be determined?

In summary, the CIL concept will only discourage developers/small builders from building new houses - the industry is being choked by these new taxes and this new way of thinking - getting something for nothing - We already pay taxes on any profits that are made.- Build more Council Houses - Councils can give themselves planning permission and take advantage of the uplift in land value - this can be used to discount the units making them affordable.

and is not in addition to the current system.

The CIL regulations are clear that CIL is to pay for strategic infrastructure which will be relevant to every building project such as those set out in the R123. The Government's intent of the CIL once embedded into the system is that the price of land when sold will decrease overall to reflect the additional CIL cost not be passed onto end purchasers

Comments Noted – The council has amended the proposed rates and will only implement a CIL rate that meets the regulations ensuring “an appropriate balance” needs to be struck between “a) the desirability of funding from CIL (in whole or in part)” against “b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development”.

<p>National government should be responsible for CI not builders.</p>	
<p><b>National Farmers Union</b></p>	
<p>Thank you for your letter confirming the second round of consultation is now open. I'm pleased to see changes have been made to the 'Proposed CIL Charge per sq. m' rates.</p>	<p>Support welcomed.</p> <p>Agricultural buildings (for farming use) will fall in to the within 'All other chargeable development' category.</p> <p>CIL is not charged on change of use (eg barn conversions), or in the event of demolition and new build, there will be a discount applied for the existing floor space.</p> <p>Agricultural workers dwellings will be subject to the Levy at the normal residential rate in that area. There may be exceptions if the unit falls under the social housing definition in the Regulations (as amended). This will be assessed on a case by case basis subject to the specifics of the individual planning application.</p>
<p><b>Marine Management Organisation</b></p>	
<p>Dear Sir/Madam,  Re: Selby Community Infrastructure Levy Draft Charging Schedule</p> <p>Thank you for inviting the Marine Management Organisation (MMO) to comment on the above consultation. I can confirm that the MMO has no comments to submit in relation to this consultation.</p> <p>If you have any questions or need any further information please just let me know. More information on the role of the MMO can be found on our website <a href="http://www.gov.uk/mmo">www.gov.uk/mmo</a></p>	<p>Comments Noted.</p>
<p><b>Natural England</b></p>	
<p>Thank you for your consultation on the above dated 14 July 2014</p>	

<p>Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.</p> <p>Natural England have no further detailed comments to make regarding the Selby Community Infrastructure Levy (CIL) Draft Charging Schedule however we welcome the inclusion of Green Infrastructure provision in the Regulation 123 list and Appendix A of the Selby CIL Economic Viability Study, taken from the draft Selby CIL Infrastructure Schedule.</p> <p>We have attached our previous response dated 28 February for your ease of reference.</p> <p>For any queries relating to this consultation please contact Merlin Ash by email at <a href="mailto:merlin.ash@naturalengland.org.uk">merlin.ash@naturalengland.org.uk</a> or on 0300 060 4271. For all other correspondence, please email <a href="mailto:consultations@naturalengland.org.uk">consultations@naturalengland.org.uk</a>, or if it is not possible to consult by email, please send to the above address.</p>	<p>Support Welcomed.</p>
<p><b>North Duffield Parish Council</b></p>	
<p>I am writing in my personal capacity as Chair of North Duffield Council, as opposed to on behalf of the Parish Council, as I believe that, once again, this consultation has been implemented without sufficient information being made available to the Parish Councils in the area.</p> <p>My major concerns on the information that I have seen so far is that there is not sufficient detail with regards to how the CIL money will be distributed. This is of particular concern to us as we have been identified as a Designated Service Village within the SADPD and need to ensure that we do receive infrastructure investment necessary for any development we are expected to accept.</p> <p>Secondly, whilst a figure of 15% for Parish Councils has been put forward in your discussion paper, I have heard that, in practice, much less is being paid out.</p>	<p>SDC acknowledges Parish Councils do not seem to have a thorough understanding of CIL and that there are a lot of misunderstandings and misinformation being exchanged. SDC plans to hold a number of workshops with Parish Councils to get them up to speed in the coming months.</p> <p>The Draft R123 has been prepared in line with the regulations and it is not considered appropriate at this time for the Council to be any more specific, for instance, it is not the role of the R123 list to identify spending priorities or amounts within it. Members will decide closer to adoption of CIL what items on the R123 list will be funded and the amounts.</p> <p>SDC has not adopted a CIL so no % has been paid out to Parishes. Examples from elsewhere in the UK are not</p>

<p>I would object, in principle, to the adoption of the CIL proposals until the detail is much more firm than it is now.</p> <p>Best Regards,</p>	<p>relevant to SDC. SDC will pay the full amount due to Parishes in line with the regulations and will publish a transparent annual report.</p> <p>Comments Noted.</p>
<p><b>North Yorkshire County Council</b></p>	
<p>Dear Sir / Madam, Selby District Council Community Infrastructure Levy Draft Charging Schedule and Viability Assessment:</p> <p>Consultation Response of North Yorkshire County Council Thank you for consulting the County Council in relation to the Selby District Council Community Infrastructure Levy (CIL) Draft Charging Schedule (DCS) and Viability Assessment. The County Council continues to welcome the fact that Selby District Council has committed to establish a CIL charging mechanism, and has continued to engage the County Council proactively and informally in assessing infrastructure needs in the lead-up to this consultation. Local Authority budgetary challenges are such that the funding and delivery of key pieces of infrastructure to support growth and development is becoming increasingly difficult. CIL therefore represents an important source to contribute towards this vital purpose.</p> <p>The County Council has an important role in providing infrastructure and services to support housing and commercial development arising from allocations made at District and Borough level within Local Plans and related development planning documents.</p> <p>The people of North Yorkshire rely on County Council services in many areas of their lives: education, public health and adult services, highways and transportation, Trading Standards, libraries, waste management and countryside services are some of a wide range of provision that the authority is responsible for.</p>	<p>Support Welcomed.</p>

The County Council wishes to make the following comments and observations in relation to the CIL Draft Charging Schedule and Indicative Draft Regulation 123 List. This response also has regard to the underpinning Selby CIL Viability Assessment (September 2013) and the Selby CIL Addendum Report (April 2014). In its capacity as Local Highways Authority, a separate response will also be submitted to sit alongside this one and will specifically address highways and transportation matters.

#### Draft Charging Schedule and CIL Viability Assessment

North Yorkshire County Council (NYCC) generally welcomes and accepts the Selby CIL Viability Assessment as updated in the Addendum Report (April 2014). Its methodology and logic would appear to be reasonable. The principle of the infrastructure funding gap within Selby is established and accepted, and has been informed in part by collaborative working on required infrastructure needs and costs with the County Council. It is noted that the District Council's identified funding gap across all requirements is estimated to be approximately £107m.

It is proposed by Selby that CIL will be charged against residential development (excluding apartments), at between £25 and £45 psm. The lower rate would relate to the southern part of the District and include Selby Town and the Olympia Park strategic development site; and the higher rate would apply within the northern part of the District incorporating Sherburn and Tadcaster. The position of having a differential CIL as expressed for residential development would appear to be reasonable, justified and appropriate.

On the basis of evidence provided within the Viability Study, the County Council feels that the levy rates proposed for residential development are reasonable and justified and should not act to stifle development interest or prejudice its viability. Indeed, when benchmarked against levy rates in operation elsewhere within the country the rates are acknowledged (paragraph 5.2.6 of Ryedale CIL Viability Study Addendum Report, April 2014) to have been set at a level in line with those that have been set and applied after being considered viable by an Examiner.

Given the budgetary pressures associated with the delivery of infrastructure at this time, any inability to fund critical infrastructure could prejudice developments, and hence economic growth, from occurring. In this respect, the County Council notes

Support Welcomed

Support Welcomed.

Support Welcomed.

Support Welcomed.

that evidence within the CIL Viability Study Addendum Report states that the proposed levy rates for residential development are around 74% (lower value range) and 70% (higher value range) of the theoretical maximum that could be applied. Government guidance is that the levy rate should fall within a range of 50-75% of the theoretical maximum. As such the County Council feels that the proposed levy rates strike a reasonable, proportionate and justified balance.

The case for levying CIL charges in relation to supermarkets (£110 psm) and retail warehousing (£60 psm) would appear to be reasonable and justified.

The County Council welcomes and supports the proposal to levy a nil charge rate upon public and institutional uses, including community facilities, and also in relation to the development of apartments. These categories would include the County Council's 'Extra Care' accommodation and support programme for older people. Indeed, this is particularly important in terms of the County Council's role in the provision of extra care accommodation, where extra care housing is being developed by a not-for-profit social landlord in partnership with the County Council and District Council. Any levying of CIL in relation to such provision would adversely affect its financial viability and therefore prejudice delivery.

However, the County Council is less convinced of the case for levying a nil rate charge upon 'all other chargeable development' excluding apartments. Given the scale of the infrastructure funding gap identified by the District Council, and within the context of the challenges of funding essential infrastructure to support growth, then the County Council considers that the levying of a nil rate charge may be a lost opportunity.

## 2.0 Draft Regulation 123 List

The County Council welcomes in principle the publication of a Draft Regulation 123 List, outlining the types of infrastructure that the District Council seeks to support through the use of CIL receipts. Indeed, the Draft List reflects positive and proactive joint working between the two authorities over recent months. However, the Draft Charging Schedule and Indicative Draft Regulation 123 List have also been prepared and subjected to consultation ahead of work to develop the District's Local

The CIL regulations are clear that CIL must be set against viability evidence, which in this instance is not viable.

It is intended to review the R123 list at least once a year.

Plan Sites and Allocations Development Plan Document. The following comments are therefore made with the caveat that the Indicative Draft 123 List should be considered as provisional and subject to further work, consultation and revision as the Sites and Allocations DPD emerges and reaches adoption.

The County Council would wish to make the following service-specific comments in relation to the Indicative Draft Regulation 123 List as presented:

i) Local Education Authority (Children and Young People's Service)  
CYPS have no specific comments to make. We are pleased to see that the option of s.106 agreements for education contributions has been retained for the larger developments.

ii) Local Highways Authority (Highways and Transportation, Business and Environmental Services)

To be set-out in detail within a separate response submitted within the Authority's capacity as Local Highways Authority.

It is understood that Selby District Council proposes to introduce an instalments policy for the payment of CIL over fixed-time periods depending upon the amount of levy liable. Whilst the County Council accepts that the Regulations allow for the District Council to introduce such an instalments approach, it is very much the case that essential (and sometimes sizeable) pieces of infrastructure are required to be provided up-front or in the early stages of developments.

As highlighted in our earlier PDCS consultation response, the County Council would be concerned if the payment of CIL by instalments delayed the receipt of funds for the infrastructure that it is required to provide as this could result in higher borrowing costs and risks being taken on by NYCC at a time of significant budgetary pressures. Indeed it could even result in it not being possible to deliver vital infrastructure and therefore prevent development from commencing. As a result of such a policy the County Council would seek to recover directly a substantial part of the additional costs arising. The County Council would therefore strongly urge that detailed discussions take place between the two authorities prior to any decision regarding the adoption of an instalments policy.

Support Welcomed.

SDC has introduced an Instalments Policy in order not to inhibit or stall development. It is deemed fair and appropriate.

Comments Noted.

<p>Similarly the possibility is noted within the Draft Instalments policy that land may be accepted as payment in lieu of CIL. This again could have implications where infrastructure (for example a new school) is being provided by the County Council, and in such cases we would strongly urge that dialogue takes place between the two authorities prior to any such agreement being reached in order to ensure that it does not prejudice our ability to deliver the infrastructure required.</p> <p><b>Next Steps</b></p> <p>The County Council remains keen to work alongside, and support, the District Council throughout the process of establishing its CIL charging regime, including in the lead-up to and during Examination if required.</p> <p>Beyond this, to demonstrate effective collaborative working, the two authorities have agreed in principle to, and have indeed commenced, the drafting of an Infrastructure Delivery Statement (IDS) that will seek to maximise opportunities for unlocking and facilitating the planned growth and development that our communities and economy need. The IDS would also aim to reach solutions for meeting the shortfall on infrastructure items needing to be financed outside of the CIL regime.</p> <p>Once again the County Council welcomes this consultation and the joint working that has preceded it. If you wish to discuss any aspect of this response in more detail then please do not hesitate to contact Carl Bunnage, Regional and Strategic Policy Team Leader, Business and Environmental Services (tel. 01609 532523, <a href="mailto:carl.bunnage@northyorks.gov.uk">carl.bunnage@northyorks.gov.uk</a>).</p> <p>Yours faithfully</p>	<p>Comments Noted.</p>
<p><b>NYCC Local Highways Authority</b></p>	
<p>SELBY DISTRICT COUNCIL —COMMUNITY INFRASTRUCTURE LEVY (CIL) 2014 DRAFT REGULATION 123 LIST</p> <p>Thank you for consulting North Yorkshire County Council (NYCC) as the Local Highway Authority (LHA) on the above consultation document.</p>	

<p>The Local Highway Authority (LHA) support the principles of Selby’s draft regulation 123 list, which sets out a list of infrastructure requirements it intends will be funded or partially funded through CIL.</p> <p>The LHA also notes your comments regarding the need to revise and refine this list upon adoption of CIL and with this in mind would request that the results of the recently commissioned Transport assessment work are considered before the final adoption of CIL. NYCC’s Transport and Development Officers are providing advice to Selby District Council and their consultants; Pell Frischmann, regarding the development of Selby’s Transport Assessment Study, necessary evidence required to support Selby’s future Sites and Policies document. The outcome of this assessment will identify a number of junction improvements/mitigation measures which will need to be delivered before the end of the adopted Local Plan. The LHA will expect to see evidence regarding the guaranteed delivery of the identified junction requirements.</p> <p>Yours Sincerely</p>	<p>Support Welcomed.</p> <p>Comments Noted.</p>
<p><b>Redrow Homes – Hillman</b></p>	<p><b>Johnson Brookes</b></p>
<p>We comment on the CIL in relation to the safeguarded land west of Main Street, Hillam on behalf of Redrow Homes, who have an interest in the site.</p> <p>We consider that the 40% affordable housing requirement across the whole of the District along with the CIL requirement is too onerous, despite the Addendum Report suggesting that all of the scenarios tested are demonstrably viable. It remains the case that the District are failing to meet their housing requirement as sites are not being delivered, which is partially based on the onerous affordable housing policy. We suggest that the Council revisit the Affordable Housing policy and we request a review/update of the Affordable Housing SPD. We object to the Indicative Draft Regulation 123 List in relation to Primary and Secondary Education. The large scale residential sites will effectively be charged twice. Such schemes will pay the CIL charge per sq.m as well as being expected to provide primary schools as an integral part of the development. It should be made clear that where this scenario applies the CIL charge should be proportionately reduced. In any case it is not clear what proportion of the £25 or £45 CIL charge is ring fenced for education contributions.</p> <p>I look forward to being kept informed of the progress of the CIL.</p>	<p>At this stage SDC do not intend to re-visit the Affordable housing requirement as it has only recently passed examination.</p> <p>However the viability evidence has been re-modelled for private market housing with a change to the residential rates. SDC will welcome further comments at the next round of consultation.</p> <p>It is considered that the approach as outlined in the R123 List is not double dipping.</p> <p>At present the Council cannot identify specific sites which may require school provision on site. As work progresses on the Site Allocations and Policies Plan (SAPP) this will be</p>

	<p>clarified and may require a review of the CIL on adoption of the SAPP.</p> <p>On-site S106s will continue to be negotiable based on viability.</p> <p>Further guidance will be provided in the lead up to adoption of the CIL which will clarify how it will be implemented.</p>
<p><b>Redrow Homes – Newton Kyme</b></p> <p>We comment on the CIL in relation to Redrow Homes’ land interests at Newton Kyme. We consider that the 40% affordable housing requirement across the whole of the District along with the CIL requirement is too onerous, despite the Addendum Report suggesting that all of the scenarios tested are demonstrably viable. It remains the case that the District are failing to meet their housing requirement as sites are not being delivered, which is partially based on the onerous affordable housing policy. We suggest that the Council revisit the Affordable Housing policy and we request a review/update of the Affordable Housing SPD. We object to the Indicative Draft Regulation 123 List in relation to Primary and Secondary Education. The large scale residential sites will effectively be charged twice. Such schemes will pay the CIL charge per sq.m as well as being expected to provide primary schools as an integral part of the development. It should be made clear that where this scenario applies the CIL charge should be proportionately reduced. In any case it is not clear what proportion of the £25 or £45 CIL charge is ring fenced for education contributions. I look forward to being kept informed of the progress of the CIL.</p>	<p><b>Johnson Brookes</b></p> <p>At this stage SDC do not intend to re-visit the Affordable housing requirement as it has only recently passed examination.</p> <p>However the viability evidence has been re-modelled for private market housing with a change to the residential rates. SDC will welcome further comments at the next round of consultation.</p> <p>It is considered that the approach as outlined in the R123 List is not double dipping.</p> <p>At present the Council cannot identify specific sites which may require school provision on site. As work progresses on the Site Allocations and Policies Plan (SAPP) this will be clarified and may require a review of the CIL on adoption of the SAPP.</p> <p>On-site S106s will continue to be negotiable based on viability.</p> <p>Further guidance will be provided in the lead up to adoption of the CIL which will clarify how it will be implemented.</p>

<p><b>The Coal Authority</b></p>	
<p>Thank you for consulting The Coal Authority on the above document.</p> <p>Having reviewed the document, I confirm that we have no specific comments to make at this stage.</p> <p>In relation to your request for updated contact information for your database I've set out the requested information overleaf.</p> <p>Should you require any assistance please contact a member of Planning and Local Authority Liaison at The Coal Authority on our direct line (01623 637 119).</p> <p>Yours sincerely</p>	<p>Comments Noted.</p>
<p><b>The Theatres Trust</b></p>	
<p>Our Ref.: A/5995</p> <p>The Theatres Trust is The National Advisory Public Body for Theatres. The Theatres Trust Act 1976 states that <i>'The Theatres Trust exists to promote the better protection of theatres.</i> It currently delivers statutory planning advice on theatre buildings and theatre use through the Town &amp; Country Planning (General Development Procedure) (England) Order 2010 (DMPO), Articles 16 &amp; 17, Schedule 5, para.(w) that requires the Trust to be consulted by local authorities on planning applications which include <i>'development involving any land on which there is a theatre.'</i></p> <p>The Addendum Report shows the Revised Charging Schedule on page 20 and the nil rate remains for community facilities which we support despite the word 'cultural' being omitted.</p>	<p>Support Welcomed</p>

<p>D1, D2 and some sui generis uses (e.g. theatres) often do not generate sufficient income streams to cover their costs. Consequently, they require some form of subsidy to operate and this type of facility is very unlikely to be built by the private sector.</p>	<p>SDC is proposing a £0 rate for all uses except private market housing (exl flats) supermarkets and retail warehouses.</p>
<p><b>Sainsbury's Supermarkets Limited (SSL)</b></p>	
<p>1. Selby CIL DCS Representation</p> <p>1.1 Sainsbury's Supermarkets Limited (SSL) objects to the proposal within the Selby Community Infrastructure Levy (CIL) Draft Charging Schedule (DCS) to set a differential CIL charge for development defined as 'supermarkets' at £110 per square meter (psm).</p> <p>1.2 Despite SSL's representations to the Selby CIL Preliminary Draft Charging Schedule (PDCS) consultation, which stated SSL's belief that Selby Council's viability evidence base was flawed, SSL remains of the view that this remains the case.</p> <p>1.3 The CIL Regulations permit differentiation by scale as appropriate if, and only if, there is clear evidence that the proposed threshold marks a point at which the viability characteristics of the type of development change. If there is no material difference in viability between development on either side of the threshold then there is no justification for treating similar development differently.</p> <p>1.4 The Selby CIL Addendum Report, prepared by consultants PBA and published in April 2014, introduces a definition for 'supermarkets' over pages 8 and 9. This highlights a key characteristic of 'supermarkets' as having a sales area for goods in excess of 500 square meters.</p> <p>1.5 Firstly, there is nothing, of any substance, in the "relevant evidence" supporting the DCS (i.e. the Selby CIL Addendum Report and previously published Selby CIL Viability Report) that provides adequate "fine grained" evidence that there is any viability difference either side of the proposed 500 square meter threshold for 'supermarket' use.</p> <p>1.6 The additional viability analysis that has been prepared and published fails to provide</p>	<p>Following the consultation of the CIL Draft Charging Schedule the Council has instructed Peter Brett to update the modelling and assumptions used to inform the retail charging rates. The full details can be found in the Community Infrastructure Levy Revised Draft Charging Schedule Report November 2014.</p> <p>The responses to all these points are set out in detail in the Community Infrastructure Levy Revised Draft Charging Schedule Report November 2014.</p>

any adequate, evidence that substantiates this threshold is an appropriate one.

1.7 The closest 'archetypes' tested are at 1,200 square metres (GIA) for 'neighbourhood convenience', and 4,000 square metres (GIA) for a 'supermarket'. These appraisals do not test the implications on viability of setting a threshold of 500 square metres, for both archetypes far exceed this proposed threshold.

1.8 Moreover, these 'archetypes' are not consistent in their underlying assumptions – with differing cost and value points utilised. Hence, they do not compare a 'like for like' for the purpose of setting a differential rate for a development type.

1.9 In the absence of adequate evidence, the proposed threshold of 500 square meters for a 'supermarket' use cannot, properly, be maintained.

1.10 Secondly, this threshold and the wider definition are not incorporated within the Selby CIL DCS. As a result, 'supermarkets' and 'retail warehouse' remain undefined for the purposes of applying the CIL DCS. This ambiguity will undoubtedly give rise to challenge, and must be resolved and consulted upon within proposed modifications to the Selby CIL DCS prior to submission to the Planning Inspectorate for CIL Examination.

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1.11 Other key characteristics cited in the definition applied to 'supermarkets' within the Selby CIL Addendum Report are:

- The majority of customers will use a trolley to gather a large number of products;
- The majority of customers will access the store by car, using the large adjacent car parks provided; and
- Servicing is undertaken via a dedicated service area, rather than from the street.

1.12 SSL disagrees that these suggested characteristics are prevalent in all convenience retail stores over 500 square meters. This definition, as it stands, does not form a robust basis upon which to base a CIL charging regime within Selby.

<p>1.13 The absence of adequate viability evidence also suggests that there is a potential state aid issue - with smaller stores having a materially lighter cost burden (and effective subsidy or 'selective advantage') than larger stores, without there being an objective justification.</p> <p>1.14 Without appropriate viability evidence to justify this threshold, SSL ask the Examiner to consider how it is possible to reach a decision as to whether Selby Council has struck an appropriate balance between the desirability of funding infrastructure through CIL and the impact upon development viability for these uses. This is a requirement under CIL Regulation 14.</p> <p>1.15 SSL request that Selby Council provides definitive viability evidence to demonstrate that the threshold adopted represents the correct balance, with a robust and clear definition applied within the CIL DCS, or modifies the proposed CIL rate so that a common rate is applied to all retail development.</p>	<p>The responses to all these points are set out in detail in the Community Infrastructure Levy Revised Draft Charging Schedule Report November 2014.</p>
<p><b>Wakefield Council</b></p>	
<p>Dear Sir/ Madam</p> <p>Thank you for consulting us on your Community Infrastructure Levy Draft Charging Schedule. I can confirm that Wakefield has no objections to the rates proposed in the DCS. The residual land valuation appraisal approach is consistent with the approach used by Wakefield in setting the rates for our recent PDCS, for which the consultation recently closed on 6th August.</p> <p>The rates proposed in Selby's DCS are comparable to those proposed by Wakefield in the PDCS, in particular on the boundary between the two districts. Therefore, we do not consider that the proposed rates and the charging zones would result in any significant cross boundary implications. In addition, we consider that the proposed rates would achieve the correct balance in terms of the viability of development and funding the infrastructure necessary to support the growth of the district.</p> <p>I have attached the completed database update form.</p> <p>I note that we did not receive a response from Selby in relation to our PDCS consultation.</p>	<p>Support Welcomed.</p> <p>Support Welcomed.</p>

<p>However, should you wish to make any comments, details can be found on our website at the link below. Please email any comments directly to me or my colleague Debbie Holland. We are hoping to be in a position to consult on our DCS before the end of the year.</p> <p><a href="http://www.wakefield.gov.uk/residents/planning/policy/community-infrastructure-levy">http://www.wakefield.gov.uk/residents/planning/policy/community-infrastructure-levy</a></p> <p>Kind regards</p>	
<p><b>Whitley Parish</b></p>	
<p>Dear Sirs,</p> <p>The parish council has the following comments and observations with regard to the CIL consultation documents published on your website:</p> <p>1. The councillors disagree strongly with the proposal to have a two-tier levy with the southern part of Selby District having a much lower level than the northern part. The following points reinforce our views on this matter:</p> <ul style="list-style-type: none"> <li>☑ Developers are almost certain to choose available sites in the villages in the southern part of the district that have already seen heavy development without any matching benefits in terms of infrastructure. Development should be spread evenly across the district and no parts should be expected to accommodate the bulk of future housing development.</li> <li>☑ Infrastructure costs will be more or less equal in all parts of Selby district therefore those parts with the lower levy applied will get less value in terms of local infrastructure provision.</li> <li>☑ Many of the villages in the northern parts already have better infrastructure than those villages in the southern parts. A two-tier levy will further accentuate the inequality.</li> <li>☑ Developers will be drawn to the parts of the district where costs are lower and again leading to further developments in villages that have already seen a large growth in the numbers of housing. This growth has come without corresponding improvements in water and sewerage services, access to OFGEM controlled fuel sources, school places,</li> </ul>	<p>The charging zones are based on viability and the difference reflects this.</p> <p>As CIL is based on viability in effect the CIL charge is the same in the high and low value areas as it is based on the viability of the development.</p> <p>CIL is to be spent on strategic infrastructure which will benefit the whole of the district not just the area it was levied.</p> <p>As above.</p> <p>The CIL cost will not be lower or higher as the CIL is based on viability of the development therefore CIL in effect is the same whatever zone it is based in and neither an incentive or disincentive.</p>

<p>recreational facilities, high-speed Internet access and road &amp; pedestrian footpath improvements. This growth in the housing stock has resulted in increased traffic on the A19 through Whitley yet Section 106 levies on the new housing have not provided a muchneeded pelican or light-controlled crossing on this busy and dangerous A road.</p> <p>☒ Whitley was linked to Eggborough as a primary village against the wishes of both the parish council and many of the residents. Whitley has seen a 100% increase in the housing stock since 2002 and all the possible sites within the existing village envelope have now been used for house building. Is the next step the use of farming and greenbelt land?</p> <p>2. The use of any CIL funds should be after consultation has taken place with the parish councils and local residents. What are the proposals for allowing local people to have some say in how any CIL is used?</p> <p>The parish council will be grateful if you will note the above comments and consider scrapping the two-tier levy when finalising the Selby DC policy on CIL.</p> <p>Yours sincerely,</p>	<p>This is outside the remit of CIL.</p> <p>CIL has to be spent on strategic infrastructure, SDC has set out what it intends the CIL to be spent on in the R123 list. The R123 list is intended to be reviewed at least once a year when adopted and will go through a public consultation.</p> <p>15% of CIL revenue or 25% if a Neighbourhood Plan is in place will automatically be handed over to Parish Councils. It will be up to the Parish Council to decide what this money is spent on and will have to impliment its own consultation and monitoring methods to work with the community. This is likely to be far more money than the Parish Council would have received under the soon to be abolished s106 system with total control over spend with the Parish Council.</p> <p>Following this consultation the viability evidence has been re-modelled for private market housing with a change to the residential rates and zones. SDC will welcome further comments at the next round of consultation.</p>
<p><b>York Consortium of Drainage Boards</b></p>	

<p>Dear Sir/Madam</p> <p>I respond in regard to the latest consultation on the proposed CIL. None of the Boards would have any further comments to make at this stage and would refer you to the comments previously submitted as part of this process.</p> <p>Yours faithfully</p>	<p>Comments Noted.</p>
<p><b>Yorkshire Ambulance Service</b></p>	
<p>We comment on the Draft Charging CIL on behalf of the Yorkshire Ambulance Service. The Indicative Draft Regulation 123 List is a little vague and is considered it should be more detailed given that this has gone beyond the Preliminary Draft Charging stage and we are now at the Draft Charging Schedule stage. There are no individual infrastructure projects listed other than a reference to A64 flow and capacity improvements on the main junctions and route of the A64.</p> <p>On behalf of the Yorkshire Ambulance Service it is considered appropriate for the Ambulance Service requirements to be included on the infrastructure list. As a result of additional residential development, the Ambulance Service may be required to deliver additional response units in order to meet nationally set response targets. Such requirements should be included on the Regulation 123 List within the 'Capacity Increases in GP surgeries and dentist's office'. This should also include Emergency Services provision. It is appropriate, fair and reasonable for the YAS requirements to be partly funded via CIL.</p> <p>The Infrastructure List at Appendix one of the EVA (September 2013) is a lot more detailed and it is not clear why this level of detail is not included in the Indicative Draft Regulation 123 List.</p>	<p>The Draft R123 has been prepared in line with the regulations and it is not considered necessary at this time for the Council to be any more specific.</p> <p>It is not intended for the CIL to contribute to infrastructure items not on the R123 List, other infrastructure will be funded through other means. The List can be reviewed as necessary and the Council notes the request by the YAS for future consideration.</p>
<p><b>Yorkshire Wildlife Trust</b></p>	
<p>Thank you for giving the Yorkshire Wildlife Trust the opportunity to comment on plans for the Selby CIL. The information on what is new in this stage of the consultation, provided under the FAQ's section, was most useful. We suggest this information is easier to find in future stages of consultation, e.g. by placing a link titled 'what is new' on the first page.</p> <p>The YWT is commenting on the draft Regulation 123 list, not on the Draft Charging Schedule. We are happy to see that 'Green infrastructure and off-site recreation open space 5%' is</p>	

included on the R123 list. In the absence of more detailed information, we presume this refers to Green Infrastructure projects listed under Appendix 1 of Selby's draft Infrastructure Delivery Plan (Jan 2014), including those in which the YWT is identified as a potential partner:

- p.19 – Area wide - Selby Green Infrastructure Strategy;
- p. 20 – Selby Town & Olympia Park - Selby Greenspaces access, biodiversity, natural play, community engagement;
- plus the additional project at Barlow Common LNR - Access and Biodiversity improvements paths and access infrastructure, fencing for livestock management, scrub management (provided in an April 2014 update by the YWT).

We note that Selby DC will have to develop a mechanism for distributing money from a district-wide 'Recreation Open Space and Green Infrastructure' fund (and consult on it) when the CIL is brought into force. The YWT would be grateful to comment again at that stage.

Comments Noted