The following statements are in addition to representations made during the consultation, which will have already been read, and mostly responded to in ADC’s Statement of Representations; with the aim of not repeating what has already been said. They address some issues raised by ADC’s replies.

These statements cover:

A) Build to rent (BTR) and very small sites development
B) BTR Viability on small sites
C) Other small sites viability
D) Definitions/Liability
E) Discretionary relief

Statement (A): Build to rent (BTR) and very small sites development

My concerns about CIL viability are for small sites in the coastal urban area, which may accommodate 1 house; or 2 flats at 2 storeys, 3 flats at 3 storeys, which as flats would be rated £0 in Zone 4 while houses would be charged £100/sqm.

Currently the number of small site developments is relatively low in comparison to the total dwellings in the Local Plan, although newly elected ADC councillors wish to reduce/remove some large greenfield allocations due to their flooding concerns. Even without this, there is a general need for more housing to be built, for economic and ‘sustainable development’ reasons; and Plan numbers are ‘a floor not a ceiling’.

Adding homes on small sites within urban areas like Bognor Regis is likely to be more sustainable than on a large allocation on the outskirts of a town. A 5 or even 10 minute walk to a railway station and town centre (with shops and jobs) is bound to be more sustainable than other locations.

It seems inconsistent for ADC to argue that on one hand the sites I am concerned with are a very small portion of Plan numbers, and are thus not significant; while on the other hand arguing that “Contributions from the full range of sites will make an important contribution to the provision of infrastructure” (in reply to DCS2019/15).
It appears we don’t know whether individual dwellings are built by small developers (as all small developments are exempt from an affordable housing contribution) or self-builders (this number should become apparent from future CIL self-build exemption records). Nor whether a new single dwelling is rented or owner occupied after completion.

There may be several reasons why a homeowner/landlord could wish to BTR rather than build for sale. An infill site may be better suited to rental, e.g. for access reasons or neighbourly considerations (things which can be covered in a lease, easier to enforce than a covenant on a sold property). It is easier to control or remove a tenant, than choose or remove a neighbour (you might choose the first buyer, but cannot control who is subsequently sold on to). Even the proposed removal of Section 21 ‘no fault’ evictions shouldn’t entirely stop controls on tenants.

In the future, sustainability imperatives could well lead to less use or ownership of private cars e.g. by increased public transport and car sharing/pooling schemes. Thus space currently needed for onsite garages/open parking provision would be likely to reduce, especially in urban areas, resulting in onsite space being freed-up for additional small individual residences. So numbers of such ‘windfall’ dwellings could increase, and on sustainability grounds ought to be encouraged (without development of truly back gardens).

Changes sought- exemption from CIL, or zero rating, of new single BTR, and non-self-build (small builder/developer constructed) dwellings on single small sites within Zone 4.

Statement (B): BTR Viability on small sites

PPG on Viability (Paragraph: 007 Reference ID: 10-007-20190509 Revision date: 09 05 2019) recognises that “ particular types of development ... may significantly vary from standard models of development for sale (for example build to rent...“. An obvious point is that development costs and profit, and re-imbursement for CIL paid by the developer, will not be realised within a few months of completion by achieving a sale.

Income from rent for small BTR will take many years to re-coup these amounts. This is unlike the well-known very large BTR developments that can be sold on the open market to large institutional investors (e.g. pension funds); developments that seem unlikely in districts like Arun (and weren’t envisaged in the Plan). It is true that some new-builds can be Buy to Let (e.g. by individuals using pension pot freedoms, so avoiding a mortgage) but these benefit from substantial economies of scale by buying a dwelling on a large volume-builder housing estate: there have been few examples in the Bognor rental market, but they do provide some newly built rental properties.

The Evidence Base for Arun CIL only mentioned BTR in quotes from NPPG: it didn’t look at BTR specifically, perhaps not surprisingly. The closest category it investigated was purpose
built student accommodation, which it found would be unviable with CIL in place: so ADC has now excluded this accommodation from CIL, which is welcome. But ADC’s Head of Regeneration has made clear that students are, and still will be even with Chichester University’s new campus, also accommodated in the private rented sector. The fact that purpose built student accommodation is unviable with CIL indicates, in the absence of other evidence to the contrary, that CIL would be unviable on other purpose built rented property; and so should be exempt or zero rated.

Assuming CIL is unviable for new build rented property, charging CIL is likely to deter its provision, so no CIL would be obtained: meaning no contribution towards the Plan’s funding gap; as well as an absence of such new accommodation. Alternatively, not charging CIL would allow such developments to come forward: this also wouldn’t help the funding gap; but at least the benefits of this new accommodation (as stated in previous representations) would be realised; and the numbers of these properties thereby identified. ADC Officers have told me CIL rates may be reviewed in future (presumably alongside all the other planning work demanding attention, with limited staff resources). So if it became clear that CIL ought to be levied on BTR, this could be done via such a review. That is surely the right way to approach the uncertainty and lack of direct evidence; and follows the precautionary approach that ADC professes.

The absence of a CIL charge, if anything, may encourage new BTR development to come forward and be specifically identified as such (whereas it is probably currently ‘hidden’).

It is clear to me that an individual BTR with CIL charge levied would be unviable, as I have been considering this. As one is looking into making a BTR work, it doesn’t help ‘market confidence’ for the introduction of CIL to reduce viability and deliverability at the other end of the process.

ADC say that CIL liability would be offset by the GIA of existing buildings so generating a “negligible CIL charge” (Statement of Representations Appendix 3, 2.0), but the extent of this is unclear (see Statement on Definitions/Liability). Some sites might benefit significantly, but not to the extent that would remove CIL as a viability issue. Other sites might not, or only marginally.

If a CIL charge were indeed to be “negligible” for small sites with which I am concerned, then the effect of exemption or zero rating them would presumably have little effect on CIL funds generated; while encouraging development.

In terms of a gross development value, a CIL charge of £100/sqm on a 100sqm house with a projected completed cost of £200,000 would equal the 5% figure which the CIL scheme aims for the CIL charge to be below. A CIL offset could make the liability marginally below 5%. While £200,000 might seem a low figure, this is broadly comparable with ‘for sale’ prices locally and also accords with mortgage conditions for rent amounts likely to be achieved
locally (published rent comparators for small – e.g. 2 bedroom houses locally are few in number, although this may indicate a market opportunity: this doesn’t necessarily show a very low number of such properties for several reasons).

NPPG suggests the possible use of capitalised rental income, but the Draft CIL doesn’t give a figure for this against which CIL could be assessed (in the way that it gives a 5% figure of Gross Development Value).

In any case, a small BTR may not be subject to the same considerations as a build for sale house. Build for sale will be more governed by purely economic and profit factors. Whereas BTR may also include: benefits of a long-term income source (perhaps as a pension/supplement); other personal financial factors; land already owned (not being bought for a development and sold-on); and access and/or neighbourly considerations (as mentioned already in these Statements). Even a ‘good’ capitalised rental income figure, which could be seen as able to support/absorb CIL, may not apply to BTR schemes which have a low capitalised rental income but are still worth building.

In this statement, I am unsure how much to give about a specific example; being mindful that CIL Examinations are not intended to consider individual sites. But I have in mind other instances where the small BTR development typology/category would be challenged by a CIL charge.

In previous representations I queried why Zone 4 flats were £0 CIL rated, while houses would be charged £100 per square metre. The response was that flats were more expensive to construct. Helpfully ADC has pointed out the basis for their assumption: small urban site flats (9no. on 0.12ha net) being more expensive to build at £1,626/sqm than houses (8 no. on 0.18ha net) on a small urban site at £1,332/sqm. However, for the type of site which concerns me development might comprise either 1x 2 bed house or 2x 1 bed flats (which need not have any shared areas (‘wasted’ circulation space) if with 2 front doors). While there would be extra costs for flats (2x kitchens and bathrooms) compared to one house, the cost of foundations, roof and external areas would be the same for two flats as for a house, with some architectural cost savings for the flats. Therefore the total building costs of flats (and any CIL charges) would be shared between the two units; with, in the case of flats, two rental income streams resulting. Obviously I don’t know the location or characteristic of the two sites in Appendix 4 to the CILVU (page 77); which may have affected the market value per square metre achieved. For the two alternatives I am considering for the same site, any difference in value per square metre between 1 house and 2 flats would presumably depend on the attractiveness of the types of accommodation provided. Therefore, for Zone 4, I don’t see why flats are £0 CIL rated, but single houses are rated at £100 per square metre.

The usual reasoning for developer obligations being affordable is that their cost can be ‘taken off the land value’; i.e. the landowner pays out of the uplift in land value. This is
usually most achievable where the land is agricultural and is developed for housing. However, in some cases the land would already have been bought before the introduction of CIL (and quite possibly after small sites became exempt from affordable housing contributions); so the opportunity to ‘take it off the land’ is not present. Similarly a landowner seeking to develop BTR may already own the land (possibly for some time) and it probably already has housing land value, with little or no room for value uplift.

This factor should be taken into account when considering the potential for absorbing CIL charges; particularly when the rental income arising from one single dwelling is being expected to pay for the CIL on its own: the cost cannot be shared out.

**Change sought**—exempt from CIL or zero rate BTR properties, where tenancy agreement evidence shows these are let on completion; say for a 3 year period to mirror the timescale for the self-build CIL exemption; at least in Zone 4.

**Statement (C): Other small sites viability**

In a previous representation I mentioned how a development plot was unable to pay an affordable housing contribution (before small sites were exempt) and this was accepted by ADC’s officer responsible for affordable housing provision and viability, Andy Elder.

That contribution would have been around the same amount as a CIL charge currently proposed (some £12,000). While located in what is CIL Zone 4, the site was at the upper end of land values (10, Wychwood Close, Craigweil, Aldwick; but was still not viable enough to pay this kind of amount, or indeed any affordable housing contribution. It was eventually bought by a small developer for one house (under construction) of a style individually designed to fit its surroundings. It was purchased against competition, including from self-builders.

In previous submissions, I have already pointed out how self-builders would benefit from the CIL exemption, even though their development could be viable. And how this would disbenefit small builders/developers developing individual sites for one dwelling; by CIL relief for self-build being in effect a subsidy.

It should also be pointed out, on the other hand, that while self-builders may have an advantage over small builders on many plots; they may not have the experience or confidence to develop the more difficult sites within urban areas: greenfield plots/sites, P.D. barn conversions, and redeveloping small old bungalows are the usual fare of plotfinder/plotsearch type website plot listings. So there will be more difficult sites that are most suited to small builders. Various design/architectural awards have shown how good results can come from otherwise unpromising sites. To increase housing numbers within
more sustainably located urban areas requires such sites to be viable, especially in places such as Arun Zone 4. Exemption from CIL, or zero rating, will assist this.

Above, in the section concerning BTR Viability on small sites I have addressed:

- the ADC suggestion of “negligible CIL charge”;
- the difference between £0 CIL for Zone 4 flats, yet £100/sqm for houses; and
- how CIL cannot always be ‘taken off the land value’.

This last point is relevant where the sale of a single dwelling is on its own expected to cover the CIL charge.

**Change sought**- exempt from CIL, or zero rate, single home developments on individual sites in Zone 4; by any developer or small builder.

**Statement (D): Definitions/Liability**

NPPG states that GIA “is not defined in the regulations” and that in certain circumstances the internal area of an existing building can be taken into account in calculating the chargeable CIL amount.

The RICS Code of Measuring Practice which NPPG suggests for measuring GIA is not entirely clear on open-sided and openable-sided buildings, though it is about conservatories c.f. greenhouses and garden stores. So the position of car ports isn’t entirely clear. ADC hasn’t produced a definition of CIL chargeable areas; unlike Spelthorne Borough Council’s good 2 page Definition.

Thus one does not know whether a car port GIA can be taken into account and offset against CIL liability. This can affect the small scheme categories I am concerned about.

ADC state, although I dispute it, “redeveloping land with existing housing on it would generally generate a negligible CIL charge because CIL is only charge on additional floorspace and exemptions can be applied” (Statement of Representations Appendix 3, 2.0 - my emphasis). Apart from for self-build, exemptions would not be applicable to the sites with which I am concerned.

Without knowing what GIA would be offset against CIL, it is hard to tell if the CIL charge would indeed be negligible. One can envisage instances where a house replacing a bungalow might benefit from a CIL reduction of under half the new floor area, but depending on the total floorspace built, the CIL would still not be negligible.

**Change sought**- production and adoption of a guide as Spelthorne B.C.’s “definition of Community Infrastructure Levy (CIL) Chargeable Area.
Statement (E): Discretionary relief

1) The Draft CIL consultation mentioned this relief. However in response to DCS2019/16 asking for inclusion of details, the ADC response was that “There is no evidence to support the need to offer discretionary relief at this time” (reply to DCS2019/16). So one presumes there won’t actually be any such relief promised in the Arun scheme.

2) Latest PPG guidance says: “Where up-to-date policies have set out the contributions expected from development, planning applications that fully comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. ... Such circumstances could include, for example where development is proposed on unallocated sites of a wholly different type to those used in viability assessment that informed the plan; where further information on infrastructure or site costs is required; where particular types of development are proposed which may significantly vary from standard models of development for sale (for example build to rent...”). (Paragraph: 007 Reference ID: 10-007-20190509) Revision date: 09 05 2019

3) Change sought – Discretionary relief should be available where it can be shown that a development would be unviable on any individual site where unexpected circumstances arise or unexpected forms of development are proposed.

This does not negate the need for CIL exemption or zero rating for defined typologies/categories of development given elsewhere in these Examination Statements.

4) There may be circumstances where a submitted planning application should have been determined by the time CIL is introduced; but this may be delayed for a number of reasons (e.g. staffing within ADC, or the Planning Inspectorate handling/considering appeals).

5) Change sought – Discretionary relief should also be available when a planning application would normally have been determined at the time of CIL introduction.

End of Statements
Definition of Community Infrastructure Levy (CIL) Chargeable Area

What is Gross Internal Area (GIA)?

CIL liability is based on the “chargeable area” which is calculated using the formulas set out in Regulation 40 of the CIL Regulations 2010 (as amended). These require the measurement of the Gross Internal Area (GIA) floorspace of the proposed CIL liable development and the GIA floorspace of any existing ‘in-use’ building ¹ which is to be demolished.

The definition of GIA for the purposes of calculating CIL is not specified in the CIL Regulations, but the generally accepted method of calculation of GIA is set out in the RICS Code of Measuring Practice 6th Edition (2007) (the RICS Code):

GIA is the area of a building measured to the internal face of the perimeter walls at each floor level and includes:

- Areas occupied by internal walls and partitions;
- Columns, piers, chimney breasts, stairwells, lift-wells, other internal projections, vertical ducts, and the like;
- Atria and entrance halls, with clear height above, measured at base level only;
- Internal open-sided balconies, walkways, and the like;
- Structural, raked or stepped floors are to be treated as a level floor measured horizontally;
- Horizontal floors, with permanent access, below structural, raked or stepped floors;
- Corridors of a permanent essential nature (e.g. fire corridors, smoke lobbies);
- Mezzanine floor areas with permanent access;
- Lift rooms, plant rooms, fuel stores, tank rooms, which are housed in a covered structure or a permanent nature, whether or not above the main roof level;
- Service accommodation such as toilets, toilet lobbies, bathrooms, showers, changing rooms, cleaner’s rooms and the like;
- Projection rooms;
- Voids over stairwell and lift shafts on upper floors;
- Loading bays;
- Areas with a headroom of less than 1.5m
- Pavement vaults;
- Garages
- Conservatories

¹ A building that has been in ‘lawful use’ for a continuous period of at least 6 months within the period of 3 years, ending on the day planning permission first permits the charge for development.
The following are excluded from CIL liable floorspace:
- Perimeter wall thicknesses and external projections;
- External open-sided balconies, covered ways and fire escapes;
- Canopies;
- Voids over or under structural raked or stepped floors;
- Greenhouses, garden stores (sheds), fuel stores and the like, in residential properties.

For the purposes of calculating internal floorspace for CIL, and for the avoidance of doubt, the Council will also include in the calculation of GIA:
- Structures, such as car ports with a solid roof even though one or more sides is open;
- Porches on dwelling houses even though the front or side may be open;
- Conservatories;
- Basements, underground and covered car parking areas.

The following will not be counted as internal floorspace for the purposes of CIL:
- A pergola with no roofing material;
- Free-standing solar panels