Arun District Council Community Infrastructure Levy (CIL) Examination
Position Statement – 3 October 2019

Response to Examiner’s Questions

Issue 1 - Retail

a) Should the CIL retail rate apply in Littlehampton town centre and, if so, on what basis and at what rate for new retail floorspace?

The Arun Draft Charging Schedule proposes the following CIL retail rates in Table 7.1 of ADC/CIL/SD/1:

- Town Centre Shops - £0/m²
- Supermarkets and Retail Warehouse - £110/m²

Town Centre Shops

A £0/m² for town centre shops has been recommended in ADC/CIL/SD/11 – see page 81 of the report which states:

“As CIL is only payable on net new development it will be necessary to consider whether a levy on this development type is actually going to raise money. On balance it is not considered proportionate to include a rate of CIL.”.

Evidence supports this statement, in particular, Arun District Council’s Economic Regeneration Team has provided data on Bognor Regis and Littlehampton Town Centre which shows that:

- There have been no new town centre retail units built in Bognor Regis for at least 10 years;
- There are examples where planning permission has been granted for retail units but these permissions have not been implemented. For example, there were approved plans for shops to replace an amusement arcade in Bognor Regis. This has now been reopened as an amusement arcade;
- The Council’s shop audit analysis shows that there has been a decline in retail uses in the town centre area of Bognor Regis (from 52% in 2011, 50% in 2014 to 46% in 2019) which have been organically replaced by food/drink and leisure (now c15% of total and rising);
- Empty shop unit data gathered by the council from 2011 to 2018 shows that the number of empty shops in Bognor Regis town centre has remained steady from 26 empty units in November 2011, to a peak of 32 empty units in May 2014, to 18 empty units in August 2018. The shop audit analysis would also indicate that where empty shop units are taken up, this is more likely to be by food and drink establishments rather than shops.
There have been proposals for retail on the ground floors of plans for both the Regis and Hothampton redevelopment site but these are currently stalled or cancelled at this time.

In terms of Littlehampton Town centre, the Council's most recent survey has shown a 10% vacancy rate of town centre shops.

Overall, evidence shows that the likelihood of net additional town centre shop floorspace being built in the town centres within Arun is low. Therefore the council does not support any change to the proposed CIL rate in the Arun Draft Charging Schedule.
b) Does the status of Garden Centres under the CIL charging schedule require clarification and, if so, how should that be achieved?

It is considered that the status of garden centres under the CIL charging schedule does not require clarification, for the following reasons:

1. The definition given in ADC/CIL/SD/1 paragraph 7.6, for retail warehouse is “large stores specialising in the sale of comparison goods such as carpets, furniture, and electrical goods) DIY items and other ranges of goods catering for car borne customers”. It is considered that garden centres fall into this definition.

2. There is no viability evidence available to the Council which suggests garden centres should come under a separate CIL rate or that they should be considered differently to the type of development defined as retail warehouse.
Issue 2 – Residential Levy Rates – Zones 1-5

a) Has the Charging Authority complied with the procedural requirements in the 2008 Act (part 11 and section 211) and the relevant Community Infrastructure Regulations?

Yes, the charging authority has complied with procedural requirements for the preparation of a charging schedule.

Table 1 below shows how the consultation requirements of the 2008 Act and the CIL Regulation 2010 (as amended) have been met. It should be noted that the Arun CIL Charging Schedule was published before the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 (SI 2019/1103) commencement date. Therefore Regulation 13 Transitional and Saving Provisions of SI 2019/1103 applies in this case.
Table 1 – Compliance with consultation requirements of the CIL Regulations 2010 (as amended).

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<thead>
<tr>
<th>Regulation</th>
<th>Supporting evidence</th>
<th>Comment</th>
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<tbody>
<tr>
<td>15 Consultation on a preliminary draft charging schedule</td>
<td>See ADC/CIL/SD/2 Statement of Representations (pages 3 and 4).</td>
<td>Compliant</td>
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<tr>
<td>16 Publication of a draft charging schedule</td>
<td>See ADC/CIL/SD/2 Statement of Representations (page 4). Also see in Appendix 1 which complies with Regulation 16 (2) (e).</td>
<td>Compliant</td>
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<td>17 Representations relating to a draft charging schedule</td>
<td>See ADC/CIL/SD/2 Statement of Representations (page 4). Also see Appendix 2 which provides a copy of the newspaper notice published on 21st March 2019.</td>
<td>Compliant</td>
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| 19 Submission of documents and information to the examiner                | On 19th July 2019, ADC/CIL/SD/4 was sent to each of the consultation bodies invited to make representations under regulation 15. It was also made available on the council’s website [www.arun.gov.uk/cil](http://www.arun.gov.uk/cil). On 31 July 2019 a copy of the following documents were submitted to the examiner in hard copy, on a USB memory stick and by email.  
- ADC/CIL/SD/1 Arun District Council CIL Draft Charging Schedule Submission Version  
- ADC/CIL/AD/2 Statement of Submission  
- ADC/CIL/SD/2 Statement of Representations  
- ADC/CIL/SD/3 Combined redacted representations  
- ADC/CIL/SD/4 DCS Statement of Modifications  
- All copies of relevant evidence were also provided (these are provided in ADC/CIL/SD5-13)  
On the 31 July hard copies of the documents listed above were made available in the same deposit points used at Reg 16 Publication stage (see paragraph 3.2 of ADC/CIL/SD/2. All documents were also published on the council’s webpage [www.arun.gov.uk/cil](http://www.arun.gov.uk/cil). | Compliant |
Table 1 – Compliance with consultation requirements of the CIL Regulations 2010 (as amended).

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<td>21 CIL Examination: Right to be Heard</td>
<td>On 31 July an email was also sent to all those who had requested to be notified of the submission of the draft charging schedule.</td>
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<td>On 29 August 2019, the council submitted the request to be heard by the Examiner via the Programme Officer (ADC/CIL/SD/14).</td>
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<td>On 5 September 2019 all persons that made representations in accordance with Regulation 17 and not withdrawn that representation; and the person who made a request to be heard on the Statement of Modifications were sent ADC/CIL/AD/3 by email.</td>
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<td>On 5 September ADC/CIL/AD/3 was published in West Sussex Gazette. See Appendix 2.</td>
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<td>The ADC website was updated to include the time and place at which the examination is to be held and the name of the examiner on 10 September 2019 and ADC/CIL/AD3 was added to the website under the examination library on 5 September 2019.</td>
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In accordance with Part 11 and 211 of the 2008 Act, the preparation of ADC/CIL/SD/1 has had regard to actual and expected costs of infrastructure and sources of infrastructure funding (see ADC/CIL/SD/5, ADC/CIL/SD/6, ADC/CIL/SD/8 and Section 5 of ADC/CIL/SD/1). Furthermore, it was prepared based on economic viability evidence, which includes actual or potential economic effects of planning permission or of the imposition of CIL (see ADC/CIL/SD/9 and ADC/CIL/SD/11).

In terms of the requirements set out in the CIL Regulations 2010 (as amended) regarding rate setting, ADC/CIL/SD/1 has been prepared in accordance with the regulations as follows:

**Regulation 12 Format and Content of Charging Schedules**

See ADC/CIL/SD/1 Arun Draft Charging Schedule Submission Version:

- Front cover
- Table 7.1
- Appendix 1 – Charging Zones Map

An explanation of how the chargeable amount will be calculated is set out in paragraphs 4.2 and 4.3 and also in Table 7.1 of ADC/CIL/SD/1 – the proposed rates.

The Examiner should also be aware that the CIL zone maps have been digitised, and an interactive version of the map is available on the Council’s website here: [https://www1.arun.gov.uk/webapps/wml/Map.aspx?MapName=CIL2019](https://www1.arun.gov.uk/webapps/wml/Map.aspx?MapName=CIL2019)

It is acknowledged that the CIL Zones Map provided in ADC/CIL/ADC/1 do not include National Grid lines. The Council is working on preparing a map that includes these.

**Regulation 13 Differential Rates**

See paragraphs 6.8 – 6.10 of ADC/CIL/SD/1 and Sections 6 and 7 of ADC/CIL/SD/11 and the response to question d) below.

**Regulation 14 Setting Rates**

The Arun Draft Charging Schedule has been prepared in accordance with paragraph (1) (a) and (b). In particular, the council’s infrastructure evidence - ADC/CIL/SD/5 and ADC/CIL/SD/6 and ADC/CIL/SD/8 show the actual and expected total cost of infrastructure required to support the Arun Local Plan, taking into account other and expected sources of funding. The evidence shows that a large aggregate funding gap exists.

The viability evidence has been prepared to ensure that the potential effects of CIL rates do not put economic viability of development, across the district, at risk. The viability evidence therefore tests the viability of specific development typologies which are representative of the Arun Local Plan (the strategic allocations) and the site types within the council’s Housing and Employment Land Availability Assessment (HELAA) (see Section 9 of ADC/CIL/SD/9). Section 6 of ADC/CIL/SD/11 provides an overview of the viability testing carried out on these types of development. Section 3 in ADC/CIL/SD/6 sets out predicted CIL income based on the types of development sites within the council’s Housing and Economic Land Availability Assessment.
b) **Is the draft charging schedule supported by appropriate available evidence on infrastructure planning and economic viability and is there sufficient and suitable evidence of an aggregate funding gap to demonstrate the need for a CIL charge?**

**Infrastructure Planning and the Aggregate Funding Gap**

The aggregate infrastructure funding gap evidence was first prepared and published under paragraph 6.2 on page 18 of the Arun Infrastructure Capacity Study and Delivery Plan, 2017 (ICSDP) (ADC/CIL/SD/5). This original table showed the total cost of the infrastructure items required to support planned growth.

This table was updated as part of the preparation of the Preliminary Draft Charging Schedule, published on 10th December 2018 and showed the aggregate funding gap (see Appendix 1 of ADC/CIL/SD/6). The table differs from that in ADC/CIL/SD/5 because it includes an ‘expected S106 funding’ column. This column was added to the original table to show the amount of S106 expected to be received from the strategic housing sites allocated in the Arun Local Plan. Adding the ‘expected S106 funding’ column has allowed for a more accurate picture of the aggregate funding gap.

In March 2019, as part of the preparation of the Draft Charging Schedule, it was recognised that an update to the aggregate infrastructure funding gap was required. This was due to a number of updates that the Council had received from service providers on infrastructure requirements. These updates are set out under Section 2 of ADC/CIL/SD/6. As a result of these updates, the aggregate funding gap increased from £49 million in December 2018 to £85.1 million in March 2019. The reason for such a significant increase in the aggregate funding gap was as follows:

- A second new secondary school, identified as a requirement to support ‘non strategic sites’ by WSCC since the Arun Infrastructure Capacity Study and Development Plan was published in 2017;
- The new leisure facilities required, as identified through the emerging open space, built sports facilities and playing pitches SPD.
- An additional waste management project to mitigate development across Arun and Chichester Districts
- Emergency service projects – costs updates quoted as £4million.

In addition to new infrastructure projects, the aggregate funding gap table has also been updated as a result of a number of planning applications receiving planning permission (which included S106 obligations). These include the following:

- Fontwell
- Pagham South

Since the March 2019 Funding Gap Update was produced, further strategic housing allocations have been permitted, or allowed on appeal, subject to S106 agreements. This
will therefore alter the ‘existing funding available/secured’ column. These regular changes and updates make it challenging to show the aggregate funding update. However, the update provided in ADC/CIL/SD/6 is considered to be the most up to date available snapshot of the aggregate funding gap.

Economic Viability Evidence

The viability evidence is provided in two documents:

- ADC/CIL/SD/9 and ADC/CIL/SD/10: ADC Local Plan Viability Assessment (HDH February 2017) (the 2017 Viability Assessment)
- ADC/CIL/SD/11 and ADC/CIL/SD/12: ADC CIL Viability Update (HDH, July 2018) (the 2018 CIL Viability Update)

ADC/CIL/SD/9 and ADC/CIL/SD/10 were prepared to consider the deliverability of the Arun Local Plan 2011-2031 (ADC/CIL/AD/1) and was considered in detail at the Local Plan hearings that took place in the autumn of 2017. ADC/CIL/SD/11 and ADC/CIL/SD/12 carries forward the methodology and assumptions (updated as appropriate) to consider the scope for CIL and to recommend rates of the Levy.

Both studies were carried out in accordance with the 2012 NPPF, 2014 PPG and the Harman Guidance. Since the completion of the studies the NPPF has been updated and the Viability Sections of the Planning Practice Guidance (PPG) largely rewritten.

As in the 2012 NPPF (and 2018 NPPF), viability remains an important part of the plan-making process. The 2019 NPPF does not include detail on the viability process, rather stresses the importance of viability. The main change is a shift of viability testing from the development management stage to the plan-making stage.

The 2019 NPPF does not include technical guidance on undertaking viability work. This is included within the PPG, the viability sections of which were updated in July 2018 and again in May 2019.

The viability sections of the PPG have been completely rewritten. The changes provide clarity and confirm best practice, rather than prescribe a new approach or methodology. The methodology used in ADC/CIL/SD/9 and ADC/CIL/SD/11 is wholly consistent with the updated PPG being:

- based on the EUV Plus approach
- follows the standardised inputs
- is based on typologies with separate consideration of strategic sites
- included consultation with the industry.

The evidence base is proportionate and builds on the existing available evidence as required. This approach is in line with Paragraph 25-019-20190315 of the Community Infrastructure Levy PPG:
A charging authority should draw on existing data wherever it is available. Sources of data can include (but are not limited to): land registry records of transactions; real estate licensed software packages; real estate market reports; real estate research; estate agent websites; property auction results; valuation office agency data; public sector estate/property teams’ locally held evidence. They may also want to build on work undertaken to inform their assessments of land availability.

The viability sections of the PPG (Chapter 10) have been completely rewritten. The changes provide clarity and confirm best practice, rather than prescribe a new approach or methodology. Having said this the emphasis of viability testing has been changed significantly. The, now superseded, requirements for viability testing were set out in paragraphs 173 and 174 of the 2012 NPPF which said:

173 ... To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.

174 ... the cumulative impact of these standards and policies should not put implementation of the plan at serious risk, and should facilitate development throughout the economic cycle.

The test was whether or not the policy requirements were so high that development was threatened. Paragraphs 10-009-20190509 and 10-010-20190509 radically change this:

... ensure policy compliance and optimal public benefits through economic cycles...

10-009-20190509

... and the aims of the planning system to secure maximum benefits in the public interest through the granting of planning permission.

10-010-20190509

The purpose of viability testing is now to ensure that ‘maximum benefits in the public interest’ has been secured.
c) Is the viability evidence in support of the charging schedule appropriate, including in regard to assumptions made in the residential appraisals for sales values (market and affordable housing), land values, build costs, residual S106 costs, developer profits and residential densities, including for extracare housing in Zones 2 and 3?

Residential appraisals for sales values (market and affordable housing)

The analysis of Residential Values is set out in Chapter 4 of ADC/CIL/SD/9 and then updated in ADC/CIL/SD/11.

These draw on a wide range of data sources including the actual price paid as reported by the Land Registry as well as asking prices and higher-level secondary data sources.

The Land Registry data is primary data that reports the actual price paid so considerable weight can be put on it. This data is brought together with the size of the units sold (taken from the EPC Register), and set out in Tables 4.6 to 4.9 of ADC/CIL/SD/11.

In terms of the value of affordable housing, whilst the rents charged in some cases may be higher than the LHA caps, it was agreed that it would be assumed that rents would be no more than the LHA cap. This ensures that there is not undue pressure on housing associations to charge rents that are less affordable.

A value of 65% of market value is taken for intermediate housing. This is a cautious assumption because over the last year we have seen a general increase in this the value of this type of housing and would now use an assumption of 70%.

Land values

The PPG has been updated in relation to land values since ADC/CIL/SD/9 and ADC/CIL/SD/11 were completed. Having said that, both evidence documents are wholly consistent with the updated PPG.

As per paragraph 10-013-20190509 of the Viability PPG the assessment should be based on the EUV Plus approach. As per paragraph 10-014-20190509 of the Viability PPG the starting point of the assessment is the Existing Use Value.

The assessment of Land Values is set out in Chapter 6 of ADC/CIL/SD/9 and then further considered from paragraph 4.22 of ADC/CIL/SD/11. In the 2017 Viability Assessment the following land values were used:

- a. Agricultural Land £25,000/ha
- b. Paddock Land £50,000/ha
- c. Industrial Land £600,000/ha
- d. Residential Land £1,000,000/ha (net).

These were carried into the 2018 CIL Viability Update unchanged.
The land value assessment within both evidence base documents was drawn from a range of data sources, including the MHCLG’s Land value estimates for policy appraisal and other sources.

Most importantly a review of recent planning applications was undertaken on the Price Paid was looked up on the Land Registry. This is high quality primary data on which great weight can be put. As set out at 4.26 of the 2018 CIL Viability Update, having disregarded the outliers, for residential land, median price is £536,000/ha and the average a little over £1,140,000/ha.

Build costs

As set out at the start of Chapter 7 of ADC/CIL/SD/9 the cost assumptions are based on the Building Cost Information Service (BCIS) data – using the figures re-based for West Sussex. These were updated as set out at the start of Chapter 5 of ADC/CIL/SD11.

Adjustments were made to reflect the additional costs associated with smaller sites and the costs.

Residual S106 costs

There are two aspects to this S106 costs:

1. The costs associated with the strategic sites which are assessed individually, as shown on Table 7.1 of ADC/CIL/SD/5; and

2. S106 assumptions for Non-strategic sites

In ADC/CIL/SD/11, it was assumed that all the modelled sites will be subject to a s106 contribution of £2,000/unit. Based on the current practice and experience this is likely to be a significant over-estimate on the smaller sites, however this reflects the cautious approach taken throughout the 2017 Viability Assessment and this update.

Developer profits

This is an area that has developed over time since the preparation of ADC/CIL/SD/9. Paragraph 7.51 of that report set out the approach which assumed that developer profit should be approximately equal to 17.5% of the GDV.

When the ADC/CIL/SD/11 was being prepared the approach in the Draft Planning Practice Guidance for Viability, (MHCLG, March 2018) was followed:

*For the purpose of plan making an assumption of 20% of Gross Development Value (GDV) may be considered a suitable return to developers in order to establish viability of the plan policies. A lower figure of 6% of GDV may be more appropriate in consideration of delivery of affordable housing in circumstances where this guarantees an end sale at a known value and reduces the risk.*
As this appeared to be a change in government guidance and was different to the approach taken in ADC/CIL/SD/9, this was followed. In the residential appraisals the developers’ return is assessed as 20% of market value and 6% affordable value.

The Viability PPG has since been updated again as set out in paragraph 10-018-20190509:

*For the purpose of plan making an assumption of 15-20% of gross development value (GDV) may be considered a suitable return to developers in order to establish the viability of plan policies. Plan makers may choose to apply alternative figures where there is evidence to support this according to the type, scale and risk profile of planned development. A lower figure may be more appropriate in consideration of delivery of affordable housing in circumstances where this guarantees an end sale at a known value and reduces risk. Alternative figures may also be appropriate for different development types.*

The assumption used in the 2018 CIL Viability Update is at the top of the suggested range. If undertaking the study now a lower assumption may have been used.

**Residential densities, including for extracare housing in Zones 2 and 3**

As set out in Chapter 9 of ADC/CIL/SD/9 the development densities are consistent with those used to set the number of units in the allocations.

a. A general assumption of 32/net ha was used on the strategic sites. Allowance for open space was also made with the larger sites assuming a net developable areas of up to 60%.

b. The greenfield sites were generally modelled at 35/net ha.

c. The brownfield sites, being within the urban areas were generally modelled at 45/net ha. Several higher density flatted schemes were also modelled.

It has been suggested the extracare housing is modelled at an overly high density. The basis of the modelling is as set out at 9.19 of the 2016 Viability Study and is based on a 0.5ha site:

*A private sheltered/retirement scheme of 20 x 1 bed units of 50m$^2$ and 25 x 2 bed units of 75m$^2$ to give a net saleable area (GIA) of 2,875m$^2$. We have assumed a further 20% non-saleable service and common areas to give a scheme GIA of 3,594m$^2$.*

*An extracare scheme of 36 x 1 bed units of 65m$^2$ and 24 x 2 bed units of 80m$^2$ to give a net saleable area (GIA) of 4,260m$^2$. We have assumed a further 35% non-saleable service and common areas to give a scheme GIA of 6,554m$^2$.*

The modelling was broadly based on ‘A BRIEFING NOTE ON VIABILITY PREPARED FOR RETIREMENT HOUSING GROUP’ (Three Dragon, May 2013). This suggests a typical site size of 0.5ha and typical schemes of Sheltered Housing having between 50 to 60 units and typical Schemes of Extracare housing having between 40 and 50 units. The modelling of both types of housing is at the bottom end of the range showing a cautious approach has been taken.
It is accepted that a range of schemes from different developers may come forward, but the modelling in viability evidence is generally representative of most development.

Updated Definitions from the PPG

Since submitting the CIL Draft Charging Schedule for examination a new section headed Housing for older and disabled people has been added to the PPG in June 2019 and new definitions of older peoples housing were added:

**What are the different types of specialist housing for older people?**

There are different types of specialist housing designed to meet the diverse needs of older people, which can include:

- **Age-restricted general market housing:** This type of housing is generally for people aged 55 and over and the active elderly. It may include some shared amenities such as communal gardens, but does not include support or care services.

- **Retirement living or sheltered housing:** This usually consists of purpose-built flats or bungalows with limited communal facilities such as a lounge, laundry room and guest room. It does not generally provide care services, but provides some support to enable residents to live independently. This can include 24 hour on-site assistance (alarm) and a warden or house manager.

- **Extra care housing or housing-with-care:** This usually consists of purpose-built or adapted flats or bungalows with a medium to high level of care available if required, through an onsite care agency registered through the Care Quality Commission (CQC). Residents are able to live independently with 24 hour access to support services and staff, and meals are also available. There are often extensive communal areas, such as space to socialise or a wellbeing centre. In some cases, these developments are known as retirement communities or villages - the intention is for residents to benefit from varying levels of care as time progresses.

- **Residential care homes and nursing homes:** These have individual rooms within a residential building and provide a high level of care meeting all activities of daily living. They do not usually include support services for independent living. This type of housing can also include dementia care homes.

There is a significant amount of variability in the types of specialist housing for older people. The list above provides an indication of the different types of housing available, but is not definitive. Any single development may contain a range of different types of specialist housing.

The definitions differ from that provided in ADC/CIL/SD/1, therefore the following provides clarification:

**Age-restricted general market housing:**

This is between unrestricted housing and the definition of sheltered housing used in the viability evidence. Housing that falls within this definition will be taken to be Sheltered Housing for the purpose of CIL.

**Retirement living or sheltered housing:**

This is similar to the definition of Sheltered Housing used in the used in the viability evidence. Housing that falls within this definition will be taken to be Sheltered Housing for the purpose of CIL.

**Extra care housing or housing-with-care:**
This is similar to the definition of Extracare Housing used in the viability evidence. Housing that falls within this definition will be taken to be Extracare Housing for the purpose of CIL.

**Residential care homes and nursing homes:**

Are not housing (rather being institutional accommodation). Development that falls within this definition will be taken to be All Other Development (so subject to the zero rate) for the purpose of CIL.
d) Does the viability evidence support the charging zone boundaries shown on the maps accompanying the charging schedule or should they instead reflect the locations where most new homes are to be built over the Local Plan period?

The viability evidence does support the charging zone boundaries shown on the maps accompanying the charging schedule. The maps should not be amended to reflect the locations where most new homes are built over the plan period.

The charging zones have several distinct elements and have been identified using suitable and appropriate viability testing:

- In line with the Community Infrastructure Levy PPG the strategic sites are considered separately, against their ability to bear their own s106 contributions. These strategic sites have specific allocation boundaries and are therefore mapped individually.

- ADC/CIL/SD/9 tested a range of development typologies from the Housing and Employment Availability Assessment for the Arun Local Plan. These fell into three separate types – Northern, Coastal and Strategic Sites.

- ADC/CIL/SD11 went on to carry out viability testing on these separate typologies and also identified differentiation within the Northern and Coastal areas – the brownfield sites and greenfield sites and also sites below and above the affordable housing threshold size.

There are always going to be viability anomalies within the charging zones themselves. For example, coastal developments with a sea view may command a premium value. However, even if it was possible to quantify the precise additional value that is attributed to a sea view, it would not be practical (and would be overly complicated and not proportionate) to attempt to map sea views.

Overall, the most pragmatic approach has been taken, by using the hard boundary of the A259 to delineate between the north and the south of the district. The same applies for using the Built Up Area Boundaries to delineate the urban and rural areas of the district. The use of the A259 as a boundary to delineate between the north and south of the district has also been used historically, including as part of the GL Hearn viability work undertaken on behalf of the Council in January 2015 (referenced in paragraph 1.3 of ADC/CIL/SD/9), as well as the Adams Integra studies looking at affordable housing viability in 2006 and 2010 (referenced in paragraph 3.17 of ADC/CIL/SD/9).
e) Does the Reg.123 List and the Council’s published guidance on the relationship between CIL, S106 and S278 legal agreements provide sufficient clarity on future infrastructure to be funded by CIL and is it consistent with national guidance and the adopted Local Plan, including in respect of strategic sites and in relation to “large ticket” items such as Education, Healthcare and Transport?

Regulation 123 is omitted by the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 (SI 2019/1103) from 1 September 2019. Therefore, there is no longer a requirement to indicate what infrastructure items Arun District Council will be seeking S106 obligations for. However, to ensure transparency of the funding of infrastructure through CIL and S106 contributions, an infrastructure funding statement shall be prepared by the Council annually. Paragraph 176 of the Planning Practice Guidance also provides that authorities can report on contributions received through section 278 highway agreements in their infrastructure funding statements to further improve transparency.

The council would like to take this opportunity to propose to the examiner that Appendix 2 of ADC/CIL/SD/1, and all reference to it (paragraph 4.7/Modification number 11 in ADC/CIL/SD/4) should be removed from ADC/CIL/SD/1. It is proposed that the Reg. 123 Infrastructure List provided in Appendix 2 will be placed on the ADC website as a useful indication of infrastructure that may be funded partly or wholly by CIL, in line with paragraph 25-017-20190901 of the CIL Planning Practice Guidance.

The Council will replace this list, by 31st December 2020 at the latest, with an Infrastructure List in accordance with Regulation 121 A of the CIL Regulations 2010 (as amended).
f) Does the status of holiday units under the CIL charging schedule require clarification and, if so, how should it be drafted?

The modification proposed by Modification Number 21 in ADC/CIL/SD/4 is considered to offer sufficient clarification in relation to the status of holiday units.

There does however remain a certain amount of ambiguity regarding how “static caravan holiday units” should be treated. This is because the stationing of mobile homes and caravans are conventionally treated in planning law as a use of land and not the creation or placement of structures/buildings in themselves.

However, there is case law (Save Woolley Valley Action Group Ltd v Bath and North East Somerset Council [2012], Hall Hunter v First Secretary of State [2007] and Skerrits of Nottingham Limited v SSETR [2000]) that shows in some cases, certain objects placed on land which are allegedly ‘portable’ or ‘moveable’ or ‘temporary’, should have been considered as buildings. The cases rely on the level of permanence of the objects placed on the land, the level of construction required on site – essentially whether placing the object on the land meets the definition of ‘development’ (under Section 55 (1) of the TCPA 1990) or whether the object meets the definition of a building (under Section 336 of the TCPA 1990).

Overall, the council would like to take this opportunity to propose a minor clarification to the definition of residential provided in paragraph 7.4 of ADC/CIL/SD/1 as follows (shown in bold italics):

“[1] Residential does not include residential institutions including purpose built student accommodation. Neither does it include development which is covered by a condition that limits it to holiday use only. Where this condition has not been applied to static caravan holiday units or holiday rental units, these should be considered to be in residential use, or have the potential to be used for residential use provided that the static caravan is, on the facts, properly regarded as a structure or building in conventional planning terms.”
g) Does the application of exceptional/discretionary relief from CIL by the Council require further clarification in the charging schedule and, if so, how would that be best provided?

It is considered that Section 9 of ADC/CIL/SD/1 provides sufficient detail regarding exceptional and discretionary relief. The CIL rates have been prepared to ensure that they will not impact upon the viability of development. Therefore, the council is not proposing to allow exceptional or discretionary relief. Paragraph 9.4 of ADC/CIL/SD/1 gives the council the option to consider this approach at a later date in the long term, if evidence supports this.
h) Should the CIL charging schedule include exemptions for “build to rent” schemes, new student housing and/or very small developments in Zone 4 (urban coastal) for viability reasons?

Paragraph 10-002-20190509 of the Viability PPG sets out that the viability and deliverability of Local Plan policies should be tested at the plan making stage.

This is in line with the paragraph 25-038-20190901 of the PPG that sets out that proposed rate(s) should not undermine the delivery of the plan.

This is important context when considering the results in the report regarding the development listed within the question.

“Build to rent” schemes

It is accepted that the value of housing that is restricted to being Private Rented Sector (PRS) housing is different (less in Arun) to that of unrestricted market housing.

The Council have no policy reason or justification to impose a planning condition restricting the use of a housing scheme to the PRS and if it did it is difficult to see how it could maintain such a condition through a s76 appeal. This is quite different to affordable housing where there is evidence and policies to support restricting the use of some housing to affordable housing.

The test applied at the CIL Examination is that 'the total cumulative cost of all relevant policies will not undermine deliverability of the plan’. The Plan does not plan for PRS Housing and while it is accepted that some PRS housing may be desirable it is not necessary to deliver the Plan. On this basis it is not necessary or appropriate to set a rate specifically for the PRS.

Having said this it is important to note that in September 2018 a new Chapter (60) was added into the PPG. Paragraph 60-002-20180913 recognises the difference saying:

20% is generally a suitable benchmark for the level of affordable private rent homes to be provided (and maintained in perpetuity) in any build to rent scheme.

Further, the viability sections of the PPG specifically recognises that build to rent schemes are one of the few types of development where viability testing may be appropriate at the development management stage saying at 10-007-20190509 (with added emphasis):

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
Therefore, it is not considered necessary to include exemptions for “build to rent” schemes.

**New student housing**

See Paragraph 7.47 of ADC/CIL/SD/11 and ADC/CIL/SD/1 paragraph 7.4 which states that student accommodation does not fall into the definition of residential development within the CIL Draft Charging Schedule, and is zero rated.

**Very small developments in Zone 4 (urban coastal)**

ADC/CIL/SD/11 included several typologies that represent these types of development site. These indicate that these sites have capacity to bear CIL.

It is important to note that these typologies are not subject to affordable housing as they are below the policy threshold. This has the impact of improving viability.

There is no evidence to support lower rates on this type of development.
Arun Community Infrastructure Levy (CIL) Draft Charging Schedule (DCS) (March 2019). This consultation will commence on 21 March 2019. Deadline for comments is 5pm 2 May 2019.

Please provide your comments on the Arun CIL DCS in the form below.

In preparing your comments, reference may be made to the supporting documents including the:

- Arun CIL Viability Update Report (July 2018);
- Infrastructure Capacity Study and Delivery Plan (February 2017);
- Infrastructure Funding Gap Update (March 2019)

These documents have been made available at Arun Civic Centre, Littlehampton and Bognor Regis Town Hall. They are also available online at www.arun.gov.uk/cil.

Please note, this form has two parts:

Part A – Personal Details

Part B – Your comment(s)

Please fill in a separate sheet for each comment you wish to make.

Please also tick in all of the following boxes that apply to you before submitting your form:

- Do you wish you wish to be heard by the Examiner? [ ]
- Do you wish to be informed that the Arun Draft Charging Schedule has been submitted to the examiner in accordance with section 212 of the Planning Act 2008? [ ]
- Do you wish to be informed of the publication of the recommendations of the examiner following the CIL examination and the reasons for those recommendations? [ ]
- Do you wish to be informed of the approval of the charging schedule by the charging authority? [ ]

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1 Please note that these details are being collected in accordance with Arun District Council’s Privacy Policy (as enclosed). If you are being contacted by letter or email with this form you are already registered on the Council’s Consultation Database and will have already agreed to the Privacy Notice.
Appendix 2 - Scanned copies of newspaper notices

1. West Sussex Gazette 21/3/19

2. West Sussex Gazette 5/9/19