Part A – Personal details

1. Are you responding as: (please tick one box)

	An individual	✓	A business or organisation		An agent

2. Your name, postal address and email (where applicable) are required for your comments to be considered.

	Personal Details	Agent Details (if applicable)
Title	Mr	Mr
Full Name	Mike Kerton	Matthew Spilsbury
Organisation (if relevant)	Bloor Homes South West	Turley
Job Title (if relevant)	Planning Director	Director, Head of Development Viability
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Part B – Your comments

Comments on the Community Infrastructure Levy (CIL) Draft Charging Schedule and its associated Evidence Documents

Please indicate which of the following documents you wish to comment on by ticking one box below. (If you wish to comment on more than one document and/or on more than one part of a document, please complete a separate form for each response.)	
Draft Charging Schedule, January 2021	
CIL Viability Assessment, April 2019	
CIL Viability Assessment Addendum, August 2020	
CIL Viability Assessment Executive Summary, October 2020	✓
Infrastructure Funding Gap Statement, January 2021	
Page/Paragraph Number (please specify where relevant)	Multiple pages / paragraphs – to submit a separate form for each would be unreasonably burdensome.

3. **YOUR COMMENTS** (If you would like to see a document amended in any way, it would be helpful if you could explain what changes you are seeking):

Introduction

Comments set out below focus on the residential input assumptions to the Local Plan and CIL Viability Assessment – Executive Summary (October 2020) ('LPCILVA'), the results of viability testing, and the recommended CIL charging rates, which have subsequently carried forward by the Council directly into Table 1: Proposed CIL Charges within the CIL Draft Charging Schedule ('DCS').

Open Market Sales Values

The LPCILVA sets out the open market sales values applied to specific unit types within Table 5.4 on p.16. The prices applied represent a generic index driven 2% increase upon the Land Registry dataset analysed by AV to inform earlier reporting in 2019.

Rather than indexing historic data, analysis has been undertaken of new build transactions recorded on Land Registry across the district over the period January 2019 to July 2020. This represents the most recently available transactional evidence.

There was limited evidence available for the 'Eastern Parishes' Zone. Analysis therefore focused on the 'Rest of the District' Zone. Transactional data was subsequently restricted to unit sizes closely comparable to those adopted within the LPCILVA to ensure comparability. The data is summarized in Table 1 below.

Table 1: New Build Transactions – Rest of District Zone

Unit Type	Quantity (Units)	Unit Size (Average m²)	Unit Price (Average)	Unit Price (Average £/m²)
1-bed House	14	64	£275,929	£4,316
2-bed House	11	78	£282,569	£3,610
3-bed House	7	101	£354,429	£3,509
4-bed House	15	116	£412,796	£3,569
5-bed House	8	164	£532,499	£3,247

Source: Land Registry / EPC / Site analysis (full dataset and analysis will be made available upon request, as it is not in a form suitable for this document)

When the data in Table 1 is compared with Table 5.4 in the LPCILVA, it is evident that the actual transactional evidence reveals inaccuracies in the unit values applied within the LPCILVA. Specifically:

- 1-bed houses: The LPCILVA undervalues 1-bed houses at £3,948/m^2 by £368/m^2. This requires upward adjustment.
- 2-bed houses: The LPCILVA overvalues 2-bed houses at £3,873/m^2 by £263/m^2. This requires downward adjustment.
- 3-bed houses: The LPCILVA overvalues 3-bed houses at £3,723/m^2 by £214/m^2. This requires downward adjustment.

The data for 4-bed and 5-bed units is closely comparable between the datasets and therefore does not warrant adjustment.

However, the scale of differential between the actual available transactional Land Registry evidence summarized above, and the hypothetical indexed figures within the LPCILVA necessitates AV amending the values to those set out in Table 1 above, and re-running the viability testing. Use of the existing pricing within the LPCILVA is otherwise flawed, and will be leading to erroneous results and recommendations. This undermines the validity of the proposed CIL rates set out within the CIL DCS.

Affordable Housing Values

The LPCILVA adopts affordable housing transfer values of 60% of open market sales value for Affordable Rent units and

76% of open market sales value for intermediate tenure units. These values are stated at paragraph 5.16 as being provided by the Council.

These rates are higher than currently seen in the market across the south east region, which would typically be 40-45% of open market sales value for Affordable Rent and 65% of open market sales value for intermediate tenure (shared ownership) units.

PPG CIL requires that the viability testing underpinning the Draft Charging Schedule is predicated upon appropriate available evidence. There is no available evidence to justify the affordable housing values applied within the LPCILVA.

AV should have engaged with Registered Providers (‘RPs’) to seek evidence of transactions and presented this data transparently to inform the affordable housing values adopted. At present it is not possible to determine that the values are robust, as they are not predicated on any appropriate or available evidence. There is considered a high risk that the values adopted will overstate the viability of site typologies.

Construction Costs (Residential)
Firstly, having cross-checked the RICS BCIS construction costs, which have been re-based to Oxfordshire at Q1 2020 and restricted to data returns from the last five years, it appears that the housing costs utilized in the LPCILVA have been adjusted upwards retrospectively by RICS as a correction. The BCIS data sheet is attached to this form. It confirms the following rates:

• Estate Housing – Lower Quartile: £1,110/m^2
• Estate Housing – Median: £1,249/m^2
• Flats 3-5 storey - Median: £1,378/m^2

At the absolute minimum retesting of viability should be undertaken on the above basis to determine the implications on CIL rate setting, as it would be expected that site viability, and hence the maximum sums available for CIL, would be reduced. This would mean that rates may require adjustment to maintain a consistent and robust ‘buffer’ in rate setting within the CIL DCS.

However, secondly, the LPCILVA adopts lower quartile (rather than median) RICS BCIS rates for the typologies sized at 100+ units (i.e. 170 and 270 unit typologies). This is deemed unusual practice in viability testing for CIL setting and plan making across the southern regions, where typically the cost of construction is higher than elsewhere in England (excluding London). The LPCILVA provides no evidenced justification for setting this threshold for applying a reduced construction cost to site typologies. As a result, it is unsubstantiated.

It should also be noted that AV has almost simultaneously published a Plan Viability & CIL Review Study Regulation 19 Stage, dated October 2020, for Babergh & Mid Suffolk District Councils. This adopts the RICS BCIS median rates for typologies of all site scales, which is consistent with current industry practice.

The use of the lower quartile BCIS construction cost rates within the LPCILVA are deemed to have been applied without the benefit of appropriate and available evidence, and inconsistent with current industry practice, and are therefore without suitable justification. The implication of suppressing construction costs for these typologies will be that it erroneously overstates their viability and artificially creates additional ‘headroom’ for CIL within the results.

All typologies should be assessed on the basis of median RICS BCIS construction cost rates. This will necessitate AV re-running appraisals to address this issue.

It is noted that the LPCILVA does not make any allowance for site servicing/infrastructure costs within assessment of the site typologies, with costs restricted to base unit construction and external works, which are stated to represent “*generic ‘on-plot’ costs including inter alia: estate roads, pavements, street-lights, utilities, drainage etc*.”. It would be expected that, even on greenfield sites, site servicing/infrastructure costs would be required beyond the ‘on-plot’ costs where the gross land area extends beyond the net developable (i.e. typical ‘on-plot’) area. Such costs have become normalised and will reflect resolution of topology issues (e.g. cut/fill earthworks), non-standard foundations, highways (e.g. distributor / no frontage roads), utility supply and drainage upgrades.

Failure to incorporate such costs will substantially underestimate the construction costs required to deliver the site typologies. Given all typologies assume a net to gross efficiency, with land outside the net developable area required, this is relevant to all typologies, but is of most relevant to the 50+ unit typologies and should be addressed.

Unit Sizes & Garage Provision
The LPCILVA adopts unit floor areas compliant with NDSS. This is informed by cross reference of EPC records with Land Registry property transactions.

However, EPC records do not include allowance for either integral or attached/detached garages (unless they are accessible from the main property and centrally heated i.e. liveable spaces). In practice, new residential developments do not delivery garages to this specification.

Equally, NDSS do not include allowance for either integral or attached/detached garages. This is confirmed by MHCLG in various documents, including the *English Housing Survey Floor Space in English Homes – main report* (2018) at Annex 2 para B.

It is necessary for developers to provide garages with certain unit types (usually 3+ bedrooms) and sizes in order for schemes to be marketable and achieve pricing (and/or sales rates) in line with market expectations.

Garages will result in an additional cost on development in both the:

• construction of dwellings (above BCIS); and

• calculation of CIL liability arising from a proposed development (as it is treated as GIA for the purpose of calculating CIL liability).

To ignore provision of garages within a robust CIL Viability Study process is therefore unacceptable as it will understate the construction cost of development, as well as understate the CIL liability that would be generated by each development site typology (excluding flats). This will erroneously overstate the viability reported in AV's results.

Analysis has been undertaken of new build development sites currently marketed across the district (as at January/February 2021). Approximately 50% of 3-bed units incorporate a single garage (normally 18m2), and 100% of 4-bed units incorporate at least a single garage (with circa 10% of 4-bed units including a double garage). All 5-bed units provide double garages (normally 36m2).

To reflect volume housebuilder costs in the current market, it is recommended that an average cost of £9,000 per unit is added to the construction cost for 50% of 3-bed unit types and 100% of 4-bed unit types to reflect provision of a single garage. An average cost of £17,000 per unit should be added to all 5-bed unit types to reflect provision of a double garage.

Retesting of viability should be undertaken on the above basis to determine the implications on CIL rate setting.

Building Regulations M4(2) & M4(3) Costs
The costs adopted in the LPCILVA are base dated at March 2015, being consistent with the rates cited in the DCLG Housing Standards Review, Final Implementation Impact Assessment (March 2015).

If AV is to index residential sales revenues from 2019 to 2020, as is set out in paragraph 5.15 and Table 5.3, it is necessary for a consistent methodology to be applied to development costs.

As a result, the costs of M4(2) and M4(3) should be indexed from March 2015 (Q1) to April 2020 (Q1) utilising the RICS BCIS all-in Tender Price Index. This would equate to an uplift from the March 2015 costs of 25.9%.

Retesting of viability should be undertaken on the above basis to determine the implications on CIL rate setting.

Professional Fees
The LPCILVA applies a rate of 6% professional fees, plus statutory planning application fee, and 3x the latter to meet the cost of planning application professional fees, surveys and reports. In total, this equates to circa 7% of development costs.

The Harman Guidance advocates the use of 10%-12% professional fees for less complex sites within CIL and Local Plan viability assessments. The reduction of professional fees to circa 7% artificially underestimates the scale of costs involved.

Professional fees rates should be increased to a minimum of 10% of development costs.

S106/S278 Costs
It is stated at paragraph 5.27 of the LPCILVA that the S106/S278 cost allowances are adjusted to include education contributions. However, it is not possible to discern how the S106/S278 costs have been calculated. Cross-reference with the CIL Draft Developer Contributions SPD (January 2021) provides no clarity as it does not include any calculations or rates that could allow a build-up of S106/S278 costs to be determined.

From review of the CIL Draft Developer Contributions SPD (January 2021), it is evident that there is now scope for developments to incur a wide range of S106/S278 costs alongside payment of CIL liability.

However, it is not possible to determine whether the S106/S278 allowances provided within the LPCILVA represent a realistic set of costs, which will be representative of the costs applied to developments brought forward via the planning process.

It is requested that a full and transparent build-up is provided to demonstrate clearly to stakeholders that the S106/S278 allowances utilized in viability testing are justified and represent appropriate and available evidence.

Finance Rate
The LPCILVA states that the finance (debit) interest rate applied in viability testing is 6.5%**.**

However, the viability appraisals are not appended to the LPCILVA to enable this to be cross-checked.

Instead, review of the viability appraisals appended to the Local Plan and CIL Viability Assessment – Addendum (August 2020) confirms that the finance rate applied is actually lower, at 6.25%. There is no explanation given for this.

If this is an error, it will necessitate the viability testing to be re-run at 6.5%, as the results will be misleading and will be erroneously overstating the financial viability of the site typologies, which will require adjustments to the CIL rates set out in the CIL DCS.

Residential Development and Sales Programme
The LPCILVA does not transparently set out the development periods and sales rate / programme for open market sales and affordable housing for each of the site typologies.

It is therefore not possible to discern whether the development and sales programmes are adopting appropriate market-facing time periods. This is particularly important as this will dictate the cashflow and the incurring of finance (interest) costs.

This information should be disclosed in full.

Benchmark Land Values
Having read the Appendix 3 – Land Value Paper within the Vale of White Horse District Council CIL Viability Study (January 2019), which forms the basis of the BLV setting within the LPCILVA, it is unclear as to why the BLVs set do not reflect market evidence of planning policy compliant greenfield land transactions, with appropriate reweighting, in accordance with PPG Viability.

It would have been expected that AV conduct further, up to date, research into residential land transactions in order to develop a more substantial evidence base to inform the setting of BLVs.

Interpretation of Results and Viability Buffer in CIL Rate Setting
Paragraph 020 of the PPG CIL requires that CIL rates are not set at the maximum demonstrable, with a 'buffer' or discount applied. The purpose is to ensure that the CIL rate is sufficiently flexible to avoid undermining financial viability and stalling development, or requiring the renegotiation of S106 planning obligations, when economic conditions deteriorate. It should be set at a sufficient discount to ensure that delivery of the relevant Local Plan is not undermined throughout economic cycles.

This is particularly important in the context of demonstration of deliverability and the maintaining of a 5-year housing land supply in what is expected to be a more challenging economic environment over the next several years. It is notable that the LPCILVA, which is the evidence base informing the CIL DCS, is based on data sourced from before the full impact of the COVID-19 pandemic, and subsequent UK recession, was understood. The economic fallout still remains to be fully laid bare.

Review of the testing results within the LPCILVA indicates that the discount (or 'buffer') back from the maximum CIL rate is variable across the different typologies. There is a distinct lack of clarity as to the actual buffer applied. This should be clearly and transparently stated to ensure that stakeholders can have confidence that the methodology fully accords with PPG CIL.

It is contented that it would be pragmatic and demonstrate good judgement for the CIL rates in the CIL DCS to be adjusted to represent a 50% discount ('buffer') from the maximum. This would still sit within the traditional 'range' of buffers applied within adopted CIL's nationally, but would apply a greater degree of flexibility to respond to challenging economic conditions and heightened protection to the deliverability of the Local Plan. It should also be noted that other CA's have taken this approach recently in 2020, and this has been endorsed by the Planning Inspectorate ('PINS'). For example:

- In the Brighton & Hove City Council ('B&HCC') CIL Inspector's Report, dated February 2020, the Examiner endorsed a 50% buffer as being a *"reasonable viability margin or buffer commensurate with the type of development being brought forward"* and concluded that the evidence is robust, proportionate and appropriate within paragraph 12.

- In the Harrogate Council CIL Inspector's Report, dated May 2020, the Examiner endorsed a 50% buffer.

- In the East Devon District Council ('EDDC') CIL Inspector's Report, dated June 2020, the Examiner endorsed a 50% buffer as being 'balanced', and which is likely to ensure that the majority of new residential development can be delivered in accordance with the Local Plan, whilst remaining flexible to market fluctuations.

Conclusions & Recommendations

For the reasons set out above, it is concluded that there are substantive deficiencies within the LPCILVA, which render its results unsafe as an evidence base to inform CIL rate setting within the CIL DCS.

It is recommended that the Council and AV review the comments set out in this form, address the issues raised, and conduct re-appraisal of the site typologies on a corrected basis. The updated results should be re-consulted upon and any adjustments made to the proposed CIL rates in the CIL DCS to ensure a 50% buffer (at the least) back from the maximum rate is maintained.

You may also submit any supporting documents alongside your comments - please attach to this comment form.

Participation at the Independent Examination of the Community Infrastructure Levy (CIL) Draft Charging Schedule

4. In accordance with Regulation 21 of the Community Infrastructure Levy Regulations 2010, please indicate (by ticking the box below) whether you wish to be heard by the independent Examiner at the Examination of the Council's Draft Charging Schedule.

☒ Yes, I wish to be heard by the independent Examiner at the Examination

Further Notification on Progress with the Examination of the Community Infrastructure Levy (CIL) Draft Charging Schedule

5. In accordance with Regulation 16 of the Community Infrastructure Levy Regulations 2010, please indicate (by ticking the relevant box below) whether you wish to be notified by the Council that:

☒ The Draft Charging Schedule has been submitted to the Examiner

☒ The recommendations of the Examiner (and the reasons for those recommendations) have been published

☒ The Charging Schedule has been approved by the Vale of White Horse District Council

THANK YOU FOR YOUR RESPONSE.

How to submit your comments:

Please return this form to us, either by:

- email to planning.policy@whitehorsedc.gov.uk (with Vale CIL Consultation in the subject line); or