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<i>Date</i>	24 May 2013	<i>Email</i>	laura.mcculloch@hants.gov.uk

Dear Mr Opacic,

Community Infrastructure Levy –Draft Charging Schedule Consultation

Thank you for providing the County Council with the Draft Charging Schedule that has been prepared by the City Council.

I am pleased to note that the CIL Viability Study Addendum Report includes analysis of the impact of CIL upon Extra Care Housing. Whilst it is correct that the majority of units provided by the public sector will be afforded an exemption as affordable housing, any private units provided by the public sector in order to make Extra Care schemes viable will be subject to CIL if they fall within the C3 category. This would prevent such schemes from being delivered and therefore is still of concern to the County Council.

It is disappointing to note that the CIL Viability Study Addendum Report does not address the concerns raised at the Preliminary Draft Charging Schedule consultation stage regarding the decision to charge £0 per sq m for all types of development within Zone 1 (the strategic allocations). This still remains a signification concern and the delivery of key infrastructure in relation to these large developments could be jeopardised as a result.

The development at Barton Farm can be used to illustrate these concerns. There is currently one section 106 agreement with the County Council relating to the site which secures significant planning obligations for infrastructure. If an application was submitted by the applicant to vary a condition, a section 73 application, a new section 106 agreement will be required to vary the original deed to reflect the new planning permission.

This would result in there being two agreements securing the same planning obligations and CIL Regulation 123 limits the number of obligations that can

be entered into after April 2010 to 5. It is easy to envisage a scenario where a number of conditions are applied to be varied and the number of obligations can therefore quickly reach the limit of 5. Once this limit has been reached no further obligations can be entered into and therefore the infrastructure that has been identified as being necessary to make the development acceptable in planning terms can no longer be secured.

Another likely scenario is that, where there is a consortium of developers to deliver a large site, outline permission may be issued with an associated section 106 agreement. If every future phase comes forward as a reserved matters application then the section 106 agreement will stand and the obligations will be secured as intended. However if there are any section 73 applications, or a full application for a phase of the development rather than a reserved matters application, new section 106 agreements will be required. This could lead to the maximum of 5 planning obligations being reached and therefore the infrastructure cannot be secured, or the requirement for infrastructure in relation to a single phase not meeting the Regulation 122 tests due to the requirements being based on the needs of the whole development rather than a smaller phase.

If the CIL rate were to be set at a level that would secure the infrastructure required for these developments it would only have an impact on those strategic sites that already have permission if the developer were to deviate from the original planning permission and seek to either vary a condition or apply for full permission for part of the original site. This would mean that the Council's position is protected in the event that the original section 106 could not be enforced.

For a strategic allocation where a planning permission has not already been issued, CIL could be set at level to ensure that funding for essential off-site infrastructure that cannot be secured by section 106 (due to the restrictions on pooling) is protected.

The County Council is keen to work closely with you in relation to the preparation of the Regulation 123 list which sets out the infrastructure intended to be funded by CIL and conversely those infrastructure projects that will be secured by planning obligation.

If you have any queries concerning the above please do not hesitate to contact me.

Yours sincerely,

Laura McCulloch
Developer Contributions Manager
County Planning