

# **Rother District Council**

## **Hearing points re letter for Marchfield (Strategic Land) Ltd dated 8<sup>th</sup> July 2015**

### **Introduction**

This Note sets out the points that the Council intend to make at the CIL Hearing in relation to discussion on further representations made in the letter submitted by JB Planning and the accompanying further report by Pioneer, both dated 8<sup>th</sup> July, on behalf of Marchfield (Strategic Land) Ltd.

Overall, the Council still believes the CIL levy for greenfield sites in and around Bexhill (Zone 3b) is appropriate and that Marchfield's site is correctly included within its scope. Further sensitivity testing for the purpose of this Examination has been carried out in response to Marchfield's 8<sup>th</sup> July report, which suggests there are higher than a than average opening up costs for their specific site, as set out below, but these are not found to prejudice viability.

This Note should be read in conjunction with the Council's earlier 'Response to Marchfield (Strategic Land) representation'.<sup>1</sup> As a discussion note, points are set out below under the relevant Hearing Agenda item number.

### **1. *Modification of the text of the Draft Charging Schedule***

- 1.1 JB Planning's (JBP) claim that the proposed charging zones around Bexhill are not based on the viability testing – essentially the lack of testing of a greenfield site to the east of the town – is misplaced.
- 1.2 The Council has both ensured that the CIL zones represent sensible distinctions across the town and that relevant site typologies have been tested.

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<sup>1</sup> CIL/CD/030

1.3 Through the consultation on the Preliminary Draft Charging Schedule (PDCS), it became apparent that the variation of CIL potential across Bexhill related more to a greenfield-brownfield split of sites than the earlier suggested east-west one; hence, the change when the Draft Charging Schedule was published for consultation.

1.4 Reference is made to the Council's Strategic Housing Land Availability Assessment (SHLAA) in determining the site typologies to test. It is clear from the maps in this document<sup>2</sup> that, while there are more brownfield sites in the east of the town (which led to the original zoning), there are no greenfield sites in the east (aside from the strategic sites). Hence, as none is not expected to come forward to contribute to the town's housing growth, the Council do not regard the lack of testing of a greenfield site to the east of the town as an omission.

## ***2. Is there an adequate development plan basis for assessing the infrastructure requirements and costs***

2.1 In that the further comments in Appendix B of the most recent Pioneer report essentially reiterate its earlier position, the Council relies substantially on its case set out in its 'Response to Marchfield (Strategic Land) Ltd Representation' (RDC-2).

2.2 However, Pioneer also draws on its assessment within the report that post CIL s106 costs are underestimated by PBA.<sup>3</sup> The Council reviews this under Item 4 below and finds that the allowance for s106 costs post CIL are of an appropriate order having regard to the costs associated with the recent planning permission for the Marchfield-owned site in western Bexhill.

2.3 Nonetheless, PBA's 'original' appraisal for this sized greenfield site in west Bexhill suggested a headroom of £610, which at the proposed £170psm CIL

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<sup>2</sup> CIL/CD/048

<sup>3</sup> Pioneer 8 July 2015, page 11, 'RDC Section 1' part (v)

rate allows for a substantial headroom margin. As discussed later in this response, further testing by PBA with the s106 input being set to £2,500 per unit, is shown to still keep the viability cushion at more than 50% of the identified headroom. On this basis, there would be no need for the proposed CIL rate to change under the proposed rate for CIL plus the higher s106 costs.

### **3. *The justification for adopting CIL – the Funding Gap***

- 3.1 Appendix B of the Pioneer report restates its view that the total funding for infrastructure is not known and that the IDP should set out how infrastructure is expected to be funded.<sup>4</sup>
- 3.2 The Council has separately provided a summary of the total infrastructure costs in its response to the Examiner’s Note. (CIL/CD/033 refers)
- 3.3 As stated in its earlier response to Marchfield, the IDP indicates the infrastructure requirements to support the delivery of the Local Plan Core Strategy (LPCS). Detail costs and requirements will be adjusted further as the site allocations plan progresses (a finer grain, as it were).
- 3.4 While there will be uncertainties about all infrastructure funding until contracts are let, as regards LEP monies, the assumptions reflect what it has already approved in principle, and budgeted for.
- 3.5 To clarify what was meant in paragraph 4.4 of the Council’s earlier response to Marchfield – it was simply that the CIL cannot be set at a level to fully meet a funding gap but, rather, is related to viability evidence. It is accepted that prioritisation will be needed.

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<sup>4</sup> Ibid, parts (iii) and (iv)

#### **4. Are the residential rates justified**

##### Should Marchfield's site be treated as a 'strategic site'?

- 4.1 Pioneer make an argument that their client's site should be treated as a 'strategic site', alongside North East and North Bexhill areas (with a lower CIL charge) on planning grounds, aside from viability considerations.
- 4.2 The Council has carefully considered this, but does not believe it is a justified claim on planning or, more relevantly, viability grounds.
- 4.3 It is the case that land to the north and west of the town are both identified as broad locations for development in the SHLAA and that the references in the Local Plan Core Strategy (LPCS) reflect this.
- 4.4 Notwithstanding this, there are important differences. The Core Strategy is actually somewhat guarded about further housing to the west of the town, noting '*the key issue of the capacity of the A259 and local roads*<sup>5</sup>.
- 4.5 In contrast, development to the north of the town is seen as inextricably linked to the construction of a new local distributor around Sidley – which is itself identified on the LPCS Key Diagram, as it is needed to support the scale of growth now planned for the town. Indeed, the road's inclusion in the IDP reflects this position.
- 4.6 There is also a question of scale. Not only is the North Bexhill area larger, with capacity for up to 550 dwellings, but the broad location covers a substantial area, of 81.7ha. While the details of future development at North Bexhill are currently uncertain, it faces similar issues to the adjacent allocated major site at North East Bexhill and is also conceived as a "sustainable urban extension". Hence, it is appropriate to make similar assumptions about its ability to support a CIL.

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<sup>5</sup> LPCS, paragraph 8.57

- 4.7 The Council draws attention to the fact that, at the LPCS examination, JB Planning sought a modification to the Core Strategy for the Marchfield site to be made a strategic allocation. This was not accepted by the Inspector.
- 4.8 Turning to the significance of the Marchfield site in terms of housing numbers, the Council points out that the total capacity, drawing on SHLAA sites, for Bexhill is 3,325 (CIL/CD/047, page 35), which is 225 more than the total requirement for net additional dwellings over the plan period in Bexhill (LPCS policy BX3), illustrating an element of choice of sites, assuming those sites were to come forward with the numbers estimated.
- 4.9 Nevertheless, the Council wants development on the Marchfield site to come forward and accepts that it will make a valuable contribution towards the town's housing target.
- 4.10 The Council does not accept that there are higher s106 costs associated with the site, nor that the "abnormal" development costs are sufficient to warrant lowering the proposed CIL, for the reasons explained below. The conclusion is that the site is viable with the proposed Bexhill 'greenfield' site CIL in place
- 4.11 As an aside, as it is generally the case that LPCS housing targets reflect SHLAA capacity for individual settlements in the district, so the argument being made about the Marchfield site being "strategic" on housing numbers grounds could be made for most SHLAA sites.

Is there a basis for not applying a £1,000 allowance for residual s106 costs?

- 4.12 Pioneer urges a site-specific s106 allowance of £2,500/dwelling<sup>6</sup>, at least for its client's site, derived from its 'List of s106 Costs from agreement' in Appendix A of its 8<sup>th</sup> July 2015 report. While most of these sums are agreed as being contained in the signed s106 Agreement accompanying the recently approved outline planning permission for the site, Pioneer also include<sup>7</sup> three further

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<sup>6</sup> Ibid, page 14, paragraph 1.14 b)

<sup>7</sup> Ibid, page 9, 'Section 106 costs from agreement'

costs which, contrary to the column heading, are not contained in the signed Agreement, namely:

- Est LAP/LEAP Costs and Maintenance Costs	£227,000
- Est Other POS Maintenance Costs	£250,000
- Est Footpath Improvement Scheme	£250,000

4.13 The provision of LAPs and a LEAP are being on-site, as are footpath improvements as part of the development. Hence, these substantial costs, totalling £727,000, are excluded from the Council's calculations of s106 costs, which are set out in Table 1 in Appendix 1.

4.14 The Council's assessment of how these costs would split between CIL and s106 had a CIL been in place (based on the Regulation 123 List) is in Table 2 in Appendix 1.

4.15 It can be seen that the Council has reallocated two infrastructure items to CIL from s106, although acknowledges that the Regulation 123 List is currently silent on them. These items - '*library*' improvements and '*waste and recycling infrastructure contribution*' - are regarded as more appropriately funded via CIL than s106. This is because they are facilities that serve wide catchments and are highly unlikely to be determining factors in assessing the infrastructure to support a development. This approach is typically taken in Regulation 123 Lists.

4.16 Given the now evident need to provide clarity, the Council proposes to modify the Regulation 123 List to include such infrastructure accordingly. A revised Regulation 123 List is circulated.

4.17 Finally, it is evident from Table 2 in Appendix 1 that the £1,000 per unit allowance by PBA is far closer to the estimate of £1,364 than the £2,500 per unit suggested by Pioneer.

Do the opening up costs warrant a lower CIL charge?

- 4.18 It needs to be borne in mind that PBA already makes allowance for higher opening up costs for sites of 100-499 dwellings of £100,000/ha<sup>8</sup>.
- 4.19 The costs of undergrounding of overhead lines and bringing services into the site are noted. Regard is also had to the 'Off Site Highway Works' also referred to on page 9 of the Pioneer report. To be conservative, these are all included as s106 items, giving an overall s106 cost of c£2,500 per unit, coincidentally the sum Pioneer use.
- 4.20 Given the above, for this specific site there may be higher opening up costs, much closer to the £250,000/ha for sites +500 units. For the purposes of this Examination a sensitivity test of generic site ID3 (PBA VA Table 4.6) has therefore been carried out:

Sensitivity test A: Increase site opening-up costs from £100,000/ha to £200,000/ha for this typology

- 4.21 The results are shown in Appendix 2. While PBA's 'original' appraisal for this sized greenfield site in west Bexhill suggested a headroom of £610, Sensitivity Test A gives only a small change on the headroom, £564 per.sqm.
- 4.22 For comparison purposes, a further test is carried out - Sensitivity Test B – which includes all the figures for abnormals provided by Pioneer with the exception of off-site highway costs<sup>9</sup>, as the latter would be covered by CIL or s106. Although not accepted by the Council, the higher figure of s106 costs of £2,500/unit is also included within a further (Test B) sensitivity test.
- 4.23 Sensitivity Test B gives a headroom of £360. This still provides a greater than 50% buffer and therefore is not considered a risk to delivery.

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<sup>8</sup> PBA VA paragraph 4.2.51

<sup>9</sup> £3.6m (£4,264,238 less off-site Highway costs of £653,935)

4.24 In terms of available buffer with these respective costs:

Original headroom:	£610 buffer of 72%
Headroom at £200,000 per ha:	£564 buffer of 70%
Headroom with all abnormal/s106 costs:	£360 buffer of 53%

4.25 The result is that, even with the high costs given – and notwithstanding on-site utility costs and some earthworks will overlap to an extent with ‘externals’) the available buffer is still significant with a £170psm CIL.

4.26 The Council highlight that Sensitivity Test B, which derives from the actual infrastructure costs for the Marchfield site do not just relate to the 275 homes approved but also provide for a nursing home, a school (or further 25 homes) and up to 3,500sqm of office/light industrial floorspace, so it is an exaggerated figure.

4.27 If anything, this exercise has demonstrated the capacity, within the proposed CIL charge levels to accommodate abnormal costs when these arise.

4.28 In conclusion, PBA’s recommended charge of £200psm would still be achievable, but of course the Council has chosen to reduce the recommended rate for such a site to £170psm – to keep clear of the margins of viability.

*Further comments in relation to issues raised by Pioneer in its Appendix B*

4.29 The Council confirms that relevant Local Plan affordable housing requirements have been applied in the respective appraisals. The fact that recent developments have occurred with grant is simply a reflection of the availability of grant at the time those developments were permitted. It is not to say that affordable housing requires grant. The key point is that PBA have modelled affordable housing without grant.

## Appendix 1 Barnhorn Green costs

Table 1 Barnhorn Green s106 costs/Table 2 Post adoption of CIL

Pre – adoption of CIL			
<b>S106 Contributions</b>	<b>Cost (£)</b>		
Bus stop Improvements	60,000		
Commercial Travel plan Audit fee (including revisions)	10,000		
Residential Travel plan Audit fee	6,000		
Public Rights of Way improvements (no. units in phase x £22) (275 max x £22)	6,050		
Household Waste and Recycling Infrastructure (no. units in phase x £23) (275 max x £23)	6,325		
Library Services (no. units in phase x £233) (275 max x £236)	64,900		
Leisure Centre Contribution	205,975		
<b>Total</b>	<b>359,250</b>		
Off-site highway costs	718,229		
<b>Grand total</b>	<b>1077479</b>		
Post adoption of CIL			
<b>CIL</b>	<b>Cost (£)</b>	<b>S106</b>	<b>Cost (£)</b>
Bus Stop Improvements	60,000		
		Commercial Travel Plan Audit fee (as revised)	10,000
		Residential Travel Plan Audit Fee	6,000
Public Rights of Way improvements (off site?)	6,050		
Household Waste and Recycling Infrastructure	6325		
Library Services	64,900		
Leisure Centre Contribution	205,975		
<b>Off-site highway improvements</b>			718,229
<b>Total</b>	<b>343,250</b>		<b>734,229</b>
<b>Cost per unit (with school)</b>			<b>2,670</b>
<b>Cost per unit (without school)</b>			<b>2447</b>

## **Appendix 2 Sensitivity tests** (see separate documents)

- CIL/CD/054- RDC/10a Appendix B Sensitivity Testing (*Original Scenario*)
- CIL/CD/055- RDC/10b Appendix B Sensitivity Testing A (*Increase opening up costs 100K to 200K*)
- CIL/CD/056-RDC/10c Appendix B Sensitivity Testing B (*£200k per ha and s106 at £1,000 per unit*)