

Rother District Council's Response to Persimmon Homes Plc Representation

Responses are given below in the order that they appear in the letter of representation submitted by Savills on 27th March 2015 on behalf of Persimmon Homes Plc.

1. Savills Benchmark Model and Comparison with Neighbouring Areas

- 1.1 I cannot comment on the viability arguments made at paragraphs 1.12 and 1.13, but would make the following observations on Graph 1 and its supporting text:
- a) A '40% affordable housing' requirement is mistakenly applied to 'Strategic Urban Extensions' at Bexhill, when the Local Plan Core Strategy actually only seeks 30% (CS Policy LHN29i) refers).
 - b) A figure of '*£209 psf sales values*' is quoted as that adopted in PBA's Viability Study for East Bexhill, but paragraph 4.2.28 distinguishes between NE Bexhill and East Bexhill, the former having sales values of £2,424/sqm (house) and £2,143/sqm (flat), while the latter is somewhat less at £2,249/sqm and £1852/sqm respectively. Therefore, the correct figure should be £225.28 psf sales values. It is further noted that the other strategic urban expansion, at North Bexhill, has the same sales values as NE Bexhill (Addendum report, paragraph 2.13).
 - c) The methodology and assumptions underpinning the graph are not clear, whereas the PBA approach is both locally specific and transparent.
 - d) As regards comparisons with neighbouring authorities, it is noted that adjoining Wealden (seemingly found to be viable for its proposed CIL) has charges for urban extensions of £150 along the coastal belt, compared to the £100/sqm proposed for such schemes in Rother.
 - e) Given the wrong affordable housing rate applied, as noted at (a) above, then it follows from the third bullet at paragraph 1.12 that, under the Savills' model, large greenfield sites in Bexhill will have sufficient headroom for CIL and Section 106 and 208 contributions. Furthermore, the lower proposed CIL in Rother must further enhance viability.

2. Housing land supply

- 2.1 Savills represent Rother as having historic under-delivery of housing¹ and, conclude that ‘it is therefore vital that all sites in the District come forward.’²
- 2.2 The need to safeguard the deliverability of housing in line with the recently adopted local Plan Core Strategy is, of course, accepted. While recent housebuilding rates have been relatively low, it is important to be clear that there is no suggestion that recent under-delivery is linked to viability.
- 2.3 Indeed, the Council has, through its consultants, been at pains to test the range of both the sizes and distributions of housing sites expected to come forward over the plan period. Generic sites have been based on the Council’s SHLAA, which was published as an evidence document in support of the Core Strategy.
- 2.4 As part of this, the Council has been careful to differentiate between strategic urban extensions, paying due regard to the potential for there to be ‘abnormal’ costs not associated with the majority of development sites.
- 2.5 The clear conclusion is that the proposed CIL rates will not threaten the viability of the range of sites needed to deliver the planned level of housing.
- 2.6 Notwithstanding this conclusion, it is pointed out that Savills ‘Table 2’ does not acknowledge that lower levels of completions were always expected in the early years. Indeed, this was recognised, and accepted, by the Inspector examining the Core Strategy³. In particular, she noted that ‘*new housing development in Rother has been constrained for many years by uncertainty over the construction of the Bexhill to Hastings link Road.*’ Construction of this road is now substantially complete, with its opening due later this year. Major developments, for some 1,168 dwellings, to the east of it are well advanced.
- 2.7 It is further noted that the Council’s most recent Housing Land Supply and Housing Trajectory as at October 2014 (December 2014) demonstrates that it has five year’s supply of deliverable sites with an appropriate buffer. This position was confirmed through close scrutiny at a recent s78 appeal.⁴
- 2.8 Under the heading of ‘Rural Housing Delivery’, Savills say: ‘The infrastructure and landscape constraints should be taken into account in the viability process

¹ Savills letter 27-3-15, paragraph 1.18

² Ibid paragraph 1.19

³ Local Plan Core Strategy Inspector’s Report paragraphs 44, 45

⁴ PINS Ref: APP/U1430/A/14/2219706

in particular for the rural areas of Rother where such challenges will inevitably impact on the delivery of the identified housing quantum.’⁵

2.9 In response, the Council points out that the Area of Outstanding Natural Beauty status, referred to by Savills in the same paragraph benefits virtually all the rural areas of the District, essentially save the south-east corner, together with good accessibility to Tunbridge Wells and beyond to London, create a high demand for homes relative to supply. The new sites that will come forward in order to meet the new Core Strategy housing target should be seen against this backdrop.

2.10 In terms of Savills, albeit unquantified, concerns about potential impacts on returns, the Council point not only to the appropriately fine grain of its land valuations (and hence enable it to propose the differentiated charging rates that it has) but also the viability appraisals by PBA show a maximum potential CIL liability that is much greater than the proposed charge.⁶

3. ‘Duty to Cooperate – Sub regional Dynamics’

3.1 Although under this heading, the essence of this section of the Savills representation is the suggestion that *‘adopting a CIL rate that is higher than neighbouring authorities (with similar sales values) may result in housebuilders choosing to develop in other areas.’*⁷

3.2 The Council has considered this argument, but relies first and foremost on its own viability appraisals which show viability locally.

3.3 In any event, when making comparisons with CIL charges in other areas, a number of factors need to be considered:

- It will inevitably be the case that an area with only one or two rates will inevitably need to set a lower rate to achieve viability across different value areas (Rother has chosen a differentiated CIL with several zones)
- CIL charges will effectively be a cost of development and impact on the land values rather than housebuilders interest in those areas
- Housebuilders interest is expected to be more driven by market strength (Rother has not been able to meet its objectively assessed need/demand for

⁵ Ibid paragraph 1.21

⁶ PBA CIL Viability Assessment Table 4.7

⁷ Savill letter paragraph 1.27

housing due to environmental and infrastructure constraints, which means that it will remain a relatively strong housing market.)

- In terms of the other CIL rates quoted, Wealden is the most comparable, being immediately adjoining, having a degree of economic and housing market linkages, as well as also having a high proportion of AONB. Its northern (AONB) rate of £200 psm is actually the same as Rother's 'Battle, Rural North and West' rate. Wealden's southern (Low Weald) rate of £150 psf can be seen as being of the same order as Rother's greenfield rates for Bexhill (£100 psm for strategic urban extensions and £170 psm for other greenfield/fringe sites), but without the provision Rother makes for brownfield sites at Bexhill (charged at the much lower rate of £50 psm – the same as that in Eastbourne town).
- 3.4 It is concluded that, as far as comparisons with other areas can be relevant, they do not suggest that housing delivery will be threatened by the differences that exist across the sub-region.

4. Benchmark Land Values (BLVs)

- 4.1 Savills have suggested that it is unclear as to how benchmark land values have been determined. It is noted that they do not disagree with the proposed benchmark, nor do they offer an alternative figure.
- 4.2 Section 4.2.8 – 4.2.16 of the PBA VA (CD/004) sets out the approach to threshold/ benchmark land values. Although not implicit is clear that the urban extension values, to which Savills comments largely relate are greenfield values. It was confirmed at the development industry workshop that in the absence of available transactions data that as proxy it would be appropriate to use Wealdon's figures, adjusted to take into account the lower property prices.

5. Large Strategic Site Typology Assumptions

- 5.1 Savills have commented that the allowance for 'large infrastructure and site preparation works' has been underestimated. They draw attention to the Harman Report figures that suggest £17,000 - £23,000 per plot for 'strategic infrastructure and utilities'.
- 5.2 On the latter point it should be noted that our understanding of the figures from the Harman Report (PBA were involved in the preparation of the report) is that they apply to large sites in the context of the whole country i.e. in excess of 1,000 units. Large sites in Rother are not considered large from a regional or national perspective. Therefore the suggested Harman figures for 'strategic infrastructure and utilities', whilst a guide should be considered within that context and not necessarily applied across the board.

5.3 Savills suggest that large sites within Rother have an allowance of around £6,410 for large infrastructure and site preparation costs but added to this is a further £7,511 per dwelling for externals which might cover access roads and incidental landscaping around the site, including gardens and estate access, £1,000 per dwelling for S106 allowance and a potential CIL pot.

5.4 It should be noted that one of the largest items of strategic infrastructure in Rother is the new road scheme, which is already funded. If this cost was loaded onto the associated developments as a strategic infrastructure cost then the allowance would be considerably higher.

6. **Gross: to Net**

6.1 The reported residual land values and benchmark land values are all based on net developable land areas, which is an industry standard approach for valuing land. Where some sites are fully built on, i.e. as is assumed for residential sites with less than 0.4 hectares in the tested typologies, the net area will match the gross area.

7. **Build Costs**

7.1 Savills set out that build costs have increased since the report was published. It is agreed that there has been an increase in build costs in this period as noted by "Table 4 - Movement in BCIS Costs (Median, March 2013 to March 2015)" of the Savills response. However it should be noted that values have also risen over the time. It is not a robust argument to suggest that you change one assumption as a result of time without consideration of the other assumptions.

7.2 To assist the Examination in considering this matter, the table below shows the average price paid of all the properties sold in each year since the start of January 2011 from the Land Registry. The table also denotes the year-on-year percentage change across the period, showing very little difference between 2011 and 2012, followed by 2 years of significant growth (5% in 2012 to 2013 and 4% in 2013 to 2014). From the table it can be seen that the average price paid has risen by 5% from 2013 compared to the average for 2015 so far. This growth in values is similar to the increase in build costs, and in viability terms, would have a much greater positive impact on the bottom line viability figure.

| | 2011 | 2012 | 2013 | 2014 | 2015 |
|-----------------------|-------------|-------------|-------------|-------------|-------------|
| ROTHER | £244,702 | £244,140 | £256,036 | £265,865 | £269,380 |
| Year on year % growth | - | 0% | 5% | 4% | 1% |

7.3 In recognition that reports are a point in time and the authority cannot be expected to continually update evidence, sensitivity testing was undertaken (see Appendix D, PBA VA (CD/004)) to show the effect of an increase of 10% in values and costs. As can be seen the headroom in Appendix D, the viability is improved if both costs and rates go up by 10%.

8. Developers Profit

8.1 Savills indicate that profit level for residential development should be a 20% of GDV blended rate (between affordable housing and market housing). The PBA appraisal uses 20% for market and 6% for affordable.

8.2 Savills quote a number of appeal cases to support a lower rate, however these are not considered to be of significance for a number of reasons. Firstly they are individual appeals and not strategic assessments of viability over a wide range of sites, therefore in each of those areas there may be other appeals or agreements, which accept lower profit levels. Also there may be very good individual reasons why higher levels of profit were considered acceptable for a site specific reason, but that this would not apply for a strategic assessment. Finally these appeals were undertaken in a different economic cycle during the national and local recession, which was carrying greater risks, so hence the need for higher speculative profit.

8.3 Market conditions have improved and therefore there is less risk which should lower a requirement for higher profit percentages. Finally the figures presented have been widely accepted at numerous CIL examinations, which are more comparable than individual appeal decisions.

9. Section 106 costs

9.1 Savills advise that their client, Persimmon Homes plc, has particular concerns that the assumption within the viability appraisals for £1,000 per unit residual Section 106/278 contributions is too low.⁸

9.2 Savills argue that this allowance is too low, citing various items not covered by the Draft Regulation 123 List and that it is a “gross under-estimate of the residual obligations that will be sought on large strategic sites’.

9.3 In response, the s106 allowance can only be a broad-brush estimate and may vary somewhat from scheme to scheme. However, the concern, which could be potentially significant, is unfounded, as explained below.

⁸ Ibid, paragraph 1.49

9.4 Savills list the items not proposed to be covered by CIL⁹. However, they appear to have misinterpreted the excluded items. A number of the exclusions relate to 'site-specific improvements', which refers to works that would normally fall within the 'red line' of a planning application and form integral elements of the proposal. Examples given include 'highway crossover to access site and local junctions', deceleration and turning lanes from the highway into the site, if required, measures to facilitate pedestrian, public transport and cyclist improvements and access through the site, and lighting and street furniture, as well as on-site open space and drainage works, most likely SUDs.

9.5 Given this apparent ambiguity, it is proposed that the wording of the first sentence in the 'Exclusion' column of the table in the Regulation 123 List is modified to be clearer that it relates to on-site infrastructure or works to open up a site to provide safe access that are part and parcel of the actual development:

'Site-specific On-site infrastructure and improvements, including for safe access to the site, needed to make the development acceptable in planning terms.'
(New text is shown underlined)

9.6 It is acknowledged that there are certain major infrastructure improvements required to open up strategic sites over and above the normal CIL/s106 scope. The improvement to the A269 Holliers Hill/A2036 Wrestwood Road/ London Road junction and provision of a new primary and nursery school in accordance with the North East Bexhill SPD, both of which are listed as an 'exclusion' to CIL, are required to support development of the strategic sites at North East Bexhill.

9.7 While these would be funded through S106 payments, they are specific to this strategic site and for which proper allowance is made in the PBA Viability Assessment at paragraph 4.2.51. This states:

'We therefore also make an allowance for opening up works such as utilities, land preparation and spine roads as well as meeting wider strategic planning requirements. There will be different levels of development costs according to the type and characteristics of each site. As these are generic appraisals we have taken an average figure based on size of site. Opening up costs vary between £100K and £250K/Ha increasing as schemes get bigger. We therefore assume an opening cost of £100K/Ha for sites with 100 to 499 units and £250k/ha for UEs of 500 to 1,000 units.'

⁹ Ibid, paragraph 1.50

- 9.8 Of note, the Persimmon housing site at North East Bexhill benefits from the higher rate of opening up costs as it is part of a larger scheme.
- 9.9 It is accepted that the exclusions include other matters that would need to be covered by s106 payments, if required, essentially being off-site transport mitigation works identified through a transport assessment and off-site flood mitigation. It is difficult to quantify these, but they can be expected to be relatively limited, as more wide-reaching transport improvements would be covered by CIL, while the Environment Agency’s standing advice is to avoid increases in off-site surface water discharge wherever possible.
- 9.10 It should also be noted that in recognition of unknown costs and changes to reflect site specific circumstances that a buffer has been included when setting the CIL rate. The buffer for the Bexhill Strategic Sites (as a proportion of the average headroom for the typologies tested) is 36%.
- 9.11 In conclusion, the allowance for S106 payments is regarded as reasonable given the scope of CIL and the buffer included. It is also noted that it is a negotiable sum. This assumption is set out at paragraph 4.2.52 of the PBA Viability Assessment (VA).

10. Calculation of the Proposed CIL Rates

10.1 Savills have requested that further information be provided in respect of calculating the CIL rates and in particular the buffer. In terms of the PBA VA (CD/004) there is no prescribed buffer because as is sets out in section 4.4, it is a matter of judgement and should reflect the local circumstance. However in order to help the Examiner, the buffer that would be in place for each of the charging zones (using weighted average headrooms where there is more than 1 applicable typology) is below. The second column shows the total average headroom, the third and fourth the proposed CIL rate and resulting buffer:

| Zone | Average headroom (per sq. m) | Proposed CIL rate (per sq. m) | Buffer % |
|---|------------------------------|-------------------------------|----------|
| Zone 1 (Battle, Rural North and West) | £644 | £200 | 69% |
| Zone 2 (Rye, Hastings Fringes and Rural East) | £267 | £135 | 49% |
| Zone 3a (Bexhill urban) | £89 | £50 | 44% |
| Zone 3b (Bexhill Greenfield) | £446 | £170 | 62% |

| | | | |
|---|------|------|-----|
| Zone 3c (Bexhill strategic urban extension) | £155 | £100 | 36% |
|---|------|------|-----|

10.2 As can be seen these buffers are all in excess of the minimum viability buffer of 30% suggested by Savills in para 154 of their response to the Draft Charging Schedule.

11. Instalments Policy

11.1 Regulation 70 (7) of the Community Infrastructure Levy (Amendment) Regulations 2011 sets a default of full payment of the Levy within 60 days of the commencement of development. However the Amendment Regulations also enable a Charging Authority to set an Instalment Policy that allows payments to be spread over longer periods. In accordance with Regulation 69b of The CIL Amendment Regulations, Rother District Council (The Charging Authority) will introduce an Instalment Policy to all development on which CIL is liable as part of the Implementation and Governance protocols.

12. Exceptional Relief Policy

1.1 The Council reserves the right to develop an Exceptional Relief in accordance with Para. 130 of the PPG (Reference ID: 25-130-20140612). An Exceptional Relief Policy will be developed in accordance with the conditions set out in Regulation 55 of the CIL Regulations 2010 (as amended) are met.

1.2 However the Council considers the viability assessment was undertaken robustly and is compliant with the CIL Regulations and best practice, therefore the CIL rates proposed are reasonable and would not undermine economic viability of development against achieving the wider planning objectives of the development plan.

1.3 Subsequently the Council will not be introducing a CIL Exemptions and Discretionary Relief Policy at this time.

13. Payments in Kind

14.1 The Council is not intending to develop a Payment in Kind policy at this time.

14. Reviewing the CIL

14.1 The Council will endeavour to review its CIL charging schedule should circumstances allow it such as changes in market signals, legislation or a review in the Local Plan.

15. Application of differential rates

15.1 Please refer to the MOD 12 which has been put forward to the Examiner as modification to the Residential CIL Charging Zone map.