



**WEST OXFORDSHIRE  
DISTRICT COUNCIL**

**DOCUMENT REF: WO CIL 05**

**WEST OXFORDSHIRE COMMUNITY INFRASTRUCTURE LEVY (CIL) EXAMINATION**

**EXTRA CARE AND SHELTERED HOUSING - CIL AND AFFORDABLE HOUSING  
REQUIREMENTS**

**DATE: 10 November 2015**

This statement has been prepared in the context of the West Oxfordshire CIL examiner's request for additional information set out in a note circulated on 8 October 2015 (IN CIL 02).

This statement deals with a number of specific issues set out in Questions 12 - 16 of the note including:

- Justification for the proposed CIL rates and affordable housing policy requirements for sheltered/extra care housing;
- Whether any amendment is needed to the affordable housing policy requirements for sheltered/extra care housing to ensure they are viable taking account of the proposed CIL charge;
- Whether the affordable housing policy for sheltered/extra care housing should make it clearer that a payment in lieu of on-site provision would be accepted; and
- Whether as currently proposed, the Council's CIL charge and affordable housing policy could act as a disincentive to sheltered and extra care schemes, thereby undermining delivery.

It should be noted that a letter has been submitted in response by Blue Cedar Homes (dated 10 November 2015) and is attached at Appendix 1.

**12. The proposed CIL rates for sheltered/extra care housing in the DCS follow the recommendations in the AV (Table 11.2 also Table 6.5). In those Tables, the assumed contribution to affordable housing for sheltered housing and extra care housing respectively in the different zones are: 30%/10% (high value zone); 10%/0% (medium value); 0%/0% (lower value). These do not equate to the policy requirement for affordable housing in the Local Plan and are not the affordable housing rates specified in AV Appendix 1 Hypothetical Typologies for supported living schemes.**

**Supported Living Typologies 1-3 (sheltered housing) Appendix 1 shows policy compliant levels of affordable housing for each of the value zones, but for typologies 4, 5 and 6 only 35% is shown across all value zones. Why?**

Table 1 below relates to sheltered housing and summarises WODC’s proposed CIL rate, draft affordable housing policy requirement and the modelling assumptions and recommendations of AV.

**Table 1 – Sheltered Housing**

	Low Value Zone	Medium Value Zone	High Value Zone
Proposed CIL rate	£0	£100psm	£100psm
Draft Policy H3 affordable housing percentage requirement	35%	40%	50%
Assumed level of affordable housing modelled by AV	0%	10%	30%
AV affordable housing recommendation	0%	10% or commuted sum of £50psm	30% or commuted sum of £375psm

WODC acknowledges that there is a difference between the submission draft Local Plan affordable housing requirement for sheltered housing and the modelling assumptions and recommendations of AV.

The reason for this and the rationale behind the Council’s approach is further explained in relation to Questions 13 and 14 below.

For clarification it should be noted that whilst Appendix 1 of the AV study identifies a ‘target’ level of affordable housing for sheltered housing of 50%, 40% and 35% for the high, medium and low value zones respectively, this is not the level of provision that was modelled by AV, which was 30%, 10% and 0% respectively (the ‘target’ levels being unviable).

Table 2 below relates to extra-care housing and summarises WODC’s proposed CIL rate, draft affordable housing policy requirement and the modelling assumptions and recommendations of AV.

**Table 2 – Extra Care Housing**

	<b>Low Value Zone</b>	<b>Medium Value Zone</b>	<b>High Value Zone</b>
Proposed CIL rate	£0	£0	£100psm
Draft Policy H3 affordable housing percentage requirement	35%	40%	50%
Assumed level of affordable housing modelled by AV	0%	0%	10%
AV affordable housing recommendation	0%	0%	10% or commuted sum of £50psm

WODC acknowledges that there is a difference between the submission draft Local Plan affordable housing requirement for extra-care housing and the modelling assumptions and recommendations of AV.

The reason for this and the rationale behind the Council’s approach is further explained in relation to Questions 13 and 14 below.

For clarification, it should be noted that the affordable housing ‘target’ percentage identified for extra-care housing in Appendix 1 of the AV study (i.e. 35% across all value zones) should in fact have referred to 50%, 40% and 35% for the high, medium and low value zones respectively (to be consistent with the sheltered housing and other residential typologies).

It should also be noted that this is not the percentage affordable housing requirement for extra-care housing modelled by AV in their assessment which was superseded by 10%, 0% and 0% for the high, medium and low value zones respectively (due to viability).

**13. The AV (6.32) confirms that neither sheltered nor extra care is viable in the lower value zone on brownfield and only marginal on greenfield land, thus justifying the proposed nil CIL charge here. The AV (6.33) also confirms that neither type are viable with the policy target affordable housing in the medium value zone. But sheltered housing is viable with 10% affordable housing (or its equivalent financial contribution). In the high value zone, sheltered is viable with affordable housing at 30% and extra care with 10% provision (or equivalent financial contribution).**

**14. What is the justification for setting a CIL rate based on substantial non-compliance with affordable housing policy?**

**15. If CIL is to be charged as proposed, should the Local Plan policy requirements for this type of housing be amended to match the level at which they would be viable with CIL?**

As set out in response to Question 12 above, WODC acknowledges that there is a difference between the AV study findings and the Council's draft affordable housing policy (H3).

In this regard it should be noted that in recommending their proposed CIL rates for sheltered and extra-care housing, AV also recommended a reduction in the affordable housing requirement for such uses to ensure an appropriate viability cushion.

This was not reflected in Policy H3 of the submission draft Local Plan which makes no distinction between sheltered and extra-care housing and other forms of residential development, with all schemes of 11 or more expected to provide 50% affordable housing in the high value zone, 40% in the medium value zone and 35% in the low value zone.

The Council chose not to set a lower affordable housing requirement for extra-care and sheltered housing for several reasons.

Firstly, it is the case that the Council has successfully secured a good level of on-site provision of affordable housing on a number of supported living schemes in the District including Fernleigh, Witney and the Paddocks, Milton under Wychwood. Other similar schemes are currently in negotiation.

This suggests that in practice such schemes are able to provide a proportion of affordable housing without harming development viability.

Secondly, given the high level of affordable housing need that has been identified for the District, the Council considers it appropriate to seek to maximise the provision of affordable housing from all forms of market housing including supported living schemes.

The supporting text to Policy H3 (see paragraph 5.50) acknowledges the potential for viability issues with extra-care and sheltered housing and the policy itself includes a good degree of flexibility to allow for such matters to be taken into account in negotiating an appropriate level and form of affordable housing provision.

It is also relevant to note that the 6 hypothetical supported living scheme typologies modelled by AV all related to standalone developments on previously developed sites, whereas it is often the case that such schemes come forward on Greenfield sites as part of a larger scheme including 'mainstream' housing provision. Thus, a different threshold land value would apply and the ability of the supported living element to support the provision of affordable housing would need to be seen in the context of overall scheme viability.

Notwithstanding the above, WODC acknowledges that based on the findings of AV, the Inspector may consider it appropriate to recommend a downward adjustment of the affordable housing requirement for extra-care and sheltered housing.

To help inform the process, WODC intends to further consider the viability findings of AV in relation to supported living schemes, potentially supplementing this with some additional analysis which will be made available to the Inspector and other parties as soon as possible.

***In addition, if it is assumed that almost invariably payments in lieu of affordable housing on-site would be accepted, should this be acknowledged in the policy so that such developments are policy compliant from the outset, rather than having to be justified as exceptions?***

WODC does not accept that invariably, supported living schemes will make a commuted sum payment in lieu of on-site provision of affordable housing.

Whilst the AV study identifies a potential affordable housing commuted sum for extra-care housing and sheltered housing on a £ per m<sup>2</sup> basis, it does not recommend that this is used in place of an on-site requirement. Rather it identifies what could be sought whilst retaining an appropriate viability cushion.

WODC draw attention to the NPPF which states that where local authorities have identified a need for affordable housing, they should set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified.

It is of particular relevance to note that WODC has secured on-site provision of affordable housing in a number of extra-care housing schemes within the District including Fernleigh, Witney and the Paddocks, Milton under Wychwood. Other similar schemes are currently in negotiation.

As such, WODC does not accept that provision for affordable housing from extra-care and sheltered housing schemes will invariably be by way of commuted sum.

WODC also considers that Policy H3 of the submission Local Plan already provides sufficient flexibility to allow for the payment of a commuted sum in circumstances where on-site provision cannot be achieved.

***16. As currently proposed, could the combination of the DCS and Local Plan policy act as a disincentive for sheltered and extra care schemes to be initiated? Would this combination of requirements undermine rather than support the implementation of an important element of the Local Plan's proposals?***

WODC considers it unlikely that as currently drafted, the Draft CIL Charging Schedule and Local Plan Policy H3 – Affordable Housing will act as a disincentive to extra-care and sheltered housing schemes.

As a proportion of overall supply, the amount of supported living accommodation coming forward is also likely to remain relatively small. However, the District has an ageing population and the demand for such housing is likely to remain strong, thus fuelling ongoing developer interest.

As set out previously, such schemes often form part of a larger overall development. The prospect of deliverability must therefore be seen in the context of overall scheme viability.

It is also the case that Policy H3 and the supporting text of the plan recognise and acknowledge the importance of development viability and the policy includes a good degree of flexibility for such matters to be taken into account during planning application negotiations.

Notwithstanding the above, WODC acknowledges the importance of setting a robust and appropriate CIL charge and affordable housing policy and will seek to provide some additional analysis of development viability in relation to supported living schemes in order to help inform the examination process.

## Appendix 1

Our Ref: ST/WODCCILResponse

10 November 2015

Mr C. Hargraves  
Planning Policy Manager  
West Oxfordshire District Council  
Elmfield  
New Yatt Road  
Witney  
OX28 1PB



Dear Mr Hargraves

**Re: West Oxfordshire District Council – CIL Draft Charging Schedule Response to Examiner's Note (In CIL 02)**

I refer to the West Oxfordshire District Council CIL Draft Charging Schedule and your email of 4 November 2015 containing specific questions raised by the Examiner in the document 'In CIL 02'. These questions have been raised following my original submission dated 8 May 2015. I also make reference to the Council's response dated 2 November 2015 (document reference: WO CIL 06) and our telephone conversation of yesterday.

These Submissions are made on behalf of Blue Cedar Homes, a private retirement homes specialist operating in the South West of England. The content of my original letter should also be read in conjunction with this submission.

By way of background, and as discussed on the telephone, I thought it would be useful to explain the type of retirement developments we develop. Our product is very unique and different to that offered elsewhere in the retirement marketplace. The properties are predominantly detached dwellings including bungalows and whilst we do build some flats, we do not build many schemes similar to what one might expect for a care home. We enable people to 'rightsize' into properties which can accommodate their changing lifestyle as they mature. Typically, our schemes comprise 10 to 12 retirement dwellings.

Our homes have many features which allow versatility as and when it is required or necessary. As such, I truly believe that a Blue Cedar home helps reduce the likelihood of needing to move into a residential home, due to frailty in later life. All of the properties benefit from estate maintenance – both communal and individual.

In providing this type of accommodation, our build costs are inevitably higher than the norm. However notwithstanding all of the above, we face a number of difficulties, not least that our specialist housing is considered in the same light as traditional, C3 housing. Local Planning Authorities treat our retirement schemes like they would any other residential development, without little consideration to the product, the additional features and the specialist housing stock it provides.

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I believe that the West Oxfordshire District Council CIL Rates Charging Schedule should take heed of the above, and should have an exemption or at the very least, a lower rate specifically for retirement housing. Reference to 'C3 Sheltered/Retirement Houses' could be added to the rate. In summary, retirement housing should not have the same rates as general needs housing, as outlined above.

Furthermore, I note that the government have now been granted leave to appeal the Court's decision which deleted guidance contained in the National Planning Policy Guidance (NPPG) on contributions not being sought from developments of 10 units or less, and which have a maximum combined gross floorspace of no more than 1000sqm. Whilst the outcome of the appeal may not be known for some time, it might be worthwhile making reference to it in the CIL Rates Charging Schedule.

I note in the Council's response to Question 15, that retirement schemes "are able to provide a proportion of affordable housing without harming development viability". I do not agree with this assertion. Whilst I appreciate that there is a real need to provide affordable housing in West Oxfordshire, in reality our schemes generate a small level of affordable housing and quite often a Registered Provider is not attracted to make an offer for the number available. This has been especially true ever since the Budget 2015 announcement of reductions in social rents in the four years from 2016-2017.

For example, a scheme of say ten retirement properties in an Authority which requires 40% affordable housing would mean providing four affordable units. It would benefit all parties if in the aforementioned example, a commuted sum would be accepted by the Local Planning Authority. A Registered Provider could use the money to provide more affordable housing on much larger sites. In turn this would bring forward much needed retirement properties to an area which has a shortage at both ends of the housing ladder – affordable and retirement.

In addition, this would also save time and resources in negotiating issues of viability should the need arise. Indeed only yesterday, the Minister of State for Housing and Planning, Brandon Lewis, wrote to all Local Authorities about the delivery of affordable housing in light of the Budget announcement. In relation to reducing affordable housing should there be a need, the letter notes that Local Authorities should only seek the minimum amount of viability information. I attach a copy of the letter for your information.

I believe there should be some flexibility in the way affordable housing provision is sought from specific types of housing, namely retirement housing. Whilst I appreciate there is a recognised need for affordable housing, there is also a recognised need in the Authority for homes for the elderly. Indeed, paragraph 21 of the NPPG places a greater emphasis on Councils making provision for the changing needs of older residents. Providing retirement homes has other benefits too, such as freeing up underutilised housing stock.

I trust the above comments can be considered in light of the points raised by the Examiner. Please will you keep me notified of developments throughout the preparation process?

Yours sincerely

A handwritten signature in black ink that reads "S. Tofts".

**Simon Tofts**  
**Planning Manager**

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9<sup>th</sup> November 2015

### **Impact of social rent changes on the delivery of affordable housing**

As part of its ambitions to continue to significantly boost housing supply and increase home ownership, the Government is committed to delivering 275,000 extra affordable homes by 2020. Over £1 billion from the existing Affordable Housing Programme has already been allocated to deliver such schemes.

Following feedback by key partners it is clear that housing associations are reviewing their existing financial commitments following the Budget 2015 announcement of reductions in social rents in the four years from 2016-17. As a result some approved or emerging schemes where housing associations are engaged with house builders through Section 106 agreements are not being built out at the anticipated rate. Delay risks planned homes not coming forward and the ability of councils being able to demonstrate a five-year supply of deliverable housing land.

Section 106 agreements may of course be renegotiated at any time by mutual consent. Developers have already or will be approaching councils to renegotiate Section 106 Agreements to make adjustments to planned schemes, including the type of affordable housing provided. Planning guidance is clear that local planning authorities should be flexible in their requirements, taking into account specific site circumstances and changing circumstances.

Developers are already entitled to apply to modify any obligation over five years old. They are also able to apply to revise the affordable housing element of any Section 106 planning obligation if they can evidence that the affordable housing element is making the scheme unviable and is stalling development.

We would urge planning authorities to respond constructively, rapidly and positively to requests for such renegotiations and to take a pragmatic and proportionate approach to viability. Where it is simply proposed that the tenure mix is adjusted, with the overall affordable housing contribution remaining the same, it is our view that this is unlikely to justify reopening viability by either side. We would ask local authorities to expedite such renegotiations so they can be dealt with in a timely manner, and avoid action which might result in unnecessary delay. For example, it would probably not be necessary in all circumstances to take a revised obligation back to planning committee for approval.

Should there be a need to reduce the overall amount of affordable housing, we strongly encourage local authorities to seek the minimum amount of viability information necessary, for example only that information which compares the financial position immediately prior to the Budget to the current position to justify the requested change.

The Government attaches great importance to the effective and flexible negotiation of Section 106 planning obligations, including on affordable housing, and intends to introduce a dispute resolution mechanism to help speed up Section 106 negotiations. We would also encourage flexible arrangements in the original agreement (for example through cascade mechanisms) so that it allows the delivery of alternative forms of affordable housing if this becomes necessary, and will produce guidance on this shortly.

We will be contacting local authorities over the next few weeks to understand the extent to which they are being approached to renegotiate Section 106 Agreements, and what action authorities are taking.

A handwritten signature in black ink, appearing to read 'Brandon Lewis', with a long horizontal flourish extending to the right.

**BRANDON LEWIS MP**