

Legg ID723 Matter 4

This objection relates to the affordable housing contribution proposed to be levied by West Dorset District Council under their revised draft Local Plan.

The objection is submitted by:

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Why is this a valid objection?

The Council argue that this objection is one which should have been raised earlier during the public consultation on the CIL. My position is that the affordable housing contribution is a payment collected under Section 106 TCPA 1990 and is not a CIL charge. It is not part of the Charging Schedule of the CIL and no mention is made of the proposed contribution in the CIL documentation that was the subject of public consultation. The connection between the affordable housing contribution and the CIL is whether the totality of the charges might make some developments non-viable – see paragraph 5.2.4 of the draft Local Plan

Summary of my objection

It is my belief that the level of the proposed affordable housing contribution when aggregated with the CIL will render many small development site non-viable. Owners of small sites will therefore look to ways of developing their land in ways which do not attract the affordable housing charge with the result that there will be a significant reduction of supply from such sites. The amount of the charge has not been properly tested to ensure the development of small sites remains viable. The level of charge first became known in May 2013 and has not been the subject of public consultation or elected member approval.

I have included references to the documents quoted in the text with paragraph and page numbers as appropriate within [square brackets].

Impact of the affordable housing charge on housing supply from small sites

The removal of the thresholds below which developers are not required to make provision for affordable housing coupled with the proposal for financial contributions to be made in lieu of on-site provision of affordable homes is likely to significantly reduce the development of such small sites. The reports commissioned by the Council to support this change of policy have been prepared on a number of flawed assumptions. An examination of these assumptions which provide a supportive foundation to the housing policy change are important because of the interaction between the payments to be made by small sites for off-site affordable housing and the new CIL charging regime.

The new Plan states at paragraph 5.2.4 that:

"Where applying the target would result in a fraction of an affordable home, a financial contribution will normally be sought for that fraction. The level of the financial contribution sought and how it can be calculated will be published at the same time as the community infrastructure levy charging schedule, so that its impact on viability can be fully tested through the community infrastructure levy examination."

At the present time the District Council propose a CIL charge and a payment for affordable housing (calculated on the same basis as the CIL at a rate per square metre of gross internal area built) of £221 sq m.

At such a high level of charge the amount proposed for affordable housing should be examined to establish:

- 1) Whether small site development will remain viable.
- 2) If there would be a "level playing field" between small and large scale development when it comes to the requirement to make provision for affordable housing.
- 3) What might be the likely effect on the development of small sites?

What are the issues which raise doubts about the Paribas assessments of viability?

- 1) The use of eight housing market areas as the basis for the analysis disguises the viability of development carried out in particular areas of the district. The Three Dragons report carries out its analysis on the basis of post code areas and shows that the Sherborne area and the Sherborne Rural Hinterland represent the highest and lowest residual value areas in the district a fact disguised in the Paribas assessments. For low density housing of 30 dph the Three Dragons report states [paragraph 3.11 page 13] that *"The range of values has potentially important implications for policy making. With the scenarios tested, a 35% affordable housing allocation generates a very similar residual value in the Sherborne market value area, to 100% market housing in Bridport and Northern Rural"*. A 100% market development in the Sherborne Rural Hinterland would show an even lower residual value than that achievable in the Bridport area and would compare less favourably with development in the neighbouring DT9 3 post code area despite the latter having the disadvantage of a 35% affordable housing requirement.
- 2) It is unclear in the initial study what was chosen as the basis for the calculation of viability on a two unit site. The second study removes this confusion by proposing for a type 2 site a development of two 4 bed houses both of 135 sq m internal area. I believe that a greater range of types of

development should be modelled. Smaller house types are the most important in meeting housing need in the district. [See the Fordham Research quoted in paragraph (3) of The Three Dragons report section below]

- 3) The second Paribas study states that all sites in West Dorset remain viable with the inclusion of an affordable housing charge, save for developments of two units in Chickerell and Crossways at the highest benchmarked land value. This is inconsistent with an additional paper contained in the Local Plan Examination Document Library: CIL Documents [CD/CIL12]. The paper, headed 'Further viability work to take into account modification to the West Dorset Draft Charging Schedule: 15 May 2013' shows maximum CIL rates of just £120 sq m for type 1 developments in both Chickerell and Crossways at the highest benchmarked land value of £800,000 a hectare. The eight outputs for type 1 and type 2 developments at BLV1 and BLV2 levels in Chickerell and Crossways all result in maximum rates for CIL of £200 or less. In fact seven of the eight are below £200. It is not at all clear from this paper whether it is assumed that commuted payments for affordable housing can be applied on top of the CIL charge as well. Since the Council are proposing a combined rate of £221 sq m it may be considered that all eight of these output types would be rendered non-viable. Some explanation needs to be given here by the District Council since the second Paribas study and the paper written by a senior director at BNP Paribas Real Estate were produced at the same time. It should also be noted that the second study is based on a flat rate payment of £15,750 for affordable housing and not on a rate of £121 sq m. At that rate a payment of £16,335 would apply to a dwelling of 135 sq m. The inability of small sites to absorb both charges is also confirmed in the first BNP Paribas study. Tables 6.8.1 and 6.8.2 set out viable rates of CIL across the eight housing market areas for developments of site types 2 and 3 respectively. The effect of the affordable housing requirement on the viability of the type 3 site mirrors the results of the additional submitted paper CD/CIL12. Sites in Chickerell and Crossways become non-viable and rates of CIL that may be charged are substantially reduced in Charmouth and to a lesser extent in Bridport. These outputs in the February 2012 report call into question the effect a substantial commuted payment for affordable housing.

- 4) It is said that the Council have sought agreement with developers on appropriate values for testing purposes. [paragraph 4.2 page 12 of the first study] It is entirely unclear what methodology has been used to compile the sales value data used other than relying on the judgement of an unknown group of developers. If the housing supply from the development of small sites is choked-off then this might well be to the advantage of major house-builders.

- 5) Sale values which form the basis for the residual value calculations [Table 4.3.1 page 12 first Paribas study] should be re-examined to confirm their validity. The BNP studies have taken as an assumed sale value for properties in the Sherborne area a figure of £3,433 sq m. So a three bed semi-detached property would achieve a price of perhaps £360,000 to £370,000. Even allowing for a 10% margin for new properties over the second hand market I believe such a price to be unrealistic. The sales prices currently sought by Redcliffe Homes for properties on their development at Sherborne House Gardens are less than the sales values assumed in the studies. Eight houses are currently offered for sale at an aggregate price of £3,335,000 - an average price of a little under £417,000. Together the development amounts to 1,017 sq m GIA, giving an average sale value per sq m of £3,279 if they all sell at the offer price. This suggests that even on the very best site the sale value used for Sherborne in the studies is 5% higher than that which can be achieved.

The Three Dragons report

- 1) The report assumes the same policy context of the existing adopted Local Plan with regard to the provision of affordable housing (thresholds of 3 and 15 units depending on the location of the development) and a total cost of other planning obligations of £5,000 [paragraph 3.8 page 12]. These were not unreasonable assumptions to make at the time the report was published in January 2010. However, under the new rates of charge the overall burden on a single dwelling will easily exceed £20,000. An application last year for a three bedroom house was withdrawn on being invited to make a payment of over £28,000.
- 2) It is also assumed that substantial grants are available for the development of affordable housing on all sites: £50,000 for social rented units and £15,000 for New Build Home Buy units. The report also shows that the availability of grant is particularly important in the lower value sub-markets of West Dorset. However the Government now expects affordable housing to be delivered without grant.
- 3) The case studies chosen for further examination [Table 5.1] suffer from the same problems identified as faults in the Paribas reports - at least so far as sites of one or two dwellings is concerned. Case study A proposes the construction of one 5 bed dwelling and case study B is a development of one 5 bed and one 4 bed dwelling. Dwelling sizes of 2 or 3 bed units ought to have been chosen for study as well. The greatest need in the district is for three bedroom owner occupied housing followed by two bedroom properties. The level of demand for four bed accommodation is about half that of the demand for three bed properties and a fifth of the requirement in the whole market sector. Similarly, demand for social rented properties shows an

overwhelming preference for one and two bed units. Figure 5.1 on page 28 graphically demonstrates the importance of very small development sites in West Dorset [columns 1, 2, 4 and 5 of the graph] so proper modelling of the range of development types on such sites is essential. The report identifies *'schemes which involve the redevelopment of one dwelling with either one or two new dwellings will be more difficult to deliver with an affordable housing contribution because of the high existing use value'* and *"around half the schemes for one and two dwellings involve demolition of an existing dwelling."* [paragraph 5.21 page 34]

Does the charge proposed for affordable housing discriminate against small development sites?

When the Council took a "For Information" report to its Development Control Committee on 16 May 2013 it stated that the level of contribution to be sought for affordable housing would be *"based on the shortfall, applied to an average public sector funding required to support a 2 bedroom affordable house for affordable rent, which at the present time is approximately £45,000. So, for example, if an applicant seeks permission to build a single market dwelling on a site, the affordable housing contribution required would be 35% of £45,000 = £15,750"*. But the purpose of the committee report was to inform members of the weight to be given to emerging policies in the draft Local Plan. The report was given to provide information to members and was duly "noted" by them. No resolution was sought or still further passed which approved the charge proposed for affordable housing.

Later the Council revised its calculation saying that they were looking to collect £31,107 rather than £45,000 as a contribution to affordable housing. The council web-site and on-line calculator now shows that this payment is to be collected as a rate per sq m of the gross internal area (GIA) of new residential development. No explanation is given of how the rate of £121 sq m has been derived.

The proposed charge of £121 sq m seems to have been calculated in the following way.

How many sq m of built development has to be carried out at the rate of £121 per sq m to produce a contribution of £31,107?

Build requirement = $31,107 / 121 = 257.08$ sq m of GIA. Rounding to the nearest whole number 257 sq m.

If you then apply the 35% policy requirement for affordable housing you get $257 \times 35 / 100 = 89.95$ sq m of GIA.

It can be seen that 90 sq m of build would provide a good sized two bed affordable home or a rather small three bed one.

However an analysis of any large scale housing development shows that even if 35% of the units built are affordable homes they do not represent 35% of the totality of the residential development measured by GIA. This is because the affordable element of any scheme has smaller homes, both on a like for like basis and because the mix of affordable properties contains a proportion of 1 and 2 bed units whilst the open market properties have a higher proportion of larger dwelling types, 3, 4 and 5 bed housing. A current example in the Sherborne area provides about 22% of the total development measured by GIA as affordable housing and a proposed development in Lyme Regis by Bloor Homes would yield 20% by area although the 35% target for affordable housing is met on both site

So one can do the calculation in reverse. If developers of small sites were only required to make a financial contribution to affordable housing based on the 20% rate which major house-builder deliver on their sites then how much GIA of built development is required at the 20% rate to produce a 90 sq m affordable home?

$90 \times 100 / 20 = 450$ sq m of built development.

So to produce a contribution of £31,107 the rate of charge is: $31,107 / 450 = £69.13$ or less than 60% of what West Dorset are proposing to charge.

It might be said therefore that if the new Plan policy is adopted then a level playingfield would not exist between small sites having to make commuted payments for affordable housing and larger sites where on-site provision of affordable housing can be made.

The National Planning Policy Framework paragraph 50 bullet point 3 says that where local planning authorities have identified a need for affordable housing they should set policies for meeting the need on site "*unless a financial contribution of broadly equivalent value can be robustly justified*". It is arguable that the methodology proposed by the Council to collect the charge for affordable housing is not NPPF compliant. The approach taken by the Council is one related to the cost of provision of an affordable dwelling on an alternative site. Whereas the NPPF "*broadly equivalent value*" test is one of what would be the effect on the value of a completed residential development subject to a requirement to provide a proportion of the development as affordable housing compared with a development of the same site where there was no such requirement. These are two entirely different ways of assessing the cost of affordable housing provision

What will be the consequences at this level of charge?

Figure 5.1 of the Three Dragons report shows that small sites makes an important contribution to meeting housing need in West Dorset. In the period 2006-08 the following permissions for residential development were granted:

Build One - 45; Build Two -11; Demolish One Build One - 27; Demolish One Build Two - 33.

Under existing policy none of these sites were required to make any contribution for affordable housing. These permissions when implemented would have resulted in 160 new dwellings being built representing a net gain of 100 units. Under the proposed new policy only the third group of those permissions (Demolish One Build One) would avoid having to make a commuted payment for affordable housing. It is reasonable to assume therefore that around three quarters ($89 / 116 = 77\%$) of all small development sites will be affected by the policy change.

It is likely that where development proposing the demolition of an existing dwelling is intended the developer may now look to renovating, enlarging or rebuild the existing premises all of which can be achieved without having to make substantial payments to the District Council under the new policy. In addition the new policy imposes no charge for affordable housing on rural workers dwellings or homes restricted to holiday use. So we may see some expansion of developments of this kind. Overall it should be anticipated that there will be a significant reduction in the supply of housing from small sites as a consequence of the affordable housing contribution coupled with the CIL charge.