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26 March 2014

Dear Ms. Simmonds

**Examination of the Rhondda Cynon Taff County Borough- Community Infrastructure Levy Charging Schedule- Written Representation.**

Following our previous correspondence on this subject I have pleasure in submitting a Written Representation on behalf of the Country Land and Business Association (CLA) on behalf of our membership.

The CLA represents more than 35,000 members who collectively manage and/or own about half of all rural land in England and Wales. CLA members can be individuals, businesses, charities, farmers and estate managers who represent around 250 different types of rural businesses. They generate jobs, provide land and buildings for investment, housing for local people as well as producing food and a whole range of land-based environmental goods and services. They also manage and/or own as much as one third of all heritage in England and Wales, making the CLA by far the largest heritage-owner group.

CLA members include every size and type of holding, from estate owners to the smallest land holding of less than a hectare. The membership encompasses all traditional agricultural and forestry from the most sophisticated dairy and arable enterprises, pigs and poultry, through to highly productive intensive horticulture and vegetable production and more extensive livestock systems. The majority of our landowning membership is made up of family farm owner-occupiers many of whom have diversified into other business activities in response to the pressure on farm incomes.

The CLA also represents the interests of owners of other types of rural businesses including, for example: forestry enterprises, mineral and aggregate operators and owners, hotels, golf courses, tourist enterprises, equestrian establishments, a myriad of small rural enterprises and also institutional land owners such as water companies, pension funds, and development companies. Our members have businesses in the countryside and live in its rural communities and villages. All of this frequently brings CLA members into contact with local authorities and in particular your Planning team.

The CLA is unique in that it lobbies for the development of the rural economy and is concerned that no unnecessary restriction is placed on that process. Many of our rural

businessmen and farmers experience growing regulation as more red tape emerges from all levels of government. Furthermore, rural businesses and communities suffer from remoteness, and exclusion; indeed many feel that their needs for jobs, housing and services are not catered for by an urban-biased planning system. But they are also at risk of being left behind economically because of flawed CIL viability assessments that will affect potentially beneficial rural economic development.

The CLA represents the wide diversity of the rural community and is the only single organisation able to do so in quite so comprehensive a manner. We are glad of the opportunity to be an active partner in any consultation exercises or decision making processes in which rural business and the communities form part.

### **Viability Assessments for CIL Charging Schedules**

The Welsh Government's policy guidance on CIL makes it very clear that charging authorities wishing to introduce a CIL charging schedule must ensure that they propose a rate(s) that does not put at serious risk the overall development of their area and they must provide evidence on economic viability and infrastructure planning. CIL is expected to have a positive economic effect on development across an area.

A key consideration for charging authorities is the balance between securing additional investment for infrastructure to support development and the potential negative economic effect of imposing CIL upon development in their area. In their background evidence on economic viability to the CIL examination, charging authorities are required to explain why they consider that their proposed CIL rate(s) will not put the overall development across their area at serious risk. The CLA is picking up a number of concerns that the particular circumstances of a site may mean the CIL charge renders development unviable even though the planning authority's viability evidence may suggest otherwise.

The viability of a development is crucial to the delivery of economic growth and jobs whether in rural or urban areas. CIL is intended to be a pro-growth tool. But we are seeing charging schedules that are imposing urban-focussed CIL charges on new development in rural areas. It would be ironic if CIL charges had the effect of making the already dire development climate even more difficult with the obvious knock-on effects for the Government's growth and housing agendas.

The CLA has analysed a number of CIL front-runners' viability assessments and preliminary charging schedules and we are very concerned that agricultural, horticultural and forestry developments, and small scale rural developments, are being swept up with urban-focussed development charges. Clearly this would be to the detriment of the rural economy as a whole as urban-focussed charges would stop critically needed development in the countryside. The CIL regulations do allow for differential rates subject to being underpinned by clear evidence.

It is hard to square the Welsh Government's calls for local authorities to moderate their s106 demands to get development going, with the emergence of CIL charging schedules that appear to be going in a totally different direction. If the viability assessment for a proposed CIL is not robust then a flawed CIL regime will be put in place which could hold back development within an authority for years.

The setting of inappropriate rates for rural economic development, and some forms of rural housing, will have the long-term effect of constraining all forms of land-based development and farm-based diversification development opportunities with consequential impacts on the long term sustainability of the rural economy and jobs, rural communities and ultimately on the goods and services, both environmental and food-related, that are delivered by CLA members.

**Viability assessments must be underpinned by robust evidence that takes account of the differences in economic viability between urban and rural developments.**

**Clearly for those charging authorities, who have urban areas and rural hinterlands, they can take advantage of setting differential rates and we strongly urge the authority to consider the use of different rates for rural areas if the charging schedule is not to prevent critically needed rural development from coming forward.**

### **Farm-based diversification**

We are very concerned about the potential impact of CIL charges on farm-based diversification. All land managers are encouraged by the Welsh Government (which is clearly stated in the recent revision of TAN 6) to find alternative sources of income other than from agriculture (or forestry) to remain profitable and to be able to underpin uneconomic agricultural (and forestry) enterprises. This largely means that land managers must find new uses for traditional, including listed, farm (or forestry) buildings, which are redundant for modern agricultural (or forestry) needs, or to find new uses for land many of which will require planning permission for change of use. As a result many land managers continue to seek to diversify and attempt to bring back into use traditional rural buildings for commercial (including equestrian), or community, use and/or to provide new build small scale commercial development on redundant farmsteads to support, for example, incubator units for new micro/small-business start-ups.

It is accepted by the CLA that this re-use of farm (or forestry) buildings may, but not always, have an increased impact on local infrastructure through such consequences as additional traffic movements. Welsh Government guidance is clear that CIL is not chargeable on changes of use which do not involve an increase in floorspace. Therefore, I note your CIL charging schedule does not include any rate(s) for change of use of redundant farm buildings to new uses.

**However, we request that a nil rate or a reduced rate is set for any new build rural buildings in this category, as the current proposal makes no differentiation between urban or rural focussed development. This would also include adding an extension and/or a new build that, for example provides for incubator units for new small business start-ups (whether for office or light industrial work space).**

### **Farm Shops**

Again most front-runner charging schedules are sweeping all retail up into one urban-biased charge rate, which is the case in your proposals. Little attention appears to have been given to rural retail units, such as farm shops or even new village shops and post

offices. Urban-biased CIL charges will have an adverse impact on the provision of much needed rural retail outlets of all types.

**We request that you consider the matter of farm shops as part of an up-to-date farm shop viability assessment. In any event we suggest a nil rate is in order to encourage small-scale retail activity in and around rural communities.**

### **Rural Enterprise Dwellings**

We note the proposed CIL charging schedule makes no allowance for new housing where it is required to enable rural enterprise workers to live at or in the immediate vicinity of their place of work. Our view is that the **CIL should not apply** to these dwellings, which will have been justified as a requirement for the specific business. Such properties are not sold for development gain and are usually restricted by some form of occupancy condition which has already had a negative impact on the value of the development. In fact as part of the revision of TAN 6 in 2010 the policy extends to an element of affordable housing being one of the tests required to lift a rural enterprise restriction. We note under the published proposals affordable housing is afforded a nil rate, we thus feel as stated above a **Nil rate** should apply for Rural Enterprise Dwellings.

Under your proposals a rate of up to £85 per sq metre is being proposed, given the reasons stated above this would simply be an additional cost of construction and is likely to render many such projects unviable, and could lead to new farming entrants being priced off the land they wish to farm and the curtailment of new business start ups in rural areas.

**As these properties are crucial to the operation of, in general, land-based businesses and sustainable rural communities, we ask that they be considered separately, and classified with affordable housing for CIL purposes and thus zero-rated for CIL.**

### **Including A Provision To Regularly Review CIL Charging**

In addition to the proposals above, we would propose a regular review process being included so where specific types of development were seen to be unduly burdened by the imposition of CIL, the Authority has suitable powers to review any CIL rates so to allow any log jams to be freed where projects would be financially viable other than for the rate CIL is levied at.

We hope this covers the areas of particular concern to ourselves and our Membership. I also attach information from West Lancashire where Similar Rural Enterprise Workers dwellings have in fact been given a nil CIL allocation.

Please come back if you require any further information.

Yours sincerely,



Chartered Surveyor- CLA Cymru.

# **West Lancashire Borough Council**

## **Community Infrastructure Levy Draft Charging Schedule**

### **Statement of Modifications**

**November 2013**

**John Harrison, DipEnvP, MRTPI**  
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West Lancashire Borough Council

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**WEST LANCASHIRE**



**LOCAL PLAN**

## Statement of Modifications

1. This statement is a requirement of the Community Infrastructure Levy (CIL) Regulations, 2010 (as amended), Part 3, 19 (1)(d) and (e). It sets out the modifications to the Draft Charging Schedule (DCS) that have been made since it was published for consultation between the 26 September and 8 November 2013.
2. As a result of a submission from Country Land and Business Association (representation reference number DCS10), the Council has given further consideration to the treatment of agricultural workers dwellings.
3. Within DCS, which was subject to consultation, proposals for agricultural workers dwellings in Zone A (outside of Skelmersdale and Up Holland) would be subject to the CIL charge of £85 per square meter.
4. CLBA expressed concerns regarding this, particularly as West Lancashire is largely rural. In addition, the Council has a policy within the adopted local plan which seeks to support agricultural workers dwellings where there is a genuine case to demonstrate the need.
5. Historically these needs have been met through the siting of temporary mobile homes and changes of use to existing buildings, both of which would be unlikely to attract a CIL charge, subject to the lawful use of any existing buildings. However, there have been a limited number of circumstances where the Council has granted planning consent for the erection of a dwelling house to be conditioned for use as an agricultural workers dwelling.
6. The Council and the Council's viability consultants have given this issue further consideration and evidence of this is set out in Appendix A to this report. The Council has modified the DCS to include an additional category to exempt agricultural workers dwellings, in line with the evidence at appendix a. The DCS will now read as follows:

Development Type	Proposed CIL Rate (£ per square metre)	
	Zone A	Zone B
Residential dwelling house	£85	Nil
Apartments (including Retirement Apartments)	Nil	Nil
<b>Agricultural Workers dwellings</b>	<b>Nil</b>	<b>Nil</b>
Retail – Comparison	Nil	Nil
Retail – Convenience	£160	Nil
Food and Drink (A3/A4)	£90	Nil
All other uses	Nil	Nil

7. In addition to the above, a minor amendment has been made to paragraph 4 of the charging schedule to reflect the Governments recent

proposed changes to the CIL regulations in relation to the requirements of a building to be in lawful use as follows:

- 4 The **CIL rate (£ per m<sup>2</sup>)** is the applicable rate from the above schedule.

The **net chargeable floor area (m<sup>2</sup>)** is the gross internal floorspace of the development minus the gross internal floorspace of any existing buildings that are to be retained or demolished, providing that they have been in continuous lawful use ~~for at least six months in accordance with the past 12 months (Regulation 64)~~ the CIL regulations (as amended). Where there is more than one use class on a development, the chargeable amount in each use class is calculated separately and then added together to provide the total chargeable amount. However, where the amount is less than £50 the chargeable amount is zero.

8. For clarity, the Council has also included a section which refers to use definitions as follows:

#### **Use Definitions**

**Dwelling house** - is a house used for a dwelling place. The CIL charge will apply to the same definition as the Town and Country Planning (Use Classes Order) 1987 C3 a, b and c

**Apartments** - due to a difference in viability, apartments are excluded from the dwellinghouse category and are described as dwellings with shared access, and communal areas, on more than one floor, and are excluded from the dwelling house use charge.

**Agricultural workers dwelling** - dwelling in which the occupation of the property is limited (usually by condition) to those employed in agriculture.

**Retail Convenience** - is described as any building selling mainly everyday essential items, including food, drinks, newspapers/magazines and confectionery. Some buildings will sell a mixture of convenience and comparison goods. In these instances, the CIL charge will be based on the main use of the building.

**Retail Comparison** - is described as any building selling mainly comparison goods, such as clothing, footwear, household and recreational goods.

9. The above modifications are the only modifications that relate to the charging schedule itself i.e. 4.1 to 4.4 of the Draft Charging Schedule Consultation Document. However, given this was a consultation document, the Draft Charging Schedule has now been separated from the background material (sections 1, 2, 3 and 5). The remaining background material has been updated, in light of the Governments recent consultation response, and used to form a separate "CIL Background Document" to ensure this can be easily updated without having any impact on the charging scheduled itself.

## **Appendix A: Statement of Modification Evidence**

### **DWELLINGS WITH AN AGRICULTURAL CONDITION – VIABILITY AND CIL**

#### **Introduction**

Following recent consultation in relation to the Draft Charging Schedule (DCS) for CIL in West Lancashire, a response has been received from Jane Harrison from the Country Land and Business Association (CLA). The response highlights concern from the CLA that the proposed DCS covers all residential development in Zone A, including dwellings intended to accommodate those employed in rural businesses and conditioned accordingly. Mrs Harrison argues that dwellings for agricultural employees are constructed out of necessity rather than for development gain and that their use is restricted by an occupancy condition, and so they cannot be considered as market dwellings. It is suggested that the imposition of CIL on dwellings with an agricultural condition would render such properties unviable, thereby threatening the operation of rural businesses. CLA therefore request that dwellings with an agricultural condition should be exempt from a CIL charge in West Lancashire.

In view of the above, we have undertaken further viability testing specifically in relation to such dwellings with an agricultural occupancy condition attached. The results will inform a decision as to whether CIL can reasonably be imposed on these properties without undermining viability.

#### **Methodology and Assumptions**

In undertaking viability testing on dwellings with an agricultural condition; we have firstly determined the impact on value of the occupancy condition. We understand that, historically, the Council when considering the removal of such conditions from Agricultural use dwellings require that the property must first be marketed for one year at a price equivalent to a 30% discount from Market Value to reflect the presence of the condition. We have undertaken an analysis of property in West Lancashire with known agricultural restrictions, however we have not been able to identify any that have recently been sold subject to the condition.

Market research generally suggests a discount to market value in the order of 30%; albeit this may vary either way depending on the specific circumstances of the property and whether there is a compliant purchaser or a forced sale. In the absence of recent available evidence of sales of dwellings with such conditions attached; we have arrived at the reasonable assumption that sales values would typically be at a discount of around 30% below Market Value in any given area.

Based on this we have prepared additional appraisals on a residual land value basis, assuming a typical 3 bed detached dwelling (90 sq.m) with an agricultural condition. We have considered the impact on viability in the differing value areas of Upholland, Burscough, Ormskirk and also the Remainder of the Borough. We have not included any sales, legal or marketing fees. A profit return is assumed based on a contractors profit at 6% of cost.

We have obtained a typical construction cost for such a dwellings from Tweeds and they have assessed construction cost at £1,606 per sq.m

inclusive of contingency, fees, external works and preliminaries. Our appraisals do not include a CIL payment.

### **Viability Testing Results**

The results of our testing are contained in the table below:

<b>Location</b>	<b>Market Value (per sq.ft)</b>	<b>Value with Occupancy Condition (per sq.ft)</b>	<b>Residual Land Value</b>
Upholland	£180	£126	-£29,389
Burscough	£190	£133	-£22,989
Ormskirk	£200	£140	-£16,591
Remainder	£220	£154	-£3,797

### **Conclusions**

The results show that in each area tested the appraisal calculates a negative residual land value; this indicates that new dwellings with an Agricultural Condition are not currently viable in the Borough. Subsequently, such dwellings would not be able to support a CIL charge. As a result, the Charging Authority may wish to consider implementing a nil charge for such categories of use.

  
**28 November 2013**