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CIL Team
Planning Policy
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Dear CIL Team,

Community Infrastructure Levy (CIL) Partial Review Draft Charging Schedule Consultation Representations by *British Land, Shell Trust (UK Property), Columbia Threadneedle Investments, Breakthrough Properties, Mission Street* November 2023

Oxford City Council ('the Council') is currently consulting on a Community Infrastructure Levy ('CIL') Draft Charging Schedule, alongside the Draft Local Plan 2040. These representations are made by *British Land, Shell Trust (UK Property), Columbia Threadneedle Investments, Breakthrough Properties, Mission Street* ('the Landowners'), all with a significant interest within Oxford and particularly relating to commercial redevelopment projects in priority commercial sectors, including business, research and development ('R&D'), innovation and life science uses. There are multiple land holdings under ownership or control of the signatories of this letter. Details of the properties owned by this group can be provided on request.

The Draft Charging Schedule proposes a significant and alarming change to levy rates for Class E, B2 and B8 uses. The uplift is from a current (indexed) rate of £33.74 to £168.74 per sqm. This is 500% of the existing rate.

Clearly an increase of such consequence requires a significant and proportionate level of scrutiny, so as not to adversely impact deliverability of development and the ability of the Council and developers to deliver on the aspirations of the existing and emerging Local Plan, including objectives for sustainable development and economic growth.

Having reviewed the Draft Charging Schedule and associated Viability Assessment, the Landowners are very concerned about likely unintended consequences on the deliverability of development and, in turn, the implications for the Draft Local Plan 2040 and the Council's wider economic strategy ambitions for Oxford including attracting "billions of pounds of investment" and intensification of existing economic development sites near sustainable transport hubs. Other policies could significantly affect the viability of development such as net zero policies and provision of affordable workspaces on commercial developments.

Set out below is a summary of the concerns. The Landowners would please request, and strongly recommend, a meeting between the Landowners and Council officers to discuss these early in 2024.

These representations have been informed by the Government's guidance on the preparation of CIL Charging Schedules and cross-referencing to relevant parts of the guidance is provided.

The concerns and comments on the Draft Charging Schedule and Viability Assessment can be summarised, as follows:

1 Relationship with Draft Local Plan process – Support

In parallel with the Draft Charging Schedule, the Council is consulting on its Draft Local Plan 2040 ('the Draft Plan'). The Viability Assessment undertaken by BNP Paribas is primarily a document that supports the Draft Plan, but also covers an assessment of the Draft Charging Schedule. The Government's CIL Guidance (at paragraph 012) states that plans (meaning Development Plans) and CIL charging schedules should be consistent, encourages preparing these at the same time and notes that a draft plan can be used if a joint examination (of both plan and charging schedule) is proposed. This is also further supported at paragraph 19 of the CIL guidance.

We understand that the Council's intention is to propose the Draft Charging Schedule on the basis of the Draft Plan; this is the nature of the current consultation exercise and the supporting Viability Assessment. The Landowners strongly support this approach. It is vital that both Draft Charging Schedule and Draft Plan are informed by each other and the cumulative effects on development are considered in a holistic manner. We recommend that a joint examination is requested.

2 Strategic sites and site allocations – Object

The Government's CIL guidance places an emphasis on striking an appropriate balance between utilising CIL to achieve additional investment to support development and the potential effect on the viability of developments. Whilst the CIL Guidance explains that a Charging Authority should take an area-based approach, including a broad test of viability, it also notes that Authorities should ensure that a proposed levy compliments plan policies for strategic sites. Further, in this respect, it explains that an approach may include setting specific rates for strategic sites with significant potential to help Oxford reach its economic aspirations, such as the employment areas along Botley Road.

The Viability Assessment relies on high-level generic testing of development typologies. It does not consider or provide any sense-check against specific strategic site allocations within the Draft Local Plan. In turn, it does not factor in any actual site specific viability inputs that would be important for the Council to understand and assess any subsequent deliverability concerns for site allocations (i.e. deliverability concerns for the Draft Local Plan).

The Council's Cabinet, held on 18th October 2023, considered the Draft Charging Schedule. This did not make available the Viability Assessment to Members of the Cabinet, but provided a short overview of viability matters within the associated Cabinet Report. Importantly, at paragraphs 20 and 21 of the Cabinet Report, the following is stated:

“Over current and previous years, the Council has been receiving relatively low amounts of B2/B8 applications but is seeing an increase in E(g) class applications, particularly for R&D use. We anticipate that increasing the rates for these development uses will help to ensure that more funding can be generated for infrastructure, without affecting the viability of development.

If and where issues of viability or economic impact may arise, the exceptional circumstances relief policy introduced in 2019 can be considered to mitigate risk of delivery of sites on a case-by-case basis.”

The above, when read together with the Viability Assessment, essentially means that the Council is relying on high-level and light-touch viability analysis to promote an increase to 500% of the existing CIL rates for the stated land uses and is relying on a case-by-case basis of exceptional circumstances relief to ensure the deliverability of sites, if necessary. No distinction has been made about the type of site in this respect (i.e. whether a site allocation, or not).

This could have major and likely unintended consequences on the deliverability of the Local Plan 2040.

Whilst it is accepted that viability testing of CIL charges is necessarily broad, it is not accepted that this obviates the need to take a considered approach in relation to strategic site allocations, in accordance with the Government’s CIL Guidance. It is crucially important that a viability check is undertaken in relation to those site allocations as these are crucial to the Council’s vision and objectives for the Council (as set out within the Draft Local Plan). Without undertaking this work, the Council is not able to conclude whether the delivery of the Local Plan is undermined by the proposals, in accordance with the relevant NPPF plan-making tests.

3 Landowner interests and input – Recommendation

Paragraph 15 of the Government’s CIL guidance explains that plan makers (i.e. the Council in this instance) should assess viability to ensure that policy requirements for developer contributions are deliverable and emphasises the importance of the evidence base in this respect. The guidance goes on to note the plan maker’s responsibility to collaborate with stakeholders (including developers) to create realistic and viable charging schedules.

As we have set out above, the Viability Assessment should reflect the types of sites in the Local Plan (and in this case draft Local Plan) and the strategic sites and site allocations. Table 1, below, sets out the two typologies most relevant to life sciences and R&D development. It then lists the site allocations in the draft Local Plan which are proposed to include such uses.

It is immediately apparent from this that the assessed sites are much smaller than the actual sites allocated and have relatively high plot ratios. We would also note that whilst some of the allocated sites will have multiple landowners and could be broken down into separate planning applications, for

example Botley Road Retail Park and other sites immediately surrounding it, those smaller plots will *still* not be similar in scale to the sites assessed in the Viability Assessment.

Policy/Typology	Site	Uses	Site Area (sqm) and Floorspace (GIA)
Viability Assessment Typologies			
23	'Office/R&D Development'		0.09ha 2,500 sqm
24	'Office/R&D Development'		0.18ha 5,000 sqm
Sites Allocated in Regulation 19 Draft Plan			
SPCW8	Botley Road Retail Park	Employment uses that directly relate to key sectors of research led employment, and other economic and employment uses suitable for the location	8.85 ha
SPN1	Northern Gateway	Mixed Use including category 1 Employment Site	45.2 ha
SPS1	Arc Oxford	R&D, Offices, Light Industrial	35.4 ha
SPS4	Mini Plant Oxford	B2, E & B8	82.1 ha
SPS5	Oxford Science Park	Class E, R&D	27.1 ha
SPS7	Unipart	E, B2, B8	30.63 ha
SPCW5	Oxpens	Mixed Use Including Employment	6.29 ha
SPCW6	Nuffield Sites	Mixed Use Including Employment	1.41 ha
SPCW7	Osney Mead	Mixed Use Employment Led	17.8 ha

Worthy of note is that most of the sites listed are brownfield sites currently in active use. The land values of those sites reflect those existing uses, both in terms of their value and the cost of securing vacant possession and/or offering replacement premises where businesses are currently operating. In this context the generic land values set out in paragraph 4.52 of the Viability Report are not reflective of the actual land costs to a landowner / developer. Additionally, the costs of building on brownfield are routinely higher due to costs of remediation, creating different challenges for assessing viability which makes direct comparisons with greenfield inappropriate. In particular for the Botley Road Retail Park sites they are calculated on the bottom quartile of retail lettings in Oxford which is not appropriate for this location and stock.

We would also note that draft Policy R2 in the Local Plan states that:

*“All new development on employment sites needs to show that it is making the best and most efficient use of land and premises **and positively promotes sustainable development through the upgrading and re-use of existing buildings** and does not cause unacceptable environmental impacts.” (our emphasis)*

For those existing science parks and other commercial locations, this policy – if implemented – could have very significant negative impacts for Masterplan capacity and viability, which could delay or curtail development. It should therefore be tested both for Local Plan and CIL purposes.

The above would suggest that the Viability Study, in its present form, should not be regarded as ‘Appropriate Available Evidence’ as defined in the section 211(7A) of the Planning Act 2008, particularly given the strategic local and national significance of the development of new research and development and life sciences floorspace in and around Oxford. Landowners would be happy to engage with the Council to address these concerns.

The Landowners – whilst respecting the potential use of CIL exceptional circumstances relief in the future – consider an approach that relies upon the potential future application of CIL exceptional circumstances relief to be inappropriate, creating unnecessary uncertainty. The correct viability approach, including site allocation analysis, must be undertaken first.

Yours sincerely

Quod / DP9 obo British Land, Shell Trust (UK Property), Columbia Threadneedle Investments, Breakthrough Properties, Mission Street.