

SUMMARY OF MAIN ISSUES RAISED (Regulation 19 Statement)

Copies of all representations are available on the Council's CIL webpage, under "related information".

Table 1: Summary of representations

Respondent	Ref	CHARGING SCHEDULE: MAIN ISSUES						
		1. Use of viability evidence	2. Viability Studies Assumptions	3. Infrastructure Funding Gap	4. The Levy rates & s106s	5. Nil rate for other uses	6. Rural Levy rate	7. Charging Zones
AB Consulting Ltd	SDCS1							
Anwyl Construction Ltd	SDCS2							
Church Stretton Town Council	SDCS3							
Concept Town Planning	SDCS4							
Country Land & Business Association	SDCS5							
Environment Agency	SDCS6							
Halls Holdings Ltd	SDCS7							
HARP Planning Consortium	SDCS8							
Hereford Diocese	SDCS9							
Highways Agency	SDCS10							
Homes & Communities Agency	SDCS11							
Jones, Chris	SDCS12							
J. Ross Developments (RPS)	SDCS14							
Kinnerley Parish Council	SDCS14							
Leverhulme Estates (Strutt & Parker LLP)	SDCS15							

Shropshire Council Draft Charging Schedule: Summary of Main Issues Raised 12 May 2011

Respondent	Ref	1. Use of viability evidence	2. Viability Studies Assumptions	3. Infrastructure Funding Gap	4. The Levy rates & s106s	5. Nil rate for other uses	6. Rural Levy rate	7. Charging Zones
Lioncourt Homes (Roger Tweedale)	SDCS16							
Lord Bradford (Bidwells)	SDCS17							
Ludlow Town Council	SDCS18							
McCarthy & Stone (The Planning Bureau Ltd)	SDCS19							
Mosaic Estates (RPS)	SDCS20							
National Trust	SDCS21							
Newark & Sherwood District Council	SDCS22							
Persimmon Homes (RPS)	SDCS23							
Persimmon Homes (Simon Miller)	SDCS24							
Powis Castle Estate	SDCS25							
Preedy, Tony	SDCS26							
Richards, Peter	SDCS27							
Sevenside Housing	SDCS28							
Shrank, Alan	SDCS29							
Shropshire Wildlife Trust	SDCS30							
Sport England	SDCS31							
Shrewsbury Town Centre Residents Association	SDCS32							
Stottesdon and Sidbury Parish Council	SDCS33							

Strettons Civic Society	SDCS34							
Thorne, Howard	SDCS35							
West Felton Parish Council	SDCS36							
West Mercia Police	SDCS37							
Whittingham, Mr & Mrs (Ben McDyre)	SDCS38							
Worthen with Shelve Parish Council	SDCS39							
Albrighton Parish Council	SDCS40							
Albrighton and District Civic Society	SDCS41							
Shropshire Local Access Forum	SDCS42							

Main Issues

<p>ISSUE 1: USE OF VIABILITY EVIDENCE</p> <p>Issues raised Charging zones should reflect varied economic circumstances. There should be greater consideration of the viability of some types of development. It is too simplistic to adopt an urban and a rural rate, and to apply zero rates contrary to the evidence.</p> <p>Question whether the differential residential Levy rates are strictly justified on economic grounds: the differential rate of CIL is being used as a policy tool.</p>
<p>Representors Newark & Sherwood District Council</p>
<p>Council's response Neither the Regulations nor the Statutory Guidance direct that a Charging Authority need have more than one Levy rate. Should Shropshire have adopted one Levy rate, as it is entitled to do so, it would inevitably have had to be a countywide rate that was suitable for a broad set of developments.</p> <p>Shropshire Council has chosen a relatively simple charging structure, with three groups of developments (namely, market residential, affordable housing and all other developments) and two geographical zones. With such broad divisions, the Levy rates must inevitably be fairly broad-brush to cater for the bulk of the developments in each category.</p>

The statutory guidance (para 9) requires the Levy rate(s) to be consistent with the “evidence on economic viability across the charging authority's area”. Inevitably, with broad divisions, the Levy must be set towards the “lowest common denominator” rather than at the maximum that may be possible for more narrow types of development, in limited locations. It is notable that Newark and Sherwood have also set their Levy rates lower than the maximum that their viability studies indicated was achievable.

The Levy rates are not only based on economic viability, but on “what appears to the charging authority to be an appropriate balance....” The Development Plan is important to the weighing of these considerations, with its different policies for different places and different types of development. Consequently the balance of considerations must vary, if decisions are to be consistent with the Development Plan. The use of CIL cannot be divorced from the development strategy, including the policies in the development strategy regarding infrastructure and the desirability of different types of development in different locations.

ISSUE 2: THE VIABILITY STUDIES, THEIR ASSUMPTIONS AND THE IMPACT OF THE LEVY ON DEVELOPMENT VIABILITY

Issues raised

The assumptions of the affordable housing viability study (AHVS) are not robust, particularly with regard to the cost and availability of land, developers' profit, construction costs, grant funding and the economics of small sites (Halls Holdings Ltd, Lord Bradford, West Felton Parish Council, Whittingham).

There is no evidence that the Levy will come off the value of the land rather than be added to house prices (Jones).

The AHVS confirms that a large number of residential sites are not viable in the current economic situation: the Levy rate should therefore be set at a lower level (Leverhulme Estates, Lioncourt Homes).

Representors

Halls Holdings Ltd
Jones, Chris
Leverhulme Estates (Strutt & Parker LLP)
Lioncourt Homes (Roger Tweedale)
Lord Bradford (Bidwells)
West Felton Parish Council
Whittingham, Mr & Mrs (Ben McDyre)

Council's response

The viability studies have been prepared by a highly respected expert in the field (Fordham Research). Like all viability studies, the assumptions used can only be an approximation of reality, as each development is different. Furthermore, the value of the variables will inevitably change over time and the Council accepts that historic 2008-2010 values may be different from current values. Nevertheless the Council considers that the methodology

used in the viability studies is robust and that the Levy rates have been set sufficiently below the maximum identified in the studies to remain viable in today's economic climate.

The received wisdom of development economics is that land values must drop to accommodate the cost of developer contributions. Therefore the issue is not whether the Levy will come off the value of land, but whether there will be sufficient land supply at the lower land values required. The Shropshire Local Development Framework addresses this issue and has an explicit link between community benefit from CIL and other developer contributions, and land supply.

Some schemes are not viable in current market conditions, with or without a Levy. The examination is only concerned with whether the Levy will make a material difference to the level of risk to delivery of the development strategy (paragraph 10 of the statutory guidance).

ISSUE 3: THE INFRASTRUCTURE FUNDING GAP

Issues raised

More evidence of the infrastructure requirements and funding gap is required (Persimmon Homes - Simon Miller, Powis Castle Estates).

Some of the infrastructure funding gap should be met from other sources, rather than CIL (Whittingham).

Natural and semi-natural open space and sports facilities are key components of the infrastructure needed to support a community (Shropshire Wildlife Trust, Sport England).

Representors

Persimmon Homes (Simon Miller)
Powis Castle Estates
Shropshire Wildlife Trust
Sport England
Whittingham, Mr & Mrs (Ben McDyre)

Council's response

The 18 Place Plans provide a detailed evidence base of infrastructure requirements, derived from both large organisations and community aspirations. There is a strong thread of localism in the approach, and further detail will be added through the regular review process with local communities (as set out in the Developer Contributions SPD and Code of Practice for Developer Contributions).

The Council recognises that only a proportion of infrastructure requirements will be met in whole or in part through CIL funds. The LDF Implementation Plan 2011 will detail those infrastructure requirements for which developer contributions will be sought, and whether these will be through CIL or other developer contributions. The LDF Implementation Plan 2011 will be available by 6th July (to be approved by 13th July Cabinet) and will clarify the infrastructure that will benefit from CIL, including the CIL Regulation 123 List.

ISSUE 4: THE LEVY RATES AND S106 CONTRIBUTIONS

Issues raised

Support was expressed for the Levy rates (Shrewsbury Town Centre Residents Association, Strettons Civic Society, West Mercia Police). £40/m² is considered realistic for the towns and key centres, subject to clarity over maintenance payments for public open space (J Ross Developments, Mosaic Estates, Persimmon Homes).

Levy should not be based on past average s106 contributions, as most development did not involve any s106 (Peter Richards, Country Land & Business Association).

It is the *combined* impact of affordable housing, section 106 legal agreements and CIL that needs to be considered (Country Land & Business Association, HARP Planning Consortium, Highways Agency, Jones, Lioncourt Homes, Persimmon Homes).

Clarity is needed over the use of s106s alongside CIL, and the implications for the viability of development (Highways Agency, J. Ross developments).

Support CIL but it is important that Councils take a pragmatic stance on its application and factor in viability on a site by site basis (Persimmon Homes - Simon Miller).

Representors

Country Land & Business Association
HARP Planning Consortium
Highways Agency
Jones, Chris
J. Ross Developments (RPS)
Lioncourt Homes (Roger Tweedale)
Mosaic Estates (RPS)
Persimmon Homes (RPS)
Persimmon Homes (Simon Miller)
Peter Richards
Shrewsbury Town Centre Residents Association
Strettons Civic Society
West Mercia Police

Council's response

Support is noted. The Council agrees that the Levy should not be based on the past average for section 106 contributions. Nevertheless it is acknowledged by both the Council and the Shropshire Developer Panel to be an interesting cross-check on the viability of the Levy.

The impact of contributions for affordable housing has been built into the CIL viability study. The Council agrees that greater clarity on likely other contributions is beneficial, and will clarify these in the LDF Implementation Plan 2011. This will be available by 6th July (to be approved by 13th July Cabinet).

ISSUE 5: NIL LEVY RATE FOR RETAIL, COMMERCIAL, AGRICULTURAL AND OTHER USES

Issues raised

Support a nil rate to assist economy recovery in these financially difficult times (AB Consulting Ltd, Albrighton Parish Council, Country Land & Business Association, Halls Holdings Ltd, Hereford Diocese, Whittingham).

Residential development is being unfairly singled out, but it would not be helpful to the economy to charge CIL on commercial, agricultural, industrial or similar uses (Richards).

Other developments also have an impact on infrastructure and should therefore contribute. The fact that they vary in their viability is not sufficient reason to abandon a contribution from commercial developments. (Jones, Shropshire Wildlife Trust, Shrewsbury Town Centre Residents Association).

It would be preferable to use CIL rather than s106 for contributions from non-residential developments (Shrank). While wishing to see the continuation of some of the more flexible and imaginative s106 agreements, fear that non residential uses will avoid contributions if CIL replaces s106 agreements over time (Shrewsbury Town Centre Residents Association).

It is unfair to treat residential developments differently from other developments. Those that are profitable should contribute (Anwyl Construction Ltd, Jones, Leverhulme Estates, Newark & Sherwood DC, Shrank, Thorne). Query the Council's approach as prejudicing residential developers' ability to compete with other land uses (McCarthy & Stone).

Representors

AB Consulting Ltd
Albrighton Parish Council
Anwyl Construction Ltd
Country Land & Business Association
Halls Holdings Ltd
Hereford Diocese
Jones, Chris
Leverhulme Estates (Strutt & Parker LLP)
McCarthy & Stone (The Planning Bureau Ltd)
Newark & Sherwood District Council
Richards, Peter
Shrank, Alan
Shropshire Wildlife Trust
Shrewsbury Town Centre Residents Association
Thorne, Howard
Whittingham, Mr & Mrs (Ben McDyre)

Council's response

Support for a nil rate is noted. The viability studies found that the majority of non-residential developments across Shropshire do not have sufficient viability to accommodate a Levy. The Shropshire economy is fragile and caution is advisable at the

current time.

The Shropshire Levy rate is designed for the majority of cases, rather than the few. The Council accepts that the viability studies found that limited types of development, primarily on greenfield sites, have capacity to carry a Levy. However, in the case of retail development, such greenfield locations would generally be contrary to the “town centre first” policy that is enshrined in both national planning policy and in the Shropshire Core Strategy Policy CS15. It is therefore unlikely that there will be much development in this category. The viability studies also found that large offices in limited locations (in Shrewsbury and on greenfield sites in Bridgnorth) have some capacity to carry CIL in the economic conditions prevailing at the time of the study. However, Shropshire Council has chosen to apply a broad rate across its area, rather than development-specific and town-specific Levy rates, and the Levy rate must therefore be acceptable for the majority of cases rather than the minority of cases.

Inevitably developments differ in their viability, and in their impact on infrastructure. While the Levy provides a better approach for managing developer contributions for the many planning applications for new dwellings every year (on average about 600 applications per annum), the Council acknowledges that the Levy is less flexible than section 106 agreements. The Levy liability for a particular development can only be reduced through the exceptions procedure. This is clearly less flexible than the individually negotiated approach available through section 106 legal agreements, which allow contributions to be tailored to the unique circumstances of an individual development.

Where a development has a clear impact on infrastructure and is sufficiently viable to deliver developer contributions, the Council will continue to use site specific s106 agreements (for example, to mitigate transport impacts and provide sustainable transport). 106 agreements remain a powerful tool that is particularly well suited to a small number of large developments. Shropshire Council will continue to use section 106 agreements for a targeted approach, and this will ensure that non-residential uses make appropriate contributions that are individually tailored to the development. The approach is detailed in the Developer Contributions SPD, the final version of which will be available by 6th July (to be approved by 13th July Cabinet). It should be remembered that the CIL Charging Schedule is only one element of an integrated approach, set out in Shropshire’s Local Development Framework.

The Local Economic Assessment, “Spotlight on the Shropshire Economy” (2010) provides evidence that underpins the Shropshire Core Strategy and the Council’s corporate approach to economic prosperity. In turn the Core Strategy influences the Council’s consideration of what appears to the authority to be the appropriate balance between the desirability of contributions from the Levy, and the effect of the Levy on development. The Council considers it prudent to take a cautious approach, particularly as the impact of the Levy has yet to be tested across England. Shropshire Council will keep developer contributions under review, and will revise its Charging Schedule in the light of experience in 2-3 years’ time.

Shropshire Council is aware that other charging authorities are pursuing different approaches that are appropriate to their localities, and sees the merit in giving charging authorities the freedom to pursue approaches that are appropriate to these variations. Whilst watching with interest how other local authorities proceed, and learning from their

experience, Shropshire Council does not consider that other authorities' alternative approaches necessarily constrain its own approach to the Shropshire situation.

ISSUE 6: RURAL LEVY RATE

Issues raised

Support in principle as aligned with Core Strategy (Persimmon Homes) and subject to the content of the CIL Regulation 123 List (J Ross Developments, Mosaic Estates).

Support the principle of a differential, but rate should be sensitive to the least strong markets in the north and west. (J Ross Developments, Persimmon Homes). The differential should be no more than twice (Albrighton Parish Council, Albrighton & District Civic Society). As a varied county, a uniform CIL rate would be inappropriate (Hereford Diocese).

Seeks reassurance that the rural rate will not limit the delivery of rural affordable housing, particularly relating to cross subsidy models and intermediate affordable housing for rent (Homes & Communities Agency, Powis Castle Estates). Where a Registered Provider is developing market housing in order to cross subsidise the delivery of affordable housing, CIL should not be payable (Sevenside Housing).

Whilst rates may technically be viable, the expectation of landowners will take time to adjust and as a result a large amount of projects will not come forward. (Richards). Need flexibility in the application of CIL, and the opportunity to negotiate the level of payment, or it will stifle development (Country Land & Business Association).

Will deter rural development rather than encourage land supply, and is therefore contrary to development strategy that rural areas will accommodate 35% of residential development and improve sustainability (Hereford Diocese, Leverhulme Estates, Lord Bradford).

The differential between the rural and town rate is too large (AB Consulting Ltd, Church Stretton Town Council, Halls Holdings Ltd, Kinnerley Parish Council, Worthen with Shelve PC). The rationale for encouraging regeneration should apply equally to all parts of Shropshire (Country Land & Business Association, Powis Castle Estates). Strongly urge a uniform rate (ie. same as the urban rate) or a more geographically sensitive solution (variable across different housing markets) (Lord Bradford). All areas should be charged at the higher Levy rate (Shropshire Local Access Forum).

The relative cost of living in rural areas is already high (due to greater transport costs, fewer services, lower incomes). The Levy will not improve matters and will further raise the cost of rural housing (Jones, Kinnerley Parish Council, Preedy, West Felton Parish Council).

The Levy will be detrimental to low and mid market developments, leading to fewer modest rural homes being built (Jones, Kinnerley Parish Council, Lioncourt Homes, Powis Castle Estates, Preedy, Stottesdon and Sidbury Parish Council)

Development in rural areas is more expensive to deliver and rural housing has a lower

equivalent value (like for like properties) compared to towns. A higher Levy is not viable and will inhibit low price range housing. (Halls Holdings Ltd, Leverhulme Estates, Lioncourt Homes). Question the assumption of lower land values in the rural area and whether the differential residential Levy rates are strictly justified on economic grounds (Newark & Sherwood DC).

Representors

AB Consulting Ltd
Albrighton & District Civic Society
Albrighton Parish Council
Church Stretton Town Council
Country Land & Business Association
Halls Holdings Ltd
Hereford Diocese
Homes and Communities Agency
Jones, Chris
J. Ross Developments (RPS)
Kinnerley Parish Council
Leverhulme Estates (Strutt & Parker LLP)
Lioncourt Homes (Roger Tweedale)
Lord Bradford (Bidwells)
Mosaic Estates (RPS)
Newark & Sherwood District Council
Persimmon Homes (RPS)
Powis Castle Estates
Preedy, Tony
Richards, Peter
Sevenside Housing
Shropshire Local Access Forum
Stottesdon and Sidbury Parish Council
West Felton Parish Council
Worthen with Shelve Parish Council

Council's response

Support for a differential rate is noted. At both the Draft and the Preliminary Draft stages, few respondents have suggested what an appropriate differential would be, other than to suggest it should not exceed double the Levy rate for the Towns and Key Centres.

A differential rate is appropriate because rural areas are different on a number of counts. Infrastructure provision is recognised by rural communities as being poorer than in the towns; mean house prices are higher; and there is plenty of land albeit historically there have been more planning constraints. Viability is slightly higher, but more significantly the balance of considerations (infrastructure, the Council's spatial vision, delivery of development and land supply) is different from that of the market towns and key centres.

While regeneration is sought in all areas of Shropshire, this umbrella term has different expressions across Shropshire. In the market towns and other key centres, the market towns revitalisation programme seeks to maintain vibrant market towns in their roles as centres of employment, services and facilities. In the rural area, the Council's "rural

rebalance” strategy seeks to increase the sustainability of rural communities, socially, economically and environmentally. The different treatment of rural areas is reflective of the characteristics of those areas, seeking to achieve regeneration that is equally important, but different in its character, to that which is sought for the market towns and key centres.

The Shropshire CIL is intended to ensure that a proportion of the rise in value of the land following grant of planning consent is recouped and ploughed back into infrastructure to benefit the local community. The rise in land value can be very significant where land that had no development value is enabled to come forward for development. The Shropshire Local Development Framework (LDF) sets a development strategy that will ensure that a significant amount of land in rural Shropshire is in this category. The Levy rate reflects this assumption about the price and availability of land under Shropshire’s new LDF.

The Council acknowledges that it takes time for new planning policies to be reflected in the market, and consequently there may be a short term reduction in development as landowners readjust their expectations and communities react to the opportunities presented by the LDF. However, the Council is confident that the Levy will ultimately enable delivery of the development strategy rather than hinder it, and this judgement has informed its decision on the appropriate balance between the desirability of the Levy for funding local infrastructure, and the effects of the Levy on development.

The rural Levy rate is consistent with the economic viability evidence: indeed, both the evidence and the integrated LDF approach could support a higher Levy rate.

The impact of the Levy will be proportionately less on smaller properties, as the Levy is calculated on floorspace. Low and mid market developments are generally at higher densities, and the Council is confident that sufficient developers will continue to bring them forward regardless of a higher Levy rate. Other LDF policies are addressing the need in rural Shropshire for affordable housing, and it is noted that the proposed nil Levy rate for affordable housing has met with general consensus. In the case of cross-subsidised developments by Registered Providers, discretionary relief from CIL can be sought, based on an independent assessment of the scheme’s viability.

ISSUE 7: CHARGING ZONES

Issues raised

It would be better if the boundary line followed an approved development boundary (Lioncourt Homes).

The urban Charging Zone should include community hubs and namely Hodnet, taking into account their similarity with some of the identified 'urban zones' in terms of relative size, and local services/ amenities (Leverhulme Estates).

Representors

Leverhulme Estates (Strutt & Parker LLP)

Lioncourt Homes (Roger Tweedale)

Council's response

The Council has deliberately set the Charging Zones larger than the development boundaries, to avoid pre-empting decisions on those boundaries that will be taken as part of the Site Allocations and Management of Development DPD (SAMDev Plan).

It should be noted that Community Hubs and Clusters will be formally identified in the SAMDev Plan, which is due to be adopted in 2013.