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By email: planning.policy@brentwood.gov.uk

9th November 2022

Dear Mr Quilter

RE: BRENTWOOD BOROUGH COUNCIL DRAFT COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE, SEPTEMBER 2022

Thank you for consulting Essex County Council (ECC) on the Draft Community Infrastructure Levy Charging Schedule for Brentwood Borough Council (BBC).

ECC is a key infrastructure provider and delivers and commissions a wide range of strategic and local infrastructure and public services, covering but not limited to highways and transportation, education, early years and childcare, minerals, waste, surface water management, passenger transport, adult social care, and Public Health.

[Everyone's Essex - our plan for Essex \(2021-2025\)](#) (Everyone's Essex), is ECC's plan for levelling-up the county over the next four years and is based on the themes of Renewal, Ambition and Equality. It sets out 20 commitments, focused around the following four areas, the majority of which are relevant to providing development in the borough:

- the economy – good jobs, infrastructure, future growth and employment, green growth and levelling up the economy;
- the environment – net zero, transport and built environment, minimise waste, green communities and levelling up the environment;
- children and families – education outcomes, family resilience and stability, safety, outcomes for vulnerable children and levelling up outcomes for families; and
- promoting health, care and wellbeing for all ages – healthy lifestyles, promoting independence, place-based working and levelling up health.

Everyone's Essex sets out a strategic aim for a strong, inclusive and sustainable economy. This strategic aim includes a commitment to deliver and maintain high quality infrastructure to support a growing economy and the delivery of new homes and communities. Achieving this requires us to ensure that the development, planning and infrastructure delivery across the administrative county, is aligned with Local Plans and supporting documents such as the Draft Community Infrastructure Levy Charging Schedule for BBC. This is to ensure that the planned growth includes provision for the delivery of ECC's infrastructure and services commensurate with the growth being planned, and to support existing and future residents and businesses.

ECC's responses to the consultation documents are set out below.

Draft CIL Consultation Information Booklet:

Section 1. Introduction

It is recommended that reference is made (last paragraph) to statutory bodies within the list of consultees in relation to the CIL. ECC is a key infrastructure provider and delivers and commissions a wide range of strategic and local infrastructure and public services within the borough of Brentwood, covering but not limited to highways and transportation, education, early years and childcare, minerals, waste, surface water management, passenger transport, adult social care, and Public Health.

Section 3. What is the Community Infrastructure Levy? and Section 4. What are the benefits of the CIL?

ECC welcomes confirmation (third paragraph) that CIL will not replace current methods of obtaining infrastructure and funding through planning obligations, and that CIL provides an additional mechanism to obtain financial contributions.

Further comments on this matter, including governance, are provided under Section 7.

Section 5. What development will be liable to pay the levy? and Section 6. CIL exemptions and discretionary relief

It is noted that Table 12.9a (Non-Residential Uses – Greenfield) of the Viability Assessment Update (August 2022) indicates that “small” industrial units would not be viable with any CIL charge. It is therefore recommended that there is an exemption for small units (under 500sqm) in order to support start-ups and high-potential SME’s.

Section 7. How the levy works alongside Section 106 contributions

ECC welcomes reference (first paragraph) to the lifting of restrictions on using five or more section 106 contributions to fund a single infrastructure project, and provision of greater flexibility in relation to how CIL funding could be used alongside S106 contributions.

ECC also supports in principle the reference (first paragraph) to charging authorities being able to use both CIL and S106 contributions to fund the same infrastructure item. It is important that if a type of scheme has been identified as being funded through S106 that it does not preclude it from also receiving CIL funds. This is important given the reference in Section 4 to CIL giving *‘local authorities greater flexibility to set their own priorities on projects benefitting the wider community affected by development’*, which could imply that CIL funds will only be used on wider community infrastructure and not necessarily to “top-up” funding of key strategic infrastructure. It is also important given the wording (third paragraph) *‘likely’ that essential infrastructure items which are directly related to supporting the delivery of new development proposals will continue to be funded through S106 agreements.’*

ECC notes that the IDP sets out the key infrastructure projects required in the borough and outlines how funding sources will be used (second paragraph). However, ECC seeks additional text within the documentation to make clear that because a project has been identified as being funded through S106 that it does not preclude BBC also using CIL monies, particularly on projects that are essential in accommodating Local Plan growth.

It is important to acknowledge that the IDP is a 'living document' with the information provided therein regarding necessary infrastructure and their costs being a 'snapshot' in time, subject to indexation and appropriate review. The information within the IDP will be subject to further review as part of the detailed planning application process, where further details will become known about an application site such as the land use mix, housing mix, site and wider infrastructure requirements and their detailed costings (including indexation).

Further comments in relation to the IDP are set out under Section 9.

Section 8. How the CIL will be collected

ECC seeks clarity over the evidence used to justify the proposal to introduce an instalment policy for the collection of CIL. As proposed this approach would result in Brentwood as the Charging Authority not receiving considerable financial contributions until two to three years after commencement of development, which means the Council will need to consider how essential infrastructure is provided if funding is not provided on commencement.

ECC is concerned that there is no reference to any governance arrangements for considering how CIL funds will be distributed. Reference is made to BBC being the relevant 'charging authority', and it is the responsibility of the charging authority to collect all CIL funds, but no text in relation to distribution of funds.

In responding to the Governments 'Planning for the Future' White Paper (August 2020), ECC raised concerns with regards the lack of any governance arrangements relating to the 'infrastructure levy' and these comments are also relevant to the future implementation and distribution of monies regarding CIL. The response from ECC on this matter is provided below.

ECC recommend the Government consider setting a requirement for local authorities to establish clear governance arrangements with key infrastructure providers, especially in two-tier authorities, for determining the apportionment of levy monies to infrastructure projects and providers. As ECC is not a CIL charging authority, it is currently reliant on the discretion of the local authority for when and how any monies may be secured. This has led to difficulties in securing monies for infrastructure projects that are required to deliver the growth identified in Local Plans, Masterplans and Infrastructure Delivery Plans with any degree of certainty or when they are required. ECC recommend that the spend of any new levy should be by joint agreement of district and county councils to avoid existing problems with CIL being replicated.

Chelmsford City Council has established a CIL allocation process as outlined in paragraphs 4.7 – 4.11 of its [Chelmsford City Council - Allocating and Spending CIL document](#), which invites expressions of interest from stakeholders (including ECC) for funding periodically, and which are subsequently approved by the City Council Cabinet or Full Council. Whilst ECC has an opportunity to bid for CIL monies, it still has no formal role in the allocation of CIL monies through this process. It has led to some difficulties in securing monies for infrastructure projects that ECC is required to deliver with any degree of certainty or when they may be required. ECC would welcome any governance arrangements that included a more formal role for the County Council in the CIL governance process, in particular regarding when CIL monies are made available for bids; the amount of funds made available to bid for and how any monies will be prioritised and apportioned to strategic projects. ECC would recommend that BBC keeps this in mind when identifying any governance arrangements for how CIL monies will be spent over and above the statutory requirements to parish councils and administration costs.

For clarity, ECC recommend reference is made to the requirement for BBC to prepare and publish online an annual infrastructure funding statement. The Community Infrastructure Levy Regulations and PPG (Paragraph: 175 Reference ID: 25-175-20190901) requires this to provide transparency as to how contributions from development through the levy or section 106 planning obligations has been allocated and/or spent during the reporting year.

Section 9. Evidence base documents

CIL Viability Assessment Update (August 2022)

Consistency point – paragraph 2.38 refers to the lifting of S106 pooling restrictions, however paragraph 7.28 refers to ‘*restrictions on pooling S106 payments*’ being in place. Pooling restrictions were removed in September 2019.

ECC seeks clarification on the S106 contributions and infrastructure costs used as part of the viability work for the CIL. The CIL Consultation Information Booklet states that the CIL Viability Assessment Update (August 2022) ‘*considers the impact of a CIL charge, in addition to normal development costs and policy and infrastructure requirements in adopted BBC Local Plan 2016-2033, on the financial viability of new development in the area*’.

However, the Viability Assessment Update makes reference to both the ‘*figures based on October 2018 costs*’ and then ‘*indexed to July 2022*’ (paragraph 7.30), and to ‘*the IDP as published in January 2021 and subsequently examined and approved through the EIP*’ (paragraph 7.36).

Consistent referencing of the cost of infrastructure is necessary, rather than two sources of figures.

Infrastructure Delivery Plan

ECC seeks clarification on which version of the IDP has been used as part of the viability work for the CIL and for this to be referenced accordingly.

Section 9 makes reference to the IDP version 3 from 2019, which was produced prior to the Local Plan Examination in Public (EIP) Hearing sessions. The IDP published in January 2021 updated Part B (the Schedule of Costs) and was the version that was examined by the Inspectors as part of the Local Plan EIP. The infrastructure requirements set out in the January 2021 IDP were updated to reflect the then current proposed housing figures / employment land for the Local Plan site allocations, as well as the latest costs of the required infrastructure. This resulted in an increase in infrastructure costs and the funding gap increasing from £50.4 million (2019) to £71 million (2021). It is unclear whether the impact of this has been considered as part of the viability work for the CIL.

Furthermore, it is unclear whether the impact of an increase in housing numbers on some of the Local Plan residential site allocations (as requested by the Inspectors as part of the Main Modifications to the Local Plan), or sites that have subsequently obtained planning consent have been considered as part of the viability work for the CIL.

Section 10. The need for a CIL

Reference is made to the IDP identifying 'a significant infrastructure funding gap in the area based on the assessment of infrastructure needs, costs and funding' (£50.4 million). As commented above this is based on the 2019 IDP, not the IDP published in January 2021 which has a funding gap of £71 million. Further clarity is therefore required on this matter.

Section 12. Determining the proposed rates

ECC's comments to Sections 9 & 10 also apply under Section 12.

CIL Draft Charging Schedule – Regulation 16 consultation document

ECC's comments in relation to the 8 questions set out in this document are set out above in response to the Draft CIL Consultation Information Booklet.

CIL Viability Assessment Update (August 2022)

ECC's comments in relation to this document are set out above in response to the Draft CIL Consultation Information Booklet.

Yours sincerely,



Anne Clitheroe
Principal Planning Officer (Spatial Planning)

