



## Update on issues arising with regard to CIL (Community Infrastructure Levy) and specialist housing for older people and changes made to the Planning Practice Guidance (PPG)

### Introduction

This brief update provides the background to CIL and the implications on Specialist Housing for Older People and also includes three current CIL examples, demonstrating the inconsistencies applied by different Local Authorities.

### The RHG Report on CIL and Extra Care/ Sheltered Housing

The RHG report<sup>1</sup> published in 2013 provided advice with regard to CIL viability in sheltered and extra care developments and identified: *“serious concern at the inconsistencies that are emerging in the setting of CIL rates.”* The report goes on to usefully set out the specific issues with regard to how the viability issues are distinct from residential dwellings. CIL charges are based on floor area of the proposed development, regardless of whether it is saleable or non-saleable. CIL charges provide funding for infrastructure such as play space and education which clearly would not apply to specialist housing for older people.

The report by RHG identified the different viability considerations which apply to specialist housing for older people such as the proportion of saleable floor area versus the non –saleable floor area (communal facilities, such as laundries, restaurants, guest rooms, gyms etc). According to the report, BNP Paribas have conducted viability reports which conclude that: *“Care Homes, Extra Care housing and other residential institutions are unlikely to be able to absorb any CIL contributions...due to the lower gross to net ratio of developments and the additional time it takes for sell the accommodation due to the restricted market for that type of unit.”*

However, it is interesting to note that Council’s such as Plymouth City Council state in their Viability Assessment that: *“the availability of communal areas and other facilities within retirement schemes is likely to be reflected in the purchase price of the individual units. Thus the amenity afforded by such areas contributes towards higher development values which provide the capacity to meet the proposed CIL charges.”*

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<sup>1</sup> [http://www.housinglin.org.uk/Topics/browse/Design\\_building/Planning/?&msg=0&parent=8582&child=8916](http://www.housinglin.org.uk/Topics/browse/Design_building/Planning/?&msg=0&parent=8582&child=8916)

However, as highlighted by RHG, there is a significant amount of inconsistency emerging with regard to how CIL Charging Schedules and viability studies consider specialist housing for older people. Since the publication of the report, in 2013, these inconsistencies have remained and the three examples below demonstrate the wide variety of different approaches emerging.

### **Three CIL Examples**

#### **Wiltshire Community Infrastructure Levy**

The Charging Schedule was adopted in May 2015. Despite representations setting out the case for lower rates or exemptions for specialist housing for older people, there is no differentiation included between residential and specialist housing. The charging table includes Use Class Orders C2, C2A, C3 and C4 within the 'residential' charge; therefore the standard residential charge of £85/ Sq M in Zone 1 or £55/ Sq M in Zone 2 applies to all developments falling within this category (more on Use Class Order on p2 of this update below).

The Council did test the viability of a 60 bed Care Home in response to a representor request however, this used a figure of 22.8m per resident and the operators argued that this was less than half of the floor area they apply. In addition, extra care was not tested separately and the Council failed to understand that the viability of care homes is very different to that of extra care.

The impact of the Charging Schedule can be clearly seen in the example of the site at Chippenham Golf Course, for which Tetlow King Planning successfully gained permission for 75 Extra Care Dwellings and 61 Bed Care Home with communal facilities for MHA. Permission was granted in June 2011 and CIL was not in force at that time; the only contributions being £5,000 towards bus shelter improvements. If this application was reconsidered now, the CIL payments would amount to a minimum of £1.1 million, having a major impact on the viability.

#### **Stratford on Avon Community Infrastructure Levy**

The Submission Charging Schedule consultation ended in November 2015 and sets a charge of £150 per Sq M, and identifies a number of sub categories within the residential definition. These include the separation of Extra Care (to which the £150 per Sq M charge applies) from Retirement Dwellings (to which no charge will apply). This distinction has arisen through the numerous viability reports carried out by Peter Brett Associates which sets out the definition of Extra Care and Retirement Dwellings within the Appendix of the 2015 study<sup>2</sup>.

It further states that one of the determining factors in proposing a charge on Extra Care and not Retirement Dwellings is that Extra Care will be unlikely to have to contribute to affordable housing and therefore a CIL charge will not make the Extra Care developments unviable.

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<https://www.stratford.gov.uk/files/seealsodocs/171037/SDC%20CIL%20Economic%20Viability%20Study%20CS%20-%20PBA%20Sept%202015.pdf>

The charging schedule does provide clarity, however, the 2015 viability report states that: *“the impact of CIL on extra care and retirement schemes requires further work”* (Paragraph 5.4.1).

### **Royal Borough of Windsor and Maidenhead Community Infrastructure Levy**

The Draft Charging Schedule closed for consultation at the end of November 2015. This example does provide clarity in terms of definitions including use classes. It clearly states: *“Residential; including retirement (C3) and extra care homes (including C2)”* are to be treated the same with a charge of £100 per Sq M for Maidenhead and £240 per Sq/M elsewhere in the Borough.

This situation is unusual that there is no reduction given on the basis of the levels of saleable space verses un-saleable space found in Extra Care developments. The Council deemed it correct to charge a 10 bed mansion the same level of CIL as a highly specialised care development. Whilst you may not agree with the level of charges, or the viability testing at least there is clarity within the charging table.

### **Summary**

It is clear to see that there is inconsistency with other authorities making no charge for extra care development. This is partly due to a lack of understanding and therefore consideration of the viability of and operation of specialist housing for older people through CIL Charging Schedules. Whilst Extra Care provision itself can vary between C2 and C3 Use<sup>3</sup>, there is also a lack of industry engagement in the CIL formation process.

CIL Charging Schedules should at least acknowledge specialist housing types and distinguish them from C3 residential in both definition and charging rates.

Whilst all three of the examples have gone through the motions of considering the viability of extra care or care homes in detail it is not then accurately reflected in the final Charging Schedule. There is a responsibility upon developers and agents to make representations as early as possible to CIL preliminary draft charging schedules and to request a consideration of the different financial implications of providing specialist housing for older people.

With the high levels of CIL applied through many Charging Schedules, there remains no incentive for developers to provide extra care housing and there remains a distinct lack of engagement with the industry at large, despite rhetoric from National Government indicating a need to address the housing needs of older people.

### **Changes to Local Plans following PPG updates**

The changes to PPG in March 2015 further highlighted the need for provision of older people’s housing.<sup>4</sup> The changes acknowledge the critical need for accommodation to meet older people’s housing requirements but seek this through the provision of a target within Local Plans, putting the onus on Local Councils. The

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<sup>3</sup> [http://www.housinglin.org.uk/library/Resources/Housing/Housing\\_advice/Extra\\_Care\\_Housing\\_-\\_What\\_is\\_it.pdf](http://www.housinglin.org.uk/library/Resources/Housing/Housing_advice/Extra_Care_Housing_-_What_is_it.pdf)

<sup>4</sup> [http://www.housinglin.org.uk/library/Resources/Housing/OtherOrganisation/PPG\\_Briefing.pdf](http://www.housinglin.org.uk/library/Resources/Housing/OtherOrganisation/PPG_Briefing.pdf)

Housing LIN/EAC Strategic Housing for Older People Analysis Tool (SHOP@) is a useful free online tool that can assist Councils forecast demand for purpose-built housing for older people in England and Wales.<sup>5</sup> There is also the recognition that general needs housing should also be developed in a manner in which they can be adapted and better suit the requirements of all ages. This accords with the HAPPI principles.<sup>6</sup>

Following on from the changes, Stroud District Council have recently had their Local Plan found sound and among the modifications was the inclusion of a specific target for 950 care home spaces from 2013 – 2031, this was set against the context of an increase in the overall housing target and took into account the changes to the PPG.

## **Conclusion**

And finally, there is still a need for planners to fully understand Extra Care Housing as a product and also to foster liaison and collaboration with their Adult Social Care counterparts to ensure that a supply of accommodation for older people is provided at a local level.

There is also a need for consistency in the approach to older people's accommodation to ensure that emerging developments are dealt with consistently, regardless of what local authority that they are located within.

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<sup>5</sup> <http://www.housinglin.org.uk/Topics/browse/HousingExtraCare/ExtraCareStrategy/SHOP/SHOPAT/>

<sup>6</sup> [http://www.housinglin.org.uk/Topics/browse/Design\\_building/HAPPI/](http://www.housinglin.org.uk/Topics/browse/Design_building/HAPPI/)