

JR/RW/BRS.6512

17 March 2017

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**By E-mail Only:** [planning.policy@n-somerset.gov.uk](mailto:planning.policy@n-somerset.gov.uk)

Dear Sir/Madam

**Community Infrastructure Levy (CIL) Draft Charging Schedule**  
**MF4 – Note on definition of C3 extra care housing and viability implications**

I write on behalf of Anchor in response to Inspector Hill's request for further information on the definition of extra care housing and the viability implications of this type of use in relation to North Somerset Council's proposed CIL charging schedule. Anchor prefers to use the term 'assisted living' for their model, which would be considered a type of 'extra care' housing. For such developments outside Weston-super-Mare the proposed rate is £80m<sup>2</sup>, the same as for 'normal' housing.

**Viability**

The Council's evidence is that assisted living developments are not sufficiently different in their overall development economics profile to other forms of C3 housing. Appendix A of the Council's response to participant's hearing statements (February 21<sup>st</sup> 2017) is presented to demonstrate this position. Appendix A shows a residential valuation calculation for a typical 30 apartment sheltered housing scheme in each of the two CIL charging zones, showing that the respective CIL charge is viable.

Anchor, a developer of typical assisted living projects, and its architect have examined the assumptions that have been used in Appendix A and make two observations.

- 1) The 'base build cost assumption' of Appendix A is £1,273 m<sup>2</sup> with 10% for external works. That is £1,400 m<sup>2</sup>. Anchor's recent experience is of a base build cost of £1,470 m<sup>2</sup> and external works costs of £130 m<sup>2</sup> (8.8%). That is £1,600 m<sup>2</sup> and (+£200 m<sup>2</sup> or +14% over the Council's assumption). Build costs can range between £1,600 m<sup>2</sup> and £1,700 m<sup>2</sup>.
- 2) The 'net to gross build cost addition - non-saleable area adjustment assumption' is 25% in Appendix A. At Appendix 1 to this letter, we present a drawing by Atkins architects of Anchor's proposed development in Portishead. This shows a non-

saleable area of 36%. This is based on a gross internal area of 11,502.36 m<sup>2</sup> and a net-saleable area of 7,330 m<sup>2</sup>. As a range the general gross to net ratio for floor areas for Anchor schemes is between 65/35 and 70/30.

## **APPENDIX 1: PLAN OF ANCHOR'S PORTISHEAD SCHEME SHOWING NET-SALEABLE AREA**

The alternative assumptions will affect the viability of the proposed CIL charge and the status of such projects being financially viable or not.

The issue of the viability of CIL for assisted living developments was addressed locally in Bath and North East Somerset (BANES) in January 2015. We reproduce the relevant section of the Inspector's report below. This presents a balanced view of the issue. It demonstrates the sensitivity of the net saleable area in respect of the viability of CIL. The Inspector concluded, following a statement of Common Ground between the Council, its consultants BNP Paribas and examination participants (a copy of which is included at Appendix 2 to this letter) that a 30% non-saleable floor area represented a tipping point in respect of the viability of any CIL charge. The BANES charging schedule now includes the proviso that Specialised, Extra Care and Retirement Accommodation of 30% or more is not subject to CIL.

### ***Specialist, Extra Care and Retirement accommodation - viability appraisal findings and proposed CIL charges***

*48. The VA tested a 60 unit notional scheme which the Council explained would be a reasonable proxy for both Extra Care and retirement housing schemes. The results indicated that there was generally quite healthy viability for such schemes on BLV3 and BLV4. The VA concluded that "...such developments are unlikely to generate significantly different results from those generated by other residential development." The key issue here is that whilst such schemes have particular costs such as that 'communal' space provision and generally slower sales rates, this is offset by premium sales values. Based upon those evidential findings, the Council considered that such developments did not warrant a different treatment and the £100 / £50 psm CIL rates would apply.*

*49. Following submission of the DCS for examination, the Council has continued a dialogue with representatives from this sector and a Statement of Common Ground was produced. This, in effect, proposed a compromise which I was requested to consider. It centres on the importance of the gross / net ratio and proposes that schemes with communal non-saleable floorspace in excess of 30% should be exempted from the charge.*

*50. The costs associated with such communal spaces are significant. This is demonstrated in the modelling results, which show that increasing communal space by 2.5% (from 27.5% to 30%) can reduce the 'maximum' CIL by £100 psm. Developers will strive to keep elements of non-saleable floorspace to a*

*minimum but certain formats, notably those involving higher dependency / care will typically reach 35% communal space.*

*51. The evidence does confirm that whilst schemes with 30% non-saleable space can generally afford the CIL charges, those with higher elements of non-saleable space would be more challenged or rendered unviable. I am also satisfied that setting a 30% watershed is unlikely to create a perverse incentive to design schemes specifically to avoid the CIL charge, as any such 'saving' is likely to be outweighed by the value lost (in additional non saleable space). Based on the evidence, I am prepared to accept the suggested exclusion wording and, given that this is a post submission matter, I have reflected this change in my formal recommendations.*

## **APPENDIX 2: STATEMENT OF COMMON GROUND REFERRED TO IN BANES INSPECTOR'S REPORT**

### **C2/C3 Definitions**

The term 'extra care accommodation' can be applied to a range of accommodation types intended to meet the needs of the infirm (primarily but not necessarily the elderly). These include 'assisted living', 'extra' or 'very sheltered housing', 'close care', 'continuing care retirement communities' and 'retirement villages'. Typically contracts can be purchased that allow the household to buy in escalating levels of domestic and personal care to suit the changing needs of the occupant(s).

Extra care housing is not one, simple concept, with a statutory definition. Schemes vary in scale and nature so it may be, indeed has been the case, that schemes warrant different classification in terms of use class order. However, it would also appear that some schemes that look to be very similar have been classified differently.

A "lay" view that points to a C3 classification might be:

- Extra care housing is by definition "housing". This is part of the terminology of the Homes and Communities Agency and Department of Health.
- A fundamental building block is self-contained dwellings – flats, bungalows, cottages...
- The fact that dwellings are clustered together and may be adjacent to leisure and other facilities does not make any difference to this being a housing complex. It is just a modern version of sheltered housing.
- Most extra care housing is designed for and let or sold to people who have a range of needs from little or no care to quite high needs. Allocation policies and practice are often designed to maintain a balanced community. It is not like a residential care home where everyone has a similar, high level of need from the outset.

- Care is made available on an individual basis (another fundamental of extra care housing) using a domiciliary care model where care and support staff come to the person in their own personal dwelling. Staff are not living with the person they look after. This is like anyone else living in their own home in a village, town or city.
- A limitation in the lease or tenancy to being over a certain minimum age; 55, 60, 65, does not automatically mean everyone needs care. People may seek extra care housing because they are lonely, in need of more appropriate physical accommodation, disabled and many similar reasons. A view that reaching a certain age equates with care meaning extra care housing must be C2 is arguably naïve or too simplistic.
- In traditional sheltered housing (or indeed any ordinary property in the community), it is perfectly possible to receive an individual package of care to allow the person to continue to live independently. The receipt of care in your own home does not make it a “residential institution”. C3 uses can include households where care is provided.

However, the following features may point to a C2 classification:

- The units are not for sale on the open market but are restricted by a S106 obligation requiring occupants to be either in need of a specified level of care or in receipt of a specified minimum package of care services and/or above a specified minimum age.
- Applying eligibility criteria and undertaking an initial assessment of care needs with regular reviews and monitoring can reinforce this.
- Given the additional costs involved in paying for care and accommodation, it makes sense for the units to be occupied by those in genuine need of care.
- The distinguishing feature of C2 establishments is the provision of personal care for those who need it. Where extra care units are restricted to those in need of care by reason of old age, this would fall within the definition of Use Class C2.
- The provision of care is directly linked to the extra care unit, which cannot be occupied unless certain criteria are met.
- The involvement of a registered Care Quality Commission care provider in the delivery of care.
- The availability of care rather than an absolute requirement to receive a predetermined package may be sufficient, especially relative to older persons where a degree of future inevitable decline can reasonably be built into the model.
- In the case of larger schemes providing a range of accommodation and care such as Continuing Care Retirement Communities (CCRC) the degree of integration of the various elements of the scheme into a wider total community.

A recurring theme in LPA decisions, appeal decisions and court judgements is the degree of care provided to the majority, or all residents. It appears that conditions limiting occupation to those in need of care and support and receipt of a domiciliary care package of at least 2 hours per week are likely to underpin acceptance of a C2 classification. The 2 hours appears, in some of the cases, to be considered more than would normally be available in sheltered housing. It is argued provision of care by an on-site care team is more than would normally be provided by a warden within a sheltered housing scheme. While domiciliary care can be received in sheltered housing, the receipt of care is not a condition of occupation as it may be in extra care schemes. It is the explicit requirement to be in receipt of care as a condition of occupation that can make the difference.

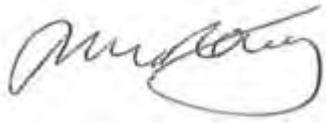
Anchor considers its assisted living model to represent a C2 category offer based on the preceding analysis and it is suggested that a minimum compulsory care package of 1.5-2.0 hours is applied for CIL purposes in defining a C2 development. Anchor's assisted living units are for residents who need care, but who still want to maintain independence. They generally comprise of a sitting room, one or two bedrooms, a kitchen and one or two bathrooms within an apartment within the building. All residents will subscribe to a package of care which includes the core care and support services including cleaning, the delivery of prepared meals, domiciliary care, prompting to take medicine and the provision of transport, as well as emotional/psychological support which is particularly required by those who are coming to terms with the fact that they can no longer live independently. Services for physiotherapy and other conditions are also available. Residents often require increasing levels of care the longer they are resident. This package is supported by a number of on-site communal facilities within the building, including residents' lounge; café/restaurant; hairdressers; treatment room etc.

We refer the Council to the approach it took when determining the application for Pegasus Life (Ref: 14/P/2570/F) where it concluded that the development fell within Class C2.

If the inspector does not agree with this use class approach for the purposes of CIL then it remains necessary, for viability reasons, to define extra care housing or assisted living housing to distinguish it from the normal C3 category. Our viability analysis suggests that assisted living or extra care schemes should not be CIL liable above a threshold of 30% non-saleable floor area due to their overall development economics.

We commend the way that specialist, extra care and retirement accommodation has been dealt with in the Bath and North East Somerset charging schedule to North Somerset Council. We remind the Council that elsewhere in the West of England, neighbouring South Gloucestershire Council's schedule maintains a zero rate for Residential Care Homes (class C2) & Extra Care facilities (Class C2/C3) and sheltered retirement (class C3).

Yours faithfully



**Jonathan Rainey**  
**Director**  
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**Block B11**

Net Saleable Area

Communal Area



Ground Floor



First and Second Floor

# Block B11

Net Saleable Area

Communal Area



Third Floor



Fourth Floor

**Block B11**

Net Saleable Area

Communal Area



Fifth Floor



Sixth Floor

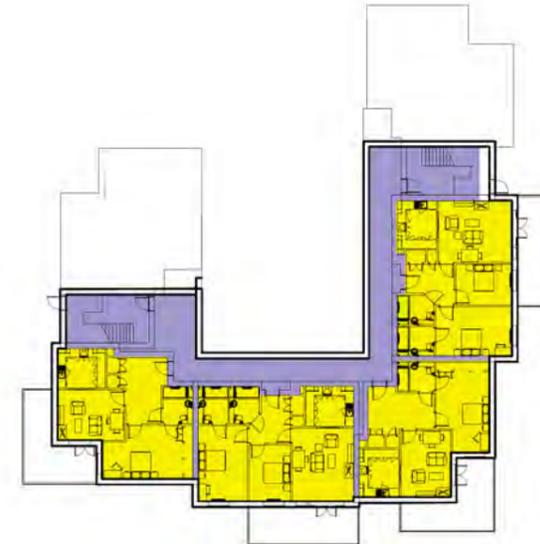
# Block A9

Net Saleable Area

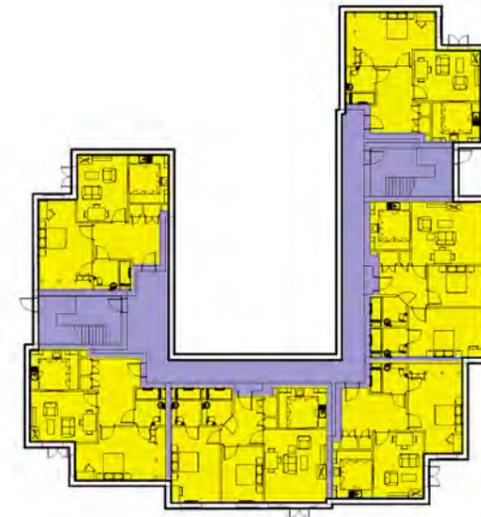
Communal Area



Ground Floor



Second Floor



First Floor

**Bath and North East Somerset District Council  
Community Infrastructure Levy (CIL)  
Draft Charging Schedule**

**Statement of Common Ground**

**1<sup>st</sup> December 2014**

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**Between:**

- 1) Bath and North East Somerset Council (B&NES) – the Local Planning Authority and CIL Charging Authority
  - 2) The Planning Bureau Ltd on behalf of McCarthy and Stone Retirement Lifestyles Ltd (PBL)
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**1 Background and Context**

- 1.1 This statement has been prepared by the above parties to identify the key common ground between B&NES and PBL with regard to the overall approach of testing viability and a number of key viability assumptions.
- 1.2 PBL submitted representations to the Draft Charging Schedule consultation (September 2014) and Proposed Modifications to the Draft Charging Schedule consultation (November 2014) querying the methodology and the interpretation the results of the BNP Paribas Real Estate Viability Assessment. This was the basis for PBL's intention to raise objections to the proposed CIL rate for retirement housing at the Examination Hearing.

**2 Matters of Agreement in Principle**

- 2.1 The parties have been working together in a constructive manner on the preparation of the B&NES CIL. Although, there are still matters of disagreement, the Council has assessed the viability of a specialist accommodation for the elderly housing development typology. PBL commends the Council for undertaking this assessment, which it considers to be best practice in Charging Authorities with an evident need for older person's housing as part of their wider housing mix.
- 2.2 The parties agree that in principle a residual land valuation methodology is an appropriate means to strategically assess development viability across an area.

- 2.3 The parties agree that the majority of viability assumptions used for assessing the development of Sheltered / Retirement housing are acceptable and in keeping with the recommendations made in the Retirement Housing Group (RHG) Briefing Note including; Sales Values, Build Costs, Marketing Fees, Professional Fees, the number of units and the density of development.
- 2.4 The Planning Bureau does not dispute the benchmark land values used in the viability appraisal.
- 2.5 The Viability Assessments for Sheltered / Retirement / Extra Care developments concluded that the surplus value available to make a CIL payment decreases in line with increases in the percentage of communal floorspace.
- 2.6 Where the provision of communal floorspace increases to 30% and over there is significantly reduced capacity for CIL across B&NES for these forms of development as shown in the tables below:

**Summary Table for Sheltered / Retirement / Extra Care Accommodation 30% Gross to Net Communal Floorspace**

Location	Affordable Housing Provision	Maximum CIL Rate (£ per m <sup>2</sup> )			
		BMLV1	BMLV2	BMLV3	BMLV4
Bath City Centre	40%	n/a	n/a	n/a	n/a
Bath Rural. Bathavon	40%	n/a	£25	£225	£235
Bath N& E	40%	n/a	n/a	n/a	n/a
Chew Valley (W)	30%	n/a	n/a	n/a	n/a
Bath N,W, A & Chew Valley (E)	30%	n/a	n/a	n/a	n/a
Keynsham	30%	£50	£200	£350	£350
Norton Radstock	30%	n/a	£50	£200	£250

**Summary Table for Sheltered / Retirement / Extra Care Accommodation 35% Gross to Net Communal Floorspace**

Location	Affordable Housing Provision	Maximum CIL Rate (£ per m <sup>2</sup> )			
		BMLV1	BMLV2	BMLV3	BMLV4
Bath City Centre	40%	n/a	n/a	n/a	n/a
Bath Rural / Bathavon	40%	n/a	n/a	£50	£100
Bath N& E	40%	n/a	n/a	n/a	n/a
Chew Valley (W)	30%	n/a	n/a	n/a	n/a
Bath N,W, A & Chew Valley (E)	30%	n/a	n/a	n/a	n/a
Keynsham	30%	n/a	£100	£250	£300
Norton Radstock	30%	n/a	n/a	£125	£150

- 2.7 The parties have considered evidence on the extent of communal floorspace in recent **Sheltered / Retirement developments** in the West of England and similar schemes in the South / South East of England previously submitted to the Tandridge CIL Examination. It is agreed that Retirement / Sheltered housing with 30% communal floorspace is typical of some sections of the industry.
- 2.8 Sheltered / Retirement housing which provides over 30% communal floorspace would be unable to support CIL across much of B&NES.
- 2.9 Similarly, both of the parties have considered evidence of the extent of non-saleable floorspace in recent **Extra Care developments** in the West of England and similar schemes in the South / South East of England previously submitted for the Tandridge CIL Examination). It is agreed that Extra Care housing with 35% communal floorspace is also typical of sections of the industry.
- 2.10 Extra Care Accommodation which provides 35% communal floorspace would be unable to support CIL across much of the B&NES.

### **3 Proposed Compromise**

- 3.1 PBL appreciates that B&NES Council has sought to assess the viability of Sheltered / Retirement and Extra Care developments and seeks to ensure that these forms of development remain viable under the proposed CIL regime. Whilst there are aspects of the methodology that remain in dispute, it is considered that the respective positions of both parties are not too far apart. Both parties have therefore agreed a potential compromise.
- 3.2 Sheltered/ Retirement and Extra Care developments that provide non-saleable communal floor space of 30% of the Gross Internal area or less can, for the most part, support the proposed £100 per m<sup>2</sup> CIL rate.
- 3.3 Sheltered / Retirement and Extra Care development that provides non-saleable floorspace equivalent to in excess of 30% of the Gross Internal Area cannot support the proposed rate of CIL in all parts of the District.
- 3.4 With PBL's support, B&NES Council therefore proposed the following modification to the Draft Charging Schedule:

**Proposed Post Submission Change**  
**RESIDENTIAL (Class C3) including Specialised, Extra Care and ~~Retired-Retirement~~ Accommodation<sup>1</sup>**

<sup>1</sup> **Excludes Specialist, Extra Care and Retirement accommodation that provides communal non-saleable floorspace in excess of 30% of Gross Internal Area.**

3.5 B&NES and PBL agree that the proposed modification is a suitable compromise based on evidence in the existing Viability Appraisals that fully supports the positions of both BANES Council and McCarthy and Stone Retirement Lifestyles Ltd.

3.6 We therefore respectfully request that the proposed modification be incorporated into the Draft Charging Schedule.

**4. Declaration**

4.1 The content of this document is agreed for the purposes of the B&NES Community Infrastructure Levy hearing 2014.

**Signed on behalf of The Planning Bureau Ltd:**



Position: Policy Planner

Date: 2<sup>nd</sup> December 2014

**And**

**Signed on behalf of Bath & North East Somerset Council:**



Position: *PLANNING POLICY TEAM LEADER*

Date: *3<sup>rd</sup> DECEMBER 2014*