Community Infrastructure Levy Focus Group meeting 7 June 2011 – Summary note

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Why have ‘normal’ market conditions been used?	Extract 9.3 from GVA draft report: “We have also been asked to comment on the appropriateness of basing viability work on ‘normal’ market conditions, rather than ‘recession’ market conditions. Although it can be argued that the current market is more reflective of ‘recession’ market conditions, appraisals have been undertaken assuming a development landscape which has recovered somewhat to normal market conditions. This is because any CIL, in keeping with GNDP’s timetable, would not be implemented for another 1 to 2 years. In this time, we have a reasonable expectation that the development market would have returned to a more ‘normal’ state, and values will reflect this. As such it is appropriate to allow for this in the viability study in accordance with DCLG advice that an appropriate balance is struck between the impact of CIL and the need to fund essential infrastructure.” The GNDP is reviewing this issue considering current market conditions and the rate of recovery and the CIL rate will reflect this.
Affordable housing assumption of 20% is wrong. It is not consistent with JCS policy.	The JCS includes a policy seeking affordable housing on mixed tenure sites above specified thresholds. The target is graduated with a lower contribution sought from small sites, but on sites of above 16 dwellings, or the equivalent area, a contribution of 33% is the policy target. This reflects a calculated need for approximately 33% of all new dwellings constructed after the strategy’s base date to be affordable. However it was also set having regard to viability and delivery, and the potential for some affordable houses to be delivered on exceptions sites to meet local needs. The Affordable Housing Study (Drivers Jonas Deloitte, 2010) assessed the viability of affordable housing provision, taking account of various levels of developer contributions. This supports GVA’s subsequent inclusion. In assessing the potential CIL contribution from mixed tenure schemes where a proportion of affordable houses will be delivered through section 106 obligations, the GVA 2010 report looked at the impact of seeking 40%, 30% and 20% affordable dwellings. The 40% figure was based on the target in the submitted JCS and is no longer directly relevant. The proposed CIL rate is that based on GVA’s estimate of the rate which could be afforded whilst ensuring that <u>at least</u> 20% affordable housing could be delivered in all locations without National Affordable Housing

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	Programme grant. This does not mean that a number of schemes could not deliver the target 33%, while paying the proposed level of CIL, though it is likely that some will be unable to do so without public sector support. In these instances, the percentage of affordable homes will need to be negotiated in accordance with policy 4 of the JCS. Pitching the CIL contribution at a level where at least 30% affordable housing could be delivered in all locations would have reduced the need for such negotiations, but would have meant that those schemes with the best viability outcomes would have contributed less, significantly increasing the ultimate funding gap. The proposed charge seeks to strike a balance between the achievement of the affordable housing target and the ability to fund the necessary infrastructure by securing a reasonable level of developer contribution. For the purposes of calculating forecast CIL revenue, it has been assumed that 33% of all new dwellings will be excluded from CIL contributions as "affordable" as defined in Planning Policy Statement 3.
The average house size is wrong in the December 2010 study. Houses are larger than the national average in this area.	The GVA report has used national averages. The GNDP is examining this issue in more detail using evidence supplied from the CIL Focus Group and from completions. This will be taken into account when coming to a proposed viable rate of CIL.
Have average house sizes been used for calculation on a consistent basis? Net internal area v. gross internal area.	The Viability Report has been consistent in its use of house sizes throughout both the initial CIL and subsequent Charging Schedule Viability Work. These unit sizes, which are in line with HCA Design & Quality Standards (2007) were agreed with GNDP at the start of the CIL viability process. GVA have used a consistent deduction for different unit types throughout both reports (90% net to gross for houses and 80% for flats), and have calculated build costs from the gross internal area, and revenue from the net internal area in line with standard surveying practice.
The inclusion of garages increases CIL further and makes the rate per dwelling even greater.	The issue of whether garages attract a CIL payment is not a choice. The regulations require a CIL to be applied to all buildings over 100m2 "into which people normally go" and all dwellings. The Partnership has clarified with DCLG that garages are included in at least the first part of the definition. So: • if a garage is part of a development that is greater than 100m2 it attracts CIL

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	• a single dwelling house with garage with a combined floor area of less than 100m2 would also attract a CIL on the garage element as the garage is part of the dwelling space (This may be one for the courts to clarify) • a garage built under a completely separate planning permission of less than 100m2 would not attract a CIL • there are other potential variations that will just confuse the issue at this stage (and to which we probably don’t have the answers) This issue is being considered by the GNDP as it prepares the draft charging schedules. The Partnership is not trying to use this issue to increase total income. We will take it into account when coming to a proposed viable rate of CIL.
What assumptions have been made for residual S106 costs for on-site infrastructure?	GVA has made no assumption that specifically allows for residual S.106 costs for on-site infrastructure. The contribution figures per sq m for the various uses shown in the CIL Report and Charging Schedule relate to a total overall developer contribution figure i.e. CIL plus S.106. They do not relate to a CIL charge upon which a further S.106 charge is viable or would be paid. In setting the CIL, the GNDP will make an allowance for residual S106 contributions. An allowance has been made, however, for ‘on-site developer infrastructure costs’, which we would under normal circumstances assume a developer would pay for and would be a ‘development build cost’ within an appraisal model. These costs include enabling works, sewerage works, demolition, estate roads, archaeology etc.
S106 was payable on completion. CIL on granting of planning permission this will damage cash flow and viability	This is not correct. Under the Community Infrastructure Levy (Amendment) Regulations 2011 which came into force in April 2011, authorities who wish to allow payment to be made by instalments are required to produce an Instalment Policy setting out: a. The date on which it takes effect, which must be no earlier than the day after the instalment policy is published on the website; b. The number of instalment payments; c. The amount or proportion of CIL payable in any instalment; d. The time (to be calculated from the date the development is commenced) that the first

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	instalment payment is due, and the time that any subsequent instalment payments are due; and e. Any minimum amount of CIL below which CIL may not be paid by instalment. Where there is no instalment policy, payment will be payable in full at the end of a period of 60 days beginning with the intended commencement date of development. The partner authorities can see merit in such a policy, particularly at difficult times in the economic cycle. It is currently proposed to introduce such a policy. The GNDP invited comments on an instalment policy.
Land value assumptions in appraisals are not consistent with the stated values that that will need to be achieved to incentivise release.	GVA notes the error on page. 23 of the December 2010 Report regarding benchmark land values which was raised in the Forum of 7 June. Appendix A2 of the December Report sets out the correct benchmarks which have been used consistently throughout the viability appraisal process. We will be supplying GNDP with an addendum to the Report to clarify this. It should also be noted that the figures in Appendix A2 are *per acre*, not per hectare. All benchmark land values used in the report and appraisal model have come from discussions with local agents and our own in house agency land teams, and are, we believe, a realistic reflection of the values which will incentivise land owners to release land for development. We consider that the land values we have used are reflective of the current development land market in the GNDP area and, although we appreciate that the introduction of CIL may have an impact on land values (depending on the figure adopted by the local authorities) the potential for a dislocation of the market is identified and the local authorities are in a position to make an informed decision. In as much as the introduction of affordable housing policy did, we believe that by using appropriate benchmark land values in these studies this will be minimised.
Different house types have different values and variances between the charging zones. How are the different types combined to give	DCLG Guidance sets out that Viability Studies in support of CIL Charging Levels, "…*should use an area-based approach, which involves a broad test of viability across their area as the evidence base to underpin their charge."* The Guidance sets out that Charging Authorities should take a strategic view across their area

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average differences between charging zones?	and should not focus on the potential implications of setting a CIL for individual development sites within its area - indeed Regulation 14 recognises that the introduction of CIL may put some potential development sites at risk. Therefore whilst we acknowledge that different house types and values exist between and across market value areas and charging zones, our Report focuses on a broad test of viability, and therefore has sought to use values and house types which are reflective of the majority of development, and has not sought to include all variations of type and value.
Examples show that the rate of CIL is far in excess of that achieved through S106 and will stifle development	GVA note the following: 1) There are a number of reasons why lower than policy S.106 agreements have been agreed historically, for example we understand that in Norwich City, Norfolk County Council has been forgoing its education contribution. However we also understand that a need has now been identified for education contributions. We would also draw attention to Norfolk County Council's 'Infrastructure, Service and Amenity Requirements for New Development' paper (April 2011), which advocates a need equivalent to a S.106 charge of £7,062 per dwelling (which would be £10,540 per private dwelling). 2) As per the above we would note that the Charge is only applicable to private dwellings as affordable dwellings are exempt. The total CIL Charge split between *all* units is therefore more likely to be reflective of previous S.106 agreements. 3) We do not believe that the CIL Charge levels we have recommended would, if implemented, stifle significant amounts of development due to their being based solely on scheme viability. However it should be recognised that GNDP has a large infrastructure bill which it needs to fund, and CIL can be a significant contributor to this. Arguably development should not be taking place without the infrastructure to support it, and so schemes which might have been borderline viable and which CIL deems unviable should most likely not be built as they cannot support the necessary infrastructure.
Can we set a low recessional rate now and review in a couple of years?	Any review will be subject to a new consultation/ examination process. In calculating individual charges for the levy, charging authorities will be required to apply an annually updated index of inflation to keep the levy responsive to market conditions.
What will be an In-kind contribution	In-kind payments (extract from CIL – an overview – DCLG): "There may be circumstances

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and how will it be managed?	where it will be more desirable for a charging authority to receive land instead of monies to satisfy a charge arising from the levy, for example where the most suitable land for infrastructure is within the ownership of the party liable for payment of the levy. Therefore, the regulations provide for charging authorities to accept transfers of land as a payment 'in kind' for the whole or a part of a the levy, but only if this is done with the intention of using the land to provide, or facilitate the provision of, infrastructure to support the development of the charging authority's area. An agreement to make an in-kind payment must be entered into before commencement of development. Land that is to be paid 'in kind' may contain existing buildings and structures and must be valued by an independent valuer who will ascertain its 'open market value', which will determine how much liability the 'in-kind' payment will off-set. Payments in kind must be provided to the same timescales as cash payments." Current practice, for the provision of new schools for example, requires transfer of land at no cost to the local authority. This is expected to continue under CIL.