The Planning Inspectorate

Report to Winchester City Council

by Mr Philip Staddon BSc, Dip, MBA, MRTPI

an Examiner appointed by the Council

Date: 7 October 2013

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

REPORT ON THE EXAMINATION OF THE DRAFT WINCHESTER CITY COUNCIL COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE

Charging Schedule submitted for examination on 26 July 2013

Examination hearings held on 16 September 2013

File Ref: PINS/L1765/429/7

Non Technical Summary

This report concludes that the Winchester City Council Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the district. The Council has sufficient evidence to support the schedule and can show that the levy is set at a level that will not put the overall development of the area at risk.

A minor modification is needed to the Schedule to include an accurate plan to define the boundary of Winchester town centre.

Introduction

1. This report contains my assessment of the Winchester City Council Community Infrastructure Levy (CIL) Charging Schedule in terms of Section 212 of the Planning Act 2008. It considers whether the schedule is compliant in legal terms and whether it is economically viable as well as reasonable, realistic and consistent with national guidance (Charge Setting and Charging Schedule Procedures – DCLG – March 2010).

2. To comply with the relevant legislation the local charging authority has to submit what it considers to be a charging schedule which sets an appropriate balance between helping to fund necessary new infrastructure and the potential effects on the economic viability of development across the district.

3. The basis for the examination, on which hearing sessions were held on the 16 September 2013, is the submitted Draft Charging Schedule, which is effectively the same as the document published for public consultation on 12 April 2013, and the subsequent Statement of Modifications, published for public consultation on 24 July 2013. The Draft Charging Schedule and the Statement of Modifications were submitted for examination on 26 July 2013.

4. The Council proposes three distinct geographical zones within which different CIL rates will apply. The areas are described as:

   Zone 1 – Strategic Allocations and South Hampshire Urban Areas.

   Zone 2 – Winchester Town.

   Zone 3 – Market Towns and Rural areas.

   The CIL will not apply to the South Downs National Park areas of the district. The Park Authority is preparing its own CIL proposals.

5. Within the three strategic growth allocations (Zone 1), CIL would be zero rated for all development types.

6. The Council proposes a levy on new residential development (Use Class C3) of £120 per square metre (psm) in Winchester (Zone 2) and £80 psm in Market Towns and Rural Areas (Zone 3). The Statement of Modifications removes specific housing types from the residential levy. These exclusions include sheltered housing, housing providing care for older or disabled people, and housing with restricted occupancy for agricultural or forestry workers.

7. The non-residential CIL proposals are limited to two commercial development types – hotels and retail. For hotel (Use Class C1) development, the proposed charge in Zones 2 and 3 is £70 psm. The Council proposes to differentiate its retail CIL charges by development type, as well as by geographical zone. In Winchester town centre all types of retail (Use Class A1) development would be subject to a proposed £120 psm charge. Elsewhere in Zone 2 (the rest of Winchester town outside the town centre), and throughout Zone 3, a proposed £120 psm charge would apply to *"convenience stores, supermarkets and retail warehouses."*

Is the charging schedule supported by background documents containing appropriate available evidence?

Infrastructure planning evidence

8. The Council has not yet produced its Regulation 123 list defining the infrastructure that its CIL would support. However, the Winchester District Local Plan Part 1 Joint Core Strategy (CS) was examined in 2012, and adopted in March 2013. This Plan sets out the main elements of growth that will need to be supported by further infrastructure in Winchester district, including the areas of the district that fall under the National Park's planning control. The CS covers the period to 2031.

9. The plan provides for a sustainable pattern of growth by focusing development in three strategic locations – north Winchester and two other strategic housing land allocations, in the south of the district along the M27 corridor, at sites known as West of Waterlooville and North Whiteley. Of the planned 12,500 homes in the CS period, 8000 are accounted for in the three strategic sites. The remaining 4,500 are anticipated to come from the Winchester urban area (around 2000) and the market towns and rural areas (around 2,500).

10. The Core Strategy's evidence base included a detailed Infrastructure Study and an Infrastructure Delivery Plan (IDP). The IDP has been updated to 2013. The IDP update includes the Council's estimate that there is an infrastructure funding gap, at current prices, of circa £185.7 million. Most of this gap (circa £163 million) relates to infrastructure outside of the three strategic housing sites. However, it does include infrastructure identified under the Partnership for Urban South Hampshire (PUSH) initiative, a cross boundary growth partnership. The Council's figures suggest that, of the total infrastructure bill for the plan period, about 60% is unfunded at present. These figures demonstrate the need to levy CIL.

11. CIL receipts are anticipated to raise circa £17 million over the plan period to 2031, with most of that (£13.5 million) anticipated from the residential CIL. The charges would therefore make only a very modest, but nonetheless important, contribution towards filling the likely infrastructure funding gap, required to help support planned sustainable growth in the district.

Economic viability evidence – Residential

12. The Council commissioned Adams Integra to produce a Residential Viability Report, which was completed in November 2012. This was updated and added to by a later Addendum Report (April 2013), a Viability Position Paper (July 2013) and further information requested by me at the hearing (September 2013). Hereon, the term "RVR" is used to denote this collective of Residential Viability Report evidence.

13. The RVR essentially used a residual valuation approach. The methodology entailed making assumptions about a range of factors such as sales values, build costs (including Code for Sustainable Homes requirements), profit levels, fees, contingencies etc. A good range of notional development scenarios, at different scales, densities and locations, were then tested to indicate a site's residual land value. These values were then compared with assumed existing use values for three types of land i) agricultural ii) employment and iii) housing (existing). That comparison, between the modelled residual value and existing use value, was then used to test viability i.e. if the residual value is significantly above the existing use value, the development would be viable and *vice versa.* This allowed the testing of CIL levels ranging from £0 psm to £150 psm, with the CS requirements for affordable housing applied, along with other scenarios for sensitivity testing.

14. The robustness of the assumptions used in the RVR modelling was tested at the hearing and the Council's consultants gave evidence in response to queries and challenges made in written representations. Much of the difference of view on component elements appeared to be largely related to labelling issues. For example, it was suggested that 'contingencies' should be 5% of build costs, whereas the Council's consultants had used 3% but had factored in a further circa 2% under 'site abnormals'. Profit level assumptions, for both market and affordable housing, were reasonable and robust, matching or exceeding, respectively, the rates used by the Homes and Communities Agency (HCA) in its appraisal model.

15. Importantly, sales values were drawn from several hundred properties spread across the district, and build costs were informed by accepted industry indices, developer feedback (from eight developers) and local valuation expertise. The impact on build costs of the CS requirements for sustainable homes (Code 5 for Energy / Code 4 for Water) was set out and found to be reasonable. An allowance was made for site specific S.106 contributions.

16. The assumed existing use values for agricultural and employment sites were reasonable and robust. The establishment of an existing use value for existing residential land was less straightforward, as that land category could include a range of sites from gardens through to stock replacement. Claimed examples of much higher land values were quoted, but these related to very small sites and did not appear to be representative of the general tone of the market. The

Council's consultants quoted Valuation Office rates for nearby Southampton of circa £1.7 million/hectare and, along with their own experience of the local market, felt that the £2.2 million/hectare value applied in the modelling was robust. I concur with that view in terms of it being a reasonable approximation for modelling purpose. For reasons I will return to later, the figure is, in any event, of limited relevance.

Economic viability evidence – Commercial

17. Adams Integra produced a Non-Residential CIL Viability Report in November 2012. This was updated and added to by a later Addendum Report (April 2013), a Viability Position Paper (July 2013) and further information requested by me at the hearing (September 2013). Hereon, the term "CVR" is used to denote this collective of Commercial Viability Report evidence.

18. The CVR used a residual valuation methodology to examine viability of a range of development types including retail, offices, industry, warehouses, hotels, community uses, student accommodation and residential institutions. The modelling involved assessing the Gross Development Value (GDV) of a notional commercial development and deducting the Gross Development Costs (GDC) with an element of developer profit. The resultant residual value was then tested to assess the impact on viability of applying different CIL rates. The published examples of the CVR modelling did contain some unfortunate arithmetic errors in computing CIL on notional developments (an imperial rather than a metric multiplier was used) but this was corrected during and following the examination. Once corrected, this did not affect the impact of the CIL charge on viability.

19. To establish GDV and GDC, a range of assumptions were made about land values, rents, yields, building costs, fees, contingencies and profit levels. My examination found all of these assumptions to be reasonable and robust.

20. An element of the modelling that did attract some commentary related to the notional development scenario used for testing purposes. This assumed that an existing building did not optimise site value, and that redevelopment with a larger, better, building would increase value. Whilst it was suggested that was "arbitrary and contrived" I share the Council's consultants' view that, in a slow market where there are few comparable transactions, such a notional development is a reasonable and robust approximation of the middle ground. Subject to sufficient margins being allowed to accommodate the spectrum of development permutations, I consider the approach is reasonable.

Conclusions

21. Although the Council is yet to produce its draft Regulation 123 list, it will be drawn from the clear and detailed evidence of community infrastructure needs set out in the IDP (as updated). There is a demonstrable funding gap that justifies the introduction of a CIL regime.

22. The background economic viability evidence for both Residential and Commercial development that has been used is reasonable, robust, proportionate and appropriate.

Is the residential CIL charging rate informed by and consistent with the evidence?

23. The background evidence demonstrates clearly a very distinct differentiation, across a spectrum of dwelling types and sizes, between sales prices in the three proposed CIL zones. Winchester commands the highest prices, the Market Towns and Rural Areas occupy the middle ground and the South Hampshire Urban Areas have the lowest prices. I am satisfied that the zones are informed by the evidence and that the zonal approach is appropriate and, indeed, desirable, as it helps to mitigate risks to viability in different property value locations. I will explore each zone in turn.

Winchester Town

24. Winchester commands high property prices. The evidence suggests that an average 1 bed flat sells at £175,000, a 3 bed house at £370,000 and a 5 bed house at £700,000. The RVR tested a good range of notional development scales and densities within the town and applied a wide range of sensitivity analyses, with varied affordable housing components and the application of an additional site specific S.106 allowance (which may or may not be applicable). For the purposes of this examination, whilst the sensitivity testing is helpful, the important scenario to be tested is that which best reflects the CS requirements, particularly in terms of affordable housing.

25. The evidence used a traffic light system to indicate viability on the three different land types of agricultural, employment and housing. Although helpful in some senses, it could also be a little misleading, given that agricultural land displayed strong 'green light' viability but is unlikely to feature in the urban town setting. Furthermore, residential development on existing housing land, with CIL applied, showed a 'red light' but, again, this was not a likely development scenario. Indeed, the Council considered that existing housing land would not be at all significant in land supply terms, and it was not relying on it to meet its planned housing numbers. It is for these reasons that I concluded that the 'threshold' land value (new housing on existing housing land) was of limited relevance (paragraph 16 above).

26. Most of the planned Winchester housing numbers were expected to come forward on existing employment sites and open urban land such as car parks. The evidence demonstrates that with the proposed £120 psm CIL applied, all residential developments on the primary land source (employment) remain viable. This is the case with a full CS affordable housing content and an allowance for site specific S.106 contributions. In that scenario, there would still be a 27% viability 'buffer' which allows for variation in sales prices across the town. The CIL charge would amount to between 2.4 – 2.6 % of GDV. I conclude that this is reasonable.

Market Towns and Rural Areas

27. A lower CIL rate of £80 psm is proposed in the market towns and rural areas, reflecting the lower sales values, compared to Winchester. The Council has confirmed that the "vast majority" of housing planned in this zone is expected to be on greenfield (agricultural) land, on sites to be allocated through the

progression of the Local Plan Part 2. The Council does not anticipate existing housing land or gardens contributing materially to new housing land supply.

28. The evidence demonstrates that with the proposed £80 psm CIL applied, all residential developments on the primary land source (agricultural) remain viable. This remains the case with the much higher threshold value employment land, although this is not expected to be a major contributor to supply. Development on existing housing land would not be viable, but it is not anticipated in any event. Throughout the tested scenarios, development viability on agricultural (and employment) land is maintained with a full CS affordable housing content and an allowance for site specific S.106 contributions. On agricultural land the viability 'buffer' would be substantial at 164% (reflecting the lower agricultural threshold) and on higher value employment land the buffer would be 32%. These buffers do therefore allow for variation in sales prices across the rural areas. The CIL charge would amount to between 1.8 – 1.9% of GDV in the modelled notional development scenarios. I consider this to be reasonable.

Strategic Allocations and South Hampshire Urban Areas

29. The three strategic sites account for 8,000 of the 12,500 homes planned in the CS to 2031. Under the CIL proposals these sites would be nil rated. Two of the three strategic sites already have planning permission, and will not, therefore, fall under the CIL regime. The planning permissions at North Winchester and West of Waterlooville include S.106 Agreements that will fully fund their identified infrastructure requirements, which are significant. The third, at North Whiteley, is expected to be the subject of a single planning application soon, again with a comprehensive S.106 Agreement securing its significant infrastructure requirements. At the hearing, the Council confirmed that CIL monies will not be used to support the strategic sites, other than through broader PUSH related infrastructure. It also confirmed that it was fully satisfied with its S.106 approach and I have noted the support of the North Whiteley developer consortium (NWC) for the Council's CIL proposals.

30. I have examined the viability evidence and the S.106 infrastructure requirements. I concur with the Council's consultants' view that the significant site specific infrastructure costs at each site (much of which is already secured through S.106 Agreements), along with the lower land values on the South Hampshire sites, mean that an additional CIL charge could not be justified on viability grounds.

Other residential CIL matters

31. Although the Council's consultants deal with specialist forms of housing under their non-residential report (the CVR), I will deal with these here as they are residential uses. I accept the finding that there is no case for imposing CIL on Class C2 Uses and that *sui generis* student accommodation cannot support CIL payments on viability grounds, based on the evidence. I also accept the Council's fine grained analysis of the viability of specialist types of Class C3 use, which has led it to its proposed modification to the charging schedule which would exclude 'sheltered housing, Extra Care, or other specialist housing providing care to meet the needs of older people or adults with disabilities'.

Conclusions on whether the residential CIL charging rates are informed by and consistent with the evidence

32. The Council has used appropriate and available evidence to inform its proposed CIL charges for residential development. Its approach of three distinct geographical zones with different CIL rates is justified by the evidence and the circumstances. The CIL rates have been set at levels that maintain viability across a broad spectrum of sites that are likely to be needed to meet the CS housing requirements.

Is the Commercial CIL charging rate informed by and consistent with the evidence?

33. Although the local economy in the district is relatively strong, the commercial property market for offices, industrial and warehousing (the B Use Classes) remains challenging. Even without CIL the modelled appraisals show negative viability. That should not be taken as a signal that no such development will happen, as the market will respond to specific occupier demands. However, it does demonstrate that CIL should not, in current circumstances, be imposed as it would further compromise viability.

34. With regard to the two types of development where CIL charges are proposed, hotels and retail, I will deal with these in turn.

Hotels

35. A hotel (Use Class C1) CIL rate of £70 psm is proposed in Winchester (Zone 2) and the Market Towns and Rural Areas (Zone 3). The evidence indicates that hotel development within the district displays healthy viability and there should be a significant surplus to support the £70 psm CIL charge, which would represent about 1.43% of GDV of the modelled hotel development. This is reasonable and justified by the evidence.

Retail

36. A retail (Use Class A1) CIL rate of £120 psm is proposed in Winchester (Zone 2) and the Market Towns and Rural Areas (Zone 3). However, the Council seeks to differentiate between type of retail and, by location, within Zone 2. In essence it is proposed to apply the CIL charge to all Class A1 retail uses in Winchester town centre, whilst elsewhere in Zone 2 and throughout Zone 3 the CIL charge would be limited to *"convenience stores, supermarkets and retail warehouses"*, definitions of which are set out in the draft Charging Schedule. All other retail development (effectively all comparison retailing outside of Winchester town centre) would be nil rated.

37. There is an important procedural point that I will deal with here before examining the consistency of the charging proposals with the evidence. Regulation 12 requires Charging Authorities to define, on an Ordnance Survey map, the boundaries of different charging zones. The Council has done this with respect to the three zones. However, the Council's retail CIL proposals seek to further geographically differentiate, by retail type, within Zone 2 i.e. treat the town centre differently to the rest of the town. There is nothing to

prevent this, subject to it being justified by viability evidence. However, the reference in the Charging Schedule to a map in another document (the 2006 Local Plan) to define the town centre is inadequate. At the hearing the Council accepted that a plan defining the town centre, effectively a 'sub-zone', should be included. This is reflected in my recommendations.

38. Turning to the viability evidence, I will begin with Winchester town centre. The retail economy in the town centre is strong. I observed a healthy, vibrant and attractive town centre with unusually low vacancy rates, all reflecting its strong performance as a retail destination. The CIL viability evidence supports these observations. The testing of a notional redevelopment for a 186 sq metre comparison retail unit in the town centre demonstrated a very healthy 'surplus' available to fund a CIL contribution. The CIL contributions at £120 psm would amount to just 0.69% of the schemes GDV. However, it should be noted that the scope for such redevelopments within the historic shopping core is quite limited. The main source of the CS planned new retail floorspace in the town is the Silver Hill scheme, which already has planning permission.

39. The broader retail CIL proposals have attracted commentary and criticism from a number of supermarket operators, although none of these attended the hearing. These representations included that S.106 /S.278 contributions should be factored in; that conversion and regeneration related costs should be included; that charging zones and the differentiation between convenience and comparison retailing all needed justification, and other general concerns about scheme viability.

40. The viability evidence does demonstrate that all types of retail development where a CIL charge is proposed can comfortably sustain it. Whilst I accept that the modelling can only provide a guide, the surpluses available to fund CIL appear to be substantial. In terms of the modelled scenarios, CIL would amount to 2.33% GDV for "convenience stores", 4.02% GDV for "supermarkets" and 4.48% GDV for "retail warehouses". The evidence also demonstrates that comparison retailing, outside of Winchester town centre, is only marginally viable with zero CIL, and the application of a CIL charge would put viability at risk.

41. A specific concern about the impact of the retail CIL on farm shops was raised. However, I share the Council's view, expressed at the hearing, that, in most cases, such outlets would relate to existing floorspace or small new buildings (under 100 sq. metres) and would therefore fall outside the CIL charging regime. I do not consider that specific viability testing on such developments is required.

Conclusions on whether the Commercial CIL charging rates are informed by and consistent with the evidence

42. The Council has used appropriate and available evidence to inform its proposed CIL charges for commercial development. The evidence supports a zero CIL approach to employment related use. The proposed hotel CIL charge is reasonable and justified by the evidence. The retail CIL proposals are well evidenced and the Council has justified its differential approach to types of retailing and the distinct treatment for Winchester town centre. However, it needs to include a clear plan, defining the town centre, in its charging

schedule.

Does the evidence demonstrate that the proposed charge rates would not put the overall development of the area at serious risk?

43. The Council's approach to CIL has paid close regard to the Core Strategy and updated Infrastructure Delivery Plan. It should be noted that much of the development critical to the implementation of the CS will not be affected by CIL. Indeed the majority of the CS's 12,500 planned new homes are either consented and subject to S.106 Agreements, or soon will be. The Council estimates that, once existing planning permissions and affordable housing are factored in, less than 1500 homes will actually pay the CIL charge. Similarly, the principal retail scheme in the CS already has planning permission.

44. These district specific circumstances do mean that the CIL proposals will only affect a relatively limited proportion of the CS planned development. Nonetheless, the Council's evidence has demonstrated that, where it intends to apply CIL charges, these have been informed by, and are consistent with, the evidence, and will not pose a risk to the general viability of such developments.

Other Matters

45. There are a number of other matters that arose through the examination. These are set out below.

Phased payments

46. The Council confirmed that it would be devising and implementing a phased payment mechanism.

Discretionary relief

47. The Council has chosen not to apply a discretionary relief provision in exceptional circumstances. The Council explained at the hearing that it could not foresee any Development Plan critical project that would justify such a provision, and felt that its CIL proposals were set at such a modest level that a discretionary relief provision was, in its view, unnecessary.

Review

48. There was some discussion at the hearing about the appropriate time to review the CIL regime following implementation. The precise impact of CIL will, to a large extent, be determined by the nature of sites allocated through the Local Plan Part 2 (particularly the housing sites in Zone 3). Although this is likely to confirm the assumptions made in this examination, it does seem sensible to timetable a review following adoption of that plan.

Overall Conclusion

49. The evidence demonstrates that the overall development of the area, as set out in the CS, will not be put at risk if the proposed CIL charges for residential, hotel and retail development are applied. In setting the CIL charges the Council has used appropriate and available evidence and has justified its differentiation in respect of its three charging zones and types of development. The CIL proposals will achieve a reasonable level of income to help address a well evidenced infrastructure funding gap.

LEGAL REQUIREMENTS	
National Policy/Guidance	The Charging Schedule complies with national policy/guidance.
2008 Planning Act and 2010 Regulations (as amended)	The Charging Schedule complies with the Act and the Regulations, including in respect of the statutory processes and public consultation, consistency with the adopted Joint Core Strategy and Infrastructure Delivery Plan and is supported by an adequate financial appraisal.

50. I conclude that, subject to one modification set out in Appendix A, the Winchester City Council Community Infrastructure Levy Charging Schedule as modified by its Statement of Modifications, satisfies the requirements of Section 212 of the 2008 Act and meets the criteria for viability in the 2010 Regulations (as amended). I therefore recommend that the Charging Schedule be approved.

P.J. Staddon

Examiner

This report is accompanied by:

Appendix A (attached) – Modification that the Examiner specifies so that the Charging Schedule may be approved.

Appendix A

Modification that the Examiner specifies so that the Charging Schedule may be approved.

Modification No.	Modification
EM1	Page 2 of the Schedule under the ‘Town Centre’ heading - delete “Winchester Town Centre as defined by the town centre boundary shown on Inset Map 31 of the Winchester District Local Plan (2006) – Policy SF1” and replace with “The area defined on Plan 4.”
EM2	Add Plan 4 to be titled “Zone 2 – Winchester Town Centre Boundary”. Note – plan to be based on an Ordnance Survey map and to clearly delineate the town centre, in line with the Winchester District Local Plan (2006).