



Intelligent Plans
and examinations

AN EXAMINATION UNDER SECTION 212
OF THE PLANNING ACT 2008 (AS AMENDED)

**REPORT ON THE DRAFT HORSHAM DISTRICT
COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE**

Independent Examiner (appointed by the Council): **Geoff Salter BA MRTPI**

Charging Schedule Submitted for Examination: 18 November 2016

Date of Report: 01 March 2017

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Main Findings - Executive Summary

In this report, I have concluded that the draft Horsham District Community Infrastructure Levy Charging Schedule, incorporating the Statement of Modifications, provides an appropriate basis for the collection of the levy in the area.

The Council has provided sufficient evidence that shows the proposed rates would not threaten delivery of the Local Plan as a whole.

Introduction

1. I have been appointed by Horsham District Council, the charging authority, to examine the draft Horsham District Community Infrastructure Levy (CIL) Charging Schedule. I am a chartered town planner with more than 20 years experience as a Government Planning Inspector, which included inspecting and examining several development plans and CIL Charging Schedules.
2. This report contains my assessment of the Charging Schedule in terms of compliance with the requirements in Part 11 of the Planning Act 2008 as amended ('the Act') and the Community Infrastructure Regulations 2010 as amended ('the Regulations'). Section 212(4) of the Act terms these collectively as the "drafting requirements". I have also had regard to the National Planning Policy Framework (NPPF), notably paragraphs 173-177, and the CIL section of the Planning Practice Guidance (PPG), which replaced the stand alone CIL Statutory Guidance last published in February 2014.
3. To comply with the relevant legislation, the submitted Charging Schedule must strike, what appears to the charging authority, to be an appropriate balance between helping to fund necessary new infrastructure and the potential effects on the economic viability of development across the district. The PPG states that the examiner should establish that:
 - the charging authority has complied with the legislative requirements set out in the Act and the Regulations;
 - the draft charging schedule is supported by background documents containing appropriate available evidence;

- the proposed rate or rates are informed by and consistent with the evidence on economic viability across the charging authority's area; and
 - evidence has been provided that shows the proposed rate or rates would not threaten delivery of the relevant Plan as a whole.
4. The basis for the examination, which took place through written representations, is the submitted schedule of November 2016, which is effectively the same as the Draft Schedule published for public consultation in May 2016, together with the Statement of Modifications which were published for public consultation on 18 November 2016.
 5. In summary, the Council proposes an initial rate of £135 per sq m for residential development, other than that within two strategic sites identified in the Horsham District Planning Framework (HDPF) and a rate of £100 per sq m for 'large format' retail development, including supermarkets and retail warehousing.

Has the charging authority complied with the legislative requirements set out in the Act and the Regulations?

6. I am satisfied the Charging Schedule complies with the Act and the Regulations, including in respect of the statutory processes and public consultation, consistency with the adopted Local Plan and the Infrastructure Delivery Plan, and is supported by an adequate financial appraisal. I also consider it compliant with the national policy and guidance contained in the NPPF and PPG respectively.

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

Infrastructure planning evidence

7. The HDPF was adopted in November 2015. This sets out the elements of housing and employment growth that will need to be supported by further infrastructure, the main items of which are new education and healthcare facilities, transport infrastructure, social and community infrastructure and greenspace. A comprehensive analysis of all infrastructure needs was set out in the May 2014 Infrastructure Development Plan (IDP) to inform the HDPF examination. This has been updated in a new IDP published in April 2016, which indicates that the costs of necessary infrastructure which need to be funded through CIL are likely to be in the order of £38m. A very substantial proportion of the new infrastructure needed to support major new housing growth at North Horsham and the continuation of development at

Kilnwood Vale would be, or is already, funded through site specific Section 106 planning obligations.

8. The Council acknowledges that infrastructure planning is an iterative process during which requirements and costs may change over time, but the IDP is a well-researched document that includes considerable detail about projected needs. The costs compare with a projected revenue from CIL of about £24m, leaving a funding gap of some £14m. Some of the CIL revenue will be passed on to local communities, so in practice this gap may be somewhat larger. However, other sources of funding, such as public sector capital investment or private sector investment by utilities through their public service obligations, may also come forward. In any event, the infrastructure planning evidence clearly justifies the need to introduce CIL in the District.
9. At this stage the Council is not required to publish a full and definitive list of all infrastructure schemes intended to be funded through CIL. However, a draft Section 123 list has been included as Appendix 2 to the Charging Schedule and is a component of the appropriate available evidence that has been used to inform the preparation of the Schedule by the Council. The Council has made some amendments to this indicative list published in Appendix 2 to reflect the comments of statutory providers of services and others but this appendix is not strictly part of this examination or subject to any modification by me. The distribution of the receipts from CIL, including the proportion to be passed on to Town and Parish Councils for their own projects, is set out in the Regulations and in similar fashion is not part of this examination.

Economic viability evidence

10. The Council commissioned viability work to inform the consultation stage of the earlier Preliminary Draft Charging Schedule (PDCS), dated March 2014. However, a new Viability Update Assessment (VUA), by different consultants, was published in February 2016 to provide evidence to support the Draft Charging Schedule (DCS). Further updating of the viability evidence was undertaken to assess the viability of strategic sites in the District.
11. In common with most other studies of this type, the VUA used a residual valuation approach, incorporating reasonable assumptions for a range of factors. Standard Building Cost Information Service (BCIS) data are used for building costs, with cost allowances to take into account current government policy regarding environmental standards for new homes. A further allowance of 5% was added for general contingencies, broadly in line with standard practice. Normal industry assumptions regarding fees, developers' profit levels at 20% and a realistic approach to interest rates indicate that the predicted outcomes are sufficiently robust. The assessment included a small allowance of £3,000 per unit for Section 106 costs on small

developments and £15,000 per unit on large scale greenfield strategic sites, which I consider reasonable in the circumstances. Gross development values (GDV) for the different development types, including range of housing mix on differently-sized sites, were assessed taking into account the most up to date sales and rental values at the time.

12. The model used various increasing rates of CIL charge to assess what residual land values would remain from the GDV, after deducting development costs and an allowance for reasonable developers' profit. A large number of appraisals for sites of different sizes were tested, representing the variety of new build scenarios likely to come forward following approval of the HDPF. The resulting land values for the range of scenarios were then compared with benchmark land values based on existing use value, plus the premium necessary to bring the land forward for development. This value takes into account the need to accord with development plan policies and recognises it should not be based on unrealistic expectations of future development possibilities. I deal with comments about the validity of some of the benchmark land values below.
13. The assessments of commercial development also appear robust, taking into account different types of retail units and updated values. A broad-brush approach towards the testing of a range of other development types that are much less likely to be able to support CIL was also realistic.
14. The Draft Charging Schedule is supported by detailed evidence of community infrastructure needs. The updated viability assessment, the VUA, provides a detailed range of development scenarios which have been used to support the approach taken. On this basis, the evidence which has been used to inform the Charging Schedule is robust, proportionate and appropriate.

Are the proposed rates informed by and consistent with the evidence on economic viability across the district?

Residential

15. The VUA indicated that a CIL rate of up to £200 per sq m could be applied across the whole district, although this level of charge would be at the very margins of what developments in parts of the district could withstand. I therefore agree that it would be prudent and would accord with government guidance to avoid setting the charge at such a high marginal rate. The updated viability evidence indicates that an increase on the original Preliminary Draft Charging Schedule rate to £135 per sq m is fully justified and would not harm the overall viability of residential development throughout the area.

16. In order to provide an analysis which is robust, the appraisals incorporate threshold land values which are not at the upper reaches of the range noted from recent examples of transactions. However, the evidence of such values, particularly for the very few large sites, is limited. There is an element of judgement on this topic based on professional experience but I think it reasonable to take a cautious approach when assessing valuations at a district-wide level. I agree with the Council that it would be inappropriate to use assumptions that would result in marginal viability for many residential development types. The VUA acknowledges that land values may vary but it would not be appropriate to cater for overbids or site specific circumstances, since the charging rate is intended to be applied district-wide in normal circumstances.

Strategic sites - North Horsham and Kilnwood Vale

17. The Council has put forward a major mixed use scheme, including 2,500 dwellings for a strategic site at North Horsham. This site will inevitably, in accordance with normal practice, require a very considerable amount of new infrastructure, including new schools and medical facilities. Although there are some risks associated with the decision to require a substantial part of this infrastructure through Section 106 obligations, on balance I agree with the Council that this poses less risk than the potential shortfall that may occur if provision were to be dependent on CIL alone. The VUA shows that with much higher known Section 106 costs to meet HDPF requirements, the strategic site at North Horsham would not be viable if CIL were charged as well. I understand discussions about the level of Section 106 obligations continue to take place as the detailed proposals are finalised, which gives the Council the opportunity to ensure that all necessary contributions are made.

18. CIL viability testing is a broad-brush approach, but the VUA does include an appraisal for a 2,500 dwelling residential site. The finding that a large site with considerable Section 106 obligations would not have the ability to support CIL is consistent with the Council's consultants extensive experience (and my own) in other areas. The zero rating for Strategic Sites identified in the HDPF is justified by the detailed evidence set out in the VUA. In essence, the considerable amount of infrastructure for each site identified in the HDPF has a clear adverse effect on the residual valuation.

19. One of the comments on the Draft Schedule from the developers of Kilnwood Vale, a large site in Horsham district but closer to Crawley, was the need for comparability with the North Horsham site with regard to CIL liability. Although Kilnwood Vale has been granted planning permission, it is subject to extensive infrastructure provision through Section 106 obligations, as is North Horsham. The Council has indicated CIL would not be applied retrospectively, any changes to the scheme requiring further planning

permission would be liable to CIL. This anomaly has been rectified by the modified schedule which excludes Kilnwood Vale from the charging schedule.

20. The same effect need not apply for any other large site that might come forward as a windfall. In such a case, infrastructure requirements might not be known, or might not be extensive. Whilst the CIL would take the first slice out of development value, an individual viability assessment would be able to take into account the expected CIL contribution and normal affordable housing requirement costs before identifying the impact of Section 106 requirements on the overall viability of the development. The Council's draft Planning Obligations Supplementary Planning Document clarifies that Section 106 contributions would be sought for site specific infrastructure only.
21. The viability studies, including the latest VUA, take full account of the cost implications of the affordable housing requirements as set out in the adopted HDPF, in accordance with government advice. The mix of affordable housing on the strategic sites has been modelled in the same way as that for the market housing. This is a standard approach and I consider it is not unreasonable to expect a site of the size of North Horsham to be able to support, over time, a higher proportion of larger three and four bedroom homes than normal affordable housing requirements. This would comply with the adopted planning policy for affordable housing regarding mix and would represent a reasonable trade-off between the key variables of overall value and the costs of development, including building costs, infrastructure and affordable housing.
22. If Kilnwood Vale were to be developed out in accordance with the current planning permission no retrospective charge could be made. However, it is possible that changes/ additional permission(s) may be required. In such an instance Kilnwood Vale would be liable for a double dipping charge, as CIL would apply as well as significant costs previously agreed through the Section 106 process. This would be inequitable and I support the proposed modification to exclude this major site from the CIL regime.

Retail development

23. The results for commercial development are consistent with experience in many other areas; large format retail schemes will be able to be viable with CIL, while other office or industrial development will not. The VUA confirmed that smaller shops, which are most likely to be developed on brownfield land, are not likely to be able to support CIL.

Has evidence been provided that shows the proposed rates would not threaten delivery of the Local Plan as a whole?

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24. In setting the CIL charging rate the Council has had regard to detailed evidence on infrastructure planning and the economic viability evidence of the development market in Horsham District. The Council has tried to be realistic in terms of achieving a reasonable level of income to address an acknowledged gap in infrastructure funding, while ensuring that a range of development remains viable across most of the area covered by the HDPF. The housing sites that might not be viable as a result of CIL, represent a very small proportion of the development proposed in the HDPF and the charge rate would not put the overall implementation of the Plan at risk.
25. The Council's decision to apply residential and retail rates at the levels set out in the Draft Charging Schedule is based on reasonable assumptions about development values and likely costs. The evidence suggests that residential and retail development will remain viable across most of the area, except the two strategic allocations at North Horsham and Kilnwood Vale, if the charge is applied as proposed. I consider the viability assessment to be robust and conclude that the residential and retail rates proposed would not threaten delivery of the Local Plan. The proposed rates are justified therefore.

Overall Conclusion

26. I conclude that the draft Horsham District Community Infrastructure Levy Charging Schedule, incorporating the modifications set out in the Statement of Modifications published on 18 November 2016, satisfies the drafting requirements and I therefore recommend that the draft Charging Schedule be approved as modified.

Geoff Salter
Examiner