The Planning Inspectorate

Report to Test Valley Borough Council

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an Examiner appointed by the Council

Date: 21 December 2015

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

REPORT ON THE EXAMINATION OF THE DRAFT TEST VALLEY COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE

Charging Schedule submitted for examination on 27 February 2015

Examination hearing held 27 May 2015

File Ref: PINS/C1760/429/6

Non Technical Summary

This report concludes that subject to modifications, the Test Valley Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the charging area. 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.

The modifications relate to the area covered by the charging schedule, the Ordnance Survey (OS) maps showing the zones subject to differential residential rates and clarifications and corrections to the charging schedule. They are needed to meet the statutory requirements. They can be summarised as:

- Clarification that the charging schedule does not apply to that part of the Borough within the New Forest National Park.
- Remove greenfield/previously developed land differentiation for retirement housing.
- Clearer, larger scale maps of the residential charging zones.
- Amended maps for the strategic sites on an OS base and with National Grid lines and reference numbers.
- Modification to the charging schedule in the interests of clarity to confirm other types of development are not liable for CIL.

The modifications recommended in this report are based on matters discussed during the public hearing sessions and in relation to the removal of the differentiation of the rate for retirement housing, in correspondence after the hearing sessions[1]. The do not alter the basis of the Council's overall approach or the appropriate balance achieved.

Introduction

1. This report contains my assessment of the Test Valley Community Infrastructure Levy (CIL) Draft Charging Schedule (DCS)[2] in terms of Section 212 of the Planning Act 2008. It considers whether the DCS is compliant in legal terms and whether it is economically viable as well as reasonable, realistic and consistent with national guidance.

2. To comply with the relevant legislation the charging authority has to submit a draft 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 Borough.

[1] TVBC 007 Examiner's letter to the Council 9 November 2015, TVBC 008 TVBC letter to the Examiner 17 November 2015

[2] ExCIL_S1 Community Infrastructure Levy Draft Charging Schedule Regulation 19 (submission) version

3. The DCS applies to the area of Test Valley Borough outside the New Forest National Park and the term 'charging area' is therefore used in this report. Modification **EM1** is recommended to explain and clarify this position within the charging schedule.

4. The basis for the examination, on which hearing sessions were held on 27 May 2015, is the DCS submitted for examination in February 2015. This version of the DCS consolidates the DCS published for consultation from 25 July to 5 September 2014 with changes proposed through a Statement of Modifications (SOM).[3] The SOM was published for public consultation from 27 February to 27 March 2015. The responses received to that consultation have been taken into account in my assessment of the DCS. All references in this report to the 'DCS' therefore relate to the February 2015 consolidated version.

5. The charges in £ per square metre (psm) proposed by the Council for examination are as follows:

- Residential - Zone 1 - £175, Zone 2 - £140, Zone 3 - £105, Zone 4 - £70
- Extra care accommodation - £0
- Retail supermarkets, superstores and retail warehouses - £180
- Retail excluding supermarkets, superstores and retail warehouses - £0
- Office, industrial and distribution - £0
- Hotel - £0
- Community use including non-residential institution - £0
- Retirement housing on previously developed land - £0
- Retirement housing on greenfield sites - £60
- Strategic sites – all development types - £0

6. The 'strategic sites' referred to in Table 2 of the DCS and throughout this report are the strategic allocations in the Revised Local Plan 2011 – 2029 (RLP)[4] at Whitenap, Romsey, Hoe Lane, North Baddesley, Park Farm, Stoneham[5], Picket Piece and Picket Twenty, Andover and George Yard/Black Swan Yard in Andover.

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

<u>Infrastructure planning evidence</u>

7. The CIL is intended to support the infrastructure needed to accommodate growth in the which will replace the saved policies of the Test Valley Borough Local Plan (2006). The RLP was submitted for Examination on 31 July 2014 and hearing sessions were held in December 2014 and January 2015. Consultation on the main modifications to the RLP finished on 5 June 2015. The RLP sets out the main elements of growth including housing and employment that will need to be supported by new and improved infrastructure. It sets an annual requirement of 588 houses to be delivered across the plan area. The RLP Inspector's draft report was provided to the

[3] ED/CIL06 DCS Statement of Modifications V1
[4] ED/CIL 08 Revised Local Plan DPD 2011 – 2029 Regulation 22 Submission July 2014
[5] Part of a larger strategic site allocated for development in the Eastleigh Borough Local Plan

Council for fact checking on 25th November 2015 and there is no indication that the overall amount of development planned or its spatial distribution is likely to change significantly. Provided that the RLP is adopted in the modified form proposed, it will provide an appropriate basis for the concurrent adoption of the CIL charging schedule.

8. The RLP is supported by an Infrastructure Delivery Plan (IDP).[6] The projects contained in the IDP represent an accurate, up to date assessment of a range of needs to support the main elements of growth in the development plan. The Infrastructure Statement (IS)[7] sets out how the RLP infrastructure requirements which are listed in the Draft Regulation 123 List will be funded following the introduction of CIL.

9. An aggregate cost for the key infrastructure schemes, along with confirmed sources of funding are set out in the IS. A breakdown of the cost of individual projects is provided in the Funding Gap Assessment Table.[8] The total cost of the required infrastructure is around £116 million. Taking into account known available sources of funding such as s106 contributions and New Homes Bonus, the identified funding gap is £88 million.

10. The projected revenue from CIL over the RLP plan period would be approximately £7.5 million. This is based on residential development which accounts for the majority of growth in the plan area. The figure has been calculated using the housing trajectory in the RLP and anticipated completions within each residential charging zone. The level of income likely to be raised by CIL would make a modest contribution towards filling the funding gap but nevertheless demonstrates the need to introduce the CIL.

11. The DCS is supported by detailed evidence of infrastructure needs and the evidence which has been used to inform the DCS is robust, proportionate and appropriate.

<u>Economic viability evidence</u>

12. The majority of growth in the RLP is for housing development. The Viability Study (VS)[9] takes a broader approach in recognising that some development will take place on sites not allocated in the RLP and for different uses. The VS assesses the effect of CIL on residential development including retirement and extra care housing, different types of retailing, industrial and warehouse uses, offices and hotels.

13. The methodology uses the residual land value (RLV) method of calculating the value of a series of hypothetical developments. The costs of developing a site (build costs, fees, finance, developer's profit and CIL at varying levels) are deducted from the value of the completed scheme to give a residual value. This residual value is then compared against a series of 'benchmark land values' (BLVs) which reflect the broad range of likely land values across the

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[6] ED/CIL 11 Test Valley Revised Local Plan DPD 2011 – 2029 Infrastructure Delivery Plan June 2014
[7] ED/CIL 07Infrastructure Statement February 2015
[8] TVBC 001 Appendix 1 Funding Gap Assessment Table
[9] ED CIL 02 CIL Viability Study July 2014 (amended)

charging area. If a scheme incorporating a given level of CIL generates sufficient value above the BLV of the site, the proposed level of CIL is considered to be viable.

14. The Planning Practice Guidance (the Practice Guidance) states that it is appropriate to include a buffer or margin so that the levy rate is not set at the margins of viability and is able to support development should economic circumstances change. This can also provide some degree of safeguard in the event that sales values have been over-estimated or costs under-estimated and to allow for variations in costs and values between sites as well as reflecting the cyclical nature of the housing market. The Council has set a rate for residential development that is 70% of the theoretical maximum and for retail 86%.

15. The viability assessments for residential development test the effect of two price change scenarios to reflect different market conditions, firstly a 5% reduction in sales values and secondly a 10% increase in sales values and 5% increase in build costs. Given the uncertainties in the housing market and increases in commodity prices over recent years, this range of scenarios is appropriate.

16. Regulation 13[10] and the Practice Guidance provide that differential rates can be set by use, geographical zone or scale of development but must be supported by the viability evidence. The DCS differentiates residential rates by both zone and use and retail rates by scale and the viability evidence for this approach is assessed in the respective sections below.

17. The DCS has been informed by discussions with stakeholders and consideration of the representations made on the Preliminary Draft Charging Schedule (PDCS) and DCS. The principal areas of disagreement with the approach in the VS relate to the assumptions around sales values, BLVs, build costs and the assumptions made for the level of s106 costs following the introduction of CIL. Conclusions on the representations made together with the robustness of the key inputs and assumptions made in the VS are considered below.

Residential development – are the charging rates informed by and consistent with the appropriate and available viability evidence?

<u>The residential viability evidence in general</u>

Site Typologies

18. The VS assessments are based on eight hypothetical site types which the Council considers to be representative of the type and size of residential development that could come forward in the RLP. The typologies range in sizes from 2 to 100 units, densities from 25 to 60 per net developable hectare and the development types include a mixture of houses and flats.

19. The typologies are based on new build development which is a reasonable assumption given that conversion/redevelopment is likely to be a small

[10] Community Infrastructure Levy Regulations 2010

component of the type of residential sites that are expected to come forward during the plan period. The inclusion of a BLV for brownfield land ensures that the viability of residential development on brownfield land has been assessed.

20. CIL is based on providing infrastructure to support planned growth. The strategic sites which range in size from 50 to 1300 dwellings have been subject to specific appraisals. In this context, the site typologies cover a representative sample.

Sales Values

21. The overall value of residential development is dependent on the number of houses that can be built on a site and their value. At the hearing, the Council confirmed that the viability assessments for residential development are based on a density assumption of approximately 3000 sqm per hectare. This is broadly in line with the densities of other completed residential sites in the charging area and as a broad assumption appears to be appropriate.

22. Reflecting the variations in sales values across the charging area, the VS identifies seven different sub-markets based on groups of parishes and delineated by parish boundaries. These have been informed by Land Registry data on sales transactions, properties for sale sourced from the Rightmove web site, and discussion with local agents. Sales values used in the Affordable Housing Viability Assessment (AHVA)[11] have also informed the assumptions in the VS. The sales values range from £2282 psm in market area 7 to £3229 psm in market area 1. The VS acknowledges that there has been limited new development in some of the parishes to inform sales values of new build residential development.

23. The evidence on sales values has been challenged by representors, in particular the sales value of £2691 psm for Nursling and Rownhams parish which falls within market area 5. It is argued that the sales evidence for the parish does not reflect the majority of existing development which has a greater proportion of modern stock with values falling between £2152 and £2691 psm and that values for new build would be similar to those in Southampton and other parts of South Hampshire. On that basis, it is considered by a representor that the values in Nursling and Rownhams are similar to market areas 6 or 7 in which values range from £2282 to £2583 psm.

24. The representor indicates that the transactions from Rightmove data for Nursling and Rownhams include 'one off' higher value properties that would not necessarily be representative of the type of new build development to be delivered under the RLP and that the average sales values used in the VS for Nursling and Rownhams have been over inflated. However, there will be 'one off' properties within the sales data for other parishes, reflecting the presence of both urban and rural locations and the wide range of properties in the charging area. In order to provide comparable evidence, such exceptions would have to be made for all parishes in the charging area, a potentially complex exercise which would not necessarily provide any further clarity.

[11] Affordable Housing Viability Assessment Update October 2012

25. The new build site referred to me at Maybush, Southampton[12] is approximately 3 miles to the north-west of the city centre. Given the suburban location and nature of Nursling and Rownhams, the evidence on sales values is not directly comparable. The sales data for Nursling and Rownhams in the Council's further evidence[10] draws on transactions from 2014 and 2015. This not comparable with the base date of the evidence informing the assumptions used in the VS which dates from 2013. I am not persuaded that there is anything in the additional evidence on sales values provided by either the Council or representors that clearly indicates that the original assumptions about sales values were unreasonable.

26. There is considerable scope for disagreement about sales values and they can be skewed by the type and value of properties on the market at a particular point in time. It is inevitable that some broad assumptions have to be made about sales values in the VS and the Practice Guidance acknowledges that available data is unlikely to be fully comprehensive[13].

27. Whilst the transactional evidence in the VS does not cover every individual parish, it represents a reasonable geographical spread, sufficient to identify the presence of different market areas within the charging area which reflect the variation in its geography, housing market and values. To the extent that the evidence is based primarily on re-sales of existing properties which have a lower value psm compared with new build, this ensures that values have not been over estimated.

28. I conclude that the VS has drawn on appropriate available evidence to inform the assumptions about sales values. I am not persuaded that the evidence demonstrates that sales values for Nursling and Rownhams have been over-estimated in the VS.

Benchmark Land Values

29. The VS models the effects of four different BLVs on development viability which broadly reflect the range of sites in the Strategic Housing Land Availability Assessment (SHLAA). Per gross hectare their values are £350,000 for lower value greenfield land (BLV 3), £500,000 for higher value greenfield land (BLV 4), £1.145 million for industrial land (BLV 2) and £1.7 million for serviced residential land (BLV 1). BLV 3 has been informed by CLG research on strategic land values[14] with an increase in value in BLV 4 to test the sensitivity of higher value strategic land. BLVs 1 and 2 are based on Valuation Office Agency (VOA) land values for Southampton and the VS indicates that they were used in the AHVA. The VS applies an increase of 20% over current use value which provides a realistic incentive for a landowner to bring a site forward.

30. Representors consider that land values have been underestimated which inflates the difference between values and costs and presents an over optimistic picture of the capacity for schemes to absorb CIL. Evidence of land

[12] ED CIL 23 Response to DCS
[13] Paragraph 019 Reference ID 25-019-20140612
[14] Cumulative Impacts of Regulations on House Builders and Landowners Research Paper DCLG 2011

transactions within and adjacent to the southern end of the charging area have been submitted[15] to support the argument that that £2.5 million per hectare would be a more accurate reflection of serviced residential land in the charging area, considerably higher than BLV 1. It is argued that BLVs 3 and 4 should be £600,000 and £850,000 per hectare respectively.

31. The Council has not supplied any evidence of actual land transactions in the charging area. The value of £1.8 million (per hectare) achieved for the site at Romsey referred to in the representor's evidence is close to BLV 1[16] although it is based on a lower density scheme compared with the assumptions in the VS. It is a matter of debate whether in future CIL will reduce historical land purchase prices. Landowners may have high aspirations for site values, but the full effect of the policy costs set out in the RLP will not be reflected in the evidence on land values that has been presented in the VS and by representors. The Council considers that greenfield sites in BLVs 3 and 4 at the lower end of the range will make up the bulk of the housing land supply over the plan period.

32. I am not persuaded that the DCLG land value estimates[17] referred to by the Council at the hearing provide any further clarification. The document makes clear that it is to be used for the purposes of policy appraisal only and different assumptions are made for items such as developer profit, build costs and density from those in the VS. No allowance is made for the provision of affordable housing. As such, I consider that this does not represent comparable evidence and the calculations provided by both parties to re-base the DCLG estimates to provide a 'level playing field' do not clarify the matter.

33. The price paid for land demonstrates wide fluctuations based on the location of the site, the nature of the development and the aspirations of the landowner. The viability assessments can only provide a broad brush picture of the variables affecting viability, including land value and in this context I consider that the assumptions made on land value are appropriate.

Build Costs

34. Residential build costs are based on RICS Building Cost Information Service (BCIS) figures adjusted for Test Valley from May 2013. Whilst higher BCIS build costs for estate housing and flats as at May 2013 have been presented in representations, they are based on updated building cost information derived from updates to the BCIS data. Build costs have risen, but other variables might also have changed, including sales values. The use of data with a consistent base date in the VS is an appropriate approach.

35. The VS includes an allowance of 6% on top of build costs to meet level 4 of the Code for Sustainable Homes (CfSH). Although the Code has been withdrawn, in the future increased building standards may be required through Building Regulations or as a result of locally adopted policies. The allowance provides flexibility to accommodate such future costs and helps to ensure that

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[15] ED/CIL 23 Appendix 2 Intelligent Land Report
[16] ED/CIL 23 Appendix 2 Intelligent Land Report
[17] Land value estimates for policy appraisal, Department for Communities and Local Government February 2015.

development costs are not underestimated. I am not persuaded that an allowance for the cost of building to the (former) CfSH level 6 as suggested in representations is realistic or reflective of the updated regime for building standards.

Policy Costs – s106 contributions

36. The Draft Regulation 123 List sets out broad infrastructure types that will be funded from CIL including highways and transport, public open space, sports facilities, health facilities, green infrastructure, flood defences and a specific project at Andover College. Contributions from s106 contributions will continue to be sought where on-site provision is required to make the development acceptable in planning terms, subject to the pooling restrictions under Regulation 123. Education will continue to be funded by s106 contributions in accordance with the requirements set out by Hampshire County Council. Currently contributions towards primary and secondary education per eligible dwelling are set at £5057 and £6154 respectively.[18]

37. For the purposes of the VS, the residual cost of s106 contributions following the adoption of CIL are calculated at £1500 per dwelling, applied to both open market and affordable units. Together with s278 payments, this will cover the cost of site specific requirements relating to highways, access and recreational open space and community facilities. The Council has set out its record on s106 contributions in the IS which between 2012 and 2015 amounted to £8 million. Contributions to the strategic highway network are included in this figure which in future will be funded by CIL.

38. Representors argue that the residual s106 cost has been set too low, thereby under estimating costs and creating an over optimistic picture of viability and the capacity to support CIL. Education contributions alone exceed the £1500 assumption by some margin and the Council's evidence demonstrates that the average contribution to education from five s106 contributions during 2014/15 was £4909.20 per dwelling. It is important that realistic assumptions for residual s106 costs are used in the viability assessments to ensure that an appropriate balance has been struck between raising funds for new infrastructure and ensuring that new development will continue to be viable.

39. Approximately 23% of housing delivery will be on strategic sites where no CIL will be levied thus enabling s106 contributions towards education to be factored into the specific development costs. The evidence also demonstrates that education contributions have not been required from every s106 agreement for new housing development (5 out of 38 agreements in 2014/15). In future, they will be limited by the pooling restrictions under Regulation 123. For these reasons, I conclude that it is reasonable to exclude education from the assumed residual s106 costs and that the assumption of £1500 per unit for residual s106 costs in the VS is justified.

40. Furthermore, whilst education is currently to be funded by section 106 contributions within the Draft Regulation 123 list, the council has indicated that there will be an annual review of the list and ongoing liaison with the

[18] Developers' Contributions Towards Children's Services, Hampshire County Council December 2013

education authority which could change this position in future. This does, however, indicate that careful monitoring and an early review of the charging schedule would be appropriate.

Other costs

41. The VS assumes a 20% profit on Gross Development Value (GDV) for private housing and 6% of GDV for affordable housing. This has not been challenged in representations and for private housing is a reasonable assumption. As such, the assumptions relating to developer profit are appropriate.

42. Representations suggest that the allowance for contingencies should be applied to all development costs and that 7.5 – 10% is appropriate in some cases. However I consider that the figure used in the VS of 5% of all build costs is reasonable and provides sufficient safeguard to ensure that unforeseen costs could be accommodated. The specific infrastructure requirements for the strategic sites have been identified within the separate viability appraisals which reduces the overall risk of unforeseen costs arising.

43. Finance costs at 7% of total development costs are at a reasonable level and appear sufficient to accommodate other administration fees. Allowances of 10% for professional fees and 3% for marketing are reasonable.

Affordable Housing

44. Affordable housing costs were modelled to comply with Policy COM 7 of the RLP which requires on-site provision of up to 40% affordable housing on larger sites and commuted sums on smaller sites. A recent High Court Judgement (HCJ)[19] on the provision of affordable housing on smaller sites does not affect the rates set out in the DCS. Although additional viability work had identified that small residential schemes would be able to absorb a higher CIL charge, the Council decided not to amend the proposed rates in the DCS. The Practice Guidance states that there is no requirement for a proposed rate to exactly mirror the evidence, and in this context I consider that the approach to residential rates in the DCS is reasonable.

45. The Government has recently announced a reduction in both social and affordable rents which could reduce the value of affordable units developed for transfer to Housing Providers. Consequently, it is argued that the affordable housing values in the VS have been overestimated. However, the value of affordable housing is based on appropriate evidence that was available at the time of the VS. The use of a consistent base date for costs and values is important and any future review of CIL will take into account adjustments to the value of affordable housing.

46. The Council's approach to affordable housing is set out in the RLP and there is nothing in the evidence to justify the suggestion made in representations that the DCS should be amended to include £0 rate for rural worker housing which is comparable to and meets the policy objectives of affordable housing. There

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[19] West Berkshire District Council and Reading Borough Council v Secretary of State for Communities and Local Government (2015)

is nothing in the evidence to indicate that rural worker housing would meet the definition of affordable housing as set out in the RLP and the Framework.

Differential rates

Retirement housing

47. Regulation 13[20] and the Practice Guidance provide that differential rates can be set by geographical zone, use or intended scale of development but must be supported by the viability evidence.

48. The DCS proposes a differential rate for retirement housing and the rate is further differentiated depending on whether the development is on greenfield or previously developed land. This does not relate to use or scale and consequently does not fall within Regulation 13(1)(b), (c) or (d). Therefore the only basis on which the distinction could be made is by reference to geographical zone under Regulation 13(1)(a). Where rates are set by zone, Regulation 12(2)(c) requires that they must be shown on an OS based map which clearly identifies their location and boundaries. That is not the case here. Consequently, the differential rates for retirement housing in the DCS do not fall within the scope of the Regulations and therefore cannot be adopted.

49. I wrote to the Council about this issue following the hearing session[21]. As a result, the Council has reconsidered the intended differential rates for retirement housing on greenfield and previously developed sites and I have taken their comments[22] into account.

50. I agree with the Council's assessment that it would not be feasible for the potential sites for retirement housing on greenfield or previously developed land to be identified on an OS based map. Furthermore, the evidence has established that development of retirement housing on previously developed sites cannot support a CIL charge. Representations from the development industry at the PDCS stage indicated that development of this type has an average non-saleable floorspace of between 25% and 30%. When coupled with the requirement for affordable housing, the development of retirement housing on previously developed land would generate negative residual land values and could not support a CIL charge.

51. Consequently, I agree with the Council's current position that the CIL rate for retirement housing should be set at £0 irrespective of whether the site is greenfield or previously developed land. This is justified by the viability evidence and modifications **EM2** and **EM3** are recommended to amend the charging schedule accordingly. I am content for the Council to include supporting text in the final charging schedule explaining the reason for the £0 rate for retirement housing. **EM2** also deals with a drafting error in the charging schedule relating to the rate for retirement housing on the strategic sites. At the hearing, the Council confirmed that this should have shown a rate of £0 rather than £60 psm.

[20] Community Infrastructure Levy Regulations 2010 (as amended)
[21] TVBC 007 Examiner's letter to TVBC 9 November 2015
[22] TVBC 008 TVBC letter to the Examiner 17 November 2015

52. These changes have the theoretical potential to limit CIL revenue. However, the evidence indicates that only a limited number of retirement schemes have come forward within the charging area over the last ten years and all of these have been on previously developed land which is nil rated in the DCS. The Council concludes that this trend is unlikely to change. Furthermore, the strategic sites on which retirement schemes could come forward are already subject to a nil rate. Therefore, any loss of revenue is likely to be slight and the achievement of the appropriate balance would not be significantly altered. Should this trend change with more retirement housing being developed on greenfield sites, the Council is already committed to an early review of the charging schedule which could re-assess the viability of such development and ensure that the 'appropriate balance' has been made.

53. The effect of the modification to the charging rate for retirement housing is that the CIL liability arising from a potentially limited number of greenfield sites will be reduced. The rate for previously developed sites would remain the same and there would be no significant effect on the appropriate balance. The providers in this sector have not objected to the rates set out in the DCS and have indicated their support for the changes to the charging rate for retirement housing set out in the SOM. I therefore conclude that the change to the rate proposed in **EM2** would not prejudice the interests of any parties and that further consultation is unnecessary.

Extra care housing

54. The VS concludes that the increased build costs and the amount of non-saleable floorspace associated with extra care housing together with the provision of affordable housing to meet policy requirements would make extra care housing unviable. I conclude that the differential rate of £0 psm for extra care housing is justified by the viability evidence and an appropriate definition is included in the DCS.

<u>Overall conclusions on residential viability</u>

55. The theoretical maximum rate that could be charged for residential development psm varies between the charging zones - £250 in Zone 1, £200 in Zone 2, £150 in Zone 3 and £100 in Zone 4. The rates that have been set in the DCS represent 70% of the theoretical maximums, providing a significant margin to accommodate variations in values and costs for different sites or changes in the market over time. In response to comments on the PDCS and DCS, the buffer was increased to 30% in the modifications included in the SOM and this creates a sufficient margin for future uncertainties to be accommodated.

56. The buffer is not an allowance for meeting policy costs. I have given careful consideration to concerns raised about some of the assumptions that have been made in the viability assessments and recognise that these could be raised in the context of negotiations on specific schemes. However, whilst the VS models the most typical development proposals, in the context of what is inevitably a broad overview of viability it is not possible to reflect every possible permutation. The Council has indicated that it is committed to a review of the charging schedule after 12 months which will enable early action to be taken should there be any adverse effect on development viability. In

addition, the viability of strategic sites which will deliver approximately 23% of the housing requirement over the plan period has been separately assessed.

57. The structure of the charging zones for residential development is relatively complex and defining such areas is not a precise science. However, the data on sales values shows variations across the charging area, reflecting the lowest values to the north with an intervening area of high values in the rural 'core' of the area with values falling towards the edge of Southampton. The four zones are justified in terms of sales values and viability and have been appropriately delineated using parish boundaries. The Practice Guidance indicates that CIL involves a broad test of viability and the further evidence on sales values and benchmark land values does not clearly demonstrate that the assumptions in the VS for the parish of Nursling and Rownhams were unreasonable. On this basis, I conclude that it should remain within zone 2.

58. I have been referred to the residential charging rates and viability 'cushions' that have been adopted by neighbouring authorities. However, the balance of considerations influencing the level of CIL charges adopted by charging authorities is complex, reflecting different infrastructure and development plan requirements. As such, the rates adopted by neighbouring authorities do not necessarily provide a sound basis for comparison and I have based my assessment on the evidence provided specifically for the charging area.

59. Overall, I conclude that the charging zones and rates for residential development are informed by and consistent with the appropriate and available viability evidence. There is nothing in the evidence to suggest that the charge zones or charges as a whole would put the viability of residential development generally, or within Nursling and Rownhams parish in particular, at undue risk.

Non-residential uses including retail development – are the charging rates informed by and consistent with the appropriate and available viability evidence?

<u>The non-residential viability evidence in general</u>

60. The viability assessments cover offices, industrial and warehousing, retailing and hotels. They are based on the uses and size of development that could come forward under the policies in the RLP in which the existing Business Parks and employment areas are the focus for allocations for new employment development. The only allocation for retail uses in the RLP is the strategic site at George Yard/Black Swan Yard at Andover which also includes office, residential and leisure uses together with car parking.

61. The majority of recent commercial development has taken the form of 'one off' pre-let units rather than speculative development. Long term demand for new office development in the charging area is expected to be low given its proximity to the main commercial centre of Southampton, with the main form of development likely to be the refurbishment or change of use of existing units.

62. Capital values used in the VS are based on an intensification of the current use of commercial sites with rents and yields adjusted accordingly. These are

compared against a range of assumptions relating to current use value (CUV) with an additional 20% allowance to make provision for a landowner incentive to bring the site forward. Rental values and yields are based on research of local lettings from EGI and Focus data. Sensitivity testing of different rental and yield assumptions has been carried out.

63. Build costs are based on the BCIS database. Other cost assumptions include external works at 10%, professional fees at 10% of build costs and contingencies at 5% of build costs. Interest on finance is assumed to be 7% of all costs and a profit of 20% on all costs has been included. The cost of s106 agreements at £53.82 psm is based on schemes that have been granted planning permission in the charging area.

64. The value and cost assumptions used in the non-residential viability assessments have not been challenged in the representations and appear realistic.

<u>The retail levy rates</u>

Retail supermarkets and superstores and retail warehouses

65. The VS assumes a rental value of £188 psm and yield of 6% to reflect the covenant strength of national retailers likely to operate in supermarkets and superstores and retail warehouses. A store size of 5000 sqm is modelled in the VS and shows a surplus over CUV which would support a CIL charge.

66. The definition in the DCS includes reference to the threshold of 280 sqm as one of the criteria that will be used to assess whether a development is a retail supermarket or superstore or retail warehouse and therefore liable for CIL. In response to queries raised at the hearing, the Council supplied further details[23] of the viability assessments done for a store of 280 sqm which uses a different yield of 8.5% to reflect the likelihood of a local occupier. The assessment shows that at this scale and yield, the development would not generate a surplus above the CUV and would be unable to support a CIL charge. The viability evidence therefore supports the use of the 280 sqm threshold within the definition of retail supermarkets and superstores and retail warehouses. The DCS includes clear definitions of these different retail uses.

Retail excluding supermarkets, superstores and retail warehouses

67. The VS models 'other' comparison retail development in the prime and secondary locations related to rental values in Andover and Romsey, together with an assessment based on rental values in the rest of the charging area. Whilst the VS concludes that new build retail development in the prime rental areas would generate a surplus to support a CIL charge, the Council considers that the form of retail development most likely to come forward in the town centres is the redevelopment of existing sites.

68. The viability assessments conclude that this would not generate sufficient residual value above the value of existing floorspace to support a CIL charge. This is primarily because rents for new build floorspace are only slightly higher

[23] TVBC 003 TVBC Response to Examiner 29.6.15

than rents for existing units. On this basis, the £0 rate proposed for retail development excluding supermarkets, superstores and retail warehouses is justified by the evidence and will not provide selective advantage to any particular undertaking.

<u>Overall conclusions on non-residential viability</u>

69. The viability assessments indicate that the capital values currently generated by office, industrial and warehousing and hotel development would not cover development costs and could not currently support a CIL charge. This has not been challenged in representations. As such, the £0 rate proposed for these uses is supported by the evidence and justified.

70. The VS does not contain specific appraisals for community uses within Class D1 and D2 such as schools, health centres and museums. However, the VS concludes that such uses would not generate sufficient income to cover costs and many require public subsidy. On that basis, the £0 rate is justified.

71. The Council has confirmed[24] that the maximum theoretical CIL charge for supermarkets, superstores and retail warehouses as set out in the VS would be up to £209 psm. The rate of £180 psm represents 86% of this theoretical maximum. This leaves a viability buffer of 14% to allow for variations in values and costs which differs from the buffer of 30% for residential development.

72. The justification for a different approach to the retail rates reflects the buoyant rental values in the retail sector in the charging area. Apart from George Yard/Swan Yard in Andover which is a £0 rated strategic site, there are no specific allocations for retail development in the RLP which seeks to maintain existing retail uses in the town centres and existing retail parks. As such, retailing does not have a central role in delivering the RLP. On this basis, I conclude that the approach to the buffer for setting retail rates is appropriate.

73. I consider that the rates for non-residential development including retail uses are based on appropriate evidence and an appropriate balance has been struck between helping to fund new infrastructure and its effect on the economic viability of this type of development.

Strategic sites

74. A rate of £0 for all types of new development also applies to the sites allocated for new neighbourhoods in the RLP which are at Whitenap, Romsey (1300 dwellings), Hoe Lane, North Baddesley (300 dwellings), Park Farm, Stoneham[25] (50 dwellings), Picket Piece (400 dwellings) and Picket Twenty, Andover (300 dwellings). They will be developed for a mix of housing and community facilities with the site at Whitenap also incorporating 6 hectares of employment land. A further site at George Yard/Black Swan Yard in Andover town centre is allocated for a mixed residential/commercial development.

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[24] TVBC 002 TVBC Response to Examiner's Matters and Issues
[25] Part of a larger strategic site allocated for development in the Eastleigh Borough Local Plan

75. The same basic assumptions relating to values and costs are used in the separate viability assessments for the strategic sites in the VS. However, some of the inputs have been altered to reflect the size of the sites including an additional allowance for professional fees to reflect the costs associated with site promotion and a sales trajectory. On and off-site infrastructure costs including contributions to the strategic highway network, community facilities and education have been factored into the viability assessments. The VS concludes that these sites would not generate sufficient surplus above the BLVs to support a CIL charge and given their importance to housing delivery over the plan period, a £0 rate is proposed in the DCS.

76. The assumptions for the strategic sites draw on appropriate available evidence, and the differential rate of £0 is justified.

Other Matters

77. During the course of the examination, the Council supplied clearer maps of the overall charging area and of zones 1 – 4 where the different residential rates will apply.[26] These should be included within the charging schedule document, with the addition of a notation on the maps of zones 1 - 4 to identify the location of the strategic sites. This is recommended as modification **EM4**.

78. Modification **EM5** is recommended to ensure that the maps of the strategic sites in the charging schedule comply with the drafting requirements as set out in the Regulations.[27]

79. The details of the instalments policy and when CIL payments commence are matters for the Council as is the approach to relief from CIL in exceptional circumstances.

80. Modification **EM6** is recommended to make clear that all other types of development not listed in the charging schedule in Table 2 are not liable for CIL.

81. The Council confirmed at the hearing that one site at East Anton has planning permission for residential development subject to a s106 agreement securing contributions towards infrastructure. There is nothing in the evidence to justify setting a differential rate for residential or other types of development on any other sites at East Anton.

<u>Operation of CIL and s106 obligations</u>

82. In accordance with the Practice Guidance, the Council has set out its approach to s106 contributions following the adoption of CIL in the Draft Regulation 123 List. Where infrastructure is to be funded from CIL, contributions from planning obligations cannot be sought for those items.

83. Representors have commented that the Draft Regulation 123 List does not provide sufficient clarity for developers to be certain about the costs they will be expected to meet through section 106 contributions and that there is

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[26] TVBC001 Appendix 4
[27] Community Infrastructure Levy Regulations 2010 Regulation (12)(c)(iii).

potential for 'double dipping'. The Council accepted at the hearing that the 123 List has a broad approach. With the exception of the strategic sites where infrastructure needs have been identified and costed separately, there are limited details of the projects where s106 contributions will be required.

84. However, assuming that the CIL is adopted, the Council confirmed at the hearing that it intends to publish a refined version of the Regulation 123 List after consultation, alongside the commencement of CIL charging. This will provide more details taking into account the projects listed in the Access Plans and Cycle Strategy SPDs which are being finalised and greater clarity for users of the service. The annual updates of the Regulation 123 List will also provide an opportunity to resolve uncertainties or lack of clarity with the operation of the List. A revised version of the Infrastructure and Developer Contributions SPD will provide further advice to users on how CIL and s106 contributions will operate in future.

85. The decision about which items should be funded from CIL rather than s106 contributions and vice versa is a matter for the Council. Hampshire County Council has requested a more specific and transparent approach to the Regulation 123 List for transport projects, however this is a matter for the authorities to resolve as the List is revised. Specific projects at Andover College and Andover Discovery Centre are included in the 123 List to be funded by CIL together with highway, cycle and footway improvements listed in the Andover Town Access Plan.

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

86. The Council's decision to set the rates in the DCS is based on reasonable assumptions about development values and likely costs. The evidence indicates that the overall development of the area as set out in the RLP will not be put at risk if the proposed charging rates are applied.

87. At the hearing, the Council confirmed that it is in the process of finalising the indicators that will be kept under review to monitor the effects of CIL and identify whether a review of the charging schedule is necessary. They will include the impact on planning application numbers, affordable housing delivery, sales values and build costs. In any event, the Council is committed to a review of CIL twelve months after charging commences.

88. The Council has adopted a realistic approach in terms of securing income to address the gap in infrastructure funding, whilst ensuring that a range of development will be viable across the charging area. The early review of CIL is a prudent approach given the relative complexity of the charging structure and the need to keep cost and value assumptions up to date. Overall, I conclude that an appropriate balance has been achieved between the desirability of funding the costs of new infrastructure and the potential effect on the economic viability of development across the charging area.

Conclusion

89. I conclude that subject to the modifications set out in Appendix A the Test Valley Community Infrastructure Levy Charging Schedule 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.

LEGAL REQUIREMENTS	
National Policy/Guidance	Subject to the recommended modifications in Appendix A, the charging schedule complies with national policy/guidance.
2008 Planning Act and 2010 Regulations (as amended)	Subject to the recommended modifications in Appendix A, the charging schedule complies with the Act and the Regulations, including in respect of the statutory processes and public consultation, consistency with the Revised Local Plan DPD 2011 – 2029 Regulation 22 – Submission and Infrastructure Delivery Plan and is supported by an adequate financial appraisal.

Sarah Housden

Examiner

This report is accompanied by:

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

Appendix A

Appendix A (attached) – Modifications that the examiner specifies so that the Charging Schedule may be approved. Additions are shown in *italic* and deletions with a ~~strikethrough~~.

Examiner Modification (EM) Number	Reference	Modification
EM1	Insert new paragraph 1.3	*The southernmost parts of Melchet Park and Plaitford Parish and Wellow Parish fall within the New Forest National Park. The National Park Authority is the CIL Charging Authority for those areas. The Charging Schedule applies to that part of the Borough that is outside of the National Park boundary.*
EM2	Table 2 of DCS	Delete final row of table Amend penultimate row as follows: Retirement housing[9] ~~on previously developed land~~~~[10]~~
EM3	Paragraph 5.10	Delete final sentence and footnotes: ~~However, retirement living schemes against BLV3[10] and 4[11] could support a lower rate of CIL of £60 per square metre~~.
EM4	DCS Appendix Two – Maps showing residential charging zones	Insert larger scale and clearer OS maps of the overall charging area and of zones 1 -4 to show the boundaries of the areas subject to differential rates for residential development and the location of the strategic sites.
EM5	DCS Appendix Three – Maps showing strategic sites	Show strategic sites on maps reproduced from or based on Ordnance Survey maps with National Grid lines and reference numbers.
EM6	Table 2 of DCS	Add line to table or footnote to indicate that all other types of development are not liable for CIL.