The Planning Inspectorate

Report to East Hampshire District Council

by Katie Child BSc (Hons) MA MRTPI

an Examiner appointed by the Council

Date: 19 October 2015

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

REPORT ON THE EXAMINATION OF THE DRAFT EAST HAMPSHIRE COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE

Charging Schedule submitted for examination on 2 February 2015

Examination Hearing held on 1 June 2015

File Ref: PINS/M1710/429/8

Non Technical Summary

This report concludes that the East Hampshire Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the 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.

Modifications are needed to meet the statutory requirements. These can be summarised as follows:

- Amend the description of the sheltered housing charge to clarify that the Whitehill and Bordon Regeneration Project CIL Zone is excluded.
- Amend the description of residential development to explicitly exclude sheltered housing.
- Simplify the residential zone titles by removing reference to Value Point Locations. Amend the keys in the accompanying maps accordingly.
- Alter the description of retail development to clarify it applies to retail development in all locations.
- Delete the site size thresholds of 1-10 and 11 or more units for residential development in the northern parishes zone and apply the lower flat rate of £180 psm across this area. Amend the keys in the accompanying maps accordingly.

The specified modifications recommended in this report have either been put forward by the Council or are based on matters discussed during the public hearing sessions. They do not significantly alter the basis of the Council's overall approach or the appropriate balance achieved.

Introduction

1. This report contains my assessment of the East Hampshire 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 in the National Planning Practice Guidance.

2. The East Hampshire CIL Charging Schedule applies to the area of the District outside the South Downs National Park, and the term 'charging area' is therefore used in this report.

3. To comply with the relevant legislation the charging authority has to submit 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 charging area. The basis for the

examination, on which hearings sessions were held on 1 June 2015, is the Draft Charging Schedule (DCS) published for public consultation between 6 November and 19 December 2014 (Examination Document CIL 04), as amended by the Statement of Modifications published for public consultation between 13 February and 13 March 2015 (CIL 018). Any references in this report to the 'revised DCS' relate to these documents as combined, as set out in the Revised Submission Charging Schedule (February 2015) (CIL 01D). Following the Hearing on 1 June 2015, additional evidence and information was produced by the Council and was published for consultation. I have taken the representations received on the Council's Statement of Modifications and the post-hearing work into account in writing this report.

4. The Council proposes five different geographical charging zones for residential development. Proposed rates in one of these zones are further differentiated by the number of units. In summary the proposed residential rates are:

- Whitehill and Bordon (excluding Regeneration Project CIL Zone (RPZ)): £65 per square metre (psm).
- Southern parishes: £110 psm.
- Alton: £150 psm
- Northern parishes: sites of 1-10 units, £200 psm; sites of 11 or more units, £180 psm.
- Whitehill and Bordon RPZ: £0

5. The Council also proposes a single rate charge of £40 psm for sheltered housing. The sheltered housing charge, as currently expressed in the revised DCS, does not explicitly state that the charge would not apply in the Whitehill and Bordon RPZ. This position can be inferred by a separate row in table 1 in the revised DCS which indicates that within the Whitehill and Bordon RPZ a nil CIL charge would apply. The Council's evidence[1] also confirms that it was their intention for the RPZ to be excluded from the sheltered housing charge. Nevertheless, I recommend a modification **(EM1)** to the revised DCS to clarify the exclusion of Whitehill and Bordon from the £40 psm sheltered housing charge.

6. I further note that sheltered housing is not specifically excluded from the definition of residential development in the revised DCS (as applied to the zones). On this basis I consider that the definition of residential development is not wholly clear. I therefore recommend a modification **(EM2)** to the revised DCS to ensure that the definition of residential use specifically excludes sheltered housing.

7. The residential zones are also partly defined in the revised DCS with reference to 'VP locations'. This refers to different 'Value Points' as identified in the

[1] As set out in the Council's EHDC CIL Response to examiners further questions (19 June 2015) (EH-06).

Council's viability evidence. However, no explanation of this term is included in the DCS. It is also a technical term, which I consider to be superfluous, given that the zones are already described on the basis of geographical position/names of parishes. I therefore recommend a modification **(EM3)** to the revised DCS to remove the term 'VP location' and simplify the zone titles, for the sake of clarity.

8. The Council also proposes a single rate of £70 psm for hotel development and £100 psm for 'high street/centre retail and out of centre retail' in all areas, excluding the Whitehill and Bordon RPZ where nil charges for hotel and retail development are proposed. The definition of retail development in the revised DCS includes reference to high street/centre and out of centre retail, but does not include reference to other potential locations; for example, edge of centre or out of town sites. At the Hearing the Council confirmed that the category is intended to cover all forms of retail development A1 to A5, regardless of type of location. This position is also established in the Council's Viability Report (CIL 10). I therefore recommend a modification **(EM4)** to the revised DCS to clarify this position and remove the current locational references.

9. All other uses would be subject to a nil charge.

10. The DCS includes maps on an OS base which show the geographical charging zones. The keys to these maps will need to be altered **(EM5)** to refer to the amended zone descriptions under modification EM3.

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

The development plan

11. The Council's East Hampshire District Local Plan: Joint Core Strategy (the 'Core Strategy') was adopted in June 2014. It sets out the main elements of growth up to 2028, including housing and employment development, which will need to be supported by further infrastructure in the charging area. It includes a strategic allocation at Whitehill and Bordon of about 2,725 dwellings to be delivered over the Plan period up to 2028.

12. The Council is in the process of preparing a Housing and Employment Allocations Development Plan Document ('the Allocations DPD') that will identify specific sites for housing and employment development in the charging area. A number of representors highlighted that this document may include other strategic sites in addition to Whitehill and Bordon, and that subsequent viability testing of these sites may show that CIL charges cannot be supported by these schemes. The Council do not dispute this potential risk, but have indicated that they intend to deal with the matter by reviewing the CIL Charging Schedule once the Allocations DPD is adopted. I agree that this approach should ensure that any new strategic sites can be adequately tested for viability, and any necessary adjustments proposed to a revised Charging Schedule. In the interim I consider that the current Core Strategy provides an appropriate basis to implement CIL.

Infrastructure planning evidence

13. The Council produced an Infrastructure Delivery Plan (IDP) in October 2014 which was submitted alongside the DCS. The IDP sought to identify infrastructure necessary to support future growth in the charging area up to 2028, based on broad levels of growth in the Core Strategy. The Council subsequently updated the IDP to capture requirements arising from the Council's Proposed Submission version of the Allocations DPD[2] and emerging Neighbourhood Plans[3], and to reflect the latest infrastructure planning work on the Whitehill and Bordon strategic site. The updated IDP was produced in April 2015 (CIL 19), prior to the Hearing.

14. At the Hearing the Council indicated that further changes were necessary to the IDP (April 2015) to reflect new infrastructure planning work on the Whitehill and Bordon RPZ. The Council also accepted that the cost of one of the district-wide infrastructure items, the Havant Thicket Reservoir, was incorrectly wholly apportioned to the charging area. The further updated IDP (post April 2015)[4] identifies infrastructure needs totalling over £340 million. Taking account of other funding sources, there is a projected infrastructure funding gap of some £203 million. The Council acknowledges that additional funding may come forward in the future, from sources such as New Homes Bonus, the Local Enterprise Partnership and other service providers. However, there is no evidence to indicate that this additional funding would be anywhere near adequate to deliver the necessary infrastructure in the foreseeable future.

15. The Council estimates that dwellings liable for CIL could generate in the region of £9 million in the period up to 2028. In the same period the Council estimates that the proposed CIL charge on retail development would generate in the region of £2 million. As such I consider that CIL could make a modest contribution to the funding gap for infrastructure. Overall, the Council's evidence on infrastructure requirements and funding demonstrates the need to levy CIL in order to deliver the Core Strategy.

16. The Council's Draft Regulation 123 list (CIL 13A) identifies the types of infrastructure to which CIL funds would contribute. These include strategic highway improvements, school places, health facilities, strategic green infrastructure and leisure and community facilities. Infrastructure requirements arising from the Whitehill and Bordon strategic allocation are excluded. The list clarifies that the Council proposes to use planning obligations to deliver infrastructure arising from this strategic scheme.

17. The Draft Regulation 123 list states that it excludes provision necessary to make development acceptable in planning terms. As drafted, it is unclear precisely what would be secured through CIL or through planning obligations.

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[2] As published for consultation between 10 April and 22 May 2015.
[3] Including Alton, Ropley, Bentley and Medstead and Four Marks.
[4] As set out in the Council's EHDC CIL Response to examiners further questions (19 June 2015) (EH-06) and clarified in Appendix 5 of the Council's Response to the Examiner dated 4 September 2015 (EH-07).

However, at the Hearing the Council indicated that this exclusion was intended to cover site specific infrastructure associated with a development scheme. I suggest that the Council should amend the Draft Regulation 123 list to ensure this is clarified.

18. A number of representors raised concerns about the reference in the October 2014 version of the IDP to the Alton Sports Centre being delivered via Section 106 agreements. The Council, however, has confirmed that developers will not be charged for this facility via Section 106 agreements once CIL is adopted.

19. The Council also confirmed at the Hearing that contributions to deliver Suitable Alternative Natural Greenspace (SANG) would continue to be sought through Section 106 agreements rather than CIL. I note the concerns raised by one representor regarding the suitability of this route, in the context of legislative restrictions on pooling of Section 106 funds. However, it will be for the Council to manage this process and ensure that legislative requirements are satisfied.

20. At this stage the Draft Regulation 123 list is generic rather than scheme specific, but there is no evidence that this would hinder infrastructure delivery. The legislative requirements on the use of planning obligations would, in themselves, help to ensure that planning obligations are appropriately applied and that no 'double-dipping' occurs (i.e. paying for the same infrastructure twice under a Section 106 obligation and CIL). No convincing evidence has been submitted to this examination that would lead me to an alternative conclusion.

21. In summary, I conclude that the DCS is supported by detailed evidence of community infrastructure needs, which provides a robust and proportionate basis to inform the Charging Schedule.

Economic viability evidence

22. The Council commissioned a CIL Viability Report (VR) dated March 2014 (CIL 10). An Addendum to the Study was produced in November 2014, incorporating additional information on sales values and further sensitivity testing ('Addendum 1') (CIL 11). A second Addendum was produced in January 2015 ('Addendum 2') (CIL 12) to inform the Statement of Modifications. It incorporates additional information on sales values in Alton, new sensitivity testing, and further testing of small sites following the publication of the Ministerial Statement in November 2014[5] regarding changes to the thresholds for seeking affordable housing and tariff-style planning obligations. The Council's Response to the Examiner (4 September 2015) (EH-07) also sets out viability testing of small sites, following further changes to the Planning Practice Guidance on planning obligations following the High

[5] Written Ministerial Statement published on 28 November 2014, and associated updated text in the Planning Practice Guidance.

Court judgement of 31 July 2015[6]. The issue of planning obligations and thresholds is explored further in the section below on overall viability.

23. At the Hearing the Council agreed that some additional sensitivity testing should be carried out in relation to hotel development, and that appraisal workings relating to the Whitehill and Bordon RPZ, residential sites of 100 and 200 units, and sheltered housing should be provided. This work was subsequently published in the EHDC CIL Response to Examiner's further questions (19 June 2015) ('the Council's Post Hearing Response') (EH-06) and subject to consultation.

24. The Council's viability work employs a residual valuation approach. This approach involves estimating the value of a completed development and subtracting development costs (with the exception of land purchase) to obtain a residual value. The price which a landowner would be prepared to sell the land (the 'benchmark land value' or existing use value plus premium) is then subtracted from the residual value to obtain an 'overage' figure or theoretical maximum CIL charge. The CIL charge may be taken from this figure providing there is an adequate viability buffer.

25. The viability work incorporates modelling of residential development, including specialist housing such as sheltered housing, care homes and student halls of residence. Non-residential uses are also modelled, including hotels, retail development, offices and industry/warehousing.

<u>Residential viability evidence</u>

26. The assumptions used in the modelling are critical to determining viability and therefore CIL rates. Representations in response to the DCS and Statement of Modifications raised particular concerns regarding a number of assumptions used in the residential appraisals. This included site typologies, sales prices, development costs, profit levels and benchmark land values. These are addressed in turn below.

27. The VR modelled residential typologies of 1 to 75 dwellings in a range of value areas (referred to as Value Point or VP areas) and incorporating a policy compliant rate of 40% affordable housing. Low, medium and high densities were tested within each typology, ranging from 25 to 60 dwellings per hectare depending on scheme size. A number of representors raised concerns about whether this range of testing was sufficient, on the basis that the emerging Allocations DPD identifies a number of sites above 75 units. However, additional testing on sites of 100 and 200 sites was published by the Council after the Hearing, as referred to above (Examination Document EH-06).

28. Overall I consider the Council has tested an appropriate range of typologies, including different sizes, densities and gross:net ratios, which relate to the

[6] Deletion of paragraphs 012-023 of the Planning Practice Guidance on planning obligations, following the High Court judgement of 31 July 2015: West Berkshire District Council and Reading Borough Council v Secretary of State for Communities and Local Government [2015] EWHC 2222.

type of development likely to come forward in the charging area.

29. Local data on sales prices was assessed across the main settlements of the charging area. Where data on new build sales was limited, evidence was also obtained from the second-hand market, specifically modern houses and flats on estates. In this regard I consider the Council's approach to be proportionate and reasonable. Sales data is also included for several locations in the South Downs National Park. However, at the Hearing the Council confirmed that this data was included for comparative purposes, and had not been used to establish rates within the charging area.

30. In Addendum 2 (CIL 12) the town of Alton is categorised as lying somewhere between Value Point (VP) 3 and VP4. A number of representors disputed this and indicated that VP3 was more accurate. However, data in Appendix 1 of Addendum 2 (CIL 12) clearly shows a broadly balanced mix of mainly VP3 and VP4 prices. Therefore, on this basis, it appears that the Council's value conclusions regarding Alton in the Addendum 2 are broadly reasonable. No substantive alternative evidence has been submitted to justify the categorisation of Alton in VP3.

31. Residential build costs in the VR are based on RICS[7] Building Cost Information Service (BCIS) localised figures, derived from 2013. Evidence shows that build costs have risen since the VR was carried out. However, this is also likely to be the case for other variables, including house prices. It would skew the findings of the viability work if certain data only were to be updated, and it therefore makes sense to have a common base date for all assumptions made.

32. The build cost data distinguishes between houses and flats but does not vary on a geographical basis. However, I consider that the Council's approach of using average build costs across the charging area to be pragmatic. The average figures have been informed by local evidence on build costs in the area. The VR is, by necessity, a high level assessment and cannot capture all eventualities.

33. The VR includes a Section 106/Section 278[8] assumption of £2,000 per dwelling. This costing is based on historical evidence of planning obligations (excluding those elements likely to be sought via CIL). It is also intended to represent an average figure, and there will be some schemes where these costs are lower and some where they are higher. Furthermore, sensitivity testing has also been undertaken with £3,000 and £5,000 costs, and shows that development is still viable with these higher figures.

34. The VR includes cost allowances for other elements including contingencies, external works, Code Level 4[9], professional fees and survey work. Some representors have suggested that cost assumptions for these factors are too low. However, no substantive evidence has been submitted to justify alternative figures or lead me to conclude that the average figures used are

[7] Royal Institute of Chartered Surveyors.
[8] Section 278 of the Highways Act.
[9] Level 4 of the Code for Sustainable Homes.

unreasonably low. Furthermore, although the Code for Sustainable Homes has now been withdrawn, the Government has indicated that increased building standards will apply in the future and be broadly similar to Code Level 4[10].

35. The VR assumes a 20% profit on Gross Development Value (GDV) for private housing and 6% profit on GDV for affordable housing. The rate for private housing has been disputed as being too low by some representors. However, the level used in the VR conforms with industry standards, and no substantive evidence has been submitted to demonstrate a need to deviate from the profit figures used.

36. The VR uses average benchmark land values (BLV) for residential testing, which range from £450,000 per hectare (net) for agricultural land, to £2,772,000 per hectare (net) for residential uses. No substantive evidence has been submitted to demonstrate that the BLVs applied in the East Hampshire VR are unsuitable or that alternative values should be used.

37. The viability work also includes modelling of sheltered housing schemes, care homes and student halls of residence. The modelling assumptions used appear to be reasonable, and have not been subject to any significant challenge. In the case of the sheltered housing scheme appraisal, the assumptions have been endorsed by a representor acting for one of the principal UK developers in this sector.

38. Separate viability testing of the Whitehill and Bordon RPZ is included in the Council's Response to the Examiner's Initial Questions (February 2015) (EH-01). This work was further updated after the Hearing to take account of new infrastructure planning work, as referred to above, and incorporated in the Council's Post Hearing Response (EH-06). It focuses on the additional Section 106 costs which would arise on the strategic site, in order to deliver essential infrastructure required to bring forward the scheme. Further details are set out in the section below.

39. In summary, in relation to residential development I consider that the DCS/Statement of Modifications is supported by viability studies of an appropriate range of development typologies and applying reasonable assumptions. On this basis, the viability evidence used to inform the Charging Schedule is reasonable, proportionate and appropriate.

Hotel viability evidence

40. The VR includes a commercial development appraisal based on a 100 bed budget hotel scheme. Representors indicated that more boutique and mid-market hotels are required in the charging area, and therefore other hotel types should be modelled. However, at the Hearing the representors and the Council agreed that there is little evidence of current market activity of this type. Conversely, there is some evidence of market interest from budget hotel operators. Furthermore, I concur with the Council's position that

[10] As set out in the Written Ministerial Statement on Planning Update, dated 25 March 2015 (DCLG).

boutique hotels, if they are developed, are more likely to involve the conversion of existing buildings, rather than new build projects. I therefore consider that the selected budget hotel typology in the VR is appropriate and represents a proportionate approach.

41. One representor raised concerns that the Council's appraisal methodology is unsuitable, and suggested that total development costs should be subtracted from the net rather than the gross development value (GDV) of a scheme. However, the Council's method of using the GDV appears to conform to standard industry practice, and no compelling evidence has been submitted to suggest that their approach is inappropriate.

42. A number of representations were made regarding the assumptions in the VR, including those relating to rental income and yield rates, Section 106 costs, space standards, rent free periods, professional fees, agents and legal fees, developer profits, and Existing Use Values. These are addressed in turn below.

43. The rental income and yield rates in the VR are median rates based on market research undertaken by the Council. The rental rates were queried by one representor who submitted alternative evidence showing that rental rates between £4300 and £5100 per room have been achieved in other budget hotel schemes in the south. However, I note that a number of these examples date from several years ago, and some of the more recent examples are towards the upper end of this range. Therefore, on this basis I consider that the Council's proposed median rental rate of £5000 per room is reasonable. At the Hearing the same representor indicated that the yield rate should be 5% to 5.25%. The Council's applied rate of 5% falls within this range, and there is no convincing evidence before me to indicate that an alternative figure should apply.

44. The Council has not included Section 106 costs in the appraisal workings, on the basis that these would be scaled back following the imposition of CIL. No compelling evidence was submitted to the contrary. In any event, I recognise that Section 106 agreements have to be negotiated, subject to viability. Therefore, in accordance with the Council's approach to planning obligations, Section 106 contributions may not be sought from particular schemes if viability problems are evidenced. I therefore consider the Council's approach to be reasonable.

45. Build costs (psm) are taken from established BCIS data adjusted to East Hampshire, and have not in themselves been significantly disputed. However, one representor has queried the total build cost figure in the VR, on the basis that the assumed gross floorspace of the scheme (used to calculate total build costs) is too low for a 100 bedroom hotel. At the Hearing the representor cited an example of a budget hotel with an integral restaurant/bar, and indicated that this would result in a larger scheme than tested in the VR.

46. At the Hearing the Council agreed to undertake further sensitivity testing involving higher space standards for a 100 bedroom hotel. This was incorporated in the Council's Post Hearing Response (EH-06). Several other assumptions in the sensitivity testing were adjusted, including letting agent's fees, profit levels, and professional fees, with some being higher and others

lower. Overall the changes have had the effect of increasing development costs. Nevertheless, the sensitivity testing shows that a hotel with higher space standards could sustain the CIL charge, albeit the buffer would be markedly less.

47. The hotel viability appraisal does not incorporate rent free periods, which may be offered to a hotel operator as an inducement. In this context a representor has argued that a rent free period of 6 months or so would be standard practice in relation to a number of budget hotel operators.

48. The representor highlighting this issue has indicated that a 6 month rent-free period would equate to a cost of about £250,000 in the VR appraisal. Simply deducting this amount from the capital value would reduce the surplus available to fund CIL from £916,322 as stated in the original VR, to about £666,322, and a significant viability buffer of approximately 71% would remain. It therefore appears that this budget hotel typology could sustain the CIL charge, even allowing for a rent free period.

49. However, if £250,000 is deducted from the sensitivity testing appraisal, there would be insufficient surplus available to fund the proposed CIL charge of £70 psm. Nevertheless, the provision of a rent free period is a matter for commercial discussion between a developer and a hotel operator, and I have no firm evidence it would inevitably apply in every case. In addition, whilst an on-site restaurant/bar would increase development costs, it would also add to development value and generate income. However, this additional value does not appear to have been taken into account within the higher space standard appraisal.

50. Other costs in the VR were queried by one representor, including professional fees, agents and legal fees and developer profits. However, these appear to be based on industry standards, and notwithstanding that some alterations were made by the Council in the sensitivity testing, there is no substantive evidence before me that would lead me to conclude that the average cost allowances in the VR are unreasonable or have been significantly underestimated.

51. The existing use value (EUV) in the VR is based on a brownfield industrial site. I recognise that budget hotels may also come forward on greenfield sites. However, agricultural greenfield sites generally have a lower EUV. Therefore, even if some costs associated with servicing a greenfield site are taken into account, I consider that these would be outweighed by the higher EUV of brownfield sites. Thereby agricultural greenfield sites are likely to exhibit greater scheme viability than brownfield industrial sites.

52. Separate hotel viability testing in relation to the Whitehill and Bordon RPZ is set out in the Council's Post Hearing Response (EH-06). This focuses on the additional Section 106 costs which are likely to arise in relation to essential infrastructure required to facilitate the strategic scheme. This matter is dealt with later in this report.

53. I appreciate that the assumptions used have been challenged by a representor with local experience. However, overall, I consider that the budget hotel typology is reasonably representative of what is likely to come forward and

that the values and costs have been reasonably established. Indeed, in some respects the Council has taken a cautious approach, for example in relation to the use of a brownfield industrial EUV. Furthermore, the viability buffer, which I consider in the section below, is partly designed to allow for some variation in costs and values associated with specific schemes, and ensure that development remains viable even with a CIL charge. I therefore conclude that the Council's hotel viability work represents a proportionate and appropriate approach.

Retail and other commercial viability evidence

54. Viability appraisal work has also been undertaken for retail, office and light industrial development. The assumptions used in the modelling have not been significantly questioned and appear to be reasonable, including the assumed rents, yields, build costs and profit levels.

55. Section 106/Section 278 costings are included in the supermarket appraisal, but are omitted from the retail warehousing, convenience store and comparison retailing appraisals. At the Hearing the Council indicated that this approach was justified on the basis that Section 106 costings have historically been achieved from supermarket schemes but were unlikely to be achieved from other types of retail development. On this basis I consider the Council's approach to be proportionate and appropriate. I also note that even if Section 106 costs were incorporated into the other retail appraisals (at a rate of 10% of build costs, as used in the supermarket appraisal) this would not significantly impact on overall scheme viability.

56. Separate retail viability testing in relation to the Whitehill and Bordon RPZ is set out in the Council's Post Hearing Response (EH-06). This focuses on the additional Section 106 costs which are likely to arise on the strategic site, in relation to essential infrastructure required to facilitate the scheme. Further discussion is set out in subsequent sections in this report.

Are the charging rates informed by and consistent with the evidence? Would they put the overall development of the area at serious risk?

CIL rates for residential development

57. The recommended residential rates on page 13 of Addendum 2 (CIL 12) have been incorporated into the revised DCS. The proposed residential rates differ in terms of geographical zones and by size of scheme. These differentials are considered in turn below, followed by an assessment of the overall viability of the rates and their impact on housing delivery.

CIL residential zones

58. I consider that differential rates by zone are justified by the viability evidence. Data on sales prices shows that values vary significantly across the charging area. The proposed boundaries are based on a wide-ranging analysis of sales prices. The proposed zones are justified in terms of price differences and provide a reasonable degree of geographical separation based largely on parish and/or National Park boundaries. As set out above, I have recommended that the description of the zones is amended, under

modification EM3. However, this is for clarity purposes and does not alter my overall conclusions regarding the suitability and extent of the proposed zones.

59. The revised DCS proposes a separate rate for Alton which lies between VP3 and VP4. As set out above I consider this approach is justified by the viability evidence, and is a pragmatic response by the Council.

60. The Council identifies a further geographical zone, Whitehill and Bordon RPZ, where a nil CIL charge is proposed for residential development. Whitehill and Bordon is a large strategic scheme that will require a wide range of supporting infrastructure to be delivered on-site. The vast majority of the strategic allocation, including all of the proposed housing development, is included within the RPZ. At the Hearing the Council confirmed that the excluded areas are predominantly designated as open space.

61. Evidence in the Council's Post Hearing Response (EH-06) indicates that a Section 106 cost of about £21,000 per dwelling could apply in the RPZ, and that a CIL charge in addition to this figure would render development unviable. This analysis has been informed by the updated IDP (post-April 2015) and emerging Section 106 agreements for Whitehill and Bordon. The Council and developers have carried out extensive infrastructure planning work on Whitehill and Bordon as part of the masterplanning and planning application process, and I consider that a reasonable understanding has been obtained on potential requirements and costs. I therefore consider that the proposed zone and the proposed £0 CIL residential charge for Whitehill and Bordon RPZ is justified by the viability evidence.

<u>Residential size thresholds</u>

62. The CIL rates also differ by size of scheme within the northern parishes zone (VP4 and VP5), with a higher rate of £200 psm applying on sites of 1-10 dwellings, and a rate of £180 psm applying to schemes of 11 or more units. This differential rate is supported by evidence in Addendum 2 (CIL 012) which shows that small schemes of 1-10 dwellings have markedly greater viability than larger schemes, with particularly significant viability buffers in high value areas.

63. However, the testing in Addendum 2 was based on guidance in the Planning Policy Guidance (PPG) on affordable housing which applied at the time the DCS/Statement of Modifications was submitted for examination. This guidance was introduced following the publication of a Written Ministerial Statement dated 28 November 2014, and stated that affordable housing should only be sought from schemes of 11 or more units. As demonstrated in Addendum 2, small site scheme viability is significantly increased in the absence of affordable housing provision.

64. However, the Government's position on planning obligations has since altered,

following the High Court judgement of 31 July 2015[11]. Paragraphs 012-030 and the threshold of 1-10 and 11 or more units have been removed from the planning obligations section of the PPG. The Council responded to this change and produced updated appraisals in the Council's Response to the Examiner (4 September 2015) (EH-07) that compliment and add weight to the findings in Appendix 7 of the VR. These workings assume that affordable housing is sought from small schemes of 1-10 units (via commuted sums in the case of schemes of 1 and 3 units) in line with adopted policy in the Core Strategy. The evidence shows that if affordable housing is sought from small schemes, then viability is markedly reduced. Furthermore, the threshold of 10 units is no longer a significant cut-off point in viability terms.

65. In the context of the new policy position, the size thresholds of 1-10 and 11 or more units in the revised DCS are not supported by the viability evidence. All schemes would be required to make provision towards affordable housing but larger schemes would benefit from a lower CIL charge. I therefore recommend that the revised DCS is modified **(EM6)** by deleting the size thresholds of 1-10 and 11 or more units in VP4 and VP5 areas, and applying a flat rate in the northern parishes zone equivalent to the lower charge. The modified CIL charge would therefore be £180 psm. The Council has indicated that it would concur with this approach, as set out in their response to the Examiner dated 4 September 2015 (EH-07). Modifications to the keys in the maps in the Charging Schedule **(EM7)** would also be necessary to reflect the change proposed under EM6.

66. The application of the lower CIL charge would reduce the amount of CIL receipts secured from schemes of 1-10 dwellings in this area. However, as a limited number of small schemes are predicted to come forward compared to overall supply[12], I consider this would be unlikely to result in a significant reduction in total CIL monies secured over the Plan period.

67. I therefore consider that the proposed modification is justified by the viability evidence, and represents an appropriate response to the current policy position relating to affordable housing.

<u>Overall residential viability and deliverability</u>

68. The Council's evidence[13] shows sizable buffers above the proposed CIL rates for most modelled typologies of schemes, predominantly ranging from about 50% to 80%. Therefore, for most housing schemes the predicted viability buffers would be significantly greater than the minimum 40% level proposed by one representor.

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[11] High Court judgement of 31 July 2015: West Berkshire District Council and Reading Borough Council v Secretary of State for Communities and Local Government [2015] EWHC 2222.

[12] As set out in part 12 of the EHDC CIL Response to Examiner's further questions (19 June 2015) (EH-06)

[13] As set out in the EHDC CIL response to examiner's further questions (19 June 2015) (EH-06) and the EHDC Examination Response to letter to the Council from the Examiner (25 September 2015) (EH-08).

69. The appraisal evidence shows that in VP2 areas, schemes of 75 units on brownfield sites, and schemes of 3, 5 and 10 units with a density of 25 dwelling per hectare may not be viable, with or without a CIL charge. However, the majority of modelled schemes in VP2 show reasonable viability buffers, and I therefore consider that the proposed £65 psm charge for VP2 areas outside the Whitehill and Bordon RPZ is justified. On this basis, and having regard to the Council's housing evidence[14] which indicates that small scale schemes in this area are likely to form only a small proportion of development, I am satisfied that overall housing supply would not be significantly affected.

70. As discussed above, development would also not be viable in the Whitehill and Bordon RPZ, in the context of both CIL and Section 106 costs being applied. Therefore the proposed nil CIL charge is justified in this zone.

71. I therefore conclude that the proposed CIL charges, when applied to much of the residential development that is likely to come forward, incorporate a significant margin or viability buffer. This would allow for potential variations in the costs and value of particular developments, or changes in the market over time, whilst making a valuable contribution towards infrastructure needed to support development. I am therefore satisfied that, subject to my recommended modifications, the proposed residential CIL rates would not threaten the delivery of housing or put the overall development of the area at serious risk.

CIL rate for sheltered housing

72. The charging rate of £40 psm, as recommended in Addendum 1 (CIL 11), was incorporated into the DCS. Viability work in the Council's Post Hearing response (EH-06) indicates that sheltered housing development could support a maximum CIL charge of £80 psm, and there would be a viability buffer of 50%. Therefore, on this basis I am satisfied that the proposed CIL rate would not materially affect the delivery of sheltered housing schemes in the charging area.

73. As an exception to the above, the Council has indicated that a CIL charge in the Whitehill and Bordon RPZ would have an adverse impact on viability. This is due to the additional Section 106 costs on development in this location, which are necessary to deliver infrastructure required to support the strategic scheme. The Council has indicated that the imposition of both CIL and Section 106 costs on sheltered housing schemes in the RPZ would have a significant adverse impact on viability and could affect delivery. On this basis I consider that the proposed nil CIL charge in the Whitehill and Bordon RPZ would be reasonable.

CIL rate for hotel development

74. The Council's viability work shows that there would be sufficient margin or

[14] As set out in part 12 of the EHDC CIL response to examiner's further questions (19 June 2015) (EH-06).

buffer to impose a CIL charge of £70 psm. The VR appraisal indicates there would be a surplus of £916,322 available to fund CIL. At the Hearing the Council confirmed that this would equate to a maximum CIL charge of some £329 psm, and there would be a viability buffer of some 79%. This significant viability buffer would allow for some variations in costs and values associated with particular developments, whilst making a contribution towards infrastructure needed to support development.

75. Accordingly I conclude that the proposed CIL rate of £70 psm for hotel development appears to be reasonable, and would not put such development at risk across the charging zone. The VR indicates that, at this level, the charge amounts to less than 2% of the GDV for a typical 100 bed budget hotel. This provides further evidence that a CIL charge could be supported and would not materially affect scheme delivery.

76. The Council proposes to exclude the Whitehill and Bordon RPZ from the hotel CIL charge, meaning it would be zero rated. This is consistent with evidence in the Council's Post Hearing response (EH-06) which highlights that non-residential development on the strategic site is likely to be subject to considerable Section 106 charges in order to contribute towards essential transport and other infrastructure required to deliver the strategic scheme. The evidence indicates that if additional costs are included relating to potential Section 106 charges there would be insufficient viability to bring forward hotel development in the strategic allocation. On this basis I conclude that the proposed nil CIL charge for hotel development in Whitehill and Bordon is appropriate.

CIL rate for retail development

77. The VR includes testing of four comparison and convenience retail typologies in unspecified locations in the charging area. I consider this approach to be reasonable in an exercise of this nature, and there is no evidence of significant variation in values, costs or viability across the charging area.

78. The testing shows that all four forms of retail development are viable, albeit with greater levels of viability for supermarket development in particular. The Council proposes a single flat rate of £100 psm for retail development in order to avoid complexity, that would also apply to classes A2 to A5. The VR indicates that A2-A5 retail has similar development costs and rental and capital values as A1 comparison retailing, and no evidence has been submitted to the contrary. Overall I am therefore satisfied that the proposed flat rate is reasonable in this regard.

79. The Council's evidence indicates that following the application of the proposed retail CIL charge, there would be a viability buffer of between 78% and 93% for the tested schemes. This indicates that the proposed rate, when applied to qualifying schemes, incorporates a reasonable viability buffer to allow for uncertainties relating to development costs and values.

80. In summary, the proposed retail CIL charge accords with the recommendations in the VR. The evidence suggests retail development would remain viable if the charge is applied. In addition, the buffer would allow for cost and value variations associated with specific schemes. Accordingly, the

proposed CIL rate for retail development appears to be reasonable, and would not put such development at risk across the district.

81. The Council proposes that a nil CIL charge would apply in the Whitehill and Bordon RPZ. As with hotel development, this is consistent with evidence in the Council's Post Hearing Response (EH-06) which highlights that non-residential development on the strategic site is likely to be subject to considerable Section 106 charges in order to contribute towards essential transport and other infrastructure required to deliver the strategic scheme. The evidence indicates that if additional costs are included relating to potential Section 106 charges, there would be insufficient viability to bring forward retail development in the strategic allocation. On this basis I conclude that the nil CIL charge for retail development in Whitehill and Bordon is appropriate.

Other development

82. The VR testing of offices, industrial development, student halls of residence and care homes demonstrated that these uses would be unable to support CIL charges. The proposed nil CIL charge for these development types is therefore supported by the evidence and is, accordingly, justified.

Other Matters

83. A number of representors raised concerns about different CIL rates in the South Downs National Park and/or other nearby local authority areas. This includes several Parish Councils whose administrative areas are bisected by the National Park boundary. However I am satisfied that the East Hampshire rates are justified by the viability evidence, as it applies to this locality.

84. A number of representations were made on the Council's draft instalments policy and position on discretionary exemptions, payments in kind and low cost market housing relief. However, these matters are within the Council's discretion, and it is not the role of the examination to appraise them.

Conclusion

85. In setting the CIL charging rates the Council has had regard to detailed evidence on infrastructure planning and the economic viability evidence of the development market in the charging area. Subject to the proposed modification regarding size thresholds, I consider the charging rates are based on reasonable assumptions about development values and likely costs, and would not put the overall development of the area at risk. The proposed modifications to various definitions in the Charging Schedule, as highlighted in the introduction section, should help to clarify how the rates would apply in the charging area.

86. The Council has sought to achieve a reasonable level of income to address an acknowledged gap in infrastructure funding, while ensuring that a range of development remains viable across the charging area. I conclude that, subject to the recommended modifications, an appropriate balance will be 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.

87. Nevertheless, as discussed above, it would be prudent for the Council to review the schedule within 3 years or earlier as subsequent development plan documents are prepared, and to ensure that overall approaches taken remain valid, that development remains viable, and that an appropriate balance is being struck.

LEGAL REQUIREMENTS	
National Policy/Guidance	Subject to the recommended modifications 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 East Hampshire Joint Core Strategy and Infrastructure Delivery Plan and is supported by an adequate financial appraisal.

88. I conclude that, subject to the modifications set out in Appendix A, the East Hampshire 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.

Katie Child

Examiner

Attached: Appendix A – Recommended Modifications

Appendix A – Recommended Modifications

EM1 Amend the Charging Schedule to clarify that the Whitehill and Bordon RPZ is excluded from the sheltered housing charge of £40 psm. See rows 3 and 4 in table 1 below.

EM2 Amend the Charging Schedule to explicitly exclude sheltered housing from the definition of residential development. See row 1 in table 1 below and the new footnote.

EM3 Simplify the residential zone descriptions in the Charging Schedule by removing reference to the VP Locations. See row 1 in table 1 below.

EM4 Alter the definition of retail development in the second table in the Charging Schedule to clarify it relates to retail development in all locations. See the amended retail rows in table 2 below and the new footnote.

EM5 Amend the keys in the maps in the Charging Schedule to reflect the modified description of the residential areas proposed under EM3.

EM6 Delete the size thresholds of 1-10 and 11 or more units for residential development in VP4 and VP5 areas, and apply a flat rate in the northern parishes zone equivalent to the lower charge. The modified CIL charge would therefore be £180 psm. See row 2 in table 1 below.

EM7 Amend the keys in the maps in the Charging Schedule to reflect the removal of the £200 charge, as proposed under EM6.

Table 1 – taken from revised DCS February 2015

Row No.	Residential use	CIL in £/sq m
1	Residential other than class C2, C2A uses, ~~and~~ Extra Care Housing **and C3A sheltered housing**[15]	~~VP2 Locations £65~~ Whitehill and Bordon (excluding Regeneration Project CIL Zone) **- £65** ~~VP3 Locations £110 (~~ Southern parishes of Clanfield, Horndean and Rowlands Castle ~~)~~ **- £110** **Alton** ~~CIL Zone Location~~ **- £150** ~~VP4 and VP5 Locations~~

[15] Where C3A sheltered housing is defined as housing in self contained houses and flats with communal facilities and an age restriction.

		~~£180 (~~Northern parishes excluding Whitehill/Bordon and Alton ~~)~~ **- £180** **Whitehill and Bordon Regeneration Project CIL Zone - £0**
2	~~Residential other than class C2, C2A uses and Extra Care Housing in VP4 and VP5 Locations (excluding Alton) for developments of 1 to and including 10 dwellings with a total floor area of 1000 square metres or less~~	~~£200~~
3	Residential C3A sheltered housing in self contained houses and flats with communal facilities and an age restriction	**Whitehill and Bordon Regeneration Project CIL Zone - £0** **Rest of the Charging Area -** £40
4	~~Whitehill and Bordon (Regeneration Project CIL Zone)~~	~~£0~~

Table 2 – extract taken from revised DCS February 2015

Other Uses	CIL in £/sq m
~~High street/centre retail and out of centre retail in all areas (excluding the Whitehill and Bordon Regeneration Project Zone)~~ **Retail development[16] in all areas (excluding the Whitehill and Bordon Regeneration Project CIL Zone)**	£100
~~High street/centre retail and out of centre retail in the Whitehill and Bordon Regeneration Project Zone~~ **Retail development[17] in the Whitehill and Bordon Regeneration Project CIL Zone**	£0

[16] Use Classes A1–A5
[17] Use Classes A1-A5