The Planning Inspectorate

Report to Watford Borough Council

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an Examiner appointed by the Council

Date: 18 August 2014

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

REPORT ON THE EXAMINATION OF THE DRAFT WATFORD BOROUGH COUNCIL COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE

Charging Schedule submitted for examination on 15 April 2014

Examination hearings held on 15 July 2014

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Non-Technical Summary
This report concludes that the Watford Borough Council Draft Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area. The Council is able to demonstrate that it has sufficient evidence to support the schedule and can show that the levy rates would be set at levels that will not put the overall development of the area, as set out in its Core Strategy, at risk.

Introduction

1. This report contains my assessment of the Watford Borough Council Community Infrastructure Levy (CIL) Charging Schedule in terms of Section 212 of the Planning Act 2008 (as amended). 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 (Community Infrastructure Levy Guidance – DCLG – February 2014).

2. To comply with the relevant legislation and guidance the local charging authority has to submit a charging schedule that should set an appropriate balance between helping to fund necessary new infrastructure and the potential effect of the proposed rates on the economic viability of development across its area.

3. The basis for the examination, on which Hearing sessions were held on 15 July 2014, is the submitted Draft Charging Schedule (DCS), which was published for public consultation between 17 February 2014 and 31 March 2014 along with the associated Statement of Modifications (SOM), which was published for public consultation between 11 April and 14 May 2014.

4. The Council's CIL proposals include charges for residential development and for certain specified types of commercial development. However, the DCS identifies three 'Major Development Areas' (MDAs) where CIL would be zero rated i.e. £0 per square metre for all development types.

5. Outside of the MDA's the following charges would apply:

   Residential - £120 psm

   Specialist accommodation for elderly / disabled - £120 psm

   Hotel - £120 psm

   Retail - £120 psm outside the defined Primary Shopping Area (PSA); £55 psm within the PSA

   Offices, Industrial and 'Other' uses - £0 psm

6. This report is structured under the headings (in bold) of the main issues that I

identified through the examination.

Background evidence – the development plan, infrastructure needs and economic viability evidence.

Core Strategy

7. Watford's Local Plan Part 1 Core Strategy (CS) was adopted in January 2013 and sets out the development and growth until 2031 that will need to be supported by further infrastructure. The CS makes provision for 'a minimum of 6,500 new homes' in the plan period. Delivery of new homes against the CS targets has been strong and has outperformed the annual target. Indeed by the end of the year 2013/14, more than half of the CS planned housing had been completed, leaving a balance of 3177 homes (minimum) to be delivered in the remaining plan period to 2031.

8. The CS plans an additional minimum 7000 new jobs to support the population growth and maintain Watford's role as a regional centre. The CS also identifies retail capacity and seeks to promote a 10,000 square metre town centre development in the early part of the plan period at Charter Place.

9. The CS defines a number of 'Special Policy Areas' (SPAs) where much of the planned growth and regeneration is directed. These include the Town Centre SPA where most of the planned new jobs will be delivered; Watford Junction SPA, where mixed use development will provide circa 1500 homes and 1350 – 2350 jobs; the Health Campus SPA, providing 500 homes and 1000 – 1900 new jobs and the Western Gateway SPA, providing 300 homes and 700 – 2000 new jobs. Three of the SPAs – Watford Junction, the Health Campus and the Western Gateway – are, in effect, the three MDAs defined in the DCS.

Infrastructure planning evidence

10. The CS evidence base included an Infrastructure Delivery Plan (IDP) setting out the infrastructure that would be necessary to support the borough's planned growth. The IDP was informed by the earlier countywide work of the Hertfordshire Infrastructure and Investment Strategy 2009, which began the process of assessing infrastructure needs of the ten districts that make up the county. Watford's IDP was first produced in 2010 and has been refreshed and updated since, most recently in 2013.

11. The IDP assesses a wide range of physical, social and green infrastructure requirements across the borough. The most important identified infrastructure needs relate to transportation, education, health care and green infrastructure. These priorities are included in the Council's draft Regulation 123 List which identifies the types of infrastructure that will be funded by CIL receipts.

12. The Council estimates that the total cost of required new infrastructure is circa £245 million, of which about £159 million is currently funded, leaving an infrastructure funding gap of circa £86 million, covering 'Social' (£40m), 'Physical' (£39m) and 'Green' (£7m) categories of infrastructure. The Council has assessed its likely CIL receipts in the plan period based on its currently proposed rates and anticipated housing numbers. It estimates that CIL

receipts may generate circa £5 million over the plan period.

13. The CIL charges would therefore make only a relatively small, but nonetheless important, contribution to filling the likely infrastructure funding gap. However, it should be noted that significant infrastructure will also be delivered through S.106 planning agreements in the MDAs, which the Council proposes to zero rate for CIL purposes. I return to this later.

Economic viability evidence

14. The Council entered a commissioning partnership with seven other Hertfordshire councils to produce a 'Stage 1' Community Infrastructure Levy Economic Viability Assessment (EVA). The Stage 1 EVA was published in December 2012.

15. The Stage 1 EVA was clearly a major and complex commission covering most of the county of Hertfordshire (8 out of the 10 district councils). It offered advantages in terms of adopting a consistency of approach across eight neighbouring council areas, but there were complexities in terms of the spectrum of values, different CS stages and policy requirements of the councils, and an inevitable limit on the level of fine grain analysis. The Stage 1 report was considered by the councils' consultants to be sufficiently robust for early CIL promoters (with a CS in place) to proceed with its recommended 'single rates'. However, the report made clear that councils may opt to undertake more detailed 'Stage 2' work to inform and refine their CIL proposals. Watford Borough Council followed the latter route and a more detailed 'Stage 2' EVA, specific to the borough, was commissioned, undertaken and produced (February 2013).

16. Both the Stage 1 EVA and the Stage 2 EVA employed a residual valuation approach. In simple terms, this involves deducting the total costs of the development from its end value to calculate a residual land value. That residual land value is then compared to assumed 'land value benchmarks' to test viability. If the residual land value is significantly above the land value benchmark, the scheme would be judged viable and *vice versa.* The Council's consultants have developed a computer model to make this comparison and to test potential CIL levels against the land value benchmarks. The tested notional schemes included five residential development types ranging from low density rural greenfield sites to high density urban development, along with a range of commercial development types.

17. To undertake this analysis, the modelling on residential development entailed making assumptions about a range of factors such as build costs (including Code for Sustainable Homes requirements), fees, contingencies, sales values, profit levels etc. For the commercial development types, common assumptions were made across the eight authorities, with the exception of rental values and yields, which were tailored to the local markets.

18. The robustness of the assumptions used in the EVA were tested through the examination and found to be largely sound. Residential sales values were drawn from Land Registry data and complemented by prices from the limited number of new build schemes. Build costs were based on BCIS rates for the

county and allowances made for Code for Sustainable Home requirements (Level 4). Fees, contingencies and financing all appeared to be well grounded and reasonable. Affordable housing provision was assumed in line with the CS policy (35%). Developer profit was assumed at 17% of Gross Development Value, and whilst I noted Developer representations seeking a higher profit figure, I consider the assumed profit level to be reasonable for CIL testing purposes, particularly given the local market characteristics and past housing delivery rates, which all suggest that developers regard the area as commercially attractive and at the lower end of the risk spectrum.

19. One notable issue in respect of the modelling assumptions related to a quite significant allowance (£3,000 per plot) for site-specific S.106 costs. My examination revealed that the Council envisaged that, in many cases, such obligations would be nil or negligible given that the established pattern of S.106 contributions related largely to matters now included on the draft Regulation 123 list (I return to this matter later).

20. For the commercial development appraisals, assumed rents, yields and land values were well founded and reasonable.

Conclusions on background evidence

21. The CS provides a recent and robust development plan framework for sustainable growth in the borough, which is largely directed to a number of defined SPAs. The IDP identifies the social, physical and green infrastructure required to support the CS planned growth in population and jobs. The evidence demonstrates a sizeable infrastructure funding gap that justifies the introduction of a CIL regime. CIL receipts will help to reduce that funding gap.

22. The background economic viability evidence for both residential and commercial development that has been used is reasonable, robust, proportionate and appropriate. The interpretation and use of economic viability evidence in defining the proposed CIL rates is discussed more fully below.

Residential CIL – viability appraisal evidence and proposed CIL charges.

Stage 1 EVA

23. The broad brush Stage 1 EVA made recommendations for single CIL rates for each local authority area. For Watford, the testing involved appraising the five notional residential development types across separate postcode locations i.e. 30 appraisals in total. Further appraisals were used to apply sensitivity tests including varying land values, build costs and affordable housing content. However, I focus here on the 'base' results, which are the most relevant.

24. Overall, the results indicated strong viability across the borough and across the range of tested sites. There was quite a range of modelled maximum CIL rates (after allowing for land acquisition, development costs, profit etc.) spanning from the lowest of £89 psm up to the highest of £713 psm. The average of all 30 results was £356 psm. Only 4 out of the 30 results fell below

£200 psm and many were substantially above that level. Based on those results the Stage 1 EVA concluded that if a borough wide CIL rate was to be employed, £200 psm would enable most schemes to remain viable.

Stage 2 EVA

25. The Stage 2 EVA sought to build on the Stage 1 EVA work to provide more detailed 'fine grain' evidence to inform the Council's CIL proposals. The Council had recognised that a potential weakness with the Stage 1 EVA was that it did not reflect the spatial pattern of planned development as set out in its CS, which includes locations (SPAs) where significant development is planned. Accordingly, the Stage 2 EVA applied a closer focus to where development was planned, and applied the more detailed findings of additional research of local sales values within postcode areas, along with more refined affordable housing value assumptions. Furthermore, it selected the most likely notional development type for the particular location. The output of this exercise was six appraisal results, one for each postcode area. In addition, the Stage 2 EVA tested development viability in three SPAs: Watford Gateway, the Health Campus and Watford Junction. I will deal with the six results in the postcode areas first and the SPAs second.

26. The six new appraisals produced very different results to the Stage 1 EVA and two key findings emerge. First, this more refined analysis indicates a significant (circa 70%) reduction in potential CIL rates compared to the Stage 1 EVA. Second, the range of results is much narrower than the Stage 1 EVA, with the lowest being £110 (postcode WD18) and the highest £226 (postcode WD23); the other four values were £123 (WD17); £134 (WD24); £137 (WD25) and £144 (WD19).

27. The differences between the Stage 1 and Stage 2 EVAs illustrate the potential dangers of relying solely on broad brush 'notional' modelling which may not accurately reflect the specific planned development contained in the CS.

28. This effect is well illustrated by the WD17 postcode, which includes central Watford where much of the CS planned new development is proposed (64% of new homes). However, WD17 also extends out to the western suburban edges of the town and it is clear that the higher sales values data drawn from these less central locations distorted the overall sales values (upwards) in the Stage 1 EVA when, in fact, most planned growth is in areas where values are somewhat lower. There are similar issues in the WD18 postcode, which covers west Watford where 18% of new homes are planned.

29. A further factor in explaining the difference between the two stages of testing related to affordable housing assumptions which, in the second stage testing, were finessed to more accurately reflect the CS policy position, which is more skewed towards higher value affordable housing (i.e. higher proportions of shared ownership) than other Hertfordshire districts.

30. The Council was, in my view, wise to undertake the finer grained analysis which indicates that the Stage 1 EVA recommended £200 psm borough wide CIL rate would have been unviable in all postcodes other than WD23, where less than 2% of CS development is anticipated.

31. The Stage 2 EVA's analysis of major development schemes in three SPAs demonstrated very clearly that none of these schemes could sustain CIL charges. Although cost information on the three sites is limited, there are significant site specific infrastructure requirements. The appraisals indicated that, even with benchmark land values set well below those used on other sites, each have viability challenges and could not sustain CIL charges in addition to the site specific S.106 requirements. Indeed, the modelling evidence suggested that the theoretical CIL rates for each of the three tested schemes would all be negative values (-£7 psm, -£41psm and - £62 psm). That said, the Council is confident that these complex and major schemes will proceed and it outlined at the Hearing encouraging development progress to date and the anticipated next steps. Overall, the evidence does support the Council's approach of treating the defined SPAs differently for CIL purposes and the £0 psm rate in these areas is justified.

The Proposed Residential CIL Charges

32. The residential CIL charges proposed by the Council are, in essence, a zero charge in the defined MDAs and a £120 psm charge in the rest of the borough.

33. The case for the £0 psm charge in the MDAs is compelling. The MDAs are critical to the delivery of the CS housing requirements (over 80% of the planned new homes). The case for treating these strategic sites differently for CIL purposes is supported by the evidence.

34. The Council's case for a borough wide CIL charge of £120 psm was, on first examination, less convincing. Although the fine grain and more focused EVA2 analysis indicated that the majority of postcodes could support the charge, in some cases the margins were not great. In particular, the two postcode areas of WD17 and WD18, where the CS plans most of the housing development (82% combined according to the Council), reveal maximum modelled CIL rates of £123 psm and £110 psm respectively. One result only just achieves the proposed £120 charge, the other falls short. The Hearing sessions involved a thorough and constructive debate on these issues and have addressed my initial concerns that the evidence pointed to a very small viability 'buffer' in WD17 and a modest shortfall on the proposed CIL rate in WD18.

35. There are three factors that explain the apparent inconsistency. First, the proportions of development involved are small; in WD17 just 5.6% of CS planned development is not in a MDA (zero CIL rated) and in WD18 the figure is 3%. Second, the modelling has employed a 'hidden buffer' in the form of a £3,000 per plot S.106 allowance, which based on the Council's evidence is unlikely to be fully required (if at all). Third, there have been shifts in sales values, build costs and land values since the completion of the Stage 2 EVA. At my request, the Council recalculated the modelled CIL rates. For WD17 and WD18, updating the sales values, land values and build costs (from published recognised sources) raises the modelled maximum CIL rates to £134 psm and £131 psm respectively. Removing the seemingly overstated S.106 allowance increases the maximum CIL rates to £202 psm and £180 psm respectively.

The four other postcode areas generate results well above the £120 psm rate (with and without the S.106 allowance).

36. Representations from the house building industry in respect of this additional evidence appeared to concur with the build cost inflation figures used, but suggested a slightly lower sales growth figure of 9.64% (rather than 10.09%). I do not regard these small differences as significant to my overall conclusions.

37. Two further arguments were made by the house building Representor. The first was that historic S.106 payment levels should be used to set the maximum 'pot' for CIL / S.106 combined. The second was that a 30% viability buffer should be applied across the board. I do not accept the S.106 maximum 'pot' argument because, if viability allows, there is no reason to preclude a higher payment through CIL to help fund identified infrastructure to support growth and, in practice, it is probable that some developments will pay more, whilst others may pay less. With regard to viability buffers, whilst I understand the attraction of applying a generic percentage allowance (and 30% is often quoted in CIL examinations), each case has to be judged on its merits. The updated buffers in Watford would span from 9% up to 83%. Clearly, this does not conform to a uniform buffer, as advocated by the house builders, but it does demonstrate that, overall, viability is maintained in all locations. Taken in the round, and in the wider context of an area that is comfortably exceeding its planned housing delivery rates, I am satisfied that the £120 psm rate is justified by the evidence and will not threaten CS planned housing delivery (the majority of which will not incur CIL charges).

Specialist types of residential accommodation - viability appraisal evidence and proposed CIL charges.

38. The Council proposes to apply a £120 psm CIL charge to developments providing specialist accommodation, typically (although not exclusively) for older people. This would include sheltered and retirement housing, nursing and care homes and Extra Care accommodation. The Council has clarified through its Statement of Modifications that the charge will not apply to 'registered, not for profit care homes'.

39. There were a number of representations made on this subject, the most notable being (i) that the development economics of such schemes were different (to conventional housing) and (ii) a concern that not for profit operations should not incur the charge. The latter point is dealt with by the Council's modification to the DCS wording. The former point was explored through Stage 1 EVA which, based on reasonable generic assumptions, indicated that the commercial variants of such uses could generate sufficient surpluses to support a CIL charge. The testing of a notional 'care home' indicating a potential CIL of £168 psm.

40. Although I do recognise that economics of certain forms of development under this category are quite defined and specific, there is no evidence before me to suggest that such schemes would be rendered unviable with a modest CIL charge in place. Based on the evidence I consider the £120 psm charge to be reasonable and comfortably below the modelled maximum.

Commercial CIL – viability appraisal evidence and proposed CIL charges.

Employment Development

41. The evidence demonstrates that speculative office and industrial development, using reasonable rents and yields, is not currently sufficiently viable to support a CIL charge. The £0 psm levy is justified.

Retail Development

42. The Council viability tested both small scale and large scale (supermarket) retail developments for CIL purposes. The evidence shows that whilst all retail development is viable with a CIL charge there is a significant range dependent largely on the interlinked factors of location, format and strength of occupier covenant. There was a range of maximum CIL rates from small independent stores (£84 psm), through 'high street' retail (£123 psm) to large format (£165 psm). Although, on the face of it, this could create the basis for differentiating CIL by unit size, the Council has opted for an approach based on differentiating by location inside / outside the Primary Shopping Area (PSA). The proposed CIL charge within the PSA would be £55 psm and outside the PSA the charge would be £120 psm.

43. The CS identifies capacity for new comparison and convenience retailing in Watford and the plan has a strong hierarchical focus, directing retail development to defined centres, most notably the town centre itself. The CS envisages two important developments but neither is likely to make CIL payments as the 10,000 square metre Charter Place town centre scheme has planning permission and the new supermarket at the Western Gateway site has been built. Representations have been made by the promoters of Charter Place arguing that, notwithstanding the extant permission, the Council should define an additional town centre MDA (i.e. set CIL at £0 psm) to address circumstances where a re-plan / fresh application may be required.

44. Based on the evidence, I am satisfied that the Council's retail CIL proposals will not threaten development planned in the CS. The lower rate proposed in the PSA does reflect the evidence and the development economics associated with town centre development. I have noted carefully the views of the Charter Place promoters and I was made aware that there had been separate engagement with the Council on matters that I would deem to be commercially sensitive. However, the evidence before me does suggest that town centre development is sufficiently viable to support the £55 psm charge proposed and, given that the Council modelled maximum rate is £123 psm (for PSA retail development), that would allow a comfortable viability buffer. I am also mindful of the Council's view that, in the unlikely circumstances that a fresh planning application was required for the Charter Place development and there were genuine evidenced viability issues, the Council would have the opportunity to flex the S.106 planning obligations associated with the scheme.

45. Outside the PSA, the Council does not envisage any significant retail development, given its CS focus on the town centre. However, if there were to

be any unplanned retail development the Council anticipates that this would most likely fall within the large format category i.e. supermarket or retail warehouse. This does support the imposition of the £120 psm retail CIL charge, given that the modelling suggested that such developments could sustain a maximum CIL of £165 psm. There is perhaps some risk that small retail schemes outside the PSA may be disadvantaged but I am mindful that such developments are not critical to the CS and that no such development is envisaged. Based on the evidence and local circumstances, I consider the £120 CIL charge to be acceptable but the Council may wish to consider the small retail scheme viability issues through its monitoring and review processes.

Hotel Development

46. Although local market intelligence suggests that speculative hotel development is unlikely in the coming years, the viability testing demonstrates the ability to support a CIL rate of up to £145 psm. The Council's proposal to adopt a rate £25 psm below this level (£120 psm) is, whilst including only a limited buffer, reasonable in the circumstances.

Overall Conclusions

47. The evidence demonstrates that the overall development of the area, as set out in the CS, will not be put at risk if the proposed CIL charges are applied. In setting the CIL charges, the Council has used appropriate and available evidence which has informed assumptions about land and development values and likely costs. The CIL proposals will achieve a reasonable level of income to help address a well evidenced infrastructure funding gap.

48. I conclude that the Watford Borough Council Draft Community Infrastructure Levy Charging Schedule, as modified by its Statement of Modifications, satisfies the requirements of Section 212 of the 2008 Act and meets the criteria for viability in the 2010 Regulations (as amended). I therefore recommend that the Charging Schedule be approved.

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

P.J. Staddon

Examiner