The Planning Inspectorate

Report to Cannock Chase District Council

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an Examiner appointed by the Council

Date: 10 February 2015

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

REPORT ON THE EXAMINATION OF THE CANNOCK CHASE COMMUNITY INFRASTRUCTURE LEVY DRAFT CHARGING SCHEDULE

Charging Schedule submitted for examination on 31 October 2014

File Ref: PINS/X3405/429/10

Non-Technical Summary

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

I have recommended that the Draft Charging Schedule be approved in its published form, without any changes.

Introduction

1. This report contains my assessment of the Cannock Chase Community Infrastructure Levy (CIL) Draft 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 being reasonable, realistic and consistent with national guidance[1].

2. To comply with the relevant legislation, the local 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 district. The basis for the examination, which took place by written representations procedure, is the submitted schedule of August 2014, which is the same as the document published for public consultation in August - September 2014.

3. The Council proposes a two-part schedule of charging rates, setting a rate of £40 per square metre (psm) for residential developments and £60psm for foodstores over 280 sq m and out-of-centre retail park developments, with no charge for specialist retirement housing, other types of retail development and all other uses.

Main issues

Issue 1: Is the draft charging schedule supported by background documents containing relevant appropriate available evidence?

Infrastructure planning evidence

4. The Cannock Chase Local Plan (Part 1) was adopted in June 2014[2]. This sets out the main elements of growth that will need to be supported by further infrastructure. The overall impact of the requirements of the Local Plan policies on development viability was tested at the Local Plan examination and the Plan was found sound[3]. A key policy in the adopted Local Plan (Policy CP2) references the Infrastructure Delivery Plan (IDP)[4] as evidence on infrastructure, and identifies CIL and S106 Obligations as funding sources, informed by viability assessment.

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[1] Planning Practice Guidance – Community Infrastructure Levy (ID: 25) [DCLG; June 2014]
[2] Examination Document: PS2.1
[3] Examination Document: PS2.2 (Inspector's Report)
[4] Examination Document: CD3

5. The Infrastructure Delivery Plan (May 2014) (IDP) identifies critical and priority items of infrastructure required to support development in the Local Plan, along with committed or likely funding sources. Most schemes are fully costed, with funding sources identified. However, it identifies certain projects which will significantly exceed the CIL funds likely to be received up to 2028, including transport infrastructure (£5 million), indoor and outdoor formal sport and recreation provision (£4 million), school buildings, community, cultural and heritage assets, flood prevention work at Rugeley town centre (£1.5 million) and mitigation of visitor impact on Cannock Chase SAC (£2 million, split between the five partnership local planning authorities). Many of these projects will be funded through other public or private funding schemes, including S106 contributions and other developer funding from specific development schemes, as well as contributions from the public sector, both locally and nationally.

6. The CIL is expected to generate about £3.7 million from new residential schemes and £1.5 million from relevant new retail development. Limited CIL income from new residential developments is anticipated, since over 4,000 of the proposed 5,300 new houses to be delivered through the Local Plan are either completed or otherwise committed, including four major sites that are the key to the delivery of the strategy. S106 receipts over the last six years have generated under £2 million, whilst committed S106 funding between 2014-2024 is likely to be nearer £8 million. Combined total funding anticipated through CIL & S106 Obligations to the end of the plan period is anticipated to be around £15.7 million. The figures for infrastructure requirements set out in the IDP clearly indicate a need for CIL, which would make a significant contribution towards meeting the likely funding gap.

7. Some parties suggest that other items of infrastructure should be funded by the CIL, including policing and community safety. The Planning Act 2008 and associated Regulations[5] confirm that the levy can be used to fund a wide range of infrastructure, including works, installations and other facilities, along with maintenance and operational activities. Although the provision of physical infrastructure, such as police stations and other buildings, could be funded through the levy (as referred to in the IDP), no specific buildings or other strategic infrastructure needs for policing and community safety are currently identified. However, the Council confirms that it intends to update the Regulation 123 list (Appendix 1) if further specific schemes are identified.

8. Consequently, in the light of the information and evidence provided, the proposed CIL charge would make a significant contribution towards funding the infrastructure required to implement the adopted Local Plan, and the figures clearly show the need to levy the proposed CIL. The DCS is also clearly supported by background documents containing relevant appropriate available evidence.

Economic viability evidence

9. The Council commissioned two reports assessing the Economic Viability of Future Housing Development of Affordable Housing[6] (September 2013, with a July 2014 update), along with a CIL Viability Assessment for Non-Residential Development (September 2013)[7].

[5] Planning Act 2008 (S.216) and associated Regulations (SI: 2010/948)
[6] Examination Document: CD7/CD9
[7] Examination Document: CD8

10. For residential schemes, the reports conclude that a charging rate of £40psm would allow an adequate buffer for site-specific factors, but consider that there may be site-specific viability issues relating to the provision of affordable housing in Supported Housing schemes for the elderly. The updated report also confirms that a charging rate of £40psm and a 20% affordable housing requirement for residential schemes remains viable and appropriate. Local Plan Policy CP7, which includes the target of 20% affordable housing, was found sound at the Local Plan examination; this policy recognises the need for this target to be reviewed when evidence of changes in market conditions indicate that it is necessary, as detailed in a subsequent Supplementary Planning Document.

11. These reports use an area-based approach, involving broad tests of viability across the area, developing notional schemes, using the residual land value methodology and adopting value points in the property market, with model scenarios including various dwelling sizes and types. This covers a wide range of scenarios, which allow an adequate buffer for variations in site-specific factors, as well as reflecting the need to provide separate contributions (£450/dwelling) towards the mitigation of visitor impacts on the Cannock Chase SAC. This is generally consistent with the advice in the Planning Practice Guidance[8].

12. The reports also conclude that there is limited or no viability for most forms of non-residential development to afford a CIL charge, apart from supermarkets and retail warehouses; a £60psm charging rate is recommended for these uses. The assessment examines a range of uses, including offices, industrial/ warehousing, retail, hotels, leisure and community uses, along with residential care/nursing homes. It covers site values, market conditions, rents, yields and development inputs, with sensitivity testing. This clearly demonstrates that, apart from supermarkets and out-of-centre retail schemes, other non-residential uses would be unlikely to be viable with a CIL contribution.

13. Consequently, the DCS is supported by detailed evidence of the infrastructure required to implement the adopted Local Plan, along with detailed evidence of economic viability of various forms of development. This evidence has been used to inform and justify the proposed draft charging schedule, and is appropriate, relevant, robust and proportionate.

Issue 2: Are the proposed charging rates informed by and consistent with the evidence on economic viability across the charging authority's area?

CIL rate for residential development

14. For residential developments, the DCS applies a standard £40psm levy to all market housing schemes, amounting to an indicative charge of £3,400 for an average dwelling of 85 sq m. Specialist retirement housing schemes are exempt from the levy. The Council envisages that, taking account of existing completions and commitments, fewer than 1,000 new houses will be subject to the levy in the period up to 2028.

15. Some parties are concerned about the detailed figures and assumptions used in the economic viability reports, particularly in terms of the values of greenfield sites, the assumptions about competitive returns to landowners and the infrastructure costs for individual developments.

[8] Planning Practice Guidance – Community Infrastructure Levy [ID:25] (DCLG: June 2014)

16. However, the key measure arising from the viability assessment is whether the net residual development land value exceeds the relevant benchmark value by an adequate margin, assuming an adequate commercial return to the developer and a sufficiently attractive return to the landowner to bring the land forward for development. The approach using an enhanced value basis, referring to a consistent method of benchmarking minimum value as a threshold against which residual land value can be compared, is seen to be an equitable approach when determining overall viability. This approach recognises the existing use value of agricultural land or greenfield sites, as well as the costs of bringing forward the land for development, with an element of profit, as recognised in recent reports[9].

17. The Council has produced detailed evidence responding to the specific concerns of the Church Commissioners[10]. This shows the clear contrast between recent experience with the level of planning obligations achieved for small housing schemes (typically fewer than 50 units) and those associated with larger schemes of 100+ units. During 2008-2013, small schemes could often support S106 contributions of c.£2,000/unit, while larger schemes could support £5,000/unit (in one case over £7,000/unit). At present, all of the Church Commissioners land (c.250ha) is in the Green Belt (including that at Bleak House), and is not planned for development, either in the longer term (post-2028) or for safeguarding.

18. Much of the concern seems to relate to the assumptions about the value at which a landowner would be incentivised to release their land for development, but in assessing viability, it must be assumed that developers and landowners will require and should receive acceptable, typical market returns. The Church Commissioners seem to be using nationally-based figures, rather than those in this local area. However, use of a viability model, such as the Council has used, involving net residential development land values and relevant benchmark figures, ensures a consistent approach, while also ensuring an adequate commercial return to the developer and the landowner.

19. In any event, the draft DCS includes a commitment to offer relief for CIL where an exceptional additional development cost could render the scheme unviable, in line with national guidance[11]; the DCS also allows for a phasing of CIL payments on large schemes, to assist with cash flow. Consequently, the DCS and the Council's reports and evidence acknowledge and address the specific concerns raised by the Church Commissioners.

20. The Council's consultants' appraisals include a small residual allowance (£500/dwelling), along with a further allowance of £2,000/dwelling for site-specific infrastructure works not covered by CIL. These provide adequate "buffers" to ensure that the development remains viable with the proposed levy. It also allows for further contributions necessary to mitigate the impact of visitors on the Cannock Chase SAC. Any abnormal costs or site-specific S106 costs will be considered on a site-by-site basis. It is also worth noting that the recommended CIL level is well below the actual figures that the appraisals show would be viable in most cases. Both the CIL level and the 20% target for affordable housing provision is also low compared with other nearby areas and can be readily accommodated within this district. Consequently, I am satisfied that the values and assumptions used in the viability assessments are realistic, reasonable and robust.

[9] RICS and Local Housing Delivery Group (LHDG) guidance (2012)
[10] Examination Documents: CD15-CD16; PS3a.2
[11] Planning Practice Guidance – Community Infrastructure Levy [ID25-129-134-20140612]

21. The preliminary draft CIL Charging Schedule included specialist retirement accommodation (Class C3) within the levy, but following representations and an updated assessment of economic viability, the Council has decided to exclude such developments. These differ from general market housing in terms of their nature, design, sales and occupation; the rate of sale is generally slower than that for market housing; empty property costs are often higher; market catchments are more limited; developers often incur higher interest charges on land and building costs; and these schemes often include more communal space. Consequently, in this case, the Council has sound reasons based on robust evidence to justify exempting such schemes from the levy.

CIL rate for retail development

22. For retail developments, the DCS applies a standard £60psm for foodstores with a floorspace of more than 280 sq m and for out-of-centre retail developments. All other types of retail development are exempt from the levy. The Council does not anticipate any new retail development before 2017/18, but envisages an additional 25,000 sq m of net retail floorspace during the period up to 2028. The charges in the DCS are justified in the evidence on economic viability of non-residential uses, and are not challenged in the representations.

23. The proposed rates are somewhat lower than those proposed in some of the nearby local authority areas, but this reflects the fact that there are several stronger retail centres around Cannock Chase district (such as Walsall, Lichfield, Stafford and Stoke-on-Trent). Footfall within the district is also lower due to geographical constraints, with lower rents and investment yields. In view of the fragility of the local retail market, there is a material risk that imposing the levy might discourage new investment in additional comparison floorspace.

Other developments and uses

24. Some parties suggest that other developments and land uses, such as leisure, entertainment, food and drink establishments, warehouses and scrapyards, should be subject to the levy. However, the viability evidence confirms that such uses could not support such a levy and remain viable. Uses such as open storage and yards do not involve an increase in buildings or floorspace, and so would not fall within the remit of the levy. This is in line with CIL Regulations[12].

Conclusions

25. Consequently, the DCS is supported by background documents containing relevant appropriate available evidence, which is supplemented by the Council's supplementary evidence[13]. The proposed charges seem to strike an appropriate balance between helping to fund the infrastructure required to support the Local Plan policies and the potential effects on the viability of development across the District.

Issue 3: Does the supporting evidence demonstrate that the proposed charging rates would not threaten the delivery of the relevant Plan as a whole or put the overall development for the area at serious risk?

26. The Council's decision to set a charging rate of £40psm for residential schemes and £60psm for foodstores and out-of-centre retail developments is based on reasonable assumptions about development values and likely costs. The evidence suggests that residential and retail development will remain viable across most of

[12] Community Infrastructure Regulations (2010, as amended: Reg. 6(2))
[13] Examination document: PS3a.1

the district if the charge is applied at the proposed levels. Only if development sales values are at the lowest end of the predicted spectrum would development in some parts of the district be at risk. The proposed DCS rates have been set at a level which seems to allow sufficient headroom, without being at the upper limit of viability, in line with national guidance.

27. The original reports (2013) were undertaken in an economic climate where additional contributions in the form of a CIL could discourage some forms of proposed development, and where it is important to maintain the economic viability of new residential and retail developments. The updated report (July 2014)[14] considers the somewhat improved economic climate since mid-2013. For residential developments, the value points, sales values and build costs have not altered significantly, and the proposed charging rates still allow an adequate buffer for site-specific factors. As the economy improves, the situation can be reviewed in 2016, as suggested, and at subsequent five-year intervals.

28. As referred to earlier (¶ 21), there is sufficient evidence to justify the exemption of specialist retirement housing development, as well as most forms of commercial development, apart from food retailing and out-of-centre retail parks, which is explained in the Council's detailed statements[15].

29. As the Council says, an appropriate balance has been struck between helping to fund the necessary infrastructure and the potential effects on economic viability. Consequently, the supporting evidence demonstrates that the proposed charging rates would neither threaten the delivery of the adopted Local Plan as a whole nor put the overall development strategy for the area at risk.

Issue 4: Is the Draft Charging Schedule deliverable and can its effectiveness and local economic impacts be adequately monitored and reviewed over time?

30. Subject to regular monitoring and review, there is little to suggest that the DCS will not be deliverable over the period of the adopted Local Plan. The Council's consultants suggest a first review of effectiveness in 2016, and thereafter reviews could take place at subsequent five-year intervals. The performance of the CIL review is likely to be linked to a review of affordable housing policy delivery, including the percentage of affordable units required as part of new market housing developments. The Council also intends to review national and local economic impacts with reference to market signals as part of updating the Strategic Housing Market Assessment (SHMA).

31. Consequently, the DCS is deliverable over the Plan period and its effectiveness and local economic impacts will be adequately monitored and reviewed over time.

Other matters

32. Some representors have commented on matters that are not within the scope of the examination. The Regulation 123 list of projects (Appendix 1) is essentially a matter for the Council, who intends to make some amendments to address concerns raised in the representations. The conservation of heritage assets, highlighted by English Heritage, is specifically covered in the IDP, with relevant schemes included in the Regulation 123 list; specific evidence is also readily available on the state of heritage assets. The IDP also covers community facilities, including theatres.

[14] Examination Document: CD9
[15] Examination Document: PS3a.1

33. An Equalities Impact Assessment has also been carried out. As for mitigating the impact of visitors on Cannock Chase SAC, the Council has confirmed that it will give priority to this requirement, included in the Regulation 123 list, in order to comply with the requirements of the Habitats Regulations. None of the other points raised in the representations lead me to conclude that the Draft Charging Schedule is not reasonable or realistic.

Conclusion

34. In setting the CIL charging rate, the Council has had regard to detailed evidence on infrastructure planning and the economic viability evidence of the development market in Cannock Chase district. The Council has tried to be realistic in terms of achieving a reasonable level of income to address an acknowledged gap in infrastructure funding, while ensuring that a range of development remains viable across the district.

Legal requirements

35. The charging authority has confirmed that it has complied with the legislative requirements set out in the relevant legislation and regulations[16]. I come to a similar conclusion, as summarised below:

LEGAL REQUIREMENTS	
National Policy/Guidance	The Charging Schedule complies with national policy and guidance.
2008 Planning Act and 2010 Regulations (as amended)	The Charging Schedule complies with the Act and the Regulations, including the statutory processes and public consultation, consistency with the adopted Cannock Chase Local Plan (Part 1) 2014, and the Infrastructure Delivery Plan, and is supported by an adequate financial appraisal.

Recommendation

I conclude that the Cannock Chase Community Infrastructure Levy Draft 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 Draft Charging Schedule be **approved**.

Stephen J Pratt

Examiner

[16] Examination Document: PS3a.1