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

**REPORT ON THE HAVANT BOROUGH COUNCIL
COMMUNITY INFRASTRUCTURE LEVY DRAFT CHARGING SCHEDULE**

Independent Examiner (appointed by the Council): Andrew Seaman BA (Hons)
MA MRTPI

Charging Schedule Submitted for Examination: June 2021

Date of Report: 27 August 2021

Main Findings - Executive Summary

In this report I conclude that the Havant Community Infrastructure Levy Draft Charging Schedule provides an appropriate basis for the collection of the levy in the area.

The Council has provided sufficient evidence that shows the proposed rates would not threaten delivery of the relevant submission Local Plan.

Introduction

1. I have been appointed by Havant Borough Council, the charging authority, to examine the Havant Community Infrastructure Levy (CIL) Draft Charging Schedule. I am a chartered town planner with more than 30 years of experience, including 13 as a Government Planning Inspector examining development plan documents.
2. This report contains my assessment of the Draft Charging Schedule in terms of compliance with the requirements in Part 11 of the Planning Act 2008 as amended ('the Act') and the Community Infrastructure Regulations 2010 as amended ('the Regulations').¹ Section 212(4) of the Act terms these collectively as the "drafting requirements". I have also had regard to the National Planning Policy Framework (NPPF) and the CIL section of the Planning Practice Guidance (PPG).²
3. To comply with the relevant legislation, the submitted Draft Charging Schedule must strike what appears to the charging authority to be an appropriate balance between helping to fund necessary new infrastructure and the potential effects on the economic viability of development across the district. The PPG states³ that the examiner should establish that:
 - the charging authority has complied with the legislative requirements set out in the Act and the Regulations;
 - the draft charging schedule is supported by background documents containing appropriate available evidence;
 - the charging authority has undertaken an appropriate level of consultation;

¹ The Regulations have been updated through numerous statutory instruments since 2010, including notably the Community Infrastructure Levy (Amendment) (England)(No. 2) Regulations 2019, which came into force on 1 September 2019 (subject to a transitional arrangement in relation to Part 3 of the 2010 Regulations).

² The CIL section of the PPG was substantially updated on 1 September 2019 and further revised on 16 November 2020.

³ See PPG Reference ID: 25-040-20190901.

- the proposed rate or rates are informed by, and consistent with, the evidence on viability across the charging authority's area; and
 - evidence has been provided that shows the proposed rate or rates would not undermine the deliverability of the plan (see NPPF paragraph 34).
4. Following a consultation upon a Preliminary Draft Charging Schedule (2018), the Council undertook a public consultation on its Draft Charging Schedule from 1 February 2019 to 18 March 2019. A summary of the responses has been published.⁴ The Council subsequently consulted upon a Statement of Modifications (2021), from 4 June 2021 to 5 July 2021, which contained alterations to the Draft Charging Schedule following the earlier consultation and which clarified the applicability of the residential charging rate proposed. No subsequent responses were received during the consultation period. The Examination has been undertaken on the basis of the Draft Charging Schedule as modified and the written consultation representations submitted. With regard to the latter, there is no requirement or necessity to undertake a hearing.
 5. The Council previously adopted a CIL Charging Schedule, effective from 1 August 2013, to accompany the extant Development Plan. A new Havant Borough Local Plan (the submission Local Plan) has been submitted for Examination, which is ongoing in parallel to the Examination into the Draft Charging Schedule with a shared evidence base. I note that PPG Reference ID 25-012-20190901 states that "Where practical, there are benefits to undertaking infrastructure planning for the purpose of plan making and setting the levy at the same time. A charging authority may use a draft plan if they are proposing a joint examination of their relevant plan and their levy charging schedule". Whilst the two Examinations are ongoing in parallel rather than jointly, I am satisfied the approach in this instance reflects the spirit of the PPG advice and I see no statutory impediment to progressing the CIL Examination at this stage. The submission Local Plan is the relevant plan for the purposes of the CIL Examination.
 6. The adopted Charging Schedule is straightforward in its content. Rates are levied on certain types of residential development and at two different rates applicable to Emsworth/Hayling Island and the rest of the Borough. No levy applies to hotel, industrial or office development. A charge is applied to applicable retail developments located in edge of/out of town centre locations.
 7. The Council has decided to revise its existing Charging Schedule to reflect the passage of time, the emergence of the submission Local Plan and the associated evidence collated in respect of development, infrastructure requirements and viability within the Borough context.

⁴ View at: https://cdn.havant.gov.uk/public/documents/CIL_Draft_Charging_Schedule_Review_Summary_of_Responses.pdf

8. The new Draft Charging Schedule remains straightforward in its approach. It identifies three charging zones for clearly defined residential development with rates ranging from £0 to £149 (£/square metre (sq. m)) and £133 sq. m for retail warehousing and food stores over 280 sq. m outwith the defined Southleigh Strategic Site.
9. In summary the Council now propose the following:

Development Type	CIL Rate⁵ (£/sq. m)
Residential* (one dwelling or more):	
Emsworth (excluding Southleigh) and Hayling Island	£149
Havant (excluding Southleigh), Leigh Park and Waterlooville	£119
Southleigh Strategic Site*	£0
Retail	
Retail warehousing and food stores over 280 sq. m	£133
All other retail, and retail within Southleigh Strategic Site**	£0
All other uses	£0
<p>* Please note the residential rate excludes extra care housing, residential institutions, hotels & guesthouses, and holiday rental accommodation within holiday parks.</p> <p>** The extent of the Southleigh Strategic Site is shown on Maps 1 and 2 included in the Charging Schedule.</p>	

As noted above, the Southleigh Strategic Site and the charging zones are clearly defined by the Charging Schedule.

⁵ 2021 Rate with indexation applied in accordance with the Regulations.

Has the charging authority complied with the legislative requirements set out in the Act and the Regulations, including undertaking an appropriate level of consultation?

10. Regulation 13 of the Community Infrastructure Levy (Amendment) (England)(No. 2) Regulations 2019 ('the 2019 Regulations') provides a transitional arrangement, whereby Part 3 of the 2010 Regulations continues to apply in relation to a draft charging schedule which has been published in accordance with regulation 16(1) of the 2010 Regulations before 1 September 2019, as if the amendments in Regulation 3 (of the 2019 Regulations) had not been made. Given that the Draft Charging Schedule's Regulation 16 consultation took place prior to 1 September 2019, Part 3 of the Regulations continues to apply unamended. However, it should be noted that in all other respects, where relevant, the amendments made by the 2019 Regulations to the 2010 Regulations apply to this Examination.
11. Consultation on the Council's Preliminary Draft Charging Schedule occurred in 2018. The process and outcome are summarised in the Council's Statement of Consultation.⁶
12. Consultation on the Draft Charging Schedule subsequently occurred in February and March 2019. The process is summarised in the Council's Examination correspondence.⁷ The consultation involved the publication of the supporting documents and the relevant Draft Charging Schedule on its website, alerting subscribers to the Council's planning policy updates list, informing the statutory consultation bodies and through the publication of a notice in the local Hampshire Independent⁸, which included where the Draft Charging Schedule and supporting evidence were available for inspection and how responses could be made. In total there were three respondents to the consultation.
13. Modifications⁹ were made to the Draft Charging Schedule and consulted upon in June/July 2021, whereby no further responses were received.
14. The Charging Schedule complies with the Act and the Regulations, including in respect of the statutory processes and an appropriate level of public consultation, consistency with the adopted and submission Local Plan and the Infrastructure Delivery Plan (IDP), and is supported by an adequate financial appraisal. I also consider it compliant with the national policy and guidance contained in the NPPF and PPG respectively.

⁶ View at: <https://www.havant.gov.uk/premininary-cil-charging-schedule-consultation-responses-pdf-564-kb>

⁷ Letter to Examiner, dated 28 July 2021 (Council Ref 01/HBC/DCS/response) including 'Statement of Representations Procedure'.

⁸ Dated 1 February 2019.

⁹ View at: https://cdn.havant.gov.uk/public/documents/CIL_Draft_Charging_Schedule_Review_Statement_of_Modifications.pdf

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

Infrastructure planning evidence

15. The Draft Charging Schedule is supported and informed by a number of evidence documents. Of particular relevance¹⁰ are:

- Local Plan and CIL Viability Report;
- Local Plan and CIL Viability Report Appendices I – III;
- Local Plan and CIL Viability Supplementary Update Note;
- Infrastructure Delivery Plan (IDP);
- Havant Borough Local Plan (Submission Version) June 2021;
- Havant Borough Core Strategy 2011; and
- Havant Borough Local Plan (Allocations) 2014.

16. The submission Local Plan highlights the need for the effective provision of necessary infrastructure¹¹ in support of the proposed levels of development across the Borough. Policy IN1 establishes the intention for the Council to work with infrastructure providers to ensure the necessary levels of investment, for example in relation to transport improvements, coastal defences, flood risk, health and education. The submission Local Plan clearly states that the charging of CIL is designed to create a funding pot to assist with delivering key infrastructure requirements which will operate alongside the process of obtaining infrastructure and financial contributions via legal agreements such as S106 planning obligations and Section 278 highway agreements.

17. Whilst still subject to Examination, the submission Local Plan, through Policy DR1, provides for the delivery of about 10,733 net new homes and about 149,940 net square metres of employment floorspace across the Borough over the Plan period (2016-2037). The submission Local Plan identifies key projects for specific locations (Policies KP1–KP9), specific policies for commercial development including District Centres, and contains a range of specific development allocations at Emsworth, Havant & Bedhampton, Hayling Island, Leigh Park and Waterlooville.

18. The Council's IDP was prepared in 2020 and details the types of infrastructure that are identified as necessary to support the planned level of development for the Borough. Chapter 3 of the IDP indicates categories and types of infrastructure that will be required over the Local Plan period and those who are likely to contribute towards its provision. The IDP is based upon liaison with key infrastructure and developer partners and, whilst recognised as representative of a snapshot in time, it is a robust source of evidence which is intended to be updated on an iterative basis.

19. Appendix 2 of the IDP represents the anticipated 'solutions' to the identified

¹⁰ Available in part from the [Havant Local Plan Examination library](#)

¹¹ See submission Local Plan Chapter 4.

requirement for key infrastructure. It is presented in a tabular form which lists the categories and types of infrastructure required in specific parts of the Borough, who will be responsible for ensuring its delivery, when it may be required, how much it may cost and from where the funding may arise. Sources of funding vary and include contributions to be derived from S106 development obligations, developer finance, from Hampshire County Council alongside regional and national funds. It is clear from Appendix 2 that there are challenges to ensuring the timely provision of required infrastructure and this is not a matter of dispute. As far as currently practical on known projects, costs and funding sources, the Council has calculated¹² that the funding gap between infrastructure requirements and its provision is substantial (in excess of £27m). It is consequently apparent that the CIL is a relevant and necessary source of funding to mitigate risks to effective infrastructure provision, for example in relation to social and transport requirements. There is no contention as to the need for an appropriate CIL charge within the Borough.

20. In the light of the information provided and mindful of the extant CIL Charging Schedule, the proposed charge, to a modest extent, would make an appropriate contribution towards meeting the funding requirements for infrastructure. The infrastructure planning evidence demonstrates adequately the need to continue to charge a CIL.

Economic viability evidence

21. Dixon Searle Partnership (DSP) has produced viability evidence to support the Council's Local Plan and its Draft Charging Schedule. The 'Local Plan and CIL Viability Report, Final Report' was produced in January 2019 and is accompanied by a 'Supplementary Update Note' (May-June 2020) which, amongst other matters, also considers the issue of mitigation costs for achieving nutrient neutral forms of development. These documents, (referred to as the Viability Report) have regard to national policy and guidance in their methodology.
22. In summary, the viability evidence indicates that, on the assumption that the provision of affordable housing is prioritised by the Council and the Development Plan, then the continuation of a CIL is justified, as amended, to reflect current circumstances.
23. The viability evidence is appropriately based on the concept of residual land valuation (RLV) and undertakes viability assessments of site typologies with sensitivity testing of policy costs (including proportions of affordable housing, accessibility standards etc).
24. The evidence from DSP indicates that the Borough contains areas of different residential sales land values (VL). Havant Core, the NW suburbs and Waterlooville are identified as residing at the lower end of the market value range (VL1-3) whilst Purbrook, Stages, Horndean, Cowplain and Hayling Island are recorded with higher typical new build values (VL4-6).

¹² Examination correspondence dated 17 August 2021 (including Tables 1 and 2).

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'Upper end coastal properties', Emsworth and some rural areas are recorded with the highest values (VL7+). The uncontested data underpins the Council's decision to maintain two broad charging zones (excluding Southleigh) for the bulk of the Borough and for Emsworth/Haying Island.

25. In assessing viability, it is necessary to have regard to the type of development anticipated in the area. The use of typical anticipated development site types (typologies) rather than specific site examples is promoted by DSP and is an approach frequently used in CIL viability assessments. For residential development, DSP used typologies developed in liaison with the Council and with regard to other evidence sources such as the Strategic Housing Land Availability Assessment and housing need estimates. The development scenarios consequently tested, reflect a range of different types of development which were anticipated as likely to be brought forward through the planning process within the Borough. This is appropriate.
26. The typologies are referenced within the assumptions of the Viability Report (eg Figure 2 and Appendix 1). These include green field and previously developed land, a variety of site sizes, dwelling types and size mixes, such as flats and sheltered housing and also include mixed forms of development. Density assumptions fall within a range of 40-55 dwellings per hectare (dph) and 150 dph for flatted schemes in town centres. Specific and separate consideration has been given to large strategic sites.
27. Alongside the general testing of larger development typologies, DSP also undertook more specific high level viability testing of the key Southleigh strategic site (see submission Local Plan Policy KP5) which anticipates a mixed use development to deliver about 2,100 dwellings and associated infrastructure and facilities.
28. The assumptions within the Viability Report include costs for the policy provisions of the Local Plan, residual S106 costs for non-strategic sites and Solent mitigation costs. The typologies have been tested for affordable housing provision on non-strategic sites of 10+ homes at proportions of 20%, 30% and 40%. All assumptions are underpinned by uncontested data relating to build costs (based on BCIS indices¹³), Local Plan policy costs, fees/finance, contingencies and developer returns (20%). Whilst costs arising from S106 mitigation can, for example in relation to education requirements, exceed the assumed £3000, such costs are variable and not universally required on all sites. The Council proposes that education contributions will be secured on a case by case basis. It is therefore acceptable for the Viability Report to include a generic cost assumption for S106 requirements and I am mindful that the submission Local Plan enables bespoke site specific consideration of development viability, where necessary. Overall, the assumptions can be considered reasonable in the Havant Borough context.
29. In assessing how the CIL may affect the viability of development using a

¹³ Building Cost Information Service.

residual valuation approach the following data is required:

- the anticipated costs of development including profit and costs associated with planning policies but excluding land costs;
- end sales values in the locality, taking account of affordable housing. The difference between the cost and the value is the residual land value i.e. the amount of money available to purchase the development site; and
- an assessment of how much of any RLV could reasonably be used to pay a CIL charge. The CIL charge cannot be set at a level that would discourage a reasonable land owner from selling their land for development.

30. In relation to the cost of development, the 2019 work by DSP sets out the assumptions used in the viability assessments. These are detailed in Section 2 of the Viability Report. The Update Note takes account of the need for environmental mitigation costs, changes in house prices and development costs and refreshes the appraisal of the Southleigh Strategic site. The Update Note does not alter the overall Viability Report conclusions. Whilst the viability evidence makes broad assumptions as to the likely cost of S106 requirements, there is insufficient evidence to suggest that the assumptions are flawed and the conclusions drawn on development viability are reasonable. Overall, I find the evidence to be suitably robust for the purposes of the Draft Charging Schedule.

31. The Viability Report has assessed residential market values on the basis of national and regional data, evidence from previous viability work, Land Registry and Valuation Office data and property websites. The gathered data relates to both new build sold data and statistics for resales and is collated across particular settlement areas to indicate the variations across the Borough. Values ranged from £137,500 for a 1 bedroom flat in the Leigh Park area of the Borough to £585,000 for a 4 bedroom house located, for example, in certain rural pockets.

32. The Update Note reviews the residential market values and notes the Land Registry House Price index overview for sales in the Borough, which suggest price increases of around 5-6%. This increase broadly equates to the level anticipated by DSP in adopting an updated base/mid-level test assumption in the Viability Report. Whilst further viability appraisal of the preferred site typologies was undertaken as part of the Update Note with lower and higher VL figures, the original conclusions of the Viability Report are unaltered.

33. With regard to affordable housing, the Viability Report has had suitable regard to the NPPF and tested a range for potential affordable housing targets (0%-40%). Mindful of national policy that indicates affordable housing should only be secured on major schemes, the outputs of the Viability Report primarily focus upon affordable housing delivery on schemes of 10+ homes. This approach is reflected in submission Local Plan Policy H2.

34. The Viability Report assumes an affordable housing tenure mix of 70% affordable rented and 30% intermediate (shared ownership), albeit noting that the actual tenure mix at the point of application will be informed by contemporary data such as from the Strategic Housing Market Assessment. The submission Local Plan Policy H2 indicates a 66/33% split whilst indicating some flexibility in actual affordable housing provision dependent upon site circumstances. I consider the variance between the Viability Report assumptions and the submission Local Plan is evidentially immaterial to the veracity of the draft CIL rates. The Viability Report in conjunction with the Council's correspondence, indicates the approach taken towards affordable home ownership which, on the balance of evidence, enables local circumstances to be appropriately taken into account and for the purposes of the draft CIL is reasonable.
35. The Viability Report assesses affordable housing revenues on the basis that no grant or public subsidy will be available which is reasonable. The Study acknowledges that the value of affordable housing varies according to its nature, including how revenue income may be capitalised and what proportion of retained equity exists within any development. The transfer price of affordable housing is assumed to vary between 30% and 65% of market value and is dependent on the tenure, type and value level. The Study reasonably sets a cap for revenue income based on the Local Housing Allowance levels above which rents will not be set.
36. As regards commercial development, DSP refer to a number of sources for their research which are detailed in Appendix III of the Viability Report. These include the Council's Employment Land Review Study, the Valuation Office Agency, EGi and CoStar which provide contemporary data on commercial leases/rents throughout Havant Borough. The available data covers a range of commercial activity, including office, industrial, retail and non-domestic dwelling house uses. A range of annual rental values were assumed for a number of different development typologies across the Borough¹⁴ and tested against various trial CIL rates and anticipated yields. The outcomes are summarised in Appendix IIc.
37. The Viability Report assesses the RLV against a benchmark land value (BLV) to inform the assessment of viability headroom. The PPG is clear that BLV should be based on the principle of existing use value plus a premium (EUV+) to incentivise the owner of the site to release it for development. DSP have followed this approach in undertaking its comparison between RLV and BLV, established from existing experience, evidence and Government data¹⁵, whilst recognising the submission Local Plan development strategy across the Borough. DSP have applied a judgement based on the data and experience which assumes potential development viability would be secured at £250,000/ha (larger greenfield sites) but recognising that this is not a fixed figure and could be lower in practice. For

¹⁴ See Figure 6 Viability Study and Appendix IIc et al.

¹⁵ MHCLG Land value estimates for policy appraisal (May 2018 report issue).

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the purposes of the Viability Report DSP considered BLVs within a range of £100,000 for bulk greenfield land to £1.5m for commercial land and there is no contrary evidence to suggest such an approach is flawed or misplaced.

38. Overall, the Draft Charging Schedule is supported by detailed evidence of community infrastructure needs and is underpinned by a comprehensive viability assessment. On this basis, the evidence which has been used to inform the Charging Schedule is robust, proportionate and appropriate.

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

Residential development

39. Given the nature of the Borough and its development needs, a primary focus of the viability evidence relates to residential development which, based on the submission Local Plan, represents the greater proportion of proposed new development. Such an approach is reasonable. As noted above, the Viability Report uses a common methodology to assess viability in relation to a variety of residential site typologies.
40. As set out in paragraph 9, the Council proposes three separate residential charging rates. Excluding Southleigh, the costs of development are reasonably identified as being similar across the Borough, even whilst allowing for nutrient neutrality mitigation for the Solent, whilst I consider the benchmark and potential development values within the Viability Report to be realistic and based on adequate evidence.
41. Emsworth and Hayling Island are, based on the supporting evidence, reasonably identified as being areas of higher residential economic value than the remainder of the Borough, notwithstanding some variation in the latter.
42. The Viability Report, as shown within Appendix II, indicates the RLVs arising against the various tested development typologies on greenfield and previously developed land. This includes testing of varying affordable housing proportions and with various trial CIL rates. Whilst there is some variation in the RLVs within each value area depending upon the development typology used, e.g. flats in contrast to housing, overall, this data supports the conclusion contained within the Draft Charging Schedule that a higher CIL charge rate is justified in those higher value areas of the Borough but which would not maintain development viability elsewhere. The consequent maintenance of a separate charging zone for Emsworth and Hayling Island at the rate within the Draft Charging Schedule is justified.
43. In parallel, the data does not show sufficient discrete distinction for development typologies and viability in the remainder of the Borough which would warrant more than a single additional charging zone. Therefore, the approach taken by the Draft Charging Schedule is justified.

44. Southleigh is a key strategic site within the submission Local Plan. The Viability Report undertook a high level consideration of development viability within this site that assessed key factors, such as affordable housing (assumed at 30/40%) and various development cost assumptions which took into account the necessary new road junction and link (A27), increased allowances for sustainability and land costs. Whilst there is some variance in the likely surplus arising from the development, it is noted that generally the arising costs and viability of key strategic sites will invariably evolve as such sites move towards delivery, that S106 is an effective means to secure necessary infrastructure and mitigation and that an approach which identifies the Southleigh site as a nil charge zone is justified. Based on the available evidence, including the data in the Viability Report Appendix IIb, I find this approach is supported by the PPG and I agree.

Commercial rates

45. The Viability Report identifies that the most clearly viable forms of commercial development are larger retail units (above 280 sq. m) which can support CIL charging at rates of £100/sq. m which reflects the current CIL charge after indexation. The justification for setting retail floorspace thresholds is contained in the Viability Report and is acceptable.
46. However, the Viability Report also indicates that smaller retail units are less viable to support CIL and historic trends show few new retail developments have occurred within the Borough. DSP considers it '... highly possible that CIL charging could have a potentially detrimental effect on the viability of any new local shops provision'.¹⁶ There is no substantive reason to query the available data or conclusions and, consequently, the nil rate for such smaller developments is justified.
47. The Viability Report assesses the viability of office developments, industrial/warehousing development, hotels, care homes (Use Class C2) and student accommodation (eg see Viability Report Appendix IIc). The data does not support the scope to set a general CIL charge for any of these development types and therefore the Draft Charging Schedule is justified in this regard.

Has evidence been provided that shows the proposed rate or rates would not undermine the deliverability of the plan (see National Planning Policy Framework paragraph 34)?

48. The Council's decision for its differential charging zones is based on reasonable assumptions about development values and likely costs.
49. 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 Havant Borough. The Council has sought to be realistic in terms of achieving a reasonable level of income to address an

¹⁶ Viability Report paragraph 3.10.30.

acknowledged gap in infrastructure funding, while ensuring that a range of development remains viable across the Borough.

50. I consider the Viability Report and associated evidence to be robust. I conclude that the residential and commercial rates proposed would not undermine the deliverability of the relevant submission Local Plan. The proposed rates are therefore justified.

Overall Conclusion

51. I conclude that the draft Community Infrastructure Levy Charging Schedule satisfies the drafting requirements without the need for further modification. I recommend that the submitted Draft Charging Schedule be approved.

Andrew Seaman

Examiner