



The Planning
Inspectorate

Report to Fareham Borough Council

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an Examiner appointed by the Council

Date: 13 December 2012

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

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

Charging Schedule submitted for examination on 22nd November 2012

No Examination Hearings were held

File Ref: PINS/A1720/429/4

Non Technical Summary

This report concludes that the Fareham Borough Council 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.

I have recommended that the schedule should be approved in its published form, without changes.

Introduction

1. This report contains my assessment of the Fareham Borough Council 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 (Charge Setting and Charging Schedule Procedures – DCLG – March 2010).
2. To comply with the relevant legislation, the local charging authority has to submit what it considers to be 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 Borough. The basis for the examination, which took place through written representations, is the schedule submitted on 22nd November 2012, which is effectively the same as the document published for public consultation in July 2012.
3. The Council proposes different charges per square metre (psm) for different types of development, in summary for residential, care homes, hotels, comparison retail in named centres, all other retail, and all other development.

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

Infrastructure planning evidence

4. The Fareham Borough Council Core Strategy (CS) [EV6] was adopted in August 2011. In addition to a Strategic Development Area (SDA) to build a New Community North of Fareham, it aims to create 41,000 sqm additional employment floorspace and 3,729 new dwellings between 2006 and 2026 elsewhere in the Borough, with some expansion of Fareham Town Centre. Policy CS20 of the Core Strategy, Infrastructure and Development Contributions, refers to the future role of CIL, and the supporting text explains that development will be required to provide or contribute towards relevant and necessary infrastructure. Paragraph 6.39 lists the types of infrastructure which could be sought, and 6.40 refers to the Infrastructure Delivery Plan (IDP) [EV2].

5. Delivering the New Community North of Fareham is central to the development strategy for the Borough. Policy CS13 seeks a development of some 6,500-7,500 homes, up to 90,750 sqm employment floorspace, as well as retail and community uses. An Area Action Plan will take forward the scheme, and development is expected to begin in 2015-2016. As planning of the New Community is at a relatively early stage and the infrastructure requirements have not been set out in detail or quantified, the likely funding requirements are not included in the evidence base for this CIL. The Council has made clear that the current schedule is not intended to fund the likely substantial infrastructure requirements of the New Community. A forthcoming Regulation 123 list will demonstrate that the current CIL will be used to support development widely across the Borough.
6. The Council intends to review the CIL charging schedule to coincide with the final stages of preparation of the Area Action Plan for the New Community North of Fareham, the SDA [EV4, paragraphs 21-24]. It will use new evidence for the SDA to decide whether the North of Fareham area should have a different CIL rate from the remainder of the Borough. The SDA would have its own IDP but not an independent charging schedule. This approach, based on a single boroughwide schedule, is consistent with the CIL Regulations.
7. Winchester City Council observed that implementation of the SDA might necessitate infrastructure provision within its boundaries eg. land to provide new green infrastructure. It is important that the two Councils reach agreement as soon as possible on cross-boundary issues, but this need not hold back adoption of the current CIL schedule. I have seen no substantive evidence that plans and funding for phase 2a of a bus rapid transport scheme or other infrastructure which would serve the proposed new community, but potentially have wider benefits across the Borough or beyond, should hold up the current CIL schedule or require it to be amended.
8. The IDP, a supporting document for the adopted CS, was updated in July 2012 [EV2]. It has been informed by the strategies and investment plans of public and private sector organisations including local authorities and infrastructure providers. It shows that the costs of the required or proposed infrastructure, for which costs are currently known so excluding the SDA, exceed the known available funds. The funding gap for indicative infrastructure requirements is estimated to exceed £90 million. Assuming the proposed CIL rates, the amount of levy charged and collected over the plan period to 2026 was estimated to be around £9.7million [EV4, paragraph 30]. The proposed charge would therefore make a modest contribution towards filling the likely funding gap. These figures demonstrate the need to levy CIL.

Economic viability evidence

9. The Council commissioned an Economic Viability Assessment to support the CIL charging schedule [EV1, March 2012]. The assessment by Roger Tym & Partners (RT&P) used a residual valuation method, in line with common practice and as recommended by RICS guidance. Residual valuation was applied to different land use or development types, and where relevant to different parts of the Borough, to give typical residual values for each. These were then compared with benchmark values, being the minimal land value the owner would accept to release the land for the relevant type of development.

If the residual value is above the benchmark value, development would be viable. The excess value is described as overage, and represents the maximum amount that could potentially be captured as CIL.

10. For a number of reasons, RT&P recommended levels of CIL rates substantially below the viability "ceilings" for each type of development and relevant area. In summary the reasons were (i) costs and values are likely to vary over time and between individual sites; (ii) site-specific issues may adversely affect costs and values, with development of some sites having significant abnormal costs; (iii) broad development appraisals as adopted invariably involve a margin of error. This approach, selecting rates well below the viability ceiling, is consistent with CIL regulation 14, seeking an appropriate balance between the desirability of funding infrastructure from CIL and the potential effects of its imposition on the economic viability of development across the area.

Conclusion

11. The draft charging schedule is supported by detailed evidence of community infrastructure needs in the CS and IDP, and by a recent economic viability assessment. The evidence which has been used to inform the charging schedule is robust, proportionate and appropriate.

Is the charging rate informed by and consistent with the evidence?

CIL rates for residential development within Classes C3(a)&(c) and C4

12. The Council proposes a CIL rate of £105 per square metre for residential development across the Borough, in line with RT&P's recommendation. Their assessment found that there would be little variation in viability across Fareham's development sites, and it could be difficult to define the boundaries for zones if varied rates for geographical areas were sought. Appraisals were carried out for hypothetical schemes with varying numbers of houses or flats, and with different levels of affordable housing (0-40%). The overage ranged from £120 to £426 psm, so that it was above £105 psm in all cases. There is no evidence that the imposition of CIL would undermine the effectiveness of Policy CS18 of the Core Strategy seeking 30% or 40% affordable housing on eligible sites. CIL would be levied on the gross internal area of development in line with regulation 40 of the CIL Regulations, 2010. The residential charging rate would be the same as proposed by neighbouring Councils in Portsmouth, Southampton and Havant. It would be appropriate for Fareham.

CIL rates for care homes within Classes C3(b) and C2

13. The schedule departs from the original recommendations of RT&P in respect of care homes, seeking £60 instead of £105 psm. Following consultation on the Preliminary Draft Schedule which had proposed £105 psm, the consultants undertook further viability work, of greater detail and to include "extra care" development. The results indicated overage of £82 psm [EV1 & EV4]. The summary appraisal is based on a development of 3,000 sqm gross or 2,550 net floorspace. Net figures are used to calculate income and gross to estimate costs, which seems reasonable and consistent with the approach for flatted developments.

14. The County Council advised that the concept of "extra care" housing is defined by the Department of Health as "purpose-built accommodation in which varying amounts of care and support can be offered where some services are shared". This does not provide a sufficiently precise basis for defining a separate type of development with a different charging rate. Insufficient evidence has been put forward to demonstrate that £60 psm, representing less than 3% of total scheme costs, would make the provision of care homes unviable or would be inappropriate.
15. Other relevant considerations are that affordable housing and development by charities for charitable purposes are exempt from CIL charges. The schedule makes clear that only care homes within use classes C3(b) and C2 will be liable to CIL charges. The charge will not extend to all C2 developments such as hospitals or residential schools. The viability assessment looked separately at health/medical facilities, along with schools, emergency services and other community facilities and found in most cases that there would not be a positive overage. Hence, the Council concluded that the development of public services and community facilities should not be subject to CIL. Having regard to all these factors, the charge rate for care homes appears reasonable and unlikely to put at risk the Borough's need to provide for an ageing population.

Retail within Class A1

16. The schedule includes a charge of £0 psm for comparison retail in the town centre, two district centres and seven local centres, as defined on accompanying maps. For all other retail development, a charge of £120 psm would apply. The concepts of comparison and convenience goods are well-established in planning and the Government's Planning for Town Centres includes relevant definitions. The definition for comparison goods' expenditure there closely resembles the one given in the footnotes to the CIL schedule. Major retailers when promoting developments commonly distinguish expenditure on comparison and convenience goods, and prepare separate forecasts of capacity and floorspace. Similarly, most shoppers distinguish "weekly food shopping" or "top up shopping" from comparison shopping for non-food items, usually undertaken on a less frequent basis.
17. The footnotes also explain that a unit will be considered as comparison retailing if that use occupies more than 50% of the gross retail area. These notes and the maps, with the reference to A1 use only, eliminate ambiguity about application of the rates and also avoid undue complexity. Even if there is a minor discrepancy in the boundary of the Titchfield Local Centre, this would not render the CIL rates unrealistic.
18. The viability assessment showed significant differences in the results for retailing of different types and area, reinforcing my conclusion that the Council's distinction between the types of development and locations is appropriate. The viability assessment found that comparison retail development would be marginally viable in Fareham Town Centre and unviable in the two district centres, without CIL charges. By contrast, large out-of-centre, comparison retail warehousing and convenience retailing in larger supermarkets and superstores would give rise to substantial overage, £270 - 310 psm. No other appropriate evidence has been made available to contradict these figures.

19. Small shops would not be viable to build, but most new small businesses would be likely to occupy second-hand premises. If provided in a mixed use development, small shops could be cross-subsidised by more profitable uses. Hence, the proposed CIL charges would be unlikely to put at risk new smallscale retail development. I conclude that the approach to retail development is justified by the viability evidence, and the proposed rates are reasonable.

Hotels within Use Class C1 and other development

20. Hotels would attract a charge rate of £35 psm, which appears reasonable from the viability assessment. This indicated that a three-star 'budget' hotel in an out-of-town, business park location would be likely to give overage of £69 sqm. Offices, industry and warehousing, public service and community facilities and gyms were also covered in the viability assessment. Zero rates are proposed for these in line with the economic analysis. I see no reason to look at prospective sport and leisure development in more detail, and am satisfied that all the types of development likely to contribute to delivery of the CS have been properly considered. Reasonable rates have been put forward.

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

21. English Heritage cautioned that the Council should be aware of the implications of any CIL rate on development planned to achieve the viability and effective conservation of the historic environment and heritage assets. No substantive evidence, however, for amending the schedule to include a category of heritage assets which could include listed buildings has been put forward. There is no indication that such development proposals would fall into a particular 'development type' or 'zone', so the schedule could not be expected to address such assets directly. It has not been demonstrated that the schedule would put at risk the Borough's historic environment or heritage assets.
22. The Council's proposed charging rates are based on reasonable assumptions about development values and likely costs. The evidence suggests that residential, retail and other development will remain viable across most of the area if the charge is applied. There is scant evidence that overall development in the Borough would be put at risk.

Other Matters and Overall Conclusion

23. The representations included a number of comments concerning the management and implementation of CIL. These principally related to (i) the perceived need for an instalments policy enabling payments to be phased with development and occupation, (ii) clarification as to whether and when the Council would grant relief from CIL in exceptional circumstances, and (iii) how CIL receipts would be spent. The first two are discretionary matters for the Council, outside the scope of this examination, although the possibility of their introduction alongside adoption of the schedule is raised in the evidence [EV4, paragraph 10 onwards]. The Council also declared its intention to publish a Regulation 123 list of the infrastructure projects or types that it intends to fund with the receipts from CIL. This could assist developers who may be

submitting S106 planning obligations and seek to avoid being doubly charged. However, this is not a matter for the current examination, and I make no further comment on it.

24. 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 Fareham. The Council has sought 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 Borough. The Fareham Borough Council Core Strategy was adopted just over 12 months ago, and the North Fareham SDA Area Action Plan is in the course of preparation. It would be appropriate to consider a revision to the charge when that Plan comes forward for examination, as the Council intends.

LEGAL REQUIREMENTS	
National Policy/Guidance	The Charging Schedule complies with national policy and guidance in respect of CIL.
2008 Planning Act and 2010 Regulations (as amended 2011)	The Charging Schedule complies with the Act and the Regulations, including in respect of the statutory processes and public consultation, consistency with the adopted Core Strategy and Infrastructure Delivery Plan, and is supported by an adequate economic viability assessment.

25. I conclude that the Fareham Borough Council 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 2011). I therefore recommend that the Charging Schedule be approved.

Jill Kingaby

Examiner