The Planning Inspectorate

Report to Cotswold District Council

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an Examiner appointed by the Council

Date: 5th June 2018

Planning Act 2008 (as amended)

Section 212(2)

Report on the Examination of the Cotswold District Community Infrastructure Levy Draft Charging Schedule

The Draft Charging Schedule was submitted for examination on 7 July 2017

The examination hearing was held on 5 December 2017

File Ref: PINS/F1610/429/1

Non Technical Summary

This report concludes that the *Cotswold District 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 proposed charging rates will not put the overall development of the area at risk.

Introduction

1. This report contains my assessment of the *Cotswold District Community Infrastructure Levy Draft Charging Schedule*[1] 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 policy and guidance[2].

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 area. The basis for the examination, on which a hearing was held on 5 December 2017, is the schedule dated October 2016[3].

3. The schedule sets out a charge rate of £80 per square metre ("psm") for all residential development, including sheltered housing and extra-care housing, in all parts of the district other than on a strategic site at Chesterton, Cirencester which is subject to a zero rate. Retail development is subject to a £60 psm charge in all parts of the district. All other development is zero rated.

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

Infrastructure Planning Evidence

4. The draft charging schedule was prepared and submitted for examination alongside the *Cotswold District Local Plan 2011-2031* ("the Plan") which I have found sound provided that a number of main modifications are made.

5. The Plan (as modified) seeks to meet identified needs for housing, economic, retail and other development between 2011 and 2031 by focussing on Cirencester and other identified Principal Settlements in the district. Nearly 10,000 new homes are expected to be built in the plan period. Over 6,000 dwellings have either been completed since 2011 or had planning permission on 1 April 2017. A large proportion of the remaining dwellings to be built between 2017 and 2031 are to be provided on the strategic site at Chesterton, Cirencester (1,800 dwellings by 2031). A total of 26 other sites are allocated for residential development in the Principal Settlements with a total capacity of nearly 600 dwellings. In addition, the Plan assumes that around 1,200 dwellings will be built on windfall sites between 2017 and 2031 in accordance with relevant policies including DS2 and DS3.

6. There is an identified need for an additional 400 square metres ("sqm") of convenience and 2,100 sqm of comparison goods floorspace in Cirencester by 2031. The Plan contains proposals to accommodate this in Cirencester and in a new neighbourhood centre on the Chesterton strategic site.

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[1] CIL001. Hereafter referred to as "the draft charging schedule" or "schedule".
[2] *The National Planning Policy Framework* (NPPF) and *Planning Practice Guidance* (PPG) ID-10 and ID-25.
[3] CIL001.

7. Policy S2 identifies specific infrastructure requirements for the Chesterton strategic site, and policies SA1, SA2 and SA3 identify strategic infrastructure proposals that are required to support all of the housing and other development proposed in the Plan. Policies S4 to S19 specify a number of local infrastructure projects in some of the Principal Settlements. Policy INF1 sets the framework for how infrastructure will be delivered, including through CIL, planning obligations and other means. Policy INF2 deals with the provision of social and community infrastructure, including that required as a consequence of development.

8. The infrastructure proposals in the Plan are based on *the Cotswold District Infrastructure Delivery Plan Update 2016* ("IDP")[4]*.* The projects deemed necessary to facilitate delivery of the Plan as set out in policies SA1, SA2 and SA3 are estimated to cost around £16.4 million[5]. These costs are in addition to those for the infrastructure required for the Chesterton strategic site identified in policy S2 which were estimated in 2016 to cost around £32 million, although more recent analysis suggests that the figure for that site could be significantly higher[6]. All of the infrastructure required for the strategic site is proposed to be funded through section 106 contributions rather than CIL.

9. Only around £100,000 of committed funding has been identified for the essential infrastructure included in polices SA1, SA2 and SA3 meaning that there is a funding gap of around £16.3 million. £10.4 million is estimated to be required for education infrastructure projects; £3.8 million for transport; £1.2 million for healthcare; and £0.9 million for flood risk management[7].

10. The Regulation 123 list[8] sets out a limited number of specific infrastructure projects that the Council intends to use CIL receipts to help fund, all of which are amongst those included in policies SA1, SA2 and SA3 of the Plan. The list includes seven schemes to improve parts of the strategic road network; two projects to manage flood risk; the expansion of a secondary school; and the creation of a cycle route along a disused railway line.

11. As a large proportion of the housing development proposed in the Plan has either been built or has planning permission, or will be provided on the Chesterton strategic site where a zero CIL charge is proposed, only a relatively modest amount of CIL income is expected to be generated during the plan period. The Council estimates that residential development on the allocated sites and on windfalls could yield a total of around £6.4 million in CIL receipts, and only a limited amount of CIL income is likely to come from retail development[9]. Some of the income would be used to cover administration costs, and a proportion would be likely to be handed over to parish and town councils to help fund local infrastructure projects including those set out in policies S4 to S19. Therefore, around £5 million of CIL receipts are expected to be available to help fund the essential strategic infrastructure included on

[4] CIL006.
[5] Figure 3 in *Funding Gap Analysis* (May 2017) [CIL011]
[6] CDC and Bathurst Development Limited responses to CIL examination questions 16 and 16A (November 2017).
[7] CDC response to CIL SQs [CED07] dated 24 November 2017.
[8] *CIL Draft Regulation 123 List* (October 2016) [CIL004].
[9] CIL011.

the Regulation 123 list.

Conclusion about the Infrastructure Planning Evidence

12. I therefore conclude that the draft charging schedule is consistent with the infrastructure planning evidence and the Plan. The proposed charging rates could make a contribution of around £5 million towards bridging the likely funding gap of around £16 million for infrastructure identified in the Plan (in addition to that needed to deliver the Chesterton strategic site). The figures demonstrate the need to levy CIL.

Economic Viability Evidence

The Approach to Assessing Viability

13. The *Whole Plan and CIL Viability Assessment* (April 2016) and *CIL Post PCDS Update* (October 2016) [10] ("VA") adopt a residual appraisal approach whereby the residual land value (the gross development value minus all of the costs associated with development including a profit for the developer) is compared with a threshold value representing the competitive return that a willing landowner would be likely to expect in order to sell their land. If the residual land value exceeds the threshold value then there is the potential to charge CIL whilst maintaining the viability of the development. The maximum potential for CIL depends on the extent of the difference between the residual and threshold values. On the other hand, if the residual value is at or below the threshold value the development is not viable and there is no potential for CIL.

14. In addition to comparing residual and threshold land values, the VA also assesses the likely impact of CIL on viability by calculating the proposed charge rate as a percentage of (a) residual land value and (b) gross development value. The former illustrates the likely fall in the price that landowners would receive for their land, and the latter gives an indication of the significance of the charge in the context of the overall value of the development.

15. As with any study such as this, the outputs that it produces are a result of the inputs. In other words, the assumptions about the various costs and values of development, and the threshold land value, are all critical to determining the conclusions made about viability. Some of these assumptions have been challenged by representors. However, testing the viability of development across an area is not an exact science[11]. What is important is that the available evidence used is robust, reflects local market conditions, and provides an appropriate broad assessment[12].

Residential Development Typologies

16. In addition to the Chesterton strategic site, the VA assessed 12 different types

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[10] CIL008 and CIL009.
[11] *Viability Testing Local Plans: Advice for Planning Practitioners* (Local Housing Delivery Group chaired by Sir John Harman, June 2012) page 18.
[12] PPG ID-10-012 and 013.

of residential development site. These varied in size from 3 dwellings to 75 dwellings, and included a mixture of brownfield and greenfield sites. Dwelling types and densities were assumed to be in accordance with relevant policies in the Plan. They are representative of the housing sites allocated in the Plan, and also of most of the development that is expected to come forward on windfall sites as the majority are likely to comprise fewer than 10 dwellings[13].

Residential Development Values

17. The values of residential developments assumed in the VA are derived from actual prices for new build properties recorded by the Land Registry and floor areas taken from the EPC register, having regard to a range of information about property prices in the district and wider housing market area[14]. Whilst development values will clearly vary between different parts of the district, there is no clear and distinctive geographical pattern that indicates that it is necessary to carry out further viability assessment or introduce differential rates on a sub area basis. The assumed development values of £3,100 psm to £3,250 psm for estate housing are broadly consistent with the available market evidence which indicates that median values are between £3,000 and £3,500 psm in most settlements, and that the median (and average) value for the district is around £3,200 psm[15].

Residential Development Costs

18. The construction costs assumed in the VA are based on Building Cost Information Service ("BCIS") data for Gloucestershire, with upward adjustments made for small sites and increased environmental standards[16]. Whilst policy EN2 and the Cotswold Design Code aim for high quality design, which may involve the use of natural stone in sensitive locations, there is no substantive evidence available to demonstrate that build costs will be significantly higher as a consequence of this. The amount of natural stone required in most developments is expected to be limited, it being likely to be mixed with other materials including rendered blockwork, brick and timber, and the costs of such an approach are likely to be largely reflected in the BCIS data used.

19. The VA assumes developer profits of 20% for all developments, including those that incorporate 40% affordable housing. This represents an average return that is unlikely to deter development interest in the vast majority of sites in the district, particularly bearing in mind the strength of the housing market and the evidence that planning permissions invariably get implemented quickly.

20. The VA assumptions about other development costs including external works, contingencies, marketing, fees and finance have not been seriously challenged and I am satisfied that they are all reasonable based on the available evidence.

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13 Paragraphs 3.17 and 3.19 and Appendix 4 of *Housing Land Supply Report 2017* [ED046].
14 CIL008 section 4.
15 Table and graph on page 6 of CIL009.
16 CIL008 paragraphs 7.2 to 7.8.

21. The VA assumes that Plan requirements relating to affordable housing provision (policies H2, H3 and H4), minimum space standards (policy H1), and the provision of custom and self build plots on developments comprising more than 20 dwellings (policy H1) will all be complied with. With regard to the latter, policy H1 includes flexibility to ensure that plots will only be required when there is evidence of demand and a cascade mechanism to ensure that plots are not held back unduly if the demand does not materialise. Thus, whilst the assumed plot price of £150,000 is based on individual schemes rather than parts of larger developments and therefore may not be directly comparable with those brought forward in accordance with policy H1, I am not persuaded that this policy requirement is likely to have a significantly greater impact on viability than assumed in the VA.

22. Financial contributions made through section 106 planning obligations have averaged nearly £5,000 per dwelling in the district since 2010, whereas the VA assumes that this will drop to £2,000 following the introduction of CIL. Whilst CIL is intended to partially replace such contributions, some such costs are likely to continue to be significant for some residential developments. This is due to the fact that the Regulation 123 list has a limited number of specific projects on it; there are additional strategic projects included in policies SA1, SA2 and SA3 that developments are expected to contribute towards; and there are likely to be more localised infrastructure improvements, for example road improvements and education provision, that are required to make residential development on some sites acceptable in planning terms in accordance with Plan policy INF1. However, it is also relevant to note that most of the housing development other than at Chesterton is expected to be on small sites which are less likely to require costly on or off site infrastructure.

23. It would, therefore, be more reasonable to assume that financial contributions through planning obligations will be in the region of £3,000 to £3,500 per dwelling rather than £2,000 assumed in the VA. This would represent a reduction of between 30% and 40% compared to financial contributions made in the past which I can consider to be reasonable in the context of the infrastructure requirements set out in the Plan, the legal limit on pooling contributions, the content of the regulation 123 list, and the size of sites likely to be developed.

Threshold Land Values

24. The VA assumes that willing owners would expect to receive slightly over £0.5 million per hectare for their land in order to sell it for residential development. For greenfield sites this is on the basis that this would represent a substantial increase over prices typically paid for land for agricultural or paddock uses, and for brownfield sites it is based on an uplift of 20% on the existing use value[17].

25. There is no substantive evidence before me to indicate that the existing use values assumed in the VA are unreasonable. However, whilst it is reasonable

[17] CIL008 paragraphs 6.35 and 6.39; Tables 10.2 onward show the threshold land values being between £505,000 and £540,000 per hectare depending on the size of the site and whether it is greenfield or brownfield.

to assume that the introduction of CIL and different policy requirements in an adopted local plan could lead to some reduction in land prices, it is important to consider the notional threshold land values of just over £0.5 million per hectare in the context of relevant market evidence[18].

26. The VA refers to a number of local option agreements for residential development land being in the range of £0.63 to £0.78 million per hectare, although consultees indicated that they would more typically be £0.5 to £0.62 million per hectare[19]. Since the VA was undertaken further evidence of the prices actually paid for residential development land in the district in recent years has become available. This shows that prices paid varied considerably, from under £30,000 per hectare to over £2.5 million per hectare. The average paid was a little over £1.1 million per hectare, or £0.9 million per hectare if the two highest prices are excluded[20]. As the two highest prices were more than double the average price paid and well in excess of the prices included in option agreements, I consider that it is appropriate to disregard these as being significantly above the market norm[21].

27. In light of the above evidence about land prices, and the strength of the housing market in the district, I regard the threshold land value of just over £0.5 million to be unrealistically low. The VA advises that it would be prudent to set CIL at a rate that does not result in a fall in land prices of greater than 25% or so[22]. In order to ensure that the combined impact of the introduction of CIL and the different policy requirements in the Plan do not result in landowners becoming unwilling to sell their land for residential development I consider it necessary to assume a threshold land value of £0.7 million. This figure is slightly above £0.9 million minus 25%, and within the range included in the local option agreements referred to in the VA.

Strategic Site south of Chesterton, Cirencester

28. The VA includes a separate assessment of the residential development proposed on the Chesterton strategic site that takes account of the significant infrastructure improvements and provision that is to be funded by the developer through section 106 planning obligations. Further viability work has subsequently been carried out in support of an outline planning application. Both of these assessments indicate that the mixed use scheme and infrastructure proposed in policy S2 would only be likely to be delivered if the housing development were subject to a zero CIL charge. There is no substantive evidence to lead me to a different conclusion.

Conclusion on Economic Viability Evidence for Residential Development

29. In summary, therefore, I conclude that in most respects the VA makes reasonable assumptions about the costs and values of residential development. However, I consider that it would be more reasonable to assume that section 106 financial contributions will be between £3,000 and

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18 PPG ID-10-014.
19 CIL008 paragraph 6.37.
20 CIL009 page 11.
21 PPG ID-10-014.
22 CIL008 paragraph 13.68.

£3,500 per dwelling following the introduction of CIL (rather than £2,000 per dwelling assumed in the VA). Furthermore, I consider that a threshold land value of £0.7 million should be applied. Both of these adjustments reflect significant evidence that has become available since the VA was carried out.

Economic Viability Evidence for Non-Residential Development

30. The VA considered various types of non-residential development that could reasonably be expected to take place in the district in the context of relevant policies in the Plan. These included offices, industry, storage and distribution, retail and hotels. None of the assumptions made about the costs or values of these types of development has been challenged, and I am satisfied that the VA provides an appropriate basis for determining CIL charging rates for these uses.

Conclusion about the Economic Viability Evidence

31. The draft charging schedule is supported by economic viability evidence about all forms of development that are likely to come forward in the district in accordance with the Plan. For the reasons set out above, I am satisfied that the evidence which has been used to inform the draft charging schedule is robust, proportionate and appropriate other than with regard to the assumptions made about section 106 financial contributions and threshold land values.

Are the charging rates informed by and consistent with the evidence?

CIL Rates for Residential Development

32. The VA shows that the proposed charge rate of £80 psm for all residential development other than on the Chesterton strategic site would maintain the viability of all types of site modelled with the exception of large greenfield sites of 75 dwellings. However, if the cost of planning obligations is assumed to be £3,000 to £3,500 per dwelling and a threshold land value of £0.7 million per hectare is assumed as I have already concluded should be the case, then greenfield sites of 30 or more dwellings would be made unviable according to the VA model[23].

33. However, the £80 psm charge would represent only around 2% of the gross development value of medium and large greenfield sites and less than that for other types of site. This is less than the amount set aside for contingencies and suggests that the proposed charge is unlikely to be determinative of viability even in the case of medium and large greenfield sites.

34. Furthermore, the Plan identifies opportunities for a total of nearly 10,000 dwellings over the plan period, including nearly 7,000 from 2017 onward. Other than at Chesterton, only around 360 dwellings are assumed to be delivered on allocated greenfield sites of over 30 dwellings from 2017 onward[24]. Given the policies relating to residential development outside settlements, greenfield windfall developments of over 30 dwellings are not

[23] HDH letter 10 December 2017 [CED10].
[24] CED10.

expected to make any significant contribution to meeting housing needs.

35. The VA shows that the £80 psm charge for sheltered and extra care housing would be unlikely to affect viability[25], and this would remain the case even if a threshold land value of £0.7 million were applied to those forms of development.

36. I am satisfied, therefore, that the proposed residential charging rates are informed by and consistent with the viability evidence.

CIL Rates for Retail Development

37. The VA shows that the proposed charge rate of £60 psm would maintain the viability of all forms of retail development other than large supermarkets. The identified need for additional floorspace for convenience shopping is only 400 sqm, and therefore no new large supermarkets are proposed in the Plan or likely to be required during the plan period.

38. The CIL charge of £60 psm would apply to retail development on the Chesterton strategic site as well as elsewhere in the district. Policy S2 proposes a "neighbourhood centre" at Chesterton, and paragraph 7.1.1.2.9 advises that this will include convenience shopping and service uses although the scale and format of commercial units (A1-A5) will be restricted so that they primarily serve the day to day needs of local residents rather than a wider catchment in order to protect the vitality and viability of Cirencester town centre. Whilst this retail development is an integral part of the overall mixed use development which, as a whole, will need to fund the substantial infrastructure required to support it, there is no viability evidence available to indicate that if the CIL charge for retail were applied it would render either the commercial units or the development as a whole unviable. The amount of retail floorspace is likely to represent only a very small proportion of the overall scheme, and I am advised that the viability assessment provided in support of the outline planning application factors in the CIL retail charge and concludes that particular scheme to be viable.

39. I am therefore satisfied that the charge rate of £60 psm for retail development in all parts of the district, including on the Chesterton strategic site, is informed by and consistent with the evidence.

CIL Rates for other Types of Development

40. The VA shows that all of the other types of development assessed would not be viable with a CIL charge. A zero rate is, therefore, informed by and consistent with the evidence.

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

41. Other than where I have already indicated, the Council's decision to set the charge rates for residential and retail development is based on reasonable assumptions about development values and likely costs including those

[25] CIL008 Table 13.8.

associated with policy requirements in the Plan. Whilst the evidence indicates that the viability of residential development on medium and large greenfield sites and large supermarkets could potentially be compromised, the vast majority of development proposed in the Plan is expected to remain viable. It is highly unlikely, therefore, that the proposed charging rates would put the overall development of the area at serious risk.

Legal Requirements

42. The requirements of the 2008 Planning Act and 2010 CIL Regulations (as amended), including in respect of the statutory processes and public consultation, financial appraisal, and consistency with the development plan, have been complied with, and the draft charging schedule is consistent with national policy and guidance.

Conclusion

43. In setting the CIL charging rates the Council has had regard to evidence on infrastructure planning and the economic viability of development in the district as proposed in the Plan which has been examined jointly with the CIL charging schedule and been found sound subject to main modifications being made. The Council has been realistic in terms of achieving a reasonable level of income to address an identified gap in funding for infrastructure, whilst ensuring that the vast majority of development remains viable.

44. The proposed charging rates strike an appropriate balance between the desirability of using CIL to contribute towards funding necessary infrastructure and the potential effects (taken as a whole) on the economic viability of development in the district.

45. I therefore conclude that the *Cotswold District 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 charging schedule be approved.

William Fieldhouse
Examiner