



**THE EXAMINATION OF THE DRAFT NORTH DORSET COMMUNITY
INFRASTRUCTURE LEVY CHARGING SCHEDULE**

PLANNING ACT 2008 (AS AMENDED)
SECTION 212(2)

Report to North Dorset District Council

by Terrence Kemmann-Lane JP DipTP FRTPI MCMI
an Examiner appointed by the Council

Charging Schedule submitted for examination on 10 October 2016

Examination hearing held on 24 November 2016
Report date: 20 December 2016

Non Technical Summary

This report concludes that the North Dorset District Council Community Infrastructure Levy Charging Schedule, subject to the modification that I recommend, 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.

One modification is needed to meet the statutory requirements. This can be summarised as follows:

- Modify the zoning maps for retail charge rates (Figures 6 to 9 in Appendix B, to the Draft Charging Schedule), substituting the Prime Shopping Areas from the Nathaniel Lichfield and Partners report 'Joint Retail Assessment 2008', for the zone boundaries in the submitted Appendix B.

The specified modification recommended in this report is based on matters discussed during the public hearing and does not alter the basis of the Council's overall approach or the appropriate balance achieved.

Introduction

1. This report contains my assessment of the North Dorset District Council (NDDC) Community Infrastructure Levy (CIL) Draft Charging Schedule (DCS) 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 (DCLG Guidance on the Community Infrastructure Levy).
2. To comply with the relevant legislation the local charging authority has to submit a charging schedule that 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 is the schedule submitted on 10 October 2016. This had been subject to public consultation between 17 June 2016 and 29 July 2016. Examination hearings were held on 24 November 2016.
3. The Council proposes a matrix approach to charging. As set out in the following table:

Zone	Rate
Residential development within Shaftsbury Residential development within Blandford Residential development within Sturminster Newton Residential development within Gillingham (with the exception of the Strategic Site Allocation) These charging zones are set out on maps in Appendix B of the Draft CIL Charging Schedule	£30 per sq m.
Gillingham Strategic Site Allocation This charging zone is set out in Appendix B of the Draft CIL Charging Schedule	Nil Rate
Residential development within rural areas (outside the four main settlements set out above)	£45 per sq m.
Residential flatted developments	Nil Rate
Retirement properties (often referred to as sheltered housing)	£30 per sq m.
Extra care properties and care homes (often referred to as assisted living)	Nil Rate
Retail development outside the town centre boundaries and Gillingham Strategic Site Allocation	£70 per sq m.
All other forms of non-residential floorspace	Nil Rate

Is the supporting documentation adequate to justify the imposition of CIL in North Dorset District?

Does the Infrastructure Delivery Plan support the introduction of CIL?

4. The North Dorset Local Plan Part 1 (NDLP1) was adopted in January 2016. This sets out the main elements of growth that will need to be supported by further infrastructure in the District between 2011 and 2031. In November 2014 an Infrastructure Delivery Plan (IDP) was published to support the preparation of the NDLP1
5. The IDP sets out the infrastructure needed to enable the development proposed in the NDLP1 to be delivered, how much it will cost and who will deliver it. The main purpose of the document is to set out the basic infrastructure requirements of new developments in the District until 2026. It covers the requirements for

transportation, utilities, waste, drainage, public realm, education, health, emergency services, culture, sport and recreation, community, amenity and environment. Appendix B to the IDP contains a schedule of infrastructure currently programmed/needed to support new development. Among other things, it sets out the cost, if known, funding secured and the funding gap. It is the Council's intention that the IDP will be updated periodically when new information is made available. I consider that the IDP provides a satisfactory basis for identifying the funding gap for key infrastructure over the period to 2026.

6. Submission document SUB.07 'Infrastructure Funding Gap' includes Table 1: Key Infrastructure Costs and Funding Gap that summarises the situation using the broad headings that I mention above. It shows that there is a total estimated cost of £110.018m, estimated funding from existing sources of £15.503m, and an anticipated gap of £94.515m (all figures rounded). The IDP also identifies 'critical infrastructure' as "that which is required to deliver the development without adverse impact". For critical infrastructure the Funding Gap is of the order of £66.931m.
7. The projected CIL income is set out in the document Submission Statement SUB.08 'Section 106, CIL and Affordable Housing'. This document sets out that between 1998 and 2011 the Council operated a tariff-based scheme under s106 of the Town and Country Planning Act 1990 (as amended), based on developer contributions towards the provision of community infrastructure. This scheme ended when, among other things, the Council decided to move to the collection of CIL and the need to stimulate development in a time of significant economic downturn. Table 2: Value of Section 106 Contributions Received 2001 – 2011 (excluding affordable housing) shows that the total receipts during this period was £6.863m (rounded).
8. Based primarily on the NDLP1 spatial distribution of housing development between 2011 and 2031 and the CIL rates set out in the DCS, the Council has projected possible CIL receipts in the order of £4.5m to 2031. This calculation adopts the important assumption that the affordable housing numbers embodied in NDLP1, including starter homes and other categories of low cost housing, will be achieved over the plan period. Table 5 (the second Table '5' in the document), which gives a likely comparison between the tariff based s106 system and CIL, indicates that the average contribution per dwelling under the former system of £1,884 may reduce to £1,698 under CIL. The NDLP1 policy for affordable housing seeks 25% in Gillingham and Sturminster Newton, 30% in Shaftesbury and Blandford Forum and 40% elsewhere: the figures for the period 2010 – 2015 show that an average of 44% was achieved. The policy percentages are allowed for in the viability studies. I therefore agree with the Council that the implementation of CIL is not likely to have a detrimental impact of the delivery of affordable housing in the District.
9. I am satisfied that the IDP reflects the requirements of the current development plan for the District and that there is a funding gap of circa £95m for all identified infrastructure and circa £67m for that which is in the category of critical infrastructure. I consider that the anticipated CIL income of £4.5m might be a little pessimistic if house building increases, if the rural/urban split is different from that anticipated and taking account of the liability for some income from non-residential development. On the basis of the Council's current expectations,

the proposed charges would make a modest contribution, and I consider that the figures demonstrate the need to impose the CIL.

Economic viability evidence

10. The Council commissioned the North Dorset Whole Plan Viability and CIL Study (VS), the 'Final' version of which is dated February 2015. The purposes of the VS were to assess the draft NDPL1 and inform policy decisions, to test the affordable housing policy, and to inform decisions on CIL rates. An Updated Viability Report (UVR) was produced dated February 2016 to reflect the fact that the NDLP1 was adopted on 15 January 2016 and that, therefore, the policy context for CIL had been set. It enabled up-to-date costs and values to be used and also provide greater clarification over some of the concerns raised in the consultation on the Preliminary Draft Charging Schedule.
11. The VS uses a residual valuation approach: using reasonable standard assumptions to ascertain a 'residual' value from gross development value of a scheme after all other costs are taken into account. The costs for producing a scheme include building costs, fees, finance, profit levels, etc, and such matters as affordable housing, planning obligations, and other plan policy costs. Having allowed for all these costs, the resulting figure indicates the sum potentially available for the site purchase – the "residual land value" (RLV). The VS has been carried out recognising that CIL rates should not be set at the margins of viability.
12. The VS considers the type and likely locations for growth in the district. This ensures that any proposed CIL charge will be applied to those developments most likely to come forward, and that the main elements of Local Plan delivery are identified, so that any charge does not put delivery of the plan at risk. The study's methodology compares the RLVs of a range of generic developments (typologies) to a range of benchmark land values as an indication of existing or alternative land use values relevant to site use and locality.
13. In relation to locality the UVR identifies areas or zones where differential rates should be applied in respect of both residential development and commercial development. Thus for residential development six zones have been adopted with, in addition, differentiation for flatted development, retirement properties and extra care properties and care homes. For commercial development the result is that only retail development has viability that justifies the setting of a charge, in this case only where the development is outside the town centre boundaries and the Gillingham Strategic Site Allocation.

Is there a satisfactory relationship between the Council's proposals for CIL and for s106 Obligations?

14. The representations raise questions about the draft Regulation 123 List. This is not a matter on which I should make a recommendation, but it is a supporting document and it is appropriate that I should ensure that I understand the Council's intentions and that it does support a properly considered introduction of CIL.
15. I raised a question with the Council (document PHD.02, iii) asking for comment on how the intention to continue to seek s106 contributions for 'generic' items that are included in the R123 List would be dealt with, and more specifically, how

the Council intended to deal with all the infrastructure in the Gillingham Strategic Site Allocation by way of s106 alone.

16. In response (document PHD.02) the Council suggested that the wording "or where the requirement can be attributed to five or fewer developments" could be deleted from the exclusions column of the Draft Regulation 123 List. This is a suggestion that I support as being more consistent with the Regulations. In addition it is clear that the Council has undertaken substantial work with the landowners/developers in terms of the Gillingham Strategic Site Allocation and has a clear understanding of how the necessary infrastructure can be put in place without infringing the pooling restrictions on s106 obligations. I am content to leave the Council to implement the deletion of the wording mentioned above when the final R123 List is published.

Conclusion

17. The draft Charging Schedule is supported by evidence of community infrastructure needs and there is a funding gap. The proposed charges would make a modest contribution, and I consider that the figures demonstrate the need to impose the CIL. Accepted valuation methodology has been used which was informed by reasonable assumptions about local sales values, rents and yields, etc. On this basis, the evidence that has been used to inform the Charging Schedule is robust, proportionate and appropriate.

Are the charging rates for residential development informed by and consistent with the evidence?

The £45 Rate in relation to the focus of residential growth

18. The UVR identifies differential rates for residential development within main settlements and for those outside these – the rural areas. Within the main settlements the DCS rate proposed is £30 per sq m and in the rural areas it is £45 p sq m. Representors point out that NDLP1 identifies the four main settlements as the focus for growth, and that Plan's Policies 16 to 19 identify locations for growth at the main towns which are all outside the 2003 Local Plan development boundaries (which Policy 2 of the NDLP1 states are to be used in conjunction with Policies 16 to 21). It is argued therefore that development within the growth locations will be charged at the £45 rate, although the UVR identifies that development within the main settlements can only afford a rate of £30 in order to be viable. It is added that these growth locations are expected to account for in excess of 1,100 homes, making a substantial contribution to the five year housing land supply.
19. The Council's response points out that the typology of sites tested for setting the CIL rates reflects the types of development on which the NDLP1 depends, and that the bulk of development is not put at risk of being undeliverable. The main contention of the Council in rejecting the representors' arguments is that where the new planned housing areas are beyond the £30 per sq m zone, the value of the development will be higher as demonstrated by the viability evidence for the

rural areas.¹

20. In coming to a conclusion on this issue I note that values in the rural areas are clearly higher than in the main settlements, that the rural values have increased in the last three years whilst that for the main towns has only done so to a small or marginal extent, that the value evidence is based on a mix of new and second-hand properties but that new dwellings attract a premium, and that the sites are large and discussions indicate that there will be no great opening-up costs. In addition, Table 1.1 'Weighted averages and buffer for each value area' in Document PHD.02 demonstrates that substantial buffers have been allowed. My conclusion from this is that, whilst the evidence and analysis could have been set out more clearly in relation to how the £45 rate would impinge on the development of the new housing areas, the Council's rebuttal of the representors' criticism satisfies me that the bulk of residential development planned for the district in the NDLP1, including the growth locations, will not be put at risk.

Are reasonable build costs and values assessed in the UVR?

21. The representors' main point, as put forward for discussion at the hearing, is that the decision in the 'Brexit' Referendum, which post-dates the UVR, has led to uncertainty in the residential market with limited evidence to forecast the future of house prices. As a result it is claimed that the viability analysis for residential development is out of date. Reliance is placed on Savills national research publication 'Residential Property Focus Q4 2016' (Appendix A to Savills' response to document PHD.02) that forecasts slower UK house price growth, suggesting zero growth in 2017 and 2% growth in 2018. As a result the sensitivity testing results (UVR, Appendix C) incorporating 5% and 8.15% increase in sales values are no longer relevant. In addition it is said that the BCIS build costs used, in early 2016, are already approximately 11% behind the figures for Q4 2016: it is likely that build costs will increase and sales values will remain stagnant.
22. I do not doubt the integrity of the research produced by Savills referred to above, but as the document itself states "The Brexit vote makes forecasting more perilous than usual". Whilst the Brexit vote of late June 2016 is now six months behind us, it is very early days in terms of how the result will be put into effect and reactions to it. If the fears that are expressed in the representations hold true over the coming months, it will not only be the viability work behind North Dorset's CIL charges that will be open to question, but also much of that which lies behind many other CIL charging schedules. Additionally it is necessary to bear in mind that a careful balance must be achieved between fostering the necessary development and making financial provision for the essential infrastructure to support it.
23. In my opinion it is too early to make substantial revisions to the viability work on the basis of a forecast that follows within a short period of a major change in the nation's relationships with its trading partners, and at a time when the Government has introduced measures to support and boost levels of housebuilding. Nevertheless, this research report adds to the explicit need to

¹ At this point I should note that at the hearing the Council confirmed that in Table 6 in Document SUB.08 'Section 106, CIL and Affordable Housing', there is an error where it is indicated that all the homes proposed at the main towns will be within the £30 per sq m rather than the £45 per sq m which is largely the true position.

carefully monitor what happens to the residential sector over the coming months and if necessary take amending action.

24. There was a somewhat contrary view put in representations and argued at the hearing: that the proposed CIL rates are too low, with comparisons being made with rates set by other authorities in the county. However, apart from a 'concern' there is no cogent argument put forward for the stance.

Conclusion

25. The rates proposed for North Dorset District have been established by the Council on the basis of a Viability Assessment commissioned from experienced consultants in development economics. The methodology used is consistent with CIL Guidance that has found general acceptance in CIL examinations. I have found the concerns about the £45 rate for the major planned areas for residential development in the NDLP1 and the predicted disparity between build costs and sales values not to justify a re-examination of the viability study and its outputs, whilst direct comparisons with other districts are not relevant or persuasive. The evidence persuades me that residential development will remain viable across most of the District if the proposed CIL rates in the DCS are applied.

In respect of retail development, are the maps appended to the DCS (Appendix B, Figures 6 to 9) appropriate for the purpose of delineating the town centre boundaries?

26. The maps (Figures 6 to 9) purport to show the town centre boundaries within which there would be a nil charge on the basis of the viability evidence. That evidence shows that retail development outside the town centres would be able to absorb a charge of £70 per sq m. However, in response to representations, I asked the Council to explain the logic behind the boundaries defined on these maps. The explanation that I received was that the maps were based on the draft town centre boundaries in the Council's 2005 Annual Monitoring Report, which itself was derived from the Urban Potential Study of the District published in 2004. The Urban Potential Study utilised the 'Typical Urban Areas' approach as defined in a report by Baker Associates.² However, Nathaniel Lichfield and Partners carried out a Joint Retail Assessment (2008)³ that proposed Primary Shopping Areas (PSAs), and the Council agrees that these might be more appropriate for the purpose of the differential zones and would not object to the substitution of these in place of those shown on Figures 6 to 9.
27. It is clear to me that the rationale behind the viability assessments for retail development lies in an assessment of the viability characteristics of development within the 'main shopping' areas of the district and that of retail development 'out of centre' ("outside the town centre boundaries" in the DCS; "out of centre" in the VS; "outside the four main town centres" in the UVR). Therefore, in my view it is the PSAs that best delineate the areas that the VS and UVR identify as having negative headroom and therefore a nil rate for CIL.

² South West Urban Potential Study: Preliminary information, 1998.

³ Joint Retail Assessment – Christchurch Borough Council, East Dorset District Council, North Dorset District Council, Purbeck District Council – Volume 2 North Dorset, Nathaniel Litchfield and Partners Ltd, March 2008.

28. During the hearing I indicated that I was persuaded that the PSAs were the appropriate areas to define the town centre boundaries, and asked whether such a modification to the DCS would require further consultation. The view was expressed that this would not be necessary bearing in mind that it was extremely unlikely that any retail development would be proposed within the areas that would be changed from a nil rate to a £70 rate. Post hearing the Council confirmed that this was its considered view.

Conclusion

29. For the reasons set out above I consider that the existing Figures 6 to 9 in Appendix B of the DCS delineate a larger area than intended in the light of the viability evidence. Therefore the PSAs should be substituted in these Figures in order to define the areas wherein the rate of £70 for retail development will not apply. I recommend accordingly.

Does the charging schedule meet the requirements of the Community Infrastructure Levy Regulations and Guidance?

Zoning maps generally

30. The submitted Draft Charging Schedule (DCS) complies with the CIL Regulations except in relation to the Charging Zones Maps. Where charges are to be differentiated by zones, Regulation 12(2) has to be followed. This states:
“(2) A draft charging schedule submitted for examination in accordance with section 212 of PA 2008 must contain—
- (a) Where a charging authority sets differential rates in accordance with regulation 13(1)(a), a map which—
 - (i) identifies the location and boundaries of the zones,
 - (ii) is reproduced from, or based on, an Ordnance Survey map,
 - (iii) *shows National Grid lines and reference numbers, (emphasis added)*and
 - (iv) includes an explanation of any symbol or notation which it uses.
31. The Charging Zones Maps mostly have the National Grid lines, but do not have reference numbers, as required by Regulation 12(2)(a)(iii). Whilst I consider that the zoning maps are clear as to the areas that they delineate, I drew this matter to the Council's attention at the hearing. As a result the Council confirmed that it would deal with this omission when publishing an approved Charging Schedule. I am content to leave this to the Council and do not regard it as a matter requiring a formal recommendation.

The text of the Charging Schedule

32. Similarly, upon approval the published Charging Schedule will need small textual amendments to the DCS, principally in the Introduction where there is reference to pre-submission history and consultation that I consider will no longer be necessary and that its omission would aid concision and understanding. Again, I will leave this in the hands of the Council.

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

33. 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 North Dorset District. The Council has been realistic in terms of achieving a reasonable level of income to address a gap in infrastructure funding, while ensuring that development remains viable across the authority's area. An appropriate balance has been struck.

Are the Legal Requirements met?

34. The Legal Requirements are met:

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

Overall Conclusion

35. I conclude that, the North Dorset District Community Infrastructure Levy Charging Schedule, as submitted, 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.

Terrence Kemmann-Lane

Examiner

This report is accompanied by Appendix A below – The Modification that the examiner specifies so that the Charging Schedule may be approved.

Appendix A

Modification recommended by the Examiner to allow the Charging Schedule to be approved.

Modification Number	Modification
EM1	<ul style="list-style-type: none"><li data-bbox="571 665 1276 907">i) Modify the Retail Charging Zone Maps in Appendix B of the Draft Charging Schedule, substituting for the present boundaries the boundaries of the Primary Shopping Areas originally set out in the Nathaniel Lichfield and Partners 'Joint Retail Assessment 2008'.<li data-bbox="571 952 1276 1153">ii) As a consequence, change references in the Charging Schedule from "town centre boundaries" to "Primary Shopping Areas". (Table 1, penultimate row and third bullet point and in titles and in the 'Legend' of Figures 6 to 9 of Appendix B)