The Planning Inspectorate

Report to Christchurch and East Dorset Councils

by Jameson Bridgwater Dip TP MRTPI

an Examiner appointed by the Council

Date: 10 July 2015

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

REPORT ON THE EXAMINATION OF THE DRAFT CHRISTCHURCH AND EAST DORSET COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE

Charging Schedule submitted for examination on 5 December 2014

Examination hearings held on 17 March 2015 and 14 May 2015

File Ref: PINS/E1210/429/4

Non-Technical Summary

This report concludes that the Christchurch and East Dorset Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the districts. The Councils' have sufficient evidence to support the schedules and can show that the levy is set at a level that will not put the overall development of the area at risk.

Introduction

1. This report contains my assessment of the Christchurch and East Dorset 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 Planning Practice Guidance (the Guidance) in relation to CIL.

2. To comply with the relevant legislation the local charging authority must strike 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, on which hearing sessions were held on 17 March 2015 and 14 May 2015 is the submitted schedule of May 2014, as amended by a statement of modifications 5 December 2014, a statement of further modifications 23 January 2015, and a statement of modifications arising from the Examination of the Draft Charging Schedules 23 March 2015. These changes are set out in a consolidated version of the charging schedule (SD17). I have taken the responses on the Councils published modifications into account in writing this report.

3. Christchurch and East Dorset Councils propose the following modified CIL rates.

Christchurch CIL Rate	
Development Type	**Charge per sq. m**
Residential (more than 10 units)	£70
Residential (10 units or less or less than 1000sqm floorspace)	£150
Residential on the following New Neighbourhood sites (allocated in the Core Strategy) which provide their own Suitable Alternative Natural Green Space (SANGs) as mitigation for European sites: • Roeshot Hill/Christchurch Urban Extension (CN1) – 950 dwellings • Land South of Burton Village (CN2) - 45 dwellings	£0
Residential on sites of 40 or more dwellings where on-site SANGs is required by the Local Planning Authority	£0

Extra Care Housing and housing for Vulnerable People (developments that compromise self-contained homes with design features and support services available to enable self-care and independent living)	£40
Hotels	£0
Care Homes	£40
Offices	£0
Light Industrial/Warehousing	£0
Convenience Retail	£110
Comparison Retail	£0
Public service and Community Facilities	£0
Standard Charge (all other uses not covered)	£0

East Dorset CIL Rate	
Development Type	**Charge per sq. m**
Residential (more than 10 units)	£70
Residential (10 units or less or less than 1000sqm floorspace)	£150
Residential on the following New neighbourhood sites (allocated in the Core Strategy) which provide their own Suitable Alternative Natural Green Space (SANGs) as mitigation for European sites: • Cuthbury Allotments and St Margaret's Hill (WMC5) – 220 dwellings • Cranborne Road, North Wimbourne (WMC6) – 600 dwellings • South of Leigh Road (WMC8) – 350 dwellings • Lockyers School and land North of Corfe Mullen (CM1) – 250 dwellings • Holmwood House New Neighbourhood (FWP3) – 150 dwellings (resolution to grant planning permission) • East of New Road, West Parley (FWP6) – 320 dwellings • West of New Road (West Parley) (FWP7) – 150 dwellings • North Western Verwood New Neighbourhood (VTSW4) – 230 dwellings • North Eastern Verwood New Neighbourhood (VTSW5) – 65 dwellings (resolution to grant planning permission) • Stone Lane, Wimborne (WMC6) – 90 dwellings	£0
Residential on sites of 40 or more dwellings where on-site SANGs is required by the Local Planning Authority	£0
Extra Care Housing and housing for Vulnerable People (developments that compromise self-contained homes with design features and support services available to enable self-care and independent living)	£40
Hotels	£0
Care Homes	£40

Offices	£0
Light Industrial/Warehousing	£0
Convenience Retail	£110
Comparison Retail	£0
Public service and Community Facilities	£0
Standard Charge (all other uses not covered)	£0

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

Infrastructure planning evidence

4. The Christchurch and East Dorset Local Plan Part 1 - Core Strategy (CS) was adopted in April 2014. This sets out the main elements of growth that will need to be supported by further infrastructure in the districts, including about 8490 homes from 2013 to 2028 (around 566 per year); the provision of approximately 80 hectares (ha) of employment land over the same period and a projected net requirement of an additional 19600sqm of future retail provision. The focus of the residential development will be split between existing urban areas (about 5000 homes) and new neighbourhoods at Christchurch, Burton, Corfe Mullen, Wimbourne/Colehill, Ferndown/West Parley and Verwood (around 3465 homes). Employment land will be distributed across both districts with major sites at Bournemouth Airport (30ha) and Blunts Farm (30ha). Future retail provision will be distributed across both districts.

5. The CS is supported by an Infrastructure Delivery Plan – December 2013 (CD01) which outlines local community requirements and infrastructure needs over the plan period. The draft Regulation 123 list does not prioritise CIL spending; however, Christchurch and East Dorset indicated that a significant proportion of CIL will be directed to heathland mitigation in the form of Suitable Alternative Natural Green Space (SANGs). This is intended to apply where SANGs are being provided off site. However, in some cases, the intention is for SANGs to be provided on site as set out in the charging schedule and Regulation 123 list. Additionally CIL will be spent on transport, flood risk mitigation, community facilities and environmental improvements/open spaces, all of which will contribute towards implementing the objectives of the CS.

6. Taking into account other likely funding sources, including direct from government, the Councils' currently estimate a shortfall of around £319.5m, based on total infrastructure costs of about £337.4m. It is anticipated that the CIL charges, as proposed, would raise about £1.7m on an annual basis and around £22.5m in total up to 2028 towards infrastructure needs. In the light of this evidence, the proposed CIL charges would make only a modest contribution towards filling the likely funding gap. Nevertheless, the figures demonstrate the need to levy CIL in Christchurch and East Dorset.

7. Whilst there will always be other projects with which CIL revenues might assist, it is not the role of this examination to question the Councils' specific spending proposals on either a geographical or a priority basis, beyond confirming that, in general terms, the listed projects should clearly assist the

delivery of the CS, as a whole. Overall, the charging schedule is supported by appropriate evidence of community infrastructure needs and I am not aware of any material inconsistency between the CS, the Councils' current Regulation 123 list and/or the CIL rates proposed.

Economic viability evidence

8. The Council commissioned a series of CIL Viability Assessments, dated June 2013 (CD04), November 2014 (CD02), December 2014 (CD03), January 2015 (CD07) and March 2015 (CD12). Additionally site specific viability assessments were carried out in January 2012 (CD05) and February 2012 (CD06) in relation to the New Neighbourhoods areas identified within the CS. The assessments use a residual valuation approach, using reasonable standard assumptions for a range of factors such as building costs (including policy specific energy requirements), profit levels and fees. In addition the viability assessments have taken into account changes in relation to national policy with particular regard to the recent ministerial statement on affordable housing.

9. The viability assessments were based upon relevant current land values, including Land Registry data and some recent actual transactions, bearing in mind that there are variations in average land values across Christchurch and East Dorset. In general, the benchmark land values used are sufficiently realistic for comparison purposes in a generic study of this type. In addition to this, the charging schedule has been informed by discussions with stakeholders and consideration of the representations made on the series of modifications proposed by the Councils.

10. The viability assessments seek to establish a residual value by subtracting all costs (except for land purchase) from the value of the completed development (the Gross Development Value). The price at which a typical willing landowner would be prepared to sell the land (the Benchmark Land Value) is then subtracted from the residual value to arrive at the overage or 'theoretical maximum charge'. This is the sum from which the CIL charge can be taken provided that there is a sufficient viability buffer or margin.

11. The Guidance states that it would be appropriate to include a buffer or margin so that the levy rates are not set at the margins of viability and are able to support development when economic circumstances adjust. This can also provide some degree of safeguard in the event that gross development values have been over-estimated or costs under-estimated and to allow for variations in costs and values between sites. Christchurch and East Dorset have proposed CIL charges that provide a reasonable viability margin or buffer commensurate with the type of development being brought forward. On this basis, 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

12. Christchurch and East Dorset have made a series of modifications to the proposed residential CIL Levy rates since the draft charging schedule was

published in May 2014. The Councils' initially proposed a residential levy rate of £100psm across both districts. However, in response to the CIL consultation process and changes in relation to affordable housing thresholds following the ministerial written statement (small-scale developers - 28 November 2014) a series of modifications have been viability tested, published and consulted on. As a result of these modifications the Council is now proposing five differential residential rates instead of the previous single rate of £100psm

13. The CIL Viability Assessments considered a sufficient range and number of size and type of residential development schemes across Christchurch and East Dorset. These schemes are suitably reflective of the new housing projects likely to come forward locally and provide the necessary information against which to assess viability, including the new neighbourhoods identified in both districts.

14. In particular, the viability assessments recognise that, by definition, site specific abnormal costs cannot be accounted for in such generic analyses. Additionally, it is likely that any significant abnormal costs would reasonably be expected to be reflected in lower benchmark land values. Furthermore, the viability testing has properly examined the most likely scenarios and clearly cannot address all possible eventualities surrounding new development projects.

15. There may be a few cases where the CIL rates would render a project unviable, but the analysis shows that this would not have a significant effect on the overall amounts of new housing to be delivered across Christchurch and East Dorset.

Strategic sites – New Neighbourhoods

16. The CIL Viability Assessment November 2014 (CD02) tested a number of New Neighbourhood sites and concluded that, taking the projected s106 and Section 278 (s278) contributions into account, there was little scope for a CIL charge, even before factoring in any viability buffer. These findings were subsequently consulted upon and were in turn supported during the examination hearings by developers. Therefore, based on the evidence submitted, I am satisfied that setting a rate of £0psm for the New Neighbourhood sites is appropriate.

17. The CS has identified and allocated a number of New Neighbourhood sites which will provide their own SANGs as mitigation for any potential adverse effects on European sites across Christchurch and East Dorset. These New Neighbourhood residential sites have been specifically identified within the draft CIL charging schedule. On these sites the intention is that SANGs will be delivered as part of the on-site infrastructure secured through a Section 106 agreement (s106). This is made clear in both the charging schedule and Regulation 123 list which confirm that heathland mitigation will be secured by way of s106 agreements on the New Neighbourhood sites. Therefore, this approach is consistent with the Guidance in relation to CIL and accordingly there is no risk of double dipping.

Extra care housing and housing for vulnerable people

18. The Councils undertook a further CIL Viability Assessment in December 2014 (CD03) in response to the original consultation process. This took into account rising land values, construction costs and the application of the CS policy requirement of 40% affordable housing. This provided the evidence to support a new CIL rate of £40psm for extra care housing.

19. Developers have raised concerns that the CIL rate of £40psm would in turn discourage the development of extra care housing and housing for vulnerable people. However, the appraisals in the CIL Viability Assessment of December 2014 (CD03) suggest a CIL surplus of £126psm on schemes of 60 units, with other modelled scenarios (5 flats and 15 flats) suggesting surpluses of between £164psm and £170psm. A rate of £40psm would allow a substantial CIL viability buffer of at least 68%, which would provide a reasonable safeguard to allow for variations in costs and values between sites. It is clear from the evidence before me that the costs associated with extra care housing are higher than other mainstream private residential uses; however the CIL rate of £40psm addresses these differences and is supported by viability evidence. On this basis, I am satisfied the proposed rate of £40psm for extra care housing is justified on viability grounds. I appreciate that developments are in direct competition with mainstream residential developers in relation to land acquisition. However, the rate should not discourage extra care housing in the current market conditions.

Residential (10 units or less or less than 1000sqm)

20. The recent ministerial statement relating to small-scale developers states affordable housing should not be sought in relation to new residential development of 10 units or less or less than 1000sqm. Following this policy change Christchurch and East Dorset Councils carried out a revised viability assessment in January 2015 (CD07). This concludes that removing the requirement for affordable housing could increase the maximum theoretical CIL charge by up to £400psm in some cases. This led the Councils to propose a new CIL rate of £150psm, which was consulted upon via a further statement of modification (SD05).

21. There was significant concern from local developers with regard to the effect of the £150psm CIL rate on small scale developers and that the proposed rate could have an effect on the ability to deliver housing in accordance with the CS. It was further stated that such an approach would hamper the regeneration of brownfield sites and that difficult sites would be left vacant as CIL does not allow for negotiation in the same way as s106. It was also argued that such a rate did not reflect the aims and objectives of the ministerial statement of 28 November 2014. Developers at the examination hearing confirmed that their concerns were based on their working knowledge of the area but that they had not carried out alternative viability testing.

22. The change in national policy is to reduce the disproportionate burden of developer contributions on small-scale developers by precluding contributions for affordable housing and tariff style planning obligations from small scale and self-build development. However, in this case the CIL Viability Assessment of January 2015 (CD07) shows that developments of 10 units and less would be

viable and that a proposed rate of £150psm would maintain a significant viability buffer of between 73% and 77%. This is largely because, in line with the ministerial statement and the Guidance, smaller schemes are not required to provide any affordable housing either through CIL or S106. The rate is therefore justified by viability evidence in accordance with the Guidance.

23. In addition, the small sites are forecast to deliver around 55% of the CS housing requirement and any significant reduction in the rate could therefore affect the achievement of an appropriate balance between the desirability of funding infrastructure to support the development of the area and the potential effects on the economic viability of development across the area.

24. Furthermore, the ministerial statement and the Guidance relates specifically to the use of planning obligations rather than CIL. However, the CIL Viability Assessment of January 2015 (CD07) shows that the CIL burden would not be disproportionate and in most cases would not prevent development coming forward on small sites including brownfield sites. I am therefore satisfied the proposed rate of £150psm for Residential (10 units or less or less than 1000sqm) is justified on viability grounds.

Residential (More than 10 Units)

25. The proposed CIL rate of £70psm for Residential (More than 10 Units) has been the subject of extensive viability testing to take into account rising land values, construction costs and the application of the CS policy requirement of 40% affordable housing. The Councils' undertook a further CIL Viability Assessment of December 2014 (CD03). This was further reviewed by CIL Viability Assessment of January 2015 (CD07). These demonstrate that the proposed CIL rate of £70psm would maintain a viability buffer of between 31% (15 Units) and 80% (50 Units). This buffer would ensure that the vast majority of new housing development could be delivered in accordance with the CS. With no substantive detailed evidence presented to indicate otherwise, I am satisfied the proposed rate of £70psm for Residential (More than 10 Units) is justified on viability grounds.

Residential sites of 40 or more dwellings where on-site SANGs is required by the Local Planning Authority

26. The precise cost of providing on site SANGs could vary significantly from site to site depending on local circumstances and site conditions. Consequently, Christchurch and East Dorset consider in their viability assessment of March 2015 (CD12) that it is difficult to arrive at one specific quantified bespoke figure. This was supported by developers at the examination hearings. However, from the evidence I heard at the hearing, it is likely that the costs of on-site SANGs could be significant in most cases. As such, there is a realistic risk that applying a CIL levy could render many sites unviable. In the absence of alternative viability evidence presented to indicate otherwise, I am satisfied the proposed rate of £0psm is justified on viability grounds and represents a pragmatic approach in the circumstances.

Care homes

27. Christchurch and East Dorset propose a rate of £40psm for care homes. This

is derived from the CIL Viability Assessment of June 2013 (CD04). The viability assessment concluded that despite the market being in flux and difficulties being experienced by some operators there was an evidence based viability buffer of £79psm. The Councils further stated that the proposed CIL rate would not be the determining factor in the promotion of new care home schemes in terms of viability as it would only equate to less than 5% of the projected development costs.

28. Concerns have been raised regarding the Councils' assumptions about costs, particularly related to build costs, internal floor areas to meet the Care Quality Commission standards and assumptions on rates of occupancy. It was argued that new care homes take 18/24 months to reach full occupancy, which can range between 85% and 95%.

29. Although the objections raised indicate there may be circumstances where viability is challenging, I have no substantive evidence before me to indicate that significantly different costs or values should be applied. Furthermore, any rise in build costs since the viability assessment base date are likely, at least in part, to have been matched by a rise in sales values. I consider that the approach taken by Christchurch and East Dorset Councils is a balanced one which takes into account market conditions. This is reflected in the £39psm viability buffer which would provide some degree of safeguard for variations in the market. I am therefore satisfied that the proposed rate of £40psm for Care Homes is justified on viability grounds and would strike an appropriate balance and should not prevent the overall delivery of Care Home in accordance with the CS.

Retail rates

30. Policy KS8 of the CS sets out a projected requirement for future retail provision in Christchurch and East Dorset to 2031. There is a projected net requirement of 13300sqm of comparison floorspace and 6300sqm of convenience floorspace. The CIL Viability Assessment of June 2013 (CD04) considered a sufficient range and number of size and type of retail development schemes across Christchurch and East Dorset to be suitably reflective of retail projects likely to come forward locally and to provide the necessary information against which to assess viability.

31. Christchurch and East Dorset have proposed differential rates for retail development, with a charge of £110psm for convenience retail development and £0psm for comparison retail. The CIL Guidance allows charging authorities to apply differential rates according to type and scale of development, provided they are justified on grounds of economic viability. Paragraph 21 of the CIL Guidance adds that differential rates should not be used as a means to deliver policy objectives.

32. Dealing first with the type of development, CIL Regulations and the Guidance allow charging authorities to set rates by reference to the different intended uses of development and paragraph 22 is clear that 'use' is not tied to the classes of development in the Town and Country Planning (Use Classes) Order 1987. There is strong evidence in the CIL Viability Assessment of June 2013 (CD04) to indicate that convenience retail stores have a greater degree of viability across Christchurch and East Dorset than comparison retail

development within the same use class. This is reflective of retailing trends in the UK where comparison retailing is in a period of transition due to changes in shopping patterns, including the significant rise in online shopping and fewer shopping trips.

33. Concerns were raised by some retail operators that the proposed convenience CIL rate was not reflective of the current market conditions and would in turn discourage retail developments from coming forward. Whilst other convenience retail schemes were offered as examples of the potential effects of a CIL levy, these did not represent a full and robust appraisal of costs associated with retail development in Christchurch and East Dorset. However, convenience retail is also subject to transition, as a whole, the sector is more robust and the transition is largely structural within the sector. This is evidenced by growth in both the high end luxury grocery stores and at the discount end of the market, alongside online convenience sales.

34. The appraisals in the CIL Viability Assessment of June 2013 (CD04) suggest that a maximum CIL of up to £151psm would be viable on larger out of centre convenience stores and that a theoretical maximum of £124psm would be viable on smaller in town metro style stores. A rate of £110psm would allow a buffer of around 28% against the maximum viable CIL and this represents a balanced approach given that no substantive viability evidence has been presented to indicate otherwise. On this basis, I am satisfied the proposed rate of £110 for convenience retail development is justified on viability grounds.

35. The CIL Viability Assessment of June 2013 (CD04) stated there were difficulties in modelling comparison retail development due to the variations in values due to locational sensitivities, footfall patterns and the varying size of units allied to the overall market conditions (impact of online shopping/out of town/retail park offers). In producing a viability model Christchurch town centre was used, however, even in this location there was insufficient viability to be able to justify a CIL charge. This demonstrates that CIL could not be applied in Christchurch and East Dorset without adversely affecting overall viability. On this basis, I am satisfied the proposed rate of £0psm for comparison retail development is justified on viability grounds.

Other commercial rates and standard charge

36. The decision of Christchurch and East Dorset not to charge a levy on hotels, offices, light industrial/warehousing and public service and community facilities is consistent with the evidence in the CIL Viability Assessment of June 2013 (CD04). This demonstrates that current market rents for these uses are too low to absorb any level of CIL. Therefore a rate of £0psm for these uses is justified.

37. In relation to other uses Christchurch and East Dorset have proposed a standard charge of £0psm. These small scale uses (including laundrettes, nightclubs, and motor vehicle sales amongst other things) are not critical to the delivery of the core strategy. They are by their nature either likely to utilise existing premises rather than new build or based on evidence relating to similar uses (comparison retail and light industrial) unlikely to be able to support a viable CIL charge. I am satisfied that for the reasons given in the CIL Viability Assessment of June 2013 (CD04) setting a rate of £0psm for

these uses is appropriate.

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

38. Christchurch and East Dorset Councils decision to set the proposed rates is based on reasonable assumptions about development values and likely costs. The evidence suggests that residential and convenience retail development will remain viable across most of the area if the charge is applied. Only if development sales values are at the lowest end of the predicted spectrum would development in some parts of Christchurch and East Dorset be at risk.

Conclusion

39. In setting the CIL charging rate the Councils' have had regard to detailed evidence on infrastructure planning and the economic viability evidence of the development market in Christchurch and East Dorset. Both Councils have been 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 districts.

40. Finally, it is important to keep the charging schedule and its impact on the delivery of development under review. The draft charging schedule sets out a series of indicators that would inform when a review is appropriate. These include measures with regard to housing delivery within a 3 year rolling programme, monitoring of the infrastructure funding gap, changes in housing market conditions and changes in the delivery times of major schemes funded by CIL. I consider these measures to be appropriate for Christchurch and East Dorset. However, it would help to provide clarity and certainty if the data indicators are published on a regular basis (annually) and this is confirmed at the time of adoption.

LEGAL REQUIREMENTS	
National Policy/Guidance	The Charging Schedule complies with national policy/guidance.
2008 Planning Act and 2010 Regulations (as amended)	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 financial appraisal.

41. I conclude that the Christchurch and East Dorset 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). I therefore recommend that the Charging Schedule be approved.

Jameson Bridgwater
Examiner