



The Planning Inspectorate

Report to Newark and Sherwood District Council

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an Examiner appointed by the Council

Date: 17 October 2017

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

REPORT ON THE EXAMINATION OF THE DRAFT NEWARK AND SHERWOOD DISTRICT COUNCIL COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE

Charging Schedule submitted for examination on 19 May 2017

Examination Hearings held on 3 August 2017

File Ref: PINS/B3030/429/7

Non-Technical Summary

This report concludes that the Newark and Sherwood District 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 Newark and Sherwood District 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 (Community Infrastructure Levy Guidance – June 2014).
2. The proposed CIL Charging Schedule seeks to revise and replace the extant Newark and Sherwood District Council Community Infrastructure Levy Charging Schedule, adopted in September 2011, which came into force in December 2011.
3. 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 district. The basis for the examination, on which hearing sessions were held on the 3 August 2017, is the submitted schedule of March 2017, which is effectively the same as the document published for public consultation in March 2017.
4. Newark and Sherwood District Council [the Council] propose the following CIL rates:

Proposed Commercial Community Infrastructure Levy Rates - Districtwide

- All Non-residential uses (excepting Retail) £0sqm
- Retail A1-A5 £100sqm

Proposed Residential Community Infrastructure Levy Rates

- Apartments (All Zones) £0sqm

- Housing Low Zone 1 £0sqm
- Housing Medium Zone 2 £45sqm
- Housing High Zone 3 £70sqm
- Housing Very High Zone 4 £100sqm

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

Infrastructure planning evidence

5. The Newark and Sherwood Core Strategy (CS) was adopted in March 2011, and contains housing and employment requirements developed through the former East Midlands Regional Plan 2009. The Council's Allocations and Development Management Development Plan Document (ADMP) was adopted in July 2013. In recommending the ADMP for adoption the Inspector stated that given the economic circumstances prevalent at the time an early review of site delivery should be undertaken.
6. In light of the Inspector's recommendation the Council are currently undertaking a review of the CS and the ADMP as confirmed in the Newark and Sherwood Community Infrastructure Levy Review – Development Plan Position Statement June 2017 (CIL/010). Whilst this has reached the preferred approach stage, the Local Plan process is not yet completed. However, the development strategy across the plan area is already sufficiently clear, with the relevant up to date and extensive supporting evidence in place, including infrastructure requirements and viability.
7. Therefore in these specific local circumstances I conclude that there is no reason why the CIL charging schedule cannot be submitted, examined and adopted, if viable and appropriate. I am satisfied that this accords with the national Planning Policy Guidance, which states that "information on the charging authority's infrastructure needs should be drawn from the infrastructure assessment that was undertaken as part of preparing the relevant plan".
8. This conclusion is reinforced by the decision of the Court of Appeal in the Oxted Residential Ltd v Tandridge DC case on 29 April 2016 (EWCA Civ 414), which effectively confirmed, amongst other things, that there is no statutory obstacle to adoption of a CIL charging schedule in advance of a new Local Plan if this is justified in all of the relevant local circumstances. However, in the event of a significant change to the development strategy as a result of the Local Plan examination, it would be appropriate for the Council to consider whether a review of the CIL charging schedule is needed.
9. The Infrastructure Delivery Plan – February 2017 (CIL/008) outlines the new/improved infrastructure required to facilitate planned growth within the District to the end of the emerging plan period (2033). The draft Revised Regulation 123 List March 2017 (CIL/001A) indicates that the majority of CIL spending will be directed to highway and education projects, all of which will contribute towards implementing the objectives of both the CS/ADMP and the

emerging Local Plan.

10. Taking into account other likely funding sources, including direct from government, the Council's Infrastructure Funding Gap Review Report February 2017 (CIL/009) currently estimates a shortfall of around £27.7m, based on total infrastructure costs of about £110.4m. Since coming into force the amount raised by the Council from their existing CIL levy rates is approximately £2m. It is anticipated that the revised CIL charges, as proposed, would raise about £1.6m on an annual basis and around £25m in total up to 2033 towards infrastructure needs. In the light of this evidence, the proposed CIL charges would make a significant contribution towards meeting the likely funding gap. The figures demonstrate the need to levy CIL in Newark and Sherwood.

Economic viability evidence

11. The Council commissioned a Whole Plan and CIL Viability Assessment, dated March 2017 (CIL/005). This is supported by evidence derived from the Property Value Study June 2016 (CIL/006) and the Construction Cost Study March 2016 (CIL/007). The assessment uses a residual valuation approach, using reasonable standard assumptions for a range of factors such as building costs, profit levels, fees and changes in relation to national policy.
12. The model was adapted by relevant local data on existing land values; including Land Registry data and some recent transactions, taking into account that there are variations in average land values across Newark and Sherwood. In general, the benchmark land values used are sufficiently realistic for comparison purposes in a generic study of this type.
13. In addition to this the charging schedule has been informed by discussions with stakeholders and consideration of the representations made on the series of consultations carried out by the Council. The Draft Charging Schedule representations (CIL/003) and Statement of Representations May 2017 (CIL/004) demonstrate that an adequate and proportionate approach in relation to local stakeholder participation was taken by the Council. This was further reinforced by local developers being represented at the Examination Hearings.
14. 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.
15. 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. As discussed below, the Council 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.

Conclusion

16. The draft Charging Schedule is supported by detailed evidence of community infrastructure needs and economic viability. 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

17. The Council have used Land Registry property sales data at an electoral ward level to inform their Property Value Study (CIL/006) and the Whole Plan and CIL Viability Assessment (CIL/005). The approach considers a sufficient range and number of size and type of residential development schemes across Newark and Sherwood, including an assessment of both greenfield and brownfield sites. Consequently, these schemes are suitably reflective of the new housing projects likely to come forward locally in the current market conditions and provide the necessary information against which to assess viability, including the strategic sites in the District. I consider that the Council's use of property sales data at a ward level was sufficiently representative of the variations in the housing market across Newark and Sherwood, including in the rural areas.
18. The Whole Plan and CIL Viability Assessment (CIL/005) further recognises 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 land sale values. Therefore it is not necessary to apply different contingency rates for greenfield and brownfield sites. Furthermore, the viability testing has properly examined the most likely scenarios and clearly cannot address all possible eventualities surrounding new development projects. Moreover, the residential CIL rates have been the subject of extensive viability testing to take into account rising land values, construction costs, density, residual planning obligation costs and the requirement for 30% affordable housing, including the provision for starter homes within the tenure mix.
19. The above analysis demonstrates the difference in the ability of residential development in different parts of Newark and Sherwood to viably support a CIL charge, therefore, justifying the use of a zonal approach to charging. On this basis the Council propose four charging bands/zones for residential development in the District. Ultimately, this simplifies the approach taken in the Council's extant CIL charging schedule that has 6 zones.

Housing Low Zone 1 - £0sqm

20. Based on extensive viability testing set out above, the Council have proposed a CIL charging rate of £0sqm in Housing Low Zone 1. The proposed charging rate relates to the Balderton South, Bridge and Devon wards of Newark along with wards in the north-west of the District close to Mansfield reflecting the

lower values of this local housing market. The zone includes the locations where a significant proportion (approximately 65%) of new housing for Newark and Sherwood will be built. Further, the Council projects that approximately 27% of new residential development in Housing Low Zone 1 will be built on brownfield sites. The viability evidence demonstrates that whilst some residential development may be able to support a CIL charge on greenfield sites in Housing Low Zone 1, this is not the case on brownfield sites where viability is marginal except for executive housing. Consequently, the setting of a CIL rate of £0/sqm would ensure that the vast majority of new housing development in Housing Low Zone 1 could be delivered in accordance with both the CS and the emerging Local Plan. Therefore, with no substantive detailed evidence presented to indicate otherwise, I am satisfied the proposed rate of £0/sqm for Housing Low Zone 1 is justified on viability grounds.

Housing Medium Zone 2 - £45/sqm

21. The Council propose a rate of £45/sqm for Housing Medium Zone 2. The zone is broadly located in the south-east of the district and encompasses the Balderton North & Coddington, Beacon, Castle and Farndon & Fernwood wards. The Council confirmed at the Examination Hearings that they expect all of the residential development in Housing Medium Zone 2 to be delivered on greenfield sites. The Whole Plan and CIL Viability Assessment (CIL/005) demonstrates that maximum viable residential CIL rates for greenfield sites in the zone would fall within the range of £76/sqm - £215/sqm. The proposed rate would allow a minimum buffer of approximately 40% which would ensure that the vast majority of new housing development within the zone could be delivered in accordance with the CS and emerging Local Plan.
22. Nevertheless, it was argued at the Examination Hearings that because the average property sales values in Farndon & Fernwood are markedly higher than the other wards within Housing Medium Zone 2, the ward should be included in Housing High Zone 3. However, the Council explained that Farndon & Fernwood ward includes two significant urban extensions for Newark-on-Trent and that an increase in CIL rates for these sites would be likely to have significant implications on delivery. Moreover, the national Planning Practice Guidance advises that there is no requirement for rates to directly mirror the evidence.
23. Therefore, the proposed CIL rate of £45/sqm Housing Medium Zone 2 is justified by the evidence and would leave a comfortable viability buffer in all modelled greenfield scenarios including the two urban extension sites.

Housing High Zone 3 - £70/sqm

24. Collingham, Muskham and Sutton-on-Trent wards are located in the north-east of the district. The Council propose a rate of £70/sqm for Housing High Zone 3. In particular property values in Collingham reflect accessibility to the East Coast Main Line and therefore the ward is popular with people who commute to and from London. Notwithstanding this, only a limited amount of new housing is likely to come forward in these predominantly rural wards (195 dwellings). It is likely that all of these will take place on greenfield sites. The evidence demonstrates maximum viable greenfield residential CIL rates in

Zone 3 falling within the range of £140sqm - £208sqm. Therefore the proposed rate of £70sqm would result in a viability buffer of around 50% against the lowest viable greenfield CIL rate and this represents a balanced and evidence based approach. On this basis, I am therefore satisfied the proposed rate of £70sqm for residential development in Housing High Zone 3 is justified on viability grounds.

Housing Very High Zone 4 - £100sqm

25. Housing Very High Zone 4 relates to Southwell, Trent and Dover Beck which are the highest value areas of the District. The Council have proposed a CIL levy of £100sqm, based on the evidence contained within the Whole Plan and CIL Viability Assessment (CIL/005) with a reasonable viability buffer of approximately 35%. Based on the evidence I heard from representatives of local developers at the Examination Hearings it was clear that the predominant cost factor in rural areas is the value and limited availability of developable land rather than costs associated with construction and materials. Consequently, whilst I accept that development in rural areas could potentially have higher construction costs than elsewhere, these costs are adequately accounted for in the Council's viability evidence. In any case, the residential development values that are likely to be realised within this geographical area, demonstrate the limited risks involved in the construction and marketing of such housing.
26. I therefore conclude that the viability of development in Housing Very High Zone 4 is unlikely to be threatened by the proposed CIL rate of £100sqm, which is evidence based and appropriate.

Apartments - £0sqm

27. The Council's decision not to charge a levy on Apartments is consistent with the evidence in the Whole Plan and CIL Viability Assessment (CIL/005). This demonstrates that only on greenfield sites in the Housing Very High Zone 4 would a levy be theoretically possible for apartments when taking into account the requirement for a viability buffer. Notwithstanding this, it has been advanced by a local parish council that a CIL charge for apartments should be applied to help meet locally identified infrastructure needs. However, based on the evidence before me and what I heard at the Examination Hearings, it is clear that apartments are not a major feature of the local housing market and therefore do not make a significant contribution to the projected supply of housing for the District. In support of this the Council confirmed that there had only been 8 apartment completions recorded in Zones 2, 3 and 4 in the previous 3 years.
28. Having reached the conclusions above, the application of a levy rate for apartments would be unlikely to significantly contribute to the meeting the Districts infrastructure funding gap. Therefore, I am satisfied that for the reasons given in the Whole Plan and CIL Viability Assessment, dated March 2017 (CIL/005) setting a rate of £0sqm for Apartments is evidence based and appropriate.

Summary – CIL rates for residential development

29. There may be a few cases where the proposed CIL rates would render a residential 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 Newark and Sherwood.

CIL rates for retail development

30. Core Policy 8 of the CS sets out a projected requirement for future retail provision in Newark and Sherwood. There is a projected net requirement of 18459sqm of comparison floorspace and 6707sqm of convenience floorspace. The Property Value Study June 2016 (CIL/006) considered a sufficient range and number of size and type of retail development schemes nationally to be suitably reflective of retail projects likely to come forward in Newark and Sherwood and to provide the necessary information against which to assess viability.
31. The Council have proposed a single rate for retail development, with a charge of £100sqm. Concerns were raised that the proposed CIL rate was not reflective of convenience retail market conditions in rural areas and would in turn discourage this type of development from coming forward. Whilst examples of rural convenience retail schemes were offered as examples of the potential effects of a CIL levy, this did not represent a full and robust appraisal of costs associated with rural retail development in Newark and Sherwood. Moreover, it was agreed by all parties at the Examination Hearings that the Council's existing CIL levy was not a primary reason for the rural convenience retail schemes not coming forward with market share and changes in the convenience retail sector as a whole, in particular online convenience sales and home delivery being cited as some of the main factors.
32. The appraisals in the Whole Plan and CIL Viability Assessment March 2017 (CIL/005) suggest that a maximum CIL of up to £366sqm (Greenfield) would be viable on Food Supermarket Retail A1 stores and that a theoretical maximum of £193sqm (Greenfield) would be viable on General Retail A1-A5 stores. A rate of £100sqm for A1-A5 retail development would allow a reasonable buffer of around 39% against the minimum viable CIL (Brownfield General Retail) and this represents a balanced approach that would ensure that the vast majority of retail development could be delivered in accordance with the CS and the emerging Local Plan. Consequently, given that no substantive viability evidence has been presented to indicate otherwise, I am satisfied the proposed rate of £100sqm for retail development is justified on viability grounds.

All other uses

33. The Council's decision not to charge a levy on Industrial (B1b, B1c, B2, B8), Office (B1a), Hotel (C1), Residential Institution (C2), Community (D1), Leisure (D2), Agricultural and Sui Generis is consistent with the evidence in the CIL Viability Assessment. This demonstrates that current market rents for these uses are too low to absorb any level of CIL. I am satisfied that for the reasons given in the Whole Plan and CIL Viability Assessment, dated March 2017

(CIL/005) setting a rate of £0sqm for these uses is evidence based and appropriate.

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

34. The Council's decision to set 4 different residential charging rates in the District, together with a single retail rate is based on reasonable assumptions about development values and likely costs. The evidence suggests that residential and commercial 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 Newark and Sherwood be at risk.

Conclusion

35. 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 Newark and Sherwood. The Council has tried 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 authority area. The Newark and Sherwood CS and ADMP are currently in the process of being reviewed. It may be an appropriate time to consider any revision to the charge after the Local Plan CS has been in place for 36 months, unless other changes require one beforehand.

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.

36. I conclude that the Newark and Sherwood 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