



The Planning Inspectorate

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## Report to Woking Borough Council

by Sara Morgan LLB (Hons) MA Solicitor (Non-practising)

an Examiner appointed by the Council

Date: 9 July 2014

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PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

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

Charging Schedule submitted for examination on 29 January 2014

File Ref: PINS/A3655/429/8

## Non Technical Summary

This report concludes that the Woking Borough Council Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the Borough. 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.

Modifications are needed to meet the statutory requirements. These are minor and can be summarised as follows:

- Add a definition of "Residential" (EM4).
- Update the figures in Table 1 (the Infrastructure Gap) (EM3).
- Update the submitted draft document including to reflect its adopted status (EM1-EM2).
- Remove the Regulation 123 list from the Charging Schedule (EM5).

The specified modifications recommended in this report do not alter the basis of the Council's overall approach or the appropriate balance achieved.

## Introduction

1. This report contains my assessment of the Woking Borough Council Community Infrastructure Levy (CIL) Charging Schedule in terms of Section 212 of the Planning Act 2008. It considers whether the schedule is compliant in legal terms and whether it is economically viable as well as reasonable, realistic and consistent with national guidance (Planning Practice Guidance June 2014).
2. To comply with the relevant legislation the local charging authority has to submit what it considers to be a charging schedule which sets an appropriate balance between helping to fund necessary new infrastructure and the potential effects on the economic viability of development across the district. The basis for the examination, which took place through written representations, is the submitted schedule of May 2013, which is effectively the same as the document published for public consultation between 22 July 2013 and 30 August 2013.
3. The Council published a Schedule of Proposed Changes dated October 2013, which were consulted on in December 2013. Insofar as they relate to the Draft Charging Schedule, they update Table 1 which sets out a summary of infrastructure requirements and the funding gap. Updating changes are also proposed to the Regulation 123 list, included as Appendix C to the Draft Charging Schedule.
4. The Council proposes charges for residential and retail development.

Residential development within the Town Centre, Sheerwater and Maybury would attract a charge of £75 per sq m, and residential development in the rest of the Borough would attract a charge of £125 per sq m. Retail development would be charged at £75 per sq m. There would be a nil charge for all other commercial and non-residential uses. The charging zones for residential development are shown on a map contained in an Appendix to the Draft Charging Schedule.

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

*Infrastructure planning evidence*

5. The Woking Core Strategy (CS) was adopted in October 2012. This sets out the main elements of growth that will need to be supported by further infrastructure in the Borough in the period up to 2027. The Core Strategy makes provision for nearly 5,000 additional dwellings with an overall affordable housing provision target of 35%, nearly 50,000 sq m of additional employment generating floorspace, and over 93,000 sq m of additional retail floorspace.
6. The Council has prepared an Infrastructure Delivery Plan (IDP) and Schedule of Infrastructure Delivery Requirements. These were examined as part of the Core Strategy Examination. The IDP broadly identified the key infrastructure likely to be required arising from the development provided for in the Core Strategy, and indicated how it would be likely to be provided; it is intended that it will be periodically monitored and reviewed to take account of changing circumstances. The Inspector who examined the Core Strategy considered the approach of the Council with regard to these documents to be sensible and robust.
7. The infrastructure needs identified as a consequence of the development proposed in the Core Strategy, and set out in the Council's Regulation 123 list towards which CIL would be applied, broadly relate to the provision of Suitable Alternative Natural Greenspace (SANG) to mitigate the impact of new development on the Thames Basin Heaths Special Protection Area (TBHSPA); transport; education; and open space. That list does not cover all the items identified in the IDP; it only includes the items required to support development over the period up to 2022 and regarded as critical to the delivery of the Core Strategy. It has been updated during the course of the Examination, and may change during the lifetime of the Core Strategy.
8. The cost of the infrastructure identified in the Regulation 123 list is around £56m. The Council has taken into account other actual and expected sources of funding over that period, including long term strategic delivery plans such as the Local Transport Plan, financial forward plans of delivery agencies, specific sources identified by delivery agencies in their spending plans (eg Surrey County Council) and outstanding section 106 contributions from new permissions. The Council's calculation is that the gap between available funds and the cost of the infrastructure will be around £53m, and the CIL levy will contribute just under £14m.

9. The New Homes Bonus has also been taken into account, although the Council considers that the net increase in funding from that source is likely to be minimal as it expects the funding gained to be offset by a decrease in the Council's grant funding from Central Government. However, even if that were not the case, the New Homes Bonus is estimated as being likely to contribute only around £3.5m over the 10 years.
10. In the light of the information provided, the funding gap is significant and the proposed charge would make only a modest contribution towards filling that gap. The figures demonstrate the need to levy CIL.

*Economic viability evidence*

11. The Council commissioned a CIL Viability Study (VS), dated January 2013, from consultants experienced in this type of viability work, who had also carried out the viability assessment used in developing the Core Strategy's affordable housing policy. The VS uses a residual land valuation approach, and makes a number of assumptions for a range of factors such as building costs (including Code for Sustainable Homes requirements in the case of residential schemes), profit levels, fees etc.
12. The assumptions about land values have been based on information such as Valuation Office Agency (VOA) property market reporting, and other available local information. This evidence is not fully comprehensive, as only limited information could be gathered from locally active development industry stakeholders. However, no evidence has been produced to support the suggestion that the land values used are wrong. Gross development values were based on a range of sources, including information held by the Council, Land Registry data, VOA reporting and a range of property websites.
13. BCIS data on standard build costs are taken from 2012 and rebased to the Woking area. Reasonable allowances have been made for professional fees and profit levels. Abnormal development costs could influence the viability of schemes, and this would be taken into account in negotiating any section 106 agreements. But it is not appropriate to make allowances, in a general and Borough-wide VS such as this, for abnormal costs over and above the included reasonable allowance for contingencies, given the untypical and highly variable nature of such costs, which are by definition not normal occurrences. The assumption that affordable housing levels will be in line with policy CS12 of the CS is proper and reasonable.
14. The VS assumed rate of developers' profit of 20% of Gross Development Value for open market housing and 6% for affordable housing has been criticised on the basis that a figure of 20% for all types of housing has been accepted by an Inspector dealing with a section 78 appeal in another district in the past. But it is inappropriate to compare an appraisal for a section 78 appeal in a different district, which is likely to be detailed and site specific, with a high level and district-wide CIL assessment such as the one here. In other reports on CIL charging schedules 6% has been accepted as a reasonable profit margin on affordable housing, because the builder does not have to sell on the open market and has certainty of funding. Bearing in mind also the viability cushion built into the proposed charging rates, and the improvement in market

conditions since the VS was carried out, this point does not undermine the soundness of the VS's findings.

15. Assumptions have been made about the amount of money on average which will be sought from residential developments through section 106 agreements once CIL has been adopted. The Council anticipates requiring section 106 monies to secure the delivery of site-specific infrastructure or mitigation matters directly necessary to enable a site to come forward. Section 106 agreements would also be used to secure affordable housing and Strategic Access Management and Monitoring costs in connection with mitigation of the effects of development on the TBHSPA. Once the Charging Schedule takes effect, infrastructure included in the Council's Regulation 123 list cannot be funded through section 106 contributions; and after April 2015, nor can infrastructure requiring five or more pooled contributions. These will have to be funded through CIL.
16. The amount payable under section 106 agreements would be negotiated on a case by case basis, and development viability would be taken into account. On this basis, and given the likely wide variation in development scenarios, it is difficult to see how anything other than a notional sum for section 106 monies could be identified in the VS. There is no convincing evidence that the amount assumed is an unreasonably low figure having regard to the types of development likely to come forward during the period up until 2022.
17. The VS has not been updated, but that is not unusual given the length of the CIL setting process. It includes a wide range of sensitivity testing, including examining the effect of a variety of market values for completed development. Although some of the assumptions used in the VS have been questioned, there is no convincing evidence that those assumptions are wrong to any material extent, nor in general has any evidence been provided of what should be used in their place. Assumptions in a generalised study of this type cannot take account of the considerable variety of circumstances likely to arise across the Borough, and inevitably have to be broad-based. I am satisfied that here the assumptions used are soundly based and realistic.
18. Inevitably there will be a gap between the study period and the CIL examination, and the evidence shows that land values have increased, as have house prices in the Borough. The same may be true of other costs. But the VS tested a wide range of varying values, and there is no convincing evidence that the outcome of the viability testing would have led to recommendations for a lower level of CIL had more up-to-date information (which would have taken into account higher house prices as well as higher land values and costs) been used. Representations have not provided any evidence that assumptions in the VS are outside the range of what might be considered appropriate in a study of this nature.
19. The VS has considered a range of scheme types that were considered relevant to the development plan and could come forward within the Borough. The largest residential development tested was a 100 flat scheme and a 50 dwelling mixed development scheme. The Council considers that the scheme types tested are representative of development likely to come forward within the intended 10 year lifetime of the Charging Schedule. The scenarios tested

reflected those used in the CS Viability Study work.

20. The CS does not itself allocate specific sites for development. Sufficient sites are identified to deliver at least 10 years of its housing requirement. For the last five years of the CS period Woking Town Centre and the Green Belt, which adjoins much of the Borough's urban area, are identified as broad locations for the future direction of growth. Policy CS6 of the CS provides for a Green Belt boundary review to identify land to be released between 2022-2027.
21. Some of the Green Belt sites being promoted for development in the latter part of the plan period may deliver a greater number of homes than the numbers tested in the VS. The concern expressed in some representations that the evidence considered in the VS may not be comprehensive for the later part of the CS plan period is therefore reasonable. However, there is a clear commitment in the Charging Schedule to review the rate of CIL after five years as a minimum.
22. The Council's Topic Paper on the Infrastructure Funding Gap notes the need for a review, because until sites to be released from the Green Belt have been identified the infrastructure needed to support them cannot be determined, and the work on infrastructure needs used to justify the amount of CIL to be charged now only relates to the period up until 2022. The Charging Schedule will clearly need to be updated to take account of infrastructure needs after that date. Under these circumstances, the sizes of development scenarios examined in the VS are appropriate for the intended period of the Charging Schedule. However, this consideration points to the importance of a review being undertaken within the timescales identified in the Charging Schedule, if not earlier.
23. The VS assessed Class C2 care or nursing homes and recommended that a zero CIL charging rate should be applied. No specific review of Class C3 retirement housing as a scheme type was carried out. But the VS indicated that its findings on residential scenarios applied also to sheltered housing development ie generally high density flatted schemes providing retirement/minimum age-restricted housing in self contained units with no significant element of care.
24. Subsequently (March 2014) the Council's consultants have carried out some specific appraisals of the effect of charging CIL at the rates proposed in the draft Charging Schedule on a retirement scheme. Assumptions made include affordable housing being provided on site, an increased non-saleable floor area by comparison with typical apartment developments, and an allowance for empty property costs. Those assumptions reflect specific aspects of retirement housing which would be likely to increase costs, and I consider that they are reasonable and appropriate. I consider the effect of imposing CIL on the viability of Class C3 retirement housing in paragraphs 34 and 35 below.

### *Conclusion*

25. The draft Charging Schedule is supported by detailed evidence of community infrastructure needs and viability studies of an appropriate range of development types prepared by experienced consultants and applying

generally accepted standard practice. 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*

26. The two rates proposed to be charged for residential development, one, of £75/sq m for Woking Town Centre and associated areas, and one, of £125/sq m for the remainder of the Borough, reflect the outcomes and recommendations of the VS. This indicated a range of property values across the Borough, in the lower and middle range in the Town Centre and adjoining areas, and higher values with lower development costs outside those areas.
27. It is necessary to levy a charge on all residential properties (other than those specifically exempted from the CIL charge under the Regulations, such as social housing or self build) because the major part of the revenues raised are needed to meet the works required to mitigate the effects of residential development on the TBHSPA, without which no residential development at all could take place. Given this consideration, and the large funding gap, it is then a question of viability as to the amount to be levied, and whether differential rates should be charged. It is clear from the VS that the differential rate approach is supported by the available evidence as to property values in these two parts of the Borough.

#### *Retail rates*

28. The VS identifies some scope for charging CIL on retail development. It found that large convenience stores and retail warehousing in out-of-town or edge of town locations could support higher levels of CIL than retail development in the town centre, which showed typically lower viability levels. As most of the new retail space provided for in the CS is envisaged as town centre shopping, and as town centre comparison retail exhibited lower viability levels than edge of centre or out of centre supermarket or retail warehousing, it recommends a single retail charging rate throughout the Borough of £75/sq m. This is the rate proposed in the draft Charging Schedule, and it is a rate informed by and consistent with the evidence on viability.

#### *Commercial and other development*

29. The VS also considered the effect of imposing a CIL charge on the other forms of development likely to come forward during the life of the Charging Schedule, including business and industrial development, residential institutions within Use Class C2, hotels and community facilities. It convincingly showed that such development would not be likely to be viable if CIL was charged upon it. The draft Charging Schedule recommends a nil rate, consistent with this finding.

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

30. The Council's decision to set differential rates for residential development, one within the town centre and adjoining areas, and one applying to development elsewhere within the Borough, and to set one rate for retail development throughout the Borough, is based on reasonable assumptions about development values and likely costs. The evidence suggests that the residential and retail development likely to come forward within the intended lifetime of the proposed charging rates will remain viable across most of the area if the charge is applied.
31. No alternative viability evidence relating to the Borough has been produced to undermine the findings of the VS, or to suggest that sites, including sites for rural housing, will become unviable or that the charge will act as a significant disincentive for development in rural areas. The rates proposed in the draft Charging Schedule are set well below the limits of viability as identified in the VS.
32. The amount of section 106 contributions agreed over the five-year period up to 2013 is very similar to the amount expected to be secured under CIL over a similar timescale. This is an indication that the introduction of CIL will not significantly increase the demands on development within the Borough, over and above what has been sought in the past under section 106. In the period since the adoption of the Core Strategy, the Council has broadly met its affordable housing requirement, and the evidence does not suggest that the adoption of CIL at the level proposed would undermine the delivery of affordable housing at the required rate for the intended lifetime of the charging schedule. However, this is an issue which will require careful monitoring, and it emphasises the need for a review of the Charging Schedule to take into account the proposed release of Green Belt land during the latter part of the Core Strategy period.
33. In addition, there has been a significant improvement in property values since the VS was carried out, which the Council says has more than outweighed the level of proposed CIL charging. None of the evidence points to the proposed CIL rates putting the overall development of the area at risk during the intended lifetime of the Charging Schedule. There is no evidence that the imposition of CIL on residential development will lead to an increase in house prices.
34. The additional appraisals carried out with regard to Class C3 retirement development show outcomes at least comparable with the residential developments originally appraised. On the basis of this evidence there is no reason to suppose that the viability of such schemes would be significantly undermined by the imposition of CIL, or that CIL would impact disproportionately on Class C3 retirement development.
35. But the Core Strategy does not set a specific target for the provision of this type of housing. If past trends continue, the number of Class C3 retirement dwellings coming forward in future years is likely to be a relatively small proportion of the overall housing requirement identified in the Core Strategy. Much of the need for specialist accommodation for the elderly is likely to be addressed through developments falling within Class C2, and other forms of Class C3 housing such as housing built to Lifetime Homes standard could also

meet the needs of elderly occupiers. Consequently, even if the viability of some Class C3 retirement schemes were to be adversely affected by the imposition of CIL, that would not put at risk the delivery of the Core Strategy as a whole

36. Relatively little of the Borough is in active agricultural use, and the Council estimates that there will be only a small number of proposals for rural workers' dwellings. The overall delivery of the Core Strategy would not be put at risk if some of those dwellings became unviable as a result of the charge, although there is no evidence that that would be the case. The CIL Regulations provide relief from CIL for dwellings let on assured agricultural tenancies, providing scope for housing to be provided for agricultural workers without liability for CIL. There is no justification for exempting from the charge dwellings built for private rental rather than for sale.
37. The effect of charging CIL at the retail rate on retail development forming part of a farm diversification scheme has not specifically been evaluated in the VS. However, the Council's expectation that only a small number of such proposals would be likely to come forward in any given year is a reasonable one, bearing in mind the limited amount of agricultural land within the Borough, and if any were made unviable as a result of the levy it would not put at risk the overall delivery of the Core Strategy. But in any event, the levy would not apply to farm shops created in pre-existing buildings, or which involve new floorspace of less than 100 sq m, and according to the Council many farm shops would not be subject to the levy for this reason. Under the circumstances, there is no justification for an exemption for this type of development.

#### Other matters

38. As indicated above, the Council's Regulation 123 list, of infrastructure to be funded through CIL receipts, does not identify all of the infrastructure likely to be required as a result of new development up to 2022. It is for the Council to determine which items of infrastructure are to be included on that list. It is not a matter for this examination to enquire into the contents of the regulation 123 list, beyond determining that the items on the list are matters which will arise out of development proposed in the Core Strategy and demonstrate that there is a need to levy CIL. Because the Regulation 123 list may be subject to change after the adoption of the Charging Schedule, it is not appropriate for it to be included as an Appendix to the Charging Schedule when finally adopted, and I recommend that it should be removed from the Charging Schedule.
39. Representations have drawn attention to the higher level of CIL proposed to be charged in one of the neighbouring local planning authorities. However, the questions for this examination are whether CIL is required to fund infrastructure needs arising from proposed development, and whether the rates proposed would put the delivery of the Core Strategy at risk. It is not the role of the examination to compare the rates proposed in the Borough with those proposed by other authorities in the area.
40. Similarly, it is not the role of the examination to consider the instalment payment policy proposed by the Council, or the Council's decision not to implement any discretionary exemptions. Those are matters completely within

the Council's discretion.

41. I recommend that those modifications to the Charging Schedule advertised in October 2013 which relate to the Charging Schedule itself (other than Appendix C containing the Regulation 123 list) be carried out to the adopted Charging Schedule. There is no need for any formal action with regard to the other proposed modifications, which relate to the Council's evidence base rather than the Charging Schedule itself.
42. I also recommend that a definition of "residential" is included in the Charging Schedule, to clarify that it relates only to Class C3 uses and small-scale "houses in multiple occupation".
43. I recommend that the Charging Schedule is updated before adoption to reflect its adopted rather than draft and proposed status. These are minor alterations which the Council could make without further consultation.

### Conclusion

44. 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 Woking. 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 Council has indicated its intention to review the Charging Schedule every five years as a minimum, and I consider that to be essential. Given both the significant gap in infrastructure funding and the need to ensure the delivery of the Core Strategy, it may be appropriate for it to consider carrying out the review at an earlier stage than five years.

<b>LEGAL REQUIREMENTS</b>	
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.

45. I conclude that subject to the modifications set out in Appendix A the Woking 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.

*Sara Morgan*

Examiner

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

### Appendix A

**Modifications that the Examiner specifies so that the Charging Schedule may be approved.**

**EM1** In paragraph 1.4 replace “2014” with “2015” and delete the last two sentences.

**EM2** Delete all references relating to the proposed/draft charging schedule and the consultation process which are inappropriate to be retained in the adopted document.

**EM3** Replace Table 1 in the Charging Schedule with the following:

**Table 1: Summary of Infrastructure Requirements**

Infrastructure	Infrastructure required	Total funding required	Existing from other sources	Funding gap
Thames Basin Heaths	Future Improvements to green areas to deliver SANG for future growth (excluding existing Planning permission)	£5,492,090	£0	£5,492,090
Transport	New roads, improved junctions, crossings, cycle improvements	£23,050,000 - £34,050,000 <b>(Average £28,550,000)</b>	£3,200,000	£19,850,000 - £30,850,000 <b>(Average £25,350,000)</b> (minus £100,000 deletion of Marist School crossing) <b>£25,250,000</b>
Education	19 primary school classrooms and ancillary spaces. 13 secondary school classrooms and ancillary spaces Early year provision	£16,088,227	£0	£16,088,227
Open Space	Outdoor Sports	£5,474,000	£0	£5,474,000
	Allotments	£266,304	£115,000	£151,304
	Child Play Space and teenage play space	£1,120,000	£0	£1,120,000
<b>Total</b>		<b>£56,990,621</b>	<b>£3,315,000</b>	<b>£53,575,621</b>

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**EM4** Insert after Table 3 the following:

For the purposes of the Charging Schedule "Residential" means:

Use as a dwellinghouse (whether or not a main residence) by:

(a) A single person or by people to be regarded as forming a single household;

(b) Not more than six residents living together as a single household where care is provided for residents; or

(c) Not more than six residents living together as a single household where no care is provided to residents (other than use within Class 4)

Use of a dwelling house by 3 – 6 residents as a 'house in multiple occupation'

**EM5** Delete Appendix C and all references to it in the text