The Planning Inspectorate

Report to Eastbourne Borough Council

by William Fieldhouse BA (Hons) MA MRTPI

an Examiner appointed by the Council

Date: 12 January 2015

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

REPORT ON THE EXAMINATION OF THE DRAFT EASTBOURNE COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE

Draft Charging Schedule submitted for examination on 10 October 2014

File Ref: PINS/T1410/429/7

Non Technical Summary

This report concludes that, subject to modification, the Eastbourne Community Infrastructure Levy Draft Charging Schedule provides an appropriate basis for the collection of the levy in the Borough excluding those parts within the South Downs National Park. 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 would introduce a nil rate for all residential apartment developments.

The recommended modification is based on issues considered through the written representations procedure, and is necessary to ensure that an appropriate balance is struck between the desirability of CIL funding the infrastructure required to support the development of the area and the potential effects on the economic viability of that development.

Introduction

1. This report contains my assessment of the Eastbourne Community Infrastructure Levy (CIL) Draft 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 the National Planning Policy Framework ("NPPF") and Planning Practice Guidance ("PPG")[1].

2. To comply with the relevant legislation the local charging authority has to submit what it considers to be 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 area. The basis for the examination, which took place through written representations, is the submitted Draft Charging Schedule dated October 2014, which is effectively the same as the document published for public consultation in February and June 2014[2].

3. The Council proposes rates of £50 per sq metre for residential (C3) development, and £80 per sq metre for retail (A1-A5) development. All other uses would be subject to no charge. The rates would be charged in all parts of the Borough excluding those that are within the South Downs National Park.

[1] PPG ID-25 *Community Infrastructure Levy* updated 12 June 2014.
[2] Two rounds of consultation were undertaken on the Draft Charging Schedule due to the publication of amendments to the CIL Regulations in February 2014.

Is the Draft Charging Schedule Supported by Background Documents Containing Appropriate Available Evidence?

Infrastructure Planning Evidence

4. The Eastbourne Core Strategy was adopted in February 2013. This sets out the development that is planned to take place in the Borough up to 2027 in order to achieve a vision of Eastbourne being a premier coastal and seaside destination within an enhanced green setting[3]. There are ten spatial objectives, one of which is to deliver new housing, employment and shopping opportunities to meet the needs of all sections of the local community and sustainable growth within environmental constraints[4].

5. The Core Strategy aims to deliver at least 5,022 dwellings within the built up area, with a minimum of 70% being on brownfield land[5] and all meeting the minimum requirement of level 4 of the Code for Sustainable Homes[6]. In order to ensure that residential development remains viable, the proportion of affordable housing sought is 40% in high value areas and 30% in low value areas[7].

6. Job growth and economic prosperity is supported[8], and the role of the town centre as the primary comparison shopping destination promoted, along with appropriate retail development in designated district, local and neighbourhood centres[9]. All non-residential development over 1,000m^2 must meet the BREEAM "very good" standard[10].

7. The Council is committed to working with others to ensure that the necessary infrastructure to support future housing and employment development is available or will be provided alongside new development. An Infrastructure Delivery Plan (IDP), setting out all of the strategic infrastructure required over the plan period, is to be regularly updated[11].

8. The latest version of the IDP is dated October 2014. This provides an analysis of current infrastructure requirements in different parts of the Borough in relation to education provision; community facilities; health care facilities; utilities, waste and flood measures; open space and green infrastructure; transport; town centre infrastructure improvements; emergency services; and affordable housing[12]. A schedule of infrastructure projects is included, along with estimated costs, actual and potential funding arrangements, and an assessment of whether each is critical, important or desirable in relation to delivery of the Core Strategy[13]. The IDP concludes that certain types of transport and education infrastructure are critical, along with wastewater treatment, flood protection measures, and the provision of a community centre

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[3] Core Strategy paragraph 1.2.2
[4] Core Strategy section 1.4.
[5] Core Strategy policy B1.
[6] Core Strategy policy D1.
[7] Core Strategy policy D5 and Figure 16.
[8] Core Strategy policy D2.
[9] Core Strategy policy D4 and Appendix C.
[10] Core Strategy policy D1.
[11] Core Strategy policy E1.
[12] IDP 2014 Figure 1 and Section 9.
[13] IDP 2014 Appendix A.

in the Sovereign Harbour Neighbourhood[14].

9. The Council has undertaken an analysis of the latest estimated costs, along with expected sources of funding, for the critical infrastructure identified in the IDP. Potential funding sources include planning obligations, Borough Council funds, Southern Water capital development programme, East Sussex County Council capital programme, the local sustainable transport fund, Highways Agency investment programme, local enterprise partnership and local transport body funds, the Borough Council capital investment programmes, parking reserves, and Network Rail investment programme. The analysis concludes that there is a total infrastructure funding gap of approximately £48 million, due to shortfalls in funding for early years, primary, secondary and further education provision (£40 million) and transport projects (£8 million)[15].

10. The Council has carried out a CIL revenue analysis based on the rates set out in the Draft Charging Schedule and specific residential and retail developments that are expected to take place in accordance with the Core Strategy[16]. This concludes that residential developments on around sixty sites, that do not currently have planning permission, could generate around £2.9 million in CIL revenue[17]. There is no evidence before me to suggest that this is an unreasonable estimate.

11. Whilst no sites are allocated specifically for retail development, the Core Strategy does envisage additional floorspace for both comparison and convenience shopping. The Council estimates that extensions to existing retail areas could generate around £2.1 million in CIL revenue over the plan period[18]. This is based on three schemes currently known about (Town Centre Arndale, Sovereign Harbour Retail Park, and Langney Shopping Centre), and, if anything, seems to be a conservative estimate of the amount of CIL that could be generated by such retail developments up to 2027.

Conclusion about the Infrastructure Planning Evidence

12. Infrastructure required to deliver the Core Strategy, along with actual and expected sources of funding and a funding gap (£48 million), has been identified. The expected revenue from the proposed charging rates (£5 million) would make a modest contribution to filling the anticipated funding gap. Nonetheless, this demonstrates the need to introduce CIL to help to deliver the Core Strategy.

Economic Viability Evidence

13. The Council began work on CIL in 2012 with county-wide evidence on financial viability being commissioned by all local authorities in East Sussex, followed by bespoke assessments for Eastbourne in early 2013. This informed the Preliminary Draft Charging Schedule that was consulted upon in July and August 2013[19]. In response to the issues raised in the representations, further viability assessment work was carried out and, on the basis of this, changes

14 IDP 2014 paragraph 2.2.
15 Infrastructure Funding Gap Analysis Final Report (June 2014).
16 Community Infrastructure Levy Revenue Analysis Final Report (June 2014).
17 Community Infrastructure Levy Revenue Analysis Final Report (June 2014) Appendix A.
18 Community Infrastructure Levy Revenue Analysis Final Report (June 2014) paragraphs 1.5 and 1.6.
19 Consultation and Cooperation Statement (February 2014) paragraphs 2.1-2.4.

were made to the proposed rates which are reflected in the Draft Charging Schedule that was published for consultation in February and June 2014. This subsequently became, subject to some minor factual updates[20], the version that was submitted for examination in October 2014.

14. The Viability Assessment (VA) used to inform the Draft Charging Schedule was published in October 2013[21]; this includes a study of land and property values[22] and construction costs[23], and detailed numerical assumptions are set out in a series of tables[24]. In response to representations made during the consultation period, and to questions that I asked during the examination, the Council commissioned further assessment work in December 2014[25].

The Types of Development Considered

15. The VA considered development in a number of categories considered to be representative of most types of development that would be likely to take place in accordance with the Core Strategy in the period to 2027. These comprised five types of residential development, including different sizes of dwellings and apartments, and ranging in scale from 5 units to 120 units; supermarkets (3,000m^2); general retail (300m^2); factories; offices; hotels; residential institutions; community centres; bowling allies; farm stores; car showrooms; and car repair garages[26].

16. The further work carried out in December 2014 included an assessment of food stores/supermarkets of five different sizes ranging from 150m^2 to 7,500m^2; a small general shop (100m^2); a roadside retail unit (500m^2); and a retail warehouse (5,000m^2) [27].

17. Given the good range of different uses and scales of development considered, I am confident that the viability of all forms of development, including discount operator food stores, likely to take place in accordance with the Core Strategy has been assessed.

The VA Methodology

18. The VA uses a "development appraisal approach", which estimates the value and cost (including of purchasing the land) of the different types of development and makes allowance for reasonable developer profits. The sum of the costs and profit is subtracted from the value of the development, and if the outcome is positive the development is assessed as viable. The size of the margin determines the maximum potential CIL rate that could be charged whilst maintaining viability[28].

19. Unlike standard residual land value methodologies, the VA factors in the threshold land value[29] as a key element of the development cost; this is

[20] Schedule of Modifications (October 2014).
[21] Community Infrastructure Levy Viability Assessment and Viability Appraisals (NCS, October 2013).
[22] Valuation Study (HEB Chartered Surveyors, May 2013) attached as Appendix 1 to the VA.
[23] Construction Cost Study for East Sussex (Gleeds, May 2012) attached as Appendix 2 to the VA.
[24] Community Infrastructure Levy Viability Appraisals (NCS, October 2013).
[25] Council written statement in response to the Examiner's questions 9 and SQ1 to SQ4 (December 2014).
[26] VA paragraph 4.14 to 4.16.
[27] Council written statement in response to the Examiner's question 9 (December 2014).
[28] VA paragraphs 3.32 to 3.35.
[29] Threshold land value is the minimum value at which the landowner will sell the land.

intended to take account of all potential finance charges. The PPG acknowledges that there are a number of possible methodologies that can be used to prepare economic viability evidence[30], and the approach used in the VA is broadly consistent with the principles set out in widely-recognised best practice[31].

20. However, as with any viability model, the outputs (here, the maximum potential CIL rates) are a result of the inputs. In other words, the assumptions about land values, construction costs, infrastructure costs, and financial contributions through planning obligations, developer profits, and the sales value of the development are all critical to determining viability and hence potential CIL rates. Some of these assumptions have been challenged by representors.

21. Land and property prices were considered across the Borough, and the analysis suggested that two principal residential sub market areas could be identified with variations being significant enough to apply differential assumptions for the purposes of the VA. However, there was not conclusive evidence to demonstrate that commercial and other non-residential values varied markedly across the Borough such that it was necessary to adopt a sub market approach for such developments[32]. Whilst this has been questioned in representations, I have not been provided with any substantive evidence to indicate that a differential approach based on geography should be adopted for commercial development.

Land Values

22. Rather than basing the threshold land value on a fixed percentage increase above the existing use value, the VA assumes that landowners will expect a minimum of 50% of the uplift in land value that occurs as a consequence of the development, with the remaining proportion going, ultimately, to the public through planning obligation financial contributions, CIL charges, or other mechanisms. The sharing of land value uplift between landowners and the public is an inevitable consequence of requiring development to contribute to the cost of infrastructure and other mitigation measures, and whilst there is no specific justification for a fifty-fifty split, such an approach seems reasonable and has not been seriously called into question by any of the representors.

23. There are some concerns about the basis for the retail land value assumptions. It is acknowledged that local transactional data is limited, but this has been supplemented by comparable information drawn from a wider geographical area[33]. Little specific alternative evidence about land values has been presented by representors, and I am therefore satisfied that the VA is based on appropriate available evidence in this regard.

Development Costs

24. Construction cost estimates are based on an analysis of a range of projects in

[30] PPG ID-25-019.
[31] Viability Testing Local Plans: Advice for Planning Practitioners (Local Housing Delivery Group chaired by Sir John Harman, June 2012).
[32] VA paragraphs 4.2 to 4.4, and pages 16 and 17 of the Valuation Study (HEB Chartered Surveyors, May 2013) attached as Appendix 1 to the VA.
[33] Pages 24 to 26 of the Valuation Study (HEB Chartered Surveyors, May 2013) attached as Appendix 1 to the VA.

the consultant's database supplemented where appropriate by BCIS information[34]. Costs of providing drainage, internal access roads, utility connections and ancillary open space are included, whereas no allowance is made for potential abnormal costs[35].

25. Much of the retail development likely to take place in the Borough in accordance with the Core Strategy is likely to be on brownfield sites, meaning that there could well be additional costs including of demolition, site preparation, and other abnormals. However, it is not unreasonable to expect such costs, which will be site specific, to be reflected in a lower land value. Furthermore, as CIL is calculated on net additional floorspace, the amount charged will be reduced for schemes that involve the demolition of existing buildings. Some additional costs will be covered by the assumptions about financial contributions through planning obligations which I consider below.

26. Retail construction costs (£600 per sq metre) are based on the cost of a retail shell, and development values were estimated accordingly[36]. Such an approach allows for consistency across all forms of retail development, whereas attempting to factor in the specific requirements of individual retail operators including fitting out the building or landscaping the site, the costs of which can vary markedly, would be impractical and not allow meaningful comparisons to be made.

27. For residential development, the cost of providing affordable housing in accordance with the requirements of the Core Strategy was included[37], as were costs associated with achieving level 3 of the Code for Sustainable Homes[38]. Whilst the justification for choosing level 3, rather than level 4 in accordance with the Core Strategy, is not entirely clear, there is no substantive evidence before me to suggest that this would make such a significant difference to the costs of residential development that it would materially affect the conclusions relating to viability.

28. According to some representors, the cost assumptions about contingencies (5%) and professional fees (8%) are unrealistically low and fail to take account of marketing, legal and land acquisition fees. However, there is no information before me to justify any alternative figures, and those that are used are not significantly lower than referred to in advice to practitioners[39].

29. The VA makes allowances for financial contributions that would be likely to still be required notwithstanding the introduction of CIL. The assumptions of £2,000 per dwelling and £10 per sq metre for retail development are intended to cover the costs of addressing site specific issues that may arise, including providing safe access and local highway improvements, flood mitigation, and archaeological investigations[40]. This is consistent with the Regulation 123 list published in October 2014. As these allowances are greater than the average

[34] Construction Cost Study for East Sussex (Gleeds, May 2012) page 3, attached as Appendix 2 to the VA.
[35] VA paragraphs 4.18 and 4.19.
[36] Council written statement in response to the Examiner's question 9 (December 2014).
[37] VA paragraphs 4.5 to 4.8 and 6.5 to 6.6
[38] VA paragraph 4.17.
[39] Viability Testing Local Plans: Advice for Planning Practitioners (Local Housing Delivery Group chaired by Sir John Harman, June 2012) page 35 and Appendix B.
[40] VA paragraphs 4.20 to 4.22, and Council written statement in response to the Examiner's questions SQ6 and SQ7 (December 2014).

financial contributions made through planning obligations in the past[41], they are, if anything, more likely to be on the high side rather than under-estimates.

Developer Profits

30. Developer profits are assumed to be a 20% return on gross development value for residential development, and 17.5% for commercial development in recognition that most commercial floorspace will be pre-let or pre-sold meaning that the level of risk is less than for residential development[42]. Such profits are generally considered reasonable for these types of development, and nothing that I have read demonstrates that they are inappropriate in this case.

Development Sales Values

31. Assumed residential sales values are based on actual market comparable evidence, as housing tends to be a relatively uniform product. However, whilst commercial property sales values are based on transactional data where possible, this is backed up by an analysis of estimated market rents and investment yield profiles[43]. Whilst some of the data used relates to sites outside the Borough, a reasonable range of locations and developments has been used. There is no information that I have been provided with to lead me to conclude that the assumed sales values are unduly optimistic, and as they are largely based on data relating to the last few years they may indeed prove to be conservative if economic conditions improve over the plan period.

Conclusion about the Economic Viability Evidence

32. Testing the viability of development across an area is not an exact science[44]. The VA adopts a reasonable and proportionate approach, and clearly has had regard to good practice based on experience gained elsewhere. Some assumptions may be optimistic, whilst others may be pessimistic. It is not possible to precisely weigh up the overall effect, but on balance the evidence provides a reasonable basis for assessing the viability of the various types of development across the area. Given the inevitable uncertainties that surround the assumptions, and because the costs of some developments may be greater, it is important that the proposed CIL rates are set significantly below the maximum potential rates identified in the VA in order to ensure that the viability of most development is not compromised.

Conclusion on Whether the Draft Charging Schedule is Supported by Background Documents Containing Appropriate Available Evidence

33. The Draft Charging Schedule is supported by detailed evidence of community infrastructure needs and the economic viability of development. On this basis, the evidence that has been used to inform the Draft Charging Schedule is robust, proportionate and appropriate.

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[41] VA paragraph 4.21 and Council written statements in response to the Examiner's questions 2, SQ6 and SQ7.
[42] VA paragraph 4.23.
[43] Page 11 and Appendices 2 and 3 of the Valuation Study (HEB Chartered Surveyors, May 2013) attached as Appendix 1 to the VA.
[44] Viability Testing Local Plans: Advice for Planning Practitioners (Local Housing Delivery Group chaired by Sir John Harman, June 2012) page 18.

Are the Proposed Charging Rates Informed by and Consistent with the Evidence?

Proposed CIL Rate for Retail Development

34. The VA concluded that supermarket development is viable and capable of generating maximum CIL rates of £397 per sq metre on brownfield sites and £456 on greenfield sites[45]. The further appraisal work carried out in December 2014 confirmed that small and medium-sized supermarkets (750m^2, 1,000m^2 and 2,000m^2) would be viable, but be capable of generating lower rates of CIL up to a maximum of £192 on brownfield sites[46].

35. The VA found that "general retail" (300m^2) is also viable, although maximum CIL rates would be £113 and £142 on brownfield and greenfield sites respectively[47]. The later assessment found that small general retail development, roadside retail units, and retail warehouses would all be viable and likely to be capable of generating higher rates of CIL[48].

36. The proposed CIL rate of £80 per sq metre for all forms of retail represents 42% of the maximum CIL rate for small and medium sized supermarket development on brownfield sites, and a smaller proportion for greenfield sites. For "general retail" (300m^2), the proposed rate represents 71% for brownfield development and 56% for greenfield development. For all other forms of retail development the proposed rate would represent a lower proportion of the potential maximum rate[49].

37. This suggests that the proposed CIL rate, when applied to the range of retail developments appraised, including that for discount operators and other small and medium sized shops, incorporates a significant margin to allow for the inevitable uncertainties that surround the estimates of development costs and values. Furthermore, there is no substantive evidence before me to demonstrate that the proposed rates are likely to threaten the viability of retail development across the Borough.

The Proposed CIL Rate for Residential Development

38. The VA concluded that all forms of residential development, other than that including apartments, are viable in both the low and high value areas. Maximum CIL rates would be £67 to £332 per sq metre depending on whether the development was on a brownfield or greenfield site, and the number and mix of dwellings[50].

39. The table below sets out the maximum CIL rates identified in the VA for the five categories of residential development assuming affordable housing provision in accordance with the requirements of the Core Strategy[51].

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[45] The VA, in paragraphs 6.11 and the table of page 33, refers to two different figures for the viability of supermarkets on greenfield sites. Paragraph 8.2 of the Council's written statement in response to the Examiner's questions SQ1 to SQ7 (December 2014) clarified that the correct figure is £456.
[46] Council written statement in response to the Examiner's question 9 (December 2014).
[47] VA paragraph 6.11 and table on page 33.
[48] Council written statement in response to the Examiner's question 9 (December 2014).
[49] The Examiner's percentage figures.
[50] VA paragraph 6.3 and tables on pages 29 to 32.
[51] VA paragraph 6.6.

	Mixed res dev 120 units	Starter homes & apartments 20 units	Apartment block 50 units	Infill 10 units	Exec infill 5 units
Low value area Greenfield site 30% affordable	163	9	-241	187	225
Low value area Brownfield site 30% affordable	83	-54	-284	108	143
High value area Greenfield site 40% affordable	182	32	-8	159	332
High value area Brownfield site 40% affordable	99	-38	-49	67	249

40. The proposed residential rate of £50 per sq metre represents 75% of the maximum potential rate for infill development of ten units on a brownfield site in the high value area. Such a form of development is unlikely to represent a large proportion of the overall amount of new housing, and the proposed rates would represent a much smaller proportion of the maximum potential rate for all of the other categories of brownfield and greenfield residential development in both high and low value areas (other than apartments and a mix of apartments and starter homes). This suggests that the proposed CIL rate, when applied to much of the residential development that is likely to take place, incorporates a significant margin to allow for inevitable variations in the costs and value of particular developments.

41. The VA concluded that apartment blocks are not generally viable in either low or high value areas, and a mix of starter homes and apartments is only viable on greenfield sites[52]. This is a highly significant finding because it is expected that around 60% of all new homes in the Borough up to 2027 will be in the form of apartment development[53]. The proposed charging rate would add an additional viability burden to, and thereby threaten the delivery of, a form of development that is clearly critical to meeting housing needs identified in the Core Strategy.

42. There is some evidence that the VA underestimated the viability of apartment developments as apartments have continued to be built in the last few years, and current prices of such new properties are higher than the values assumed in the VA[54]. However, the Council accepts that there is insufficient evidence relating to the time period used in the VA to justify significantly higher overall figures, and it would skew the outputs of the model to include data from a different time than that used for other variables. That said, a re-run of the model using a less conservative, alternative valuation of £2,800 per sq metre for apartment developments, rather than the figures of £2,700 for high value areas and £2,200 for low value areas, suggests that developments comprising apartment blocks and a mix of starter homes and apartments would be viable

[52] VA paragraph 6.4 and tables on pages 29 to 32.
[53] Council written statement in response to the Examiner's question SQ1 (December 2014).
[54] Council written statement in response to the Examiner's question SQ2 (December 2014).

on greenfield and brownfield sites in all parts of the Borough[55].

43. However, whilst the value of new apartments may be greater than second hand stock, it is not clear that such an increase in valuation is justified for the low value areas. Furthermore, and due to the affordable housing requirements, the maximum potential rates for greenfield apartment development in high value areas would be only slightly above the proposed rate of £50, whereas the potential rate for brownfield sites in such areas would be below that figure. The Council has not suggested that it would be appropriate to forego the provision of affordable housing to increase the viability of apartment development in high value areas, and to do so would be contrary to the Core Strategy. Recent changes to national guidance mean that contributions for affordable housing should not be sought from developments of ten units or less[56], but the effect that this will have in Eastbourne is not at all clear at this time.

44. Therefore, it is clear to me that applying the proposed charging rate of £50 to apartments is not justified by the viability evidence, and that it would be likely to threaten the delivery of a form of development that is critical to the achievement of the objectives of the Core Strategy. The Council has advised that, in the event that I reach such a conclusion, consideration should be given to modifying the Draft Charging Schedule to introduce a nil rate for residential apartment development. Such an approach would be likely to reduce the amount of CIL revenue compared to that estimated in the revenue analysis report, and mean that a greater infrastructure funding gap would persist. However, evidence suggests that the proposed rates would reduce the amount of residential development, meaning that the assumed CIL revenue would be unlikely to be raised in any case. In other words, applying CIL to apartment development would not only prevent housing needs being met, but would also be unlikely to help to deliver additional infrastructure. It would not, therefore, have a positive economic effect.

45. The legislation allows for differential rates by reference to intended uses of development. The PPG makes it clear that the definition of "use" for this purpose is not tied to the Town and Country Planning (Use Classes) Order 1987, and gives the example of applying differential rates to social housing if that is justified by viability evidence[57]. In this case, the evidence indicates that the viability of apartments is quite different to other forms of housing development in Eastbourne. Part of the reason for this is the additional development costs associated with creating shared access, circulation and outside amenity areas. Furthermore, these features of apartment blocks mean that such buildings are used in a materially different manner to individual dwellings with private gardens. I am, therefore, satisfied that the application of a differential rate to apartment developments would be in accordance with the relevant legislation and national guidance.

46. For the reasons given above, I recommend that the Draft Charging Rate be modified to include a nil rate for residential apartment developments in both the low and high value areas [**EM1**].

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55 Council written statement in response to the Examiner's question SQ3 (December 2014).
56 PPG ID-23b-012, 28 November 2014.
57 PPG ID-25-022, 12 June 2014.

The Proposed CIL Rate for Other Categories of Development

47. The VA concluded that all of the other categories of development tested are not generally viable[58]. This has not been challenged by representors, and there is nothing that I have read that leads me to a different conclusion. Accordingly, the nil charge for all other types of development is justified.

Conclusion on Whether the Proposed Charging Rates are Informed by and Consistent with the Evidence

48. For the reasons given above, and with the exception of their application to apartment developments, the proposed charging rates are clearly informed by, and consistent with, the evidence relating to community infrastructure needs and the viability of development across the Borough as set out in the Core Strategy.

Does the Evidence Demonstrate that the Proposed Charge Rates would not put the Overall Development of the Area at Serious Risk?

49. Assuming that the Draft Charging Schedule is modified in accordance with my recommendation, the evidence suggests that residential and retail development will remain viable across most of the area if the charges are applied. Only if the assumptions used in the viability appraisals prove to be significantly wide of the mark, an eventuality which has not been shown to be likely by the evidence before me, would development across the Borough be made unviable by the proposed charging rates.

Other Matters

50. A number of other matters have been raised by representors. However, the approach to charging CIL that may be taken in exceptional circumstances, guidance about the how the system will operate, and reporting how CIL revenue is actually spent are all matters for the Council rather than for this examination. In so far as it is relevant to my considerations, I have had regard to the Regulation 123 list but it is not for me to advise on what is or is not included in that document. For that reason, it is not necessary for me to assess the detailed information provided by Sussex Police, although I note that police facilities have been added to the Regulation 123 list meaning that CIL could be used for such infrastructure if that were deemed to be appropriate by the Council.

51. I understand that the remaining brownfield land at Sovereign Harbour could accommodate 150 dwellings. Whilst such development would no doubt be beneficial to the area, in the context of the overall housing numbers it cannot be regarded as critical to the delivery of the Core Strategy. It is not, therefore, necessary to appraise specifically the viability of residential development in that area, and it will be for the Council to determine the level of affordable housing provision and other matters to be potentially covered by planning obligations.

52. No other matters raised in the representations affect my overall assessment or

[58] VA paragraph 6.10 and table on page 33.

conclusion.

Conclusion

53. In setting the proposed charging rates the Council has had regard to detailed evidence on infrastructure planning and the economic viability evidence of the development market in those parts of Eastbourne outside the South Downs National Park. The Council has tried to be realistic in terms of achieving a reasonable level of income to address an identified gap in infrastructure funding, while ensuring that a range of development remains viable across the Borough.

54. However, I have found that the evidence indicates that apartment developments, which are critical to the delivery of the Core Strategy, would be unlikely to be viable if CIL were to be charged, and therefore such development should be subject to a nil rate. On that basis, only development that has been shown to be viable would be charged CIL, and the rates are set well below the maximum potential rates identified in the VA.

55. Therefore, my conclusion is that, subject to my recommended modification, an appropriate balance would be struck between the desirability of CIL helping to fund the infrastructure needed to support the development of the Borough and the potential effects (taken as a whole) on the economic viability of that development.

56. Given the uncertainties that inevitably surround the future value of land, and the costs and values of various forms of development, the Council should actively monitor the effects of CIL to ensure that it has an overall positive economic impact and helps to deliver development and necessary infrastructure as set out in the Core Strategy over the coming years.

Legal Requirements

National Policy and Guidance	The Charging Schedule complies with national policy and 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 Eastbourne Core Strategy adopted in 2013 and Infrastructure Delivery Plan, and is supported by an adequate financial appraisal.

57. I conclude that, subject to the modification set out in Appendix A, the Eastbourne Community Infrastructure Levy Draft Charging Schedule satisfies the requirements of Section 212 of the 2008 Act and meets the criteria for viability in the 2010 Regulations (as amended). I therefore recommend that

the Draft Charging Schedule be approved subject to that one modification.

William Fieldhouse
Examiner

This report is accompanied by:

Appendix A – Recommended Modification to the Draft Charging Schedule.

APPENDIX A

Recommended Modification to the Draft Charging Schedule

In respect of my recommendation EM1, the Draft Charging Schedule should be amended to read as follows:

Type of development (Use Classes Order 1987 as amended)	CIL charging rate per square metre of net additional floorspace
Dwellings* (C3) other than residential apartments	£50
Retail** (A1-A5)	£80
All other uses	£0

* Where there is a net gain in dwellings ** Where the development is 100 square metres or greater