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## **Report to Crawley Borough Council**

**by Mr Philip Staddon BSc, Dip, MBA, MRTPI**

**an Examiner appointed by the Council**

**9 March 2016**

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PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

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

Charging Schedule submitted for examination on 21 December 2015

Examination procedure: Written Representations

File Ref: PINS/Q3820/429/8

## Non-Technical Summary

This report concludes that the Crawley Borough Council Draft Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area. The Council is able to demonstrate that it has sufficient evidence to support the Schedule and can show that the levy rates would be set at levels that will not put the overall development of the area, as set out in the adopted Crawley Borough Local Plan 2015 - 2030, at risk. The proposals will secure an important funding stream for infrastructure necessary to support planned growth in the borough.

## Introduction

1. This report contains my assessment of Crawley Borough Council's draft Community Infrastructure Levy (CIL) Charging Schedule in terms of Section 212 of the Planning Act 2008 (as amended). 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 set out in the Planning Practice Guidance (PPG).
2. To comply with the relevant legislation and guidance, the local charging authority has to submit a charging schedule that should set an appropriate balance between helping to fund necessary new infrastructure and the potential effect of the proposed CIL rates on the economic viability of development across its area.
3. The basis for the examination is the Draft Charging Schedule (DCS), which was published for public consultation between 29 September 2015 and 10 November 2015 and the Statement of Modifications, which was published for consultation between 21 December 2015 and 18 January 2016. Following the most recent consultation exercise, a consolidated DCS, including the various modifications, was produced. All further references to the 'DCS' in this report relate to that consolidated version.
4. The DCS proposes that no CIL charges would apply in a defined (Gatwick) 'Airport Zone' in the north of the borough. The remainder of the council's administrative area is defined as the 'borough wide zone'. Here the DCS proposes a CIL for new residential development and for certain types of retail development. The residential development CIL would be £100 per square metre (psm).
5. The DCS differentiates three types of retail development that would be subject to CIL. Development of a '*food supermarket A1 (3000 sqm plus)*' would incur a CIL of £150 psm, whereas a '*food supermarket A1 (less than 3000 sqm)*' would incur a CIL of £100 psm and '*General Retail A1 – A5 (excluding food supermarket)*' would be subject to a £50 CIL charge. A

footnote to the retail CIL charges clarifies that 'ancillary commercial car parking structures' would not be subject to the CIL.

6. The DCS states that developments for 'all other uses' would be set at £0 psm.

## **Background – Crawley Borough, the development plan, infrastructure and economic viability evidence**

### *Crawley Borough*

7. Crawley is a post-war planned new town in West Sussex and is the largest settlement and employment location between London and the South Coast. The borough's administrative boundaries are very tightly drawn around the town and the major economic hub centred on Gatwick airport, to the north. The borough is located at the heart of the 'Gatwick Diamond' and fulfils an important sub-regional role.
8. Crawley's new town origins mean that most of its housing is relatively modern and set out in distinct planned 'neighbourhoods'. Its economy is focused on Gatwick airport, Manor Royal (the town's planned business district) and Crawley town centre.

### *'Crawley 2030' – Crawley Borough Local Plan 2015 - 2030*

9. The Crawley Borough Local Plan 2015 - 2030 (CBLP) was adopted in December 2015 and is therefore a recent and up to date development plan. It sets out the Council's vision and strategy for sustainable growth in the borough. There are two notable complications associated with the Plan that have implications for any CIL regime.
10. First, there is uncertainty over the scale of future growth at Gatwick airport. The CBLP has been prepared on the assumption that the airport will grow on its existing single runway / two terminal format, to a throughput of 45 million passengers per annum. However, the Airports Commission is considering a second runway at Gatwick as one of the shortlisted options for increasing airport capacity in the South East. Accordingly, the Plan safeguards substantial areas of potentially developable land (in the north of the borough) from any development that would be incompatible with a second runway scenario. This uncertainty has major implications for future development in the borough and the amount of land available to meet assessed needs. The Council accepts that, once a Government decision is known, a review of the CBLP may be necessary.
11. Second, the tight administrative boundaries, combined with the airport related constraints and the new town settlement form, all dictate that developable land is in short supply. The borough cannot meet its own growth needs within its boundaries and it is reliant on other local authorities if unmet needs are to be delivered in full.
12. Within these constraints, the CBLP plans a minimum of 5,100 net new homes within the borough in the period to 2030. Due to the compact nature

of the borough and the need to ensure all possible sites are brought forward, the CBLP is able to identify a range of sites with some precision. With the exception of a new neighbourhood<sup>1</sup>, which has planning permission and is being developed, the remaining identified sites are relatively modest in scale and range from 15 homes up to 218 dwellings. The CBLP requires 40% affordable housing from all residential developments plus an additional 10% low cost (discounted to first time buyers) market housing.

13. The Council cannot meet its assessed employment land needs, primarily due to the safeguarding constraints associated with the second airport scenario. For the time being, the CBLP promotes the enhancement of the existing major employment centres and the release of available new employment land (which is limited to about 23 hectares). The CBLP assesses a capacity of up to 26,650 square metres of new comparison retail floorspace in the plan period. It adopts a 'town centre first' approach but does not identify specific sites to meet this identified need (although it does identify 'key opportunity sites').

#### *Infrastructure planning evidence*

14. The CBLP was supported by an Infrastructure Plan (2014) which has been used as the basis for producing a more up to date Infrastructure Delivery Schedule (IDS)(December 2015) to support the CIL proposals. The IDS assesses and analyses the infrastructure needs across a range of categories including education; transport; health; public realm improvements; open space, sport and recreation; green infrastructure; emergency services; community and library facilities; flood infrastructure and district energy networks. Projects are assessed as either 'critical', 'essential' or 'desirable'.
15. The Council assesses that, once known funding sources are deducted, there is an infrastructure funding gap of £118.7million in the plan period. It estimates that, if its DCS were implemented soon, CIL may provide a sum of circa £8.9 million towards filling the gap, with most of that (£7.5 million) coming from residential developments.
16. Overall, the evidence indicates that the funding gap is substantial and that the imposition of a CIL regime is justified. CIL revenue would make a modest, but nonetheless important, contribution to reducing that gap and supporting the delivery of new infrastructure required to support growth.
17. The Council has produced a Draft Regulation 123 list that sets out the infrastructure that it intends to fund, partly or wholly, through CIL receipts. The list follows the categories adopted in the IDS and includes a column that identifies where site specific infrastructure would be dealt with by S.106 Planning agreements (or agreements under S.278 of the Highways Act 1980). In my view, the Draft Regulation 123 list is clear and provides the certainty and transparency on the destiny of CIL revenues. A late representation sought the inclusion of flood related infrastructure under the CIL funded category. The Council will no doubt consider this matter in the

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<sup>1</sup> Forge Wood, Pound Hill will be Crawley's fourteenth new 'neighbourhood' - Outline Planning Permission was granted in 2011 for 1,900 homes and the first phases of the development are under construction.

iteration of a final Regulation 123 list.

### *Economic viability evidence*

#### *Methodology*

18. The Council has produced viability evidence in the form of a CIL Viability Assessment (August 2015) which includes a Construction Costs Study, a Land and Property Value Appraisal Study and two volumes of summary individual appraisals (one for residential schemes, the other for commercial schemes). There is also a January 2016 update to the volume of individual residential appraisals which was produced when some calculation errors had been identified (they do not make any substantive difference to the findings). For simplicity, I refer to all of this body of evidence as the Viability Assessment (VA).
19. For both residential and commercial developments, a residual valuation approach is employed. In summary, this seeks to compare the gross development value (GDV) with the total costs of the development, including assumed allowances for build costs, land value and developer profit. Where GDV exceeds the total costs of the scheme, the model output will be a surplus (or 'overage') that could be used to make CIL contributions. Where this overage occurs, this value can be seen as the maximum theoretical 'ceiling' for setting CIL.

#### *Residential modelling assumptions*

20. The modelling assessed a range of generic residential development scenarios that the Council considers are reflective of the sites identified in the CBLP. These included a small scale infill housing scheme of 5 units, larger schemes of 25, 60 and 100 homes, and a 35 unit town centre apartment scheme. In addition to these generic scenarios, the VA also tested all of the residential allocation sites listed in the CBLP and sites derived from its Strategic Housing Land Availability Assessment (SHLAA). The range of generic and 'real world' sites tested is thorough and comprehensive.
21. Local residential sales value assumptions were derived from a detailed analysis of prices achieved on new and 'nearly new' home developments in the area. This was supplemented by input from developers active in the local market and further 'sense checked' by reference to the Zoopla Price Index for Crawley. The analysis suggests that Crawley new house sales values are relatively homogenous and the figures adopted by the Council (of £3,100 - £3,200 psm for houses and £3,400 psm for flats) appear robust. Indeed, they appear to sit on the cautious side of the values that developers were reporting on recent new house sales.
22. The Council has based threshold land values on a calculation of the gross uplift in land value arising from the granting of planning permission (for a more valuable development). It assumes that half of this uplift will be available for funding affordable housing and CIL, with the other half remaining as the return to the landowner. This approach, whilst relatively

broad brush, has been found sound in other CIL examinations and Planning appeals. It is generally considered to strike a reasonable balance between necessary landowner returns (to trigger development) and funding the requirements deemed necessary through the planning system, to allow the development to proceed. I consider the Council's threshold land values derived by this method to be appropriate for CIL testing purposes and note that there were no challenges to the values adopted.

23. The Construction Cost Study provides a robust set of building costs for different types of residential development and includes a list of assumed additional costs which may apply on some of the 'real world' test sites. These include matters such as archaeology, flood defence works, noise mitigation and land contamination. The data is priced from the second quarter of 2015 and whilst some build cost inflation may have occurred in the intervening period, this can be considered 'in the round' when assessing the appraisal results and proposed CIL rates.
24. Developer profit was modelled at two different levels. The first level assumed profit of 20% on GDV on all units (market and affordable) whilst the second level assumed 20% on market housing and 10% profit on affordable housing, reflecting its typically de-risked pre-sale (to a Registered Provider). In my view, the first level is unduly generous for CIL testing and the second level is more appropriate. Indeed, even a 10% profit on affordable units could be seen as on the high side (6% is more typically applied).
25. Affordable housing cost assumptions were modelled at the full CBLP policy level (40%) and tenure mix, with an additional 10% of homes being low cost. The value assumptions employed for the different housing products were reasonable.
26. The modelling assumed that residual S.106 planning agreement costs would be limited to £1,000 per unit on all sites. All other cost assumptions, including professional fees, marketing and contingency allowances, were all reasonable and conformed to industry norms.

#### *Commercial development modelling assumptions*

27. The Council tested assumed typologies for a wide range of commercial developments. These included industrial, office, retail, hotel, community buildings, leisure, agricultural, car repairs and car sales. The range of retail types tested was expanded, following consultation responses on the Preliminary DCS, to eight different scheme scenarios.
28. The assumptions employed for land values, build costs, developer's profit margin (17.5%), fees, contingencies and finance all appeared reasonable for high level CIL testing purposes.

#### *Conclusions on background evidence*

29. The CBLP provides a clear strategic planning framework to guide sustainable growth in the Crawley Borough and the IDS identifies the infrastructure

needed to support it. The evidence demonstrates a sizeable infrastructure funding gap that justifies the introduction of a CIL regime. CIL receipts will help to reduce that gap, although a significant funding shortfall will remain.

30. The economic viability evidence for both residential and commercial development that has been drawn from available sources and is well grounded and appropriate. The application, interpretation and use of that evidence, in defining the proposed CIL rates and zones, are discussed more fully below.

### **Residential Development CIL – viability appraisal findings and the borough wide £100 psm CIL charge**

31. The viability testing of the generic residential development types indicated that all schemes were able to support quite substantial CIL charges once all costs and profit had been deducted. Using the updated results<sup>2</sup> and the more appropriate profit level<sup>3</sup>, the 'maximum' CIL rates generated ranged from £301 - £475 psm for brownfield sites and £465 - £548 psm for greenfield sites.
32. The testing of the 'real world' sites was undertaken in a slightly different manner. For these schemes, the modelling applied any known site specific abnormal costs and included the proposed £100 psm CIL as an additional cost. The model output for each scheme is a surplus (or deficit) money amount after all cost, profit and CIL have been deducted. The results were then scored on a traffic light system. All 52 sites returned a 'green light' and, typically, substantial surpluses.
33. The evidence, drawn from both the generic and 'real' site testing, confirms that the proposed £100 psm borough wide CIL charge can be readily accommodated and that it does not pose any risk to scheme viability.

### **Commercial development CIL– viability appraisal findings and the proposed retail CIL charges**

34. The testing indicated that only retail development types could support CIL charges; all other tested commercial development scenarios generated negative results.
35. The testing of large supermarkets (above 3,000 square metres floorspace) returned results ranging from potential maximum CIL of £583 psm (brownfield) to £764 (greenfield). The modelled results with convenience stores (300 square metres floorspace) and smaller format supermarkets (1,000 and 2,000 square metres floorspace) produced lower results, but the range was still a healthy one, with maximum CIL rates of between £226 - £423 psm. The testing of more 'general retail' (Class A1-A5) produced a more conservative range of £99 - £187 psm.

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<sup>2</sup> The January 2016 figures which corrected the minor model calculation errors.

<sup>3</sup> A profit level of 20% on market housing and 10% on affordable housing.

36. The evidence does support the proposed differentiation by retail type and scale and the proposed CIL charges of £150 psm for larger supermarkets, £100 psm for smaller supermarkets and £50 psm for general retail are all set with very comfortable viability headroom. Based on the evidence, the charges pose no threat to retail scheme viability.

**The Airport Zone**

37. The particular circumstances and current uncertainties over the Gatwick second runway option justify the Council’s approach of treating the ‘airport zone’ differently for CIL purposes. It would be wise to revisit and potentially review the CIL regime when circumstances change.

**Overall Conclusions**

38. The CBLP and the IDS provide a clear framework for planned growth and necessary infrastructure in Crawley borough. There is a substantial infrastructure funding gap that justifies the imposition of a CIL.

39. The Council’s flat rate residential development CIL charge of £100 psm will not threaten the viability of planned residential development. Indeed, the evidence indicates that the CIL would be set at a level where there will be a comfortable viability buffer across all tested development scenarios. The Council’s evidence also supports its differentiation and the CIL charges for various types of retail development, which are set with substantial headroom to avoid any risk to scheme viability.

40. Overall, I conclude that the Crawley Borough Council Draft 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.

<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, and consistency with the Crawley Borough Local Plan 2015 -2030 and is supported by an adequate financial appraisal.

*P.J. Staddon*

Examiner