The Planning Inspectorate

Report to the Borough of Poole

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an Examiner appointed by the Council

Date: 31st July 2012

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

REPORT ON THE EXAMINATION OF THE DRAFT BOROUGH OF POOLE COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE

Charging Schedule submitted for examination on 1 March 2012

Examination hearing held on 13 June 2012

File Ref: PINS/ Q1255/429/10

Non Technical Summary

This report concludes that the Borough of Poole 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.

One modification is needed for the schedule to meet the statutory requirements. This can be summarised as follows:

- Delete CIL Rate of £200 per square metre for superstores

This modification is based on matters discussed during the public hearing sessions and has been proposed by the Council. It does not alter the basis of the Council's overall approach or the appropriate balance achieved.

Introduction

1. This report contains my assessment of the Borough of Poole 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 (Charge Setting and Charging Schedule Procedures – DCLG – March 2010). To comply with the relevant legislation the local charging authority has to submit a charging schedule which it considers achieves an appropriate balance between helping to fund necessary new infrastructure and the potential effects on the economic viability of development across the Borough.

2. The basis for the examination is the submitted schedule of 1 March 2012. This includes five modifications which were made by the Council before submission and subject to consultation ending on 29 March 2012. Four of these modifications (MODs 2–5) relate to matters of layout and presentation and do not require consideration in this report. However MOD1 is a significant modification which alters the threshold above which large retail development would be charged. After discussions at the examination hearing the Council has proposed a further modification (**EM1**) to remove the retail charge entirely. The retail charge is considered in full later in the report.

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

Infrastructure planning evidence

3. The Borough of Poole Core Strategy (CS), adopted in February 2009, sets out the Borough's spatial plan and shows that growth will be focussed on the Regeneration Area and the Town Centre North Area. It is supported by the Delivering Poole's Infrastructure Development Plan Document (DPIDPD), adopted in April 2012.

4. The DPIDPD is accompanied by Poole's Infrastructure Programme (PIP), which was updated in November 2011. These two documents identify Poole's infrastructure priorities, costs, timescales for delivery, funding streams, delivery agencies and implementation mechanisms. In particular they address the infrastructure needed to support planned development in the town centre, as well as strategic cross-boundary issues such as mitigating the effect of development on internationally protected sites and the strategic road network.

5. The PIP includes a detailed, costed schedule of the infrastructure projects required to deliver the growth set out in the Core Strategy. Heading the list is work identified in the Heathland Interim Planning Framework as Strategic Suitable Accessible Natural Greenspace (SANG) projects required to mitigate the impact of development. The schedule also includes key transport projects such as the Poole Bridges Regeneration Initiative Core Schemes, which are critical to delivery of the regeneration area sites, as well as work associated with the Borough's Flood Risk Management Strategy.

6. The PIP schedule identifies where external funding has been secured, including provisional sums for grants and contributions that have not yet been confirmed. It also takes account of the proposal that where applicable large sites should deliver flood risk management measures on site as part of the development. The Council's draft charging schedule is supported by updated PIP costings, prepared in February 2012. These show that the total cost of Poole's infrastructure requirements to 2026 is over £323 million. When funding secured from other sources (approximately £115 million) is deducted from this, an infrastructure funding shortfall of just over £208 million remains.

7. It has been suggested that the Council's evidence does not take account of the reduction in contributions sought for transportation, set out in the South East Dorset Transport Contributions Scheme 2, or of contributions towards infrastructure projects that have already been collected through Section 106 contributions. The draft schedule has inevitably been prepared in a context of continuing change and updating of infrastructure funding. However the matters referred to are minor adjustments which, if applied to the PIP costings, would not significantly reduce the infrastructure funding gap.

8. The DPIDPD and the PIP together provide a robust and up to date analysis of the infrastructure projects that are required to deliver the Borough's spatial plan to 2026. In the light of the information provided, the proposed charges would therefore make only a modest contribution towards filling the likely funding gap. The figures demonstrate the need to levy CIL.

Economic viability evidence

9. Before testing the viability of various levels of CIL the Council carried out an exercise to establish what the existing Section 106 tariffs for residential development would equate to when translated into pounds per square metre. This resulted in a baseline rate of £108 per square metre (psm). Some of the assumptions used in these calculations have been criticised and the accuracy of the £108 psm rate questioned. However the results of this exercise, which the Council describes as an "illustrative barometer", are not critical as they have not influenced the charging schedule rates. They were simply used to establish a starting point for viability testing.

10. The Council commissioned a CIL Viability Assessment (VA), dated July 2011. This has been supplemented by additional appraisals which were carried out in November 2011. The VA is based on a residual valuation method, using reasonable standard assumptions for a range of factors such as building costs (including Code for Sustainable Homes requirements), profit levels, finance, fees and developer's profit. It took account of variations in residential values across the Borough, benchmarked sales values in nine residential sub market areas and relevant local data on housing densities and unit mix.

11. The VA tested the viability of CIL levels ranging from £0 to £211 psm on residential development at various densities taking account of affordable housing provision ranging from 0% – 40%. It also tested office, industrial, warehouse, hotel and large, small retail uses, student accommodation, marina development and care homes.

12. The VA used two scenarios to test CIL rates for residential development, based on 25% and 20% profit on Gross Development Value, both with a 20% and 30% uplift on benchmark land value (landowner premium). In November 2011 additional sensitivity testing was undertaken to assess a wider range of scenarios. At this stage the effect of an allowance for demolition was also tested, on the basis that much development will take place on sites where buildings will be demolished and existing floorspace is not liable for CIL.

13. The Council has used a 35% "demolition rate" both in its initial assessment of the potential quantum of residential floorspace liable to pay CIL and in the additional sensitivity testing. This assumption about the amount of new build residential floorspace that will replace existing floorspace has been the subject of some criticism. It is argued that the figure cannot be relied upon as it is based on housing completions in a single year (2010–11) and some inaccuracies have been identified.

14. There may well be fluctuations from year to year in the amount of new residential floorspace that can be offset against existing floorspace. However the Council has taken a reasoned and practical approach in using up-to-date monitoring information to ascertain the demolition rate for a typical year. Whilst there may some inaccuracies in the desk-top study, the 35% demolition rate has been used in broad based exercises to test various scenarios. In these circumstances minor discrepancies will not undermine the credibility of the overall results and the 35% rate is justified and reasonable.

15. The VA of retail uses was limited to testing a small retail unit of 450 square metres and a large supermarket of 2,700 square metres. It found that whilst the former would not generate positive residual land values in current market conditions and has no potential to pay CIL, the latter could sustain a CIL rate of £211 psm. Further testing which was carried out during the examination as an addendum to the VA, using the same methodology, demonstrates that there is no capacity for retail development coming forward in the town centre to absorb a CIL rate. However viability evidence on retail development does not provide a thorough and methodical picture of the capability of retail development of different scale and in different parts of the Borough to support CIL. Furthermore the Council accepts that there is insufficient fine-grained evidence to support the threshold for retail development in the submitted charging schedule.

Conclusion on the available evidence

16. The draft Charging Schedule is supported by detailed evidence of community infrastructure needs and a funding gap has been identified. Economic viability evidence uses recognised valuation methodologies and, with the exception of evidence to support the proposed retail rate, includes adequate coverage of each development type to inform the charging schedule. The absence of fine-grained evidence to support the proposed differential retail charge and its implications for the schedule are examined in detail in the following section. Apart from this shortcoming 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 VA and additional appraisals tested a range of CIL rates from £0 to £211 against a range of density and affordable/market housing mix scenarios in each of the nine study areas. The residual land values from each scenario was then compared to two existing use-value benchmarks (existing residential and low grade industrial) to ascertain whether or not the various levels of CIL could be secured.

18. The Council examined viability results in the nine study areas together with its knowledge of the areas where most development will come forward for the remainder of the Core Strategy plan period. It distilled this to define three geographical zones with differential rates, in an exercise which included the subdivision of some of the study areas and allocation to different zones. It is clear that particular care was taken to ensure that CIL rates would not put at risk development in the regeneration areas, the major local centres and the main transport corridors which together will accommodate 83% of the new housing planned to 2026.

19. Zone A comprises mainly study areas 3 and 4, the highest value areas in the Borough. Viability assessment of this zone shows that whilst some areas are capable of achieving a rate of £211 psm other parts of the zone, especially where there are no sea views, would only allow a lower level of charge, such as £75 psm on 1 unit residential developments in parts of Area 4. It is acknowledged that the proposed rate of £150 psm across zone A may affect development viability within some sub areas in the zone. However the Core Strategy does not identify zone A as a focus for delivering large amounts of new housing, margins between the various scenarios tested are small and the nature of development in these areas is generally modest infill development which would not be required to provide affordable housing. These factors all lead me to conclude that the proposal to set a rate of £150 psm across the whole of zone A is a balanced and appropriate approach.

20. In zone B, which covers the town centre, much development will be at a high density and on non-residential land. These factors suggest that the area could support a CIL rate of £211 psm. However this is balanced by exceptional development costs in the regeneration area and the expectation that

development here will be mixed use and required to deliver much of the Borough's affordable housing. Consequently the Council has taken a more cautious approach to ensure that viability of sites in this zone is not undermined. In these circumstances the rate of £100 psm in zone B is reasonable and appropriate.

21. Zone C covers the rest of the borough, where there is a wide range of land values. The VA and additional appraisals suggest that, in the areas where the majority of development in this zone will come forward, a wide range of CIL levels from £0 psm to between £75 and £211 psm would be viable. The Council has proposed a rate of £75 psm to take account of the variation in land values and to ensure that opportunities to secure affordable housing remain. This is a balanced and pragmatic approach, justified by the evidence.

22. Student accommodation and care homes were both subject to additional appraisal work in November 2011. This showed that such development is only just viable without CIL, except for a 110 unit care home in study areas 1 and 3, which could sustain CIL at £211 psm. However as no care homes are planned to come forward in these areas during the plan period this supports the Council's view that a nil rate is justified across the Borough.

Retail rate

23. The VA identified that in current market conditions most retail development would not be able to support CIL at any level. This is confirmed by further viability testing which was carried out during the examination and which showed that large retail developments on town centre sites are not capable of supporting a CIL charge. The exception to this is the VA finding that a large retail development of 3,000 square metres, on a site of low-grade industrial land, could support a CIL rate of £211 psm. The Council's proposed £200 psm CIL rate flows directly from this evidence.

24. There is nothing in the CIL regulations to prevent differential rates for retail development of different scales. However paragraph 25 of the CLG guidance (CIL Guidance: Charge setting and charging schedule procedures) states that where a charging authority is proposing to set differential rates, it may want to undertake more fine-grained sampling to identify a few data points in estimating the zonal boundaries or "different categories of intended use."

25. In this case the VA has identified a marked difference between the capability of a small retail development and that of a large retail superstore built on low-grade industrial land to support a CIL charge. However based on just two examples, with additional testing showing a complex picture, the Council accepts that there is insufficient fine grained evidence to support the use of the proposed threshold to differentiate between the different scales of retail use. With clear evidence that the majority of retail development cannot sustain a CIL charge, this leaves no alternative but to set a nil rate of CIL for all retail development. I therefore recommend that the schedule is modified to delete the retail charge, as set out in **EM1** in Appendix A.

Other non- residential uses

26. The VA notes that the capacity of commercial development other than retail to

withstand CIL is linked to rental incomes. Until market conditions improve to increase rents and make new commercial development viable there is no merit in setting CIL and the nil rate is justified. The VA shows that leisure, community and education development also have marginal viability. With high build costs and high land values in Poole such development is not considered able to generate sufficient value to support CIL and a nil rate is also appropriate for these uses. The VA was supplemented by additional appraisal of marina development which was carried out in November 2011. This found such development to be only just viable, justifying the proposed nil rate of CIL for this type of development.

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

27. In setting the CIL rates the Council has had regard to detailed evidence of infrastructure planning derived from up-to-date evidence in the Core Strategy, the DPIDPD and the PIP. It has balanced this with evidence in the VA and additional viability appraisals, taking account of the proposed key locations for growth and the nature of sites and the development market in Poole. Subject to modification **EM1** the proposed rates are based on reasonable assumptions about development values and costs and all the evidence suggests that if the charges are applied development will remain viable across the Borough.

Habitats Regulations mitigation

28. Concerns have been raised about the capability of CIL to secure compliance with the Habitats Regulations (HR), which require mitigation for the impact of development on internationally designated sites. These concerns fall outside the remit of this examination as they relate to the CIL Regulations, the operation of the Charging Schedule and its relationship with the cross boundary partnership approach in the Heathland Interim Planning Framework. However HR mitigation is a significant issue for Poole and neighbouring authorities and for completeness it was the subject of a short discussion at the examination hearing.

29. At present each development contributes directly to HR mitigation through a Section 106 agreement. When CIL is adopted this direct link will be severed. The DPIDPD proposes that HR mitigation will be funded through CIL, but its inclusion on the CIL Regulation 123 list will mean that it can no longer be funded through Section 106 agreements. Affordable housing is not liable for CIL and some conversions from houses to flats may not need to pay CIL if there is no net increase in floorspace. Thus, as soon as CIL is in operation these types of development will not contribute directly to HR mitigation.

30. However it should be noted that Poole has in place, in the DPIDPD, a clear policy that places mitigation at the top of the infrastructure hierarchy. It is evident that the Council has done everything within its power to ensure that the CIL receipts will be prioritised to fund Habitats Regulation mitigation. The fact that the introduction of CIL will sever the direct link between development and strategic infrastructure does not undermine the capability of the Council to meet its obligations under the Habitats Regulations.

Conclusion

31. 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 Poole. It has taken a realistic approach in terms of achieving a reasonable level of income to address the identified gap in infrastructure funding, while ensuring that the overall development of the area would not be at risk.

LEGAL REQUIREMENTS	
National Policy/Guidance	The Charging Schedule complies with national policy/guidance.
2008 Planning Act and 2010 Regulations (as amended 2011)	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, the adopted Delivering Poole's Infrastructure Development Plan Document and Poole's Infrastructure Programme and is supported by an adequate financial appraisal.

32. I conclude that subject to the modification set out in Appendix A the Borough of Poole 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 2011). I therefore recommend that the Charging Schedule be approved.

Sue Turner

Examiner

This report is accompanied by:

Appendix A (attached) – Modification that the examiner specifies so that the Charging Schedule may be approved.

Appendix A

Modification recommended by the Examiner to allow the Charging Schedule to be approved.

Modification No	Modification
EM1	Delete CIL rate for Superstores