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## **Report to Chichester District Council**

**by Mike Hayden BSc DipTP MRTPI**

**an Examiner appointed by the Council**

**Date: 23 November 2015**

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PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

### **REPORT ON THE EXAMINATION OF THE CHICHESTER COMMUNITY INFRASTRUCTURE LEVY DRAFT CHARGING SCHEDULE**

Charging Schedule submitted for examination on 12 March 2015

Examination hearing held on 9 June 2015

File Ref: PINS/L3815/429/7

## **Non-Technical Summary**

This report concludes that the Chichester Community Infrastructure Levy Draft Charging Schedule provides an appropriate basis for the collection of the levy in Chichester district. 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, which can be summarised as follows:

- That the map of the residential charging areas be amended to include Ordnance Survey national grid reference numbers.

The specified modification 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 Chichester Community Infrastructure Levy (CIL) Charging Schedule (CIL-01) 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.
2. To comply with the relevant legislation the local charging authority has to submit a charging schedule which sets an appropriate balance between helping to fund necessary new infrastructure and the potential effects on the economic viability of development across the district. The basis for the examination, for which hearing sessions were held on 9 June 2015, is the draft charging schedule (DCS) dated November 2014 which was submitted in March 2015.
3. The DCS applies to the whole of Chichester district with the exception of the area of the South Downs National Park (SDNP) that lies within the district. The SDNP Authority is the local charging authority for the National Park area and will prepare its own CIL for the SDNP area, if required.
4. The Council proposes single rates of £125 per square metre (psm) for retail development (wholly or mainly convenience), £20psm for retail development (wholly or mainly comparison), and £30psm for purpose built student housing. It proposes separate rates for residential development in two zones divided north and south of the South Downs National Park of £120psm in the south of the district and £200psm in the north of the district. All other development would not be charged.

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

*Infrastructure planning evidence*

5. The Chichester Local Plan: Key Policies 2014-29 document (LP) was adopted in July 2015. It sets out the main elements of growth that will need to be supported by further infrastructure in Chichester district in the period up to 2029. This includes 6,879 additional homes (at an average of 435 per year), and around 160,000 square metres (sqm) of B1-B8 employment floorspace. The majority of development will take place in an east-west corridor along the line of the A27 in and around Chichester city and at the settlements of Tangmere to the east and Southbourne in the west. Four large strategic sites have been allocated within the east-west corridor, including land at West of Chichester, Tangmere, Westhampnett/North East Chichester and Shopwyke, where almost 50% of the new homes are to be provided.
6. The district's infrastructure proposals are set out in the Council's Infrastructure Delivery Plan 2014-2019 (IDP) (CIL-06). This was initially prepared in support of the LP, but has been updated alongside the proposed CIL. To enable the growth required in Chichester district, new and improved infrastructure is required, in particular for the strategic sites identified in the LP. The IDP lists a wide range of transport, education, health, social and green infrastructure projects. In particular, this includes junction improvements to the A27 Chichester Bypass junctions, upgrades to the Chichester (Apuldram) and Tangmere Wastewater Treatment Works, new primary schools at West of Chichester and Tangmere, a new secondary school for the district, a new medical centre at West of Chichester, a range of area-wide road, cycle and public transport schemes and fibre broadband.
7. Although not all infrastructure identified in the IDP has been costed, the estimated sum of the infrastructure which has been costed is £79 million. Around £8 million of S106 funding, which has been secured since April 2012, remains available to fund area wide schemes. Taking this into account, the total infrastructure funding gap is estimated at £71 million. Around £25 million of this is proposed to be funded through S106/S278 agreements for the strategic sites, with approximately £13 million expected in S106/S278 receipts from other development across the area. This would leave a residual funding gap of £33 million. The Council projects that CIL would generate around £27 million from development up 2029. This would leave approximately £6 million, plus the infrastructure as yet uncoded, to be met from other sources, including government, utility company and County Council funding. A draft Regulation 123 infrastructure list at Annexe B to the DCS indicates that CIL funding would be directed towards the area-wide infrastructure needs identified in the IDP.
8. The infrastructure planning evidence is sufficient to confirm that there will be a substantial infrastructure funding gap in the district and the total amount the Council proposes to raise through the CIL. The proposed CIL charge would make a significant contribution towards filling the likely funding gap (approximately 38% of the total funding gap), but many elements of infrastructure have not yet been costed. Accordingly, the figures demonstrate the need to levy a CIL in Chichester district to assist the delivery of the strategic infrastructure required to support the level of growth planned.

*Economic viability evidence*

9. The Council commissioned a CIL viability study for the DCS (VS) dated September 2014 (CIL-02). The assessment uses a residual valuation approach, with separate appraisals for residential and commercial development.

Residential appraisals

10. For residential development, an appropriate range of generic scheme types were tested representing the profile of small and medium scale residential development likely to come forward in the district, including both houses and flats, ranging from schemes of 4 units up to 100 units. Specific appraisals of the large strategic sites were provided for schemes of 500 and 1,000 units. All schemes were tested on the basis of 30% affordable housing, in line with the new LP policy requirement. Separate appraisals were also undertaken of sheltered/retirement housing, Class C2 residential care homes and student accommodation.
11. Assumptions were made for a range of factors affecting residential viability. For both the generic residential schemes and the strategic sites, a number of assumptions were challenged by representatives of the development industry, including sales values, benchmark land values, build costs, residual S106/S278 costs, site enabling and infrastructure costs, professional fees, contingencies and developers profit. The evidence for these assumptions was discussed at the hearing, following which further work was undertaken by the Council to re-test the appraisals in respect of updated sales values and build costs, as well as revised S106/S278, site servicing and enabling costs for the strategic sites. The results of this work and the reasonableness of the disputed assumptions are considered below. Allowances for external works, sales costs and financing costs were all based on industry standards and I have no alternative evidence to suggest that these were not reasonable assumptions.
12. The sales values assumed in the VS were based on an analysis of the local housing market using data from the Land Registry and other recognised sources as at July 2014, supplemented by discussions with local agents and house builders and evidence of new build sales. Together these sources show a clear differentiation between house prices north and south of the SDNP. House builders' representatives consider that the values assumed for the south of the district, of £3,300psm for houses and £3,600psm for flats, are too high and provided evidence to the hearing showing values from new build transactions in 2014 on other sites in the south of the district at around £3,000psm. However, it was also confirmed that average house price inflation in Chichester district is around 6% per year. In the light of the conflicting evidence and the increase in prices, the residential appraisals were updated by the Council based on 2015 values.
13. The results of this update are set out in the Council's further evidence for residential development (reference CDC-CIL-PH-01). This shows average house prices in some areas of the south of the district to have increased by up to 15% between April 2014 and March 2015, based on Land Registry data, although I noted that some areas also recorded a fall in prices. New build transactions for sites in and around Chichester in 2015 recorded sales values of between £3,400psm and £5,180psm for 2-bed to 4-bed houses. On this

basis the Council re-tested the generic residential appraisals assuming a 3% increase in sales values equivalent to £3,400psm for houses and £3,780 for flats in the area of the district south of the SDNP, which I consider to be a reasonable assumption based on the evidence available. A similar increase was assumed for values in the north of the district. With regard to the strategic sites the Council adopted a revised sales value of £3,255psm for houses, reflecting the effect that higher sales volumes have in depressing prices on large sites. The Consortium developing the West of Chichester and Tangmere sites support this figure as a reasonable current sales value expectation for the strategic sites, except for Tangmere where property prices are lower. Accordingly, the Council reappraised the Tangmere site assuming a sales value of £3,100, which is within the range suggested by the Consortium.

14. Martin Grant Homes (MGH) does not consider the Council's revised evidence of new build transactions is robust. I recognise that the under offer prices listed in Table 1.4 of the Council's further work (CDC-CIL-PH-01) may not reflect net sold prices for new build properties. However, the transaction data supplied by MGH, at Table 1.1 of their evidence, shows sales values from new build transactions in 2015 in the Graylingwell Park development in Chichester at up to £3,687psm and averaging above £3,400psm, which tends to support the Council's revised assumption for the generic appraisals.
15. Ultimately I have not been provided with comprehensive new build sales data by any party against which to assess the Council's sales value assumptions. However, the CIL guidance in the Planning Practice Guidance (PPG) recognises that the available data for valuing development for CIL purposes may not be comprehensive, but that charging authorities should use 'appropriate available data' (ID 25-019-20140612). I consider that the Council has done this in respect of sales values for both the 2014 and 2015 residential appraisals. Where evidence suggests values are likely to be lower, such as for the strategic sites, the Council has made adjustments and carried out appropriate sensitivity testing.
16. The affordable housing transfer values used by the Council in the VS and the 2015 updated appraisals were also questioned by the house builders. The values in the VS are based on a blended capital value transfer rate of 55% of market value for a mix of social rented and intermediate affordable housing in areas in the south of the district and 60% north of the SDNP. The evidence from MGH suggests a transfer rate of 42% of market value for the south of the district, derived from a calculation of affordable housing capital values. Whilst I note the methodology of the calculation, it is based upon a number of assumptions, including a 5.25% yield and a 35% deduction for management and maintenance charges. Neither of these assumptions is supported by evidence and therefore I am unable to rely on this calculation as evidence of a lower transfer value. By comparison the Council's transfer value is derived from consultations and negotiations with registered providers (RPs). In the absence of comparable evidence of alternative transfer values negotiated with RPs in Chichester, I have no basis to doubt the appropriateness of the transfer values used by the Council. I note the concerns expressed about the potential changes to the affordable housing sector arising from the 2015 Budget. However, there is little evidence as yet available on how this may impact on the overall viability of residential development. Therefore, this is a matter which the Council should monitor following the implementation of its CIL charges.

17. With regard to benchmark land values (BLVs), it was agreed at the hearing that there is little publicly available evidence of residential land transactions in the district. The BLVs assumed in the VS for the generic appraisals are between £2.47-£2.75 million per hectare (pha) in the south of the district and £3.6-£4.12 million pha in the north. The Council confirmed that these were based on the advice of local agents and developers, with some transactional evidence, and that they assume a fully serviced site, free of abnormalities without the benefit of planning permission. Although the robustness of the evidence for these figures was questioned by house builders, the example transactions supplied by the Council in its hearing statement (CDC-CIL-ED-3-1) back up the BLVs assumed in the south of the district. In the absence of evidence to the contrary, I consider the figures used by the Council are reasonable and based on appropriate available evidence.
18. I note that there were slight differences in the BLVs for the south of the district used in the viability summary table 8.1 of the VS, which shows figures of between £2.55-£2.83 million pha. However, the revised 2015 appraisals used the evidenced BLVs of between £2.47-£2.75 million pha and I am satisfied that the combination of the two sets of appraisals have in fact tested a reasonable range of BLVs for residential development in the south of the district.
19. For the strategic sites, the VS and the revised 2015 appraisals assume a BLV of £350,000 per gross hectare (pgha) or £700,000 per net developable hectare (pnha) for unserviced greenfield land, with a separate allowance for site servicing and enabling costs. The examples supplied by the Consortium suggest greenfield values for the south of England are between £617,750pgha and £1,235,500pgha, although these are historic and not specific to Chichester. However, the HCA area wide viability model refers to a figure of between 10-20 times agricultural land value as a reasonable basis to encourage the release of greenfield land for development. The DCLG's February 2015 report on land values estimates the typical value of agricultural land in England at £21,000pgha. A BLV of £350,000pgha would be around 16 times agricultural land value, which is towards the top end of the range advised in the HCA model. On this basis and in the absence of current transactional evidence for sites in the district to prove otherwise, I consider the BLV assumed for the strategic sites to be appropriate. I recognise that there remains a degree of uncertainty over land values and agree that the buffer, which I consider below in relation to the proposed charging rates, is in part designed to allow sufficient margin for variation in land values as part of the overall development cost envelope.
20. Turning to build costs, the VS assumed a figure of £938psm for houses and £1168psm for flats, based on the RICS Build Cost Information Service (BCIS) date for May 2014. However, evidence from BCIS provided by the house builders indicates that build costs for the second quarter of 2014 (the date of the VS appraisals) were between 10-15% higher than the figures used in the VS. This matter was discussed at the hearing and the residential appraisals were re-run by the Council using updated build costs of £1,022psm for houses and £1,186 for flats. These figures were based on the BCIS hard copy published data for May 2015, which contains build cost information from the fourth quarter of 2014, plus a 10% regional uplift for West Sussex. However, the house builders argue that the BCIS hard copy data is out of date and that the BCIS on-line data for May 2015 show build cost figures of £1,080psm for

houses and £1,366psm for flats.

21. I have considered all of the evidence presented on build costs. The main differences appear to be in the BCIS source data used and whether a mean or a median build cost figure is adopted. The Council has chosen to use a median figure, which I consider is valid, as it eliminates the extremes in the tender data used to inform the BCIS. With regard to on-line versus hard copy data, I note that for West Sussex, the BCIS data for May 2015 confirms build costs for houses ranging from £1,022psm in the hard copy data to £1,080psm in the on-line data. The differences seem to depend on the extent of the background data set, drawn from schemes tendered within the last 5 years or 15 years, both of which offer strengths and appear to be equally valid. The Council used the hard copy published data, which they consider offers greater reliability over time. The build cost figures contained in it were from a recognised source (the BCIS) and it was the most recent publication at the time the revised appraisals were undertaken.
22. However, in response to the house builders' representations on the revised appraisals, the Council undertook a further set of appraisals of the strategic sites in July 2015, using the BCIS on-line data at that point, plus a regional uplift of 10% (CDC-CIL-PH-06). The figure of £1,059psm assumed for build costs for houses in those appraisals sits within the range of median build costs for 2-storey estate housing of £1,050psm and £1,062psm listed in the BCIS 5-year and 15-year on-line sources for the second quarter of 2015 contained in the evidence presented by MGH. This provides an appropriate sensitivity test for the effect of higher build costs on the viability of residential development.
23. The BCIS report dated August 2015 on behalf of the Federation of Small Businesses (REP-04 BCIS) provides evidence that build costs for small residential sites of 10 or less units are on average 6% higher than build costs for developments of greater than 10 units. Against this the Council suggests that sales values are likely to be higher for small schemes as they are often more bespoke and do not suffer from internal competition for sales, although no specific evidence of sales values on small sites has been supplied in support. However, I acknowledge that these two factors are likely to have a counterbalancing effect on the viability of small scale residential development. On this basis it is not unreasonable for the Council to rely on a set of generic appraisals which have tested the viability of a range of development schemes, including small sites, based on a common set of sales values and build costs. Again the buffer should allow for some fluctuation in build costs, amongst other variables, which I consider in my assessment of the proposed charging rates below. Overall, therefore, I consider that the build costs assumed by the Council for the residential appraisals are justified and appropriate.
24. In terms of residual S106/S278 costs, the VS includes an allowance of £1,000/unit for the generic residential appraisals, which is based on evidence of S106 agreements between 2005-2015 (CIL-14). At the hearing the Council clarified those elements of historic agreements which would be funded by CIL in future, including contributions to community facilities, education and transport schemes, which are consistent with the wording of the draft Regulation 123 list. The remaining obligations in the list of S106 agreements suggest that £1,000/unit is a reasonable estimate for the typical residual S106 costs for general residential development.

25. The correct level of S106/S278 costs on which to base the appraisals of the strategic sites remains a matter of dispute between the Council and developers, for the sites at West of Chichester (WoC), Tangmere and Westhampnett/North East Chichester (WH/NEC). Although the VS assumes a figure of £8,000/unit to cover residual S106/S278 for these sites, it is clear that this is an underestimate for WoC and Tangmere. Evidence presented by the Consortium for these two sites and set out in the Council's revised appraisals (CDC-CIL-PH-02) suggests that residual S106/S278 costs are between £15,516/unit and £17,272/unit for WoC and between £11,130/unit and £16,110/unit for Tangmere. The differences appear to be in those items of infrastructure still to be costed in the Council's list, including bus subsidies travel plans, play areas, allotments and playing fields, for which the Consortium has provided a cost estimate, and a significant variation in the estimate for the primary school at Tangmere. Also the cost of the wastewater treatment solution for Tangmere remains to be included, for which the VS suggests a figure of £3 million. Despite the lack of agreement on S106/S278 costs for these sites, I am satisfied the evidence submitted by both parties provides a reasonable estimate of the quantum of infrastructure costs, which is sufficient to enable me to reach a conclusion on viable CIL rates for these strategic sites, based on the Council's revised appraisals and the buffers available to absorb any variations in costs. I consider this later in the report.
26. For the WH/NEC strategic site, the Council's revised estimate of residual S106/S278 costs is £5,526/unit including an allowance for a contribution to the costs of the A27 junction improvements. Notably it excludes the costs of the connection to the wastewater treatment works, which have been included in the site servicing allowance. Nevertheless, the Council has based its estimates on the available information and there is sufficient evidence of the potential extent of S106/S278 costs to test the viability of the proposed CIL, which the Council has done in the revised appraisals, and to reach a conclusion taking account of the ability of the buffer to absorb higher S106 costs. The residual S106/S278 cost for Shopwyke is £7,964/unit based on agreed S106 obligations as part of an outline planning permission for the site and is not disputed.
27. Separate allowances have been made for site servicing and enabling costs for the strategic sites, which were considered in some detail during the examination and hearing sessions and in the further work undertaken by the Council. The appraisals in the VS include a figure of £600,000pha for site servicing costs for Tangmere, WoC and WH/NEC, to cover on-site roads and sewers, plus 15% for external works within each plot. For Shopwyke the figure is increased to £800,000pha plus an additional allowance of £540,000pha for remediation as a brownfield site. Although there is no disagreement on the figures for Shopwyke, the allowance of £600,000pha for Tangmere, WoC and WH/NEC is disputed by the developers and landowners for these three sites as too low. Further clarity has however been provided in the revised appraisals undertaken by the Council for the strategic sites (CDC-CIL-PH-02).
28. With regard to WoC and Tangmere, the revised appraisals confirm that the on-site wastewater treatment infrastructure and the A27 junction improvements are included in the list of S106/S278 items. This leaves the £600,000pha to cover other on site strategic infrastructure, including transport



links and ecological connectivity, fire hydrants and CCTV. A sum of £600,000/pha averages £17,142 per unit at 35 dwellings per hectare (dph), which is within the range of £17,000-£23,000 per plot advised in the Harman Report as typical of strategic infrastructure costs on larger schemes. Although the Consortium suggests a figure of £19,415 per unit based on past experience, I am satisfied that £17,142 per unit is reasonable, particularly given the separate allowances made in the revised appraisals for identified S106/S278 costs and external works.

29. For the WH/NEC site, the £600,000/pha allowance includes the same on-site infrastructure, but is also inclusive of an on-site sewage solution. Although different to the approach taken on the WoC and Tangmere sites, it is evident that this results in a significantly lower S106/S278 cost for the WH/NEC site and a significantly greater buffer in the resulting appraisal. Accordingly, I have taken account of this cost in my assessment of the viability of this site to support a CIL charge below. But otherwise, for the reasons given above and in the absence of any alternative estimates of site servicing costs for the WH/NEC site, I consider that an allowance of £600,000/pha or £17,142 per unit is reasonable.
30. With regard to the other disputed development cost assumptions, the VS makes an allowance of 8% for professional fees which is within the range of 8-10% advised in the Harman Report (Viability Testing for Local Plans) (June 2012). The assumption of 5% for contingencies is typical of the allowance made for this cost in other CIL viability studies and not unreasonable where separate provision is made for abnormal costs within the appraisals. Developers' profit of 20% of gross development value (GDV) on market housing is a commonly used industry return. An allowance of 6% on affordable housing reflects the low risk of delivering this element of schemes, where the developer effectively has a guaranteed sale of all units to an RP. I note the alternative figures suggested by some of the house builders and landowners and acknowledge that these development costs can vary. However, for the reasons given, I consider the assumptions made by the Council in respect of professional fees, contingencies and developers' profit are reasonable.
31. The rate of Stamp Duty Land Tax (SDLT) assumed in the Council's appraisals was discussed at the hearing. Representations questioned whether the rate assumed by the Council in the VS reflected the changes to SDLT introduced in December 2014. However, in the light of further evidence submitted following the hearing, it is clear that the December 2014 changes only affected SDLT on residential property purchases, which are paid by the purchaser not the developer. The changes do not affect SDLT rates for the acquisition of non-residential property which are the rates included in the VS appraisals.

#### Commercial appraisals

32. For commercial development, separate appraisals were undertaken for office, industrial and warehousing development, and convenience and comparison retailing. For retail development a range of formats were tested including small (465sqm) and large (£4,000sqm) convenience stores and in-town (456sqm) and out of centre retail park (929sqm) comparison store developments. Assumptions were made for the full range of factors influencing the costs and revenues of commercial development, based on

industry standards or evidence drawn from recognised sources and supported by local information. Build costs were derived from BCIS data and rents and yields from the CoStar and EGi databases. Benchmark or threshold land values (BLVs) were derived from comparable commercial land transactions obtained from Land Registry data or local agents. Allowances for external works, fees, contingency, finance interest and developer's profit were based on commonly used industry rates.

33. The rate of 8% for professional fees, although challenged as too low for convenience retail schemes, is nevertheless within the range of 8-10% advised in the Harman Report. I have seen no evidence from appraisals of completed schemes to suggest a higher rate should be used here. Representations disputed the evidence supporting the rents, build costs and unit sizes assumed for convenience retail development and abnormal development costs associated with retail schemes, which are discussed further below. However, the remaining appraisal assumptions for commercial development are unchallenged and I have no alternative evidence to suggest that they are not reasonable.
34. With regard to convenience retail rents the VS includes a figure of £234psm for both large and small format operators, based on evidence of transactions in 2013 of supermarket developments in the south of England with rents ranging from £224psm to £248psm. Morrison Supermarkets suggest that more up to date evidence is required given the changes in the food retail sector since 2013 and the more difficult trading conditions for the big four operators. The Council's updated retail viability evidence (CDC-CIL-PH-03) states that new build retail schemes in Chichester would command rents of £220-260psm. Revised appraisals were carried out based on a rent of £220psm for a smaller format convenience store of 465sqm and £230psm for a larger format supermarket of 4,000sqm, but tested at higher and lower rents and yields. No further transactional evidence of retail rents has been made available by any party. Accordingly, based on the evidence before me, I consider that the Council has made reasonable assumptions on convenience rents and demonstrated the effect of potential reductions in the market on scheme viability.
35. In terms of build costs, there were some discrepancies between the rates for small and large supermarkets used in the VS and those quoted by Morrison Supermarkets, although both appear to be based on BCIS data for the last quarter of 2014. Accordingly, in the Council's updated retail viability evidence, the convenience retail appraisals were re-tested using the May 2015 hard copy BCIS data, which show mean building prices for the fourth quarter of 2014 of £1,256psm for small stores of less than 1,000sqm and £1,283psm for large stores of 1,000-7,000sqm. The relative merits of the different BCIS data sources have been discussed above and I have no reason to suggest that the hard copy data does not provide a reliable basis for use in viability testing.
36. I note the concerns of the Brookhouse Group about the additional costs of flood risk, highways, drainage and water supply on sites in Chichester. Assumptions of 10% of base costs for external works and 10% for other construction costs are made within the retail appraisals in the VS. Whilst abnormal costs can be significant, an allowance of 20% on top of base build costs for external works, site servicing and enabling costs is not unreasonable for the purposes of viability testing. Furthermore, the Council points out that

BLVs used in the appraisals for retail development (at Tables 14.2 and 14.3 of the VS) have been set at the higher end of market values and assume a fully serviced site free from significant abnormal costs. Accordingly, I consider that the Council's retail appraisals make reasonable allowances to cater for abnormal costs and I have not been provided with any further evidence during the examination process which would lead me to conclude otherwise.

37. Finally, Morrison Supermarkets question the unit sizes used to test the small and large convenience store typologies, suggesting that unit sizes of 1,500sqm and 5,000-7,000sqm should also be appraised as more typical of the formats which operators seek. However, in evidence at the hearing the Council explained that 4,000sqm is around the size that most large store operators are seeking and that 465sqm is the smallest new build unit for convenience stores. I acknowledge that retail format requirements change over time, but what is important for the purposes of hypothetical viability testing, is that the different viability performance of large and small format stores are reflected in the unit sizes tested. The key variables in determining the viability of retail schemes appear to be rents and yields. Based on the evidence before me in Table 14.1 of the VS, large format food retail stores which command the rents and yields assumed in the Council's appraisals range from 3,000sqm to 14,000sqm. Therefore, a unit of 4,000sqm would appear suitable to test the viability of a large format convenience store. With regard to the smaller format store, whilst I have not been presented with comparable rent and yield evidence, I have no reason to dispute the Council's use of this size of unit as representative of the metro-style convenience store format.
38. A considerable part of the examination has been taken up testing the appropriateness of the Council's viability evidence and I have carefully considered the alternative evidence and arguments presented by the development industry. Overall, I am satisfied that the methodology adopted in the VS and in the revised appraisals is in line with the guidance in the Harman Report and accords with the guidance on assessing CIL and development viability in the Planning Practice Guidance (PPG). With the addition of the work undertaken by the Council following the hearing, I am satisfied that the assumptions on development costs, sales revenues and land values are reliably evidenced from recognised sources and local data and that an appropriate range of development scheme types and scenarios have been tested across the Chichester district.

### *Conclusion*

39. The Draft Charging Schedule is supported by detailed evidence of community infrastructure needs and economic viability. The evidence which has been used to inform the Charging Schedule and the further viability work undertaken during the examination provides a robust, proportionate and appropriate basis for setting CIL rates.

## **Is the charging rate informed by and consistent with the evidence?**

### *Residential Rates and Charging Zones*

40. The Council proposes separate rates for residential development of £120psm in areas to the south of the SDNP and £200psm to the north. The evidence of the variation in house prices between the north and the south of Chichester district supports this differential approach for residential development.
41. Values in the north of the district are consistently at the higher end of the market and the proposed northern zone is clearly definable as a discrete geographical area to the north of the SDNP boundary. The viability of residential development in the north zone to support a CIL charge has been tested against sales values and development costs in September 2014 and June 2015. The results of the revised appraisals in Table 1.5 of the Council's further work (CDC-CIL-PH-01) show a maximum viable CIL rate for houses of £312-357psm and for flats of £759-780psm. The proposed charge of £200psm would allow margins of 36-44% for houses and 73-74% for flats between the proposed rate and the maximum viable CIL across the range of site sizes and scheme types. This should allow a comfortable buffer to absorb variations in site values, revenues and costs as a result of fluctuating market circumstances or abnormal site conditions.
42. In the south of the district house prices do vary considerably across the proposed charging zone. Higher values tend to cluster around Chichester Harbour, some equivalent to areas in the north of the district. Lower values are more sporadically distributed along the east-west corridor in areas around Chichester city, Tangmere and Southbourne and in the Manhood peninsula to the south in settlements like Selsey and East Wittering. However, in testing the viability of a CIL charge in the south zone, the Council has assumed sales values which are more typical of the lower value areas, supported by evidence of new build transactions in Chichester East and South, in Table 1.4 of CDC-CIL-PH-01.
43. Based on this, the results of the updated appraisals in Table 1.5 of CDC-CIL-PH-01 suggest a maximum viable CIL rate in the south of the district of between £193-238psm for the development of houses and £354-384psm for flats. The proposed charge of £120psm would permit margins of 38-50% for houses and 66-69% for flats, which again are healthy buffers to allow for unforeseen variations in costs and revenues.
44. I have considered the suggestion by MGH of sub-dividing the south zone to reflect the differential in house prices across the south of the district, with a separate zone for the Chichester Harbour AONB. However, the CIL guidance within the PPG states that there is no requirement for a proposed rate to exactly mirror the evidence (Ref: ID 25-019-20140612) and that differential rates should seek to avoid undue complexity (Ref: ID 25-021-20140612). Furthermore, given the environmental constraints in Chichester Harbour, the amount of development likely to come forward in this area would not have a significant effect on CIL income overall even if a higher CIL rate were charged on development there.
45. Domusea, a local small developer, has expressed concerns that the CIL charges could make some small sites unviable, due to higher build costs without the economies of scale available to volume house builders and

premium land values for small sites. The Council suggests that sales values for small sites are also likely to be higher for a more bespoke product, which will balance the effect of higher costs. Ultimately, I have to base my findings on the evidence provided. The generic appraisals in the VS and the Council's further work show that small sites can viably support the proposed CIL charges based on the costs and values assumed, which I have already concluded are reasonable. In the revised appraisals, the buffers for small sites in the south of the district, particularly those of 5 units or less, are larger, at up to 50% for houses and 67% for flats, allowing greater margins to absorb higher build costs and land values. I have not been presented with alternative viability evidence to demonstrate otherwise or upon which I could justify a lower rate for small sites.

46. Overall, I conclude that the residential CIL charges and charging zone boundaries proposed in the DCS are appropriate and consistent with the evidence. I consider separately below the ability of the strategic sites to viably support these charges and whether a differential rate is justified for them.
47. The map of the charging zones published in the DCS (Map 1.1) requires updating as it did not contain Ordnance Survey national grid reference numbers as required by the CIL Regulations. The Council submitted an amended map (CDC-CIL-ED-1-2) containing grid references and has asked that this is recommended as a modification. Although a minor change, because it is a matter necessary for legal compliance, I recommend that the charging schedule is modified accordingly (**EM1**).

#### *Strategic Sites*

48. The four large strategic sites of West of Chichester, Tangmere, Westhampnett/North East Chichester and Shopwyke are allocated in the LP to provide a total of 3,250 dwellings up to 2029, representing almost 50% of the district's housing supply over this period. All are located in the south of the district and, aside from Shopwyke, which already has planning permission, they would be liable for a CIL charge of £120psm. Given the importance of these sites to the delivery of the development plan, it is critical that they are able to viably support the proposed charge.
49. The evidence informing the viability appraisals for the strategic sites in the VS was discussed at length at the hearing. In the light of this the Council re-tested the strategic sites, based on updated information on sales values, build costs, S106/S278 and site infrastructure and enabling costs, as part of its further post-hearing work. The appropriateness of the updated inputs and the appraisals has been considered above. The following paragraphs assess whether the results of those appraisals support the proposed charge.
50. For the West of Chichester (WoC) site, the results of the Council's revised appraisal in table 2.2 of CDC-CIL-PH-02 show that the site could support a maximum CIL of £249psm, allowing a margin of 52% between this and the proposed CIL charge of £120psm. This equates to a buffer of £8.127 million based on the difference between the maximum and proposed CIL charges (£129psm) multiplied by the total chargeable floorspace of 63,000sqm. The difference between the Council's and the Consortium's estimates of residual S106/S278 costs is £1,756/unit, totalling £2.81 million. Therefore, the buffer would comfortably meet the estimated additional S106/S278 costs, leaving a

figure of £5.317 million (equivalent to a 41% buffer) to address additional development costs or higher land values. On the basis of the evidence, therefore, the WoC site should be viably able to support the proposed CIL charge of £120psm.

51. The results of the Council's revised appraisal for the Tangmere site (table 4.2 of CDC-CIL-PH-02) show that the site would be viably able to support a maximum CIL rate of £332psm, allowing a buffer of 63% or £13.356 million based on the same formula as for WoC. However, this margin is based on a S106/S278 cost of £11,130/unit, which is disputed by the Consortium and excludes a number of items of infrastructure. These are a wastewater treatment solution (estimated at £3 million in the VS), play areas, pitches and allotments (estimated by the Consortium at up to £1.08 million), a bus subsidy (£0.5 million) and travel plans (£0.3 million). The Consortium also consider the estimate for the primary school at Tangmere is too low, suggesting up to an additional £4.1 million to cater for an additional form of entry (FE). The total cost of these additional S106 items amounts to £8.98 million, which would reduce the buffer to £4.376 million or 37%. Again this suggests a comfortable margin would be available to address unforeseen variations in other development costs and land values. Therefore, I conclude that the Tangmere site should also be viably able to support the proposed CIL charge of £120psm.
52. With regard to Westhampnett/North East Chichester, the results of the Council's revised appraisals (in table 3.2 of CDC-CIL-PH-02) suggest that the small and large phases would be viably able to support a maximum CIL charge of between £401psm and £417psm. This would allow a buffer of around 70%. I recognise that the landowner has significant concerns about the infrastructure costs allowed for within the Council's appraisals. However, the buffer equates to a figure of £9 million. Even if additional sums were built into the appraisal for the wastewater treatment scheme (outside of the site servicing/enabling allowance), allotments, bus subsidies and travel plans, based on the estimates of these items for the Tangmere site it is likely there would remain a substantial buffer to support unforeseen costs or a higher land value. I note the landowner is concerned about the apportionment of the cost of the A27 improvements between the outstanding planned developments along the corridor and seeks clarification that the total liability of the WH/NEC site for this will not exceed £3,600 per unit. However, the apportionments are based on the number of dwellings proposed for each site, which seems a reasonable proxy for potential traffic impact. Therefore and in the absence of any evidence to demonstrate otherwise, I am satisfied the figure for WH/NEC is reasonable. Accordingly, the WH/NEC site should be viably able to support the proposed CIL charge of £120psm.
53. The revised appraisal for Shopwyke (in table 5.2 of CDC-CIL-PH-02) shows the site could viably support a CIL charge of £179psm, based on a residual S106 cost of around £8,000/unit, which has been informed by the outline planning permission for the site and significantly greater site enabling and remediation costs due to the brownfield status of the site. The proposed charge of £120psm would allow a buffer of 32%, equivalent to a sum of £1.86 million. Given that there is more certainty about the overall quantum of development costs for this site, a buffer at this level should be sufficient to absorb any further unknown costs or adjustments in land values. Should the site become CIL liable following a new planning permission, then it would appear there is

sufficient margin to enable the site to viably support the proposed CIL charge alongside the other infrastructure costs.

#### *Retirement/Sheltered Housing and Care Homes*

54. The appraisal of Class C2 care homes shows a maximum viable CIL of £17psm, mainly due to the significantly lower net to gross ratios of floorspace necessary to accommodate communal space and care facilities. Accordingly the Council does not propose to charge a CIL for C2 residential development, which I agree is reasonable. With regard to sheltered or retirement housing the Council proposes to charge CIL in line with the zonal residential rates for the areas north and south of the SDNP. Representations from Blue Cedar Homes suggest that retirement housing should be subject to a lower or zero CIL rate due to the higher build costs and longer selling period involved in this form of residential development. The appraisals undertaken by the Council during the examination (CDC-CIL-ED-1-12) include higher build costs in the form of lower net to gross ratios and additional empty property running costs to reflect the longer selling period. They also assume higher densities than normal flatted accommodation and 10% higher sales values based on evidence of local transacted sales. The results of the appraisals show that sheltered housing could viably support a maximum CIL rate of £227psm in the south of the district and £419psm in the north, allowing healthy buffers of 47% and 52% respectively. No further evidence was submitted in response to these appraisals. On this basis, I conclude that sheltered and retirement housing in Chichester should be viably able to support the proposed residential CIL charges.

#### *Student Housing*

55. The Local Plan supports the delivery of purpose built student accommodation in Chichester to meet the growing student population associated with Chichester University and to reduce pressure on the private rented sector. The VS provides an appraisal for a hypothetical 60 bed purpose built scheme based on an investment yield of 5.75% which appears consistent with the market analysis of this sector. The results indicate that student accommodation could viably support a maximum CIL of £100psm. The Council's proposed charge of £30psm would allow a substantial buffer of 70%, which should help to support the development in this sector. Accordingly, I consider that the proposed rate is consistent with the evidence available.

#### *Retail Rates*

56. The Council proposes CIL charges of £125psm for wholly or mainly convenience retail floorspace and £20psm for comparison retail developments. The CIL Regulations allow charging authorities to set differential rates by reference to different uses of development, provided they are justified on the grounds of economic viability. Paragraph 022 of the CIL guidance in the PPG confirms that the definition of 'use' is not tied to the classes of development in the Town and Country Planning (Use Classes) Order 1987. Therefore, the proposal to differentiate between convenience and comparison retail development is reasonable, subject to the viability evidence.

57. Revised viability appraisals were undertaken in June 2015 based on updated rents and build costs (in CDC-CIL-PH-03). The results show that for convenience retail development (figure 1.2) a smaller format store

development (465sqm) could viably support a maximum CIL charge of £511psm and a large format store (4,000sqm) a maximum charge of £273psm. For comparison retail development the results (figure 1.3), show that a typical in-town size unit (of 465sqm) could support a maximum CIL rate of £271psm, whereas an out of centre retail park unit (of 929sqm) could support a maximum rate of £204psm. Therefore, for both convenience and comparison retail development, the updated appraisals suggest that the respective proposed CIL charges could be viably supported across the range of formats tested, with substantial buffers for both convenience floorspace and comparison retail development. The variation in the results also supports the Council's proposal to charge differential rates for convenience and comparison floorspace.

58. The sensitivity testing undertaken as part of the Council's further work following the hearings, and set out in CDC-CIL-PH-03, suggests that the viability of both comparison and convenience retail development to support the proposed charges could tolerate a small drop in rents or yields as a result of downturn in the retail market. For example, a small format convenience store would be viably able to support the proposed CIL charge even if yields reduced by up to 0.5% or rents by 10%. Likewise for both in-town and out of centre comparison retail formats. However, the tests suggest that larger format convenience stores could only tolerate a reduction in rents if yields increased and vice versa.
59. This does indicate that the ability of retail development to support the proposed charges depends on schemes achieving the rents and yields assumed in the appraisals. There is therefore a degree of risk in the proposed rates. However, I have seen little evidence to suggest that retail schemes in Chichester would not achieve the revenues assumed. Furthermore, although the Chichester Retail Study Update (2010) indicates expenditure capacity for further retail floorspace in the district, the recently adopted LP does not contain any allocations for additional retail development. Accordingly, the proposed retail charges would not put the delivery of the development plan at risk.

*All other uses*

60. The Council's decision not to charge a levy on offices, industrial and warehouse development is consistent with the evidence in the VS, which shows that current market rents for these forms of development are too low to viably support any level of CIL. A written representation suggests that B1a (offices) should be included in the Business category of Table 7.1 of the DCS so that it is clearly identified as not subject to a CIL charge. Whilst I note the Council's view that B1a is included in the catch-all Standard Charge category, it would improve the clarity of the DCS if either B1a is included in the Business category or the Business category is deleted entirely allowing B1, B2 and B8 uses to be captured in the Standard nil charge. This clarification would not be necessary for the Charging Schedule to be approved and therefore should be regarded as a minor modification for the Council to consider.
61. Whilst appraisals have not been provided for public service and community uses, I am satisfied that, for the reasons given in paragraph 15.3 of the VS, setting a nil rate for these uses is appropriate. Appraisals have also not been



provided for A2-A5 retail uses, leisure and hotel development. However, I understand that the VS has focussed on the main types of development anticipated in Chichester, and these uses are not expected to generate much additional floorspace which could potentially be liable for CIL. Neither have any of these other uses been the subject of specific representations. Accordingly, in the absence of any evidence to the contrary, I have no reason to believe that a nil charge for these and other sui generis uses is not consistent with the evidence.

#### *Other matters*

62. A number of representations expressed concerns about the wording of the draft Regulation 123 list at Annexe B to the DCS and the need for greater clarity over whether certain types of infrastructure, in particular transport schemes, would be funded in future through S106 obligations or CIL, in order to avoid 'double dipping'. I recognise that the Council has sought to make this clear by listing the specific infrastructure projects to be excluded from CIL funding in the Regulation 123 list and that this has been supplemented by evidence in its hearing statement (CBC-CIL-ED-3-12&13) and its response to my initial questions (Appendix 1 – CDC-CIL-ED-1-13). The Council has also sought to make clear in its draft Planning Obligations & Affordable Housing SPD (CIL-07) how S106 policies will be varied after the introduction of CIL.
63. However, it remains unclear from the draft Regulation 123 list where some infrastructure projects would be funded from. For example the improvements to wastewater treatment works at Chichester and Tangmere are listed in the IDP and identified as infrastructure costs to be part funded by development in the Council's further evidence on the SDLs (CDC-CIL-PH-02) but not included anywhere in the Regulation 123 list. The Oving cycle route is mentioned in the regulation 123 list as a S106 cost but also for CIL funding in the list in CDC-CIL-ED-1-13. Likewise the Westhampnett Road junctions are listed for CIL funding in CDC-CIL-ED-1-13 but not listed as such in CDC-CIL-PH-02. Whilst the wording of the list is a matter for the Council and its content is not before me for examination and I am satisfied that the combined effect of both CIL and residual S106 costs on the viability of development have been taken into account in the Council's appraisals, I would encourage the Council to review and clarify the wording of the draft Regulation 123 list to help ensure that there is no perceived 'double dipping'. I note the Council's intention to amend the regulation 123 list to accord with the Habitats Regulations. Ultimately, it will be for the Council to ensure that the list satisfies the statutory tests set out in the CIL Regulations and the guidance in the PPG, including the use of site specific contributions where the Regulation 123 list includes a generic type of infrastructure.
64. Representations were made about the effect of the proposed Instalments policy at Annexe A to the DCS on the viability of residential development. The CIL guidance in the PPG makes clear that the existence of such a policy is a material consideration in assessing the viability of the proposed levy rates (ID 25-055-20140612). The changes to the Instalments policy proposed by the Council in its Regulation 19(1) Statement (CIL-03) were welcomed by representatives of the development industry at the hearing. The intention to now collect the levy on the completion of development in a series of phases, rather than within a fixed period of commencement, should assist the cash flow and viability of large scale developments in particular.

65. Representations also sought clarification on how a potential Payments in Kind policy, referred to in paragraphs 4.6 and 4.7 of the DCS, would operate. However, this is a matter for the Council to consider in the light of the Regulations.
66. Several parties have expressed concern about the Council's intention, stated in paragraph 2.5 of the DCS, not to introduce an exceptional circumstances policy from the outset, particularly in terms of the impact of the proposed CIL charges on the viability of brownfield sites and small sites. This is a matter for the Council as the charging authority, but it should keep this under review, particularly in relation to these types of sites.
67. Finally, it will be important for the Council to keep the charging schedule under review to assess the impact and operation of the CIL in its first few years and to reconsider rates in the event of any material changes in the market affecting delivery of development in the district. Given the changes which have occurred in the costs and values of development in Chichester during the time the Council has been preparing the DCS, it would be prudent for the Council to review the schedule within 3 years of adoption to ensure that the overall approaches taken remain valid, that development remains viable and that an appropriate balance is being struck. It would help to provide clarity and certainty if the Council were to specify a timescale for review at the time the Charging Schedule is adopted.

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

68. The Council's decision to set rates of £120psm and £200psm for residential development in the south and north of district, £125psm for convenience retail development, £20psm for comparison retail development and £30psm for purpose built student housing has been based on reasonable assumptions about development values and costs. The evidence suggests that if the charges are applied residential and commercial development will remain viable and that the overall development of the area will not be put at risk.

**Overall Conclusion**

69. In setting the CIL charging rate the Council has had regard to detailed evidence on infrastructure planning and economic viability evidence of the development market in Chichester district. The Council has sought to be realistic in terms of achieving a reasonable level of income to address the significant infrastructure requirements of the district and the gap in infrastructure funding required, while ensuring that development remains viable across the district. The modification recommended will ensure that the charging schedule complies with the CIL Regulations.

<b>LEGAL REQUIREMENTS</b>	
National Policy/Guidance	The Charging Schedule complies with national policy/guidance.
2008 Planning Act and 2010 Regulations (as amended)	Subject to one modification, the Charging Schedule complies with the Act and the Regulations, including in respect of the statutory processes and public consultation, consistency with the adopted Local Plan and Infrastructure Delivery Plan and is supported by an adequate financial appraisal.

70. I conclude that subject to the modification set out in Appendix A the Chichester 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 Charging Schedule be approved.

*Mike Hayden*

Examiner

This report is accompanied by:

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

## **Appendix A**

- **EM1** – Map 1.1 of the charging schedule to be amended to include Ordnance Survey national grid reference numbers as shown in document CDC-CIL-ED-1-2.