
Report to Wealden District Council

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an Examiner appointed by the Council

Date: 21 August 2015

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

REPORT ON THE EXAMINATION OF THE DRAFT WEALDEN DISTRICT COUNCIL COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE

Charging Schedule submitted for examination on 25th March 2015

Examination hearing held on 23 June 2015

File Ref: PINS/C1435/429/6

Non-Technical Summary

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

I have recommended that the schedule should be approved in its published form, without changes.

Introduction

1. This report contains my assessment of the Wealden District Council Community Infrastructure Levy (CIL) Charging Schedule in terms of Section 212 of the Planning Act 2008. It considers whether the schedule is compliant in legal terms and whether it is economically viable as well as reasonable, realistic and consistent with the National Planning Practice Guidance (the Guidance).
2. To comply with the relevant legislation the local charging authority must strike 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, on which hearing sessions were held 23 June 2015, is the submitted schedule of March 2015, which is effectively the same as the document published for public consultation September 2014.
3. Wealden Council propose the following CIL rates:

Wealden CIL Rate	
Development Type	Charge per sq. m
Residential (higher band)	£200
Residential (lower band)	£150
Retail – wholly or mainly convenience	£100
Retail – wholly or mainly comparison	£20
Standard Charge (applies to all development not separately defined)	£0

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

Infrastructure planning evidence

4. The Wealden District (Incorporating Part of the South Downs National Park) Core Strategy Local Plan (CS) was adopted in February 2013. This sets out the main elements of growth that will need to be supported by further infrastructure in the district, including about 9440 homes (4889 already identified/committed through extant planning permissions) from 2006 to 2027 (around 450 per year); the provision of approximately 40000 sq. metres of

employment land over the same period and a projected net requirement of an additional 16900 sq. metres of future retail provision. The focus of the residential development will be distributed between existing settlements with urban extensions or infill in Uckfield, Hailsham, Crowborough, Polegate and Willingdon, Stone Cross and adjacent to the boundary with Tunbridge Wells in the parish of Frant. Employment land will be distributed across the district with specific sites identified in Uckfield, Hailsham and Hellingly and Polegate and Willingdon/ Stone Cross. Future retail provision will be distributed across the district concentrated in Uckfield and Hailsham and Hellingly.

5. The CS is supported by an Infrastructure Delivery Plan – March 2015 (A7) which outlines local community requirements and infrastructure needs over the plan period. The draft Regulation 123 list indicates that the majority of CIL spending will be directed to visitor access management for the Ashdown Forest (SAMMS), SANGS, secondary/primary school and early years provision, highway improvements, improvements to public transport, car parking, waste management, community facilities including health care, library provision, policing infrastructure and community safety facilities, all of which will contribute towards implementing the objectives of the CS.
6. Taking into account other likely funding sources, including direct from government, the Council currently estimates a shortfall of around £73.5m, based on total infrastructure costs of about £111.3m. It is anticipated that the CIL charges, as proposed, would raise about £0.85m on an annual basis and around £10.2m in total up to 2027 towards infrastructure needs. In the light of this evidence, the proposed CIL charges would make only a modest contribution towards filling the likely funding gap. Nevertheless, the figures demonstrate the need to levy CIL in Wealden.
7. Whilst there will always be other projects with which CIL revenues might assist, it is not the role of this examination to question the Council's specific spending proposals on either a geographical or a priority basis, beyond confirming that, in general terms, the listed projects should clearly assist the delivery of the CS, as a whole. Overall, the charging schedule is supported by appropriate evidence of community infrastructure needs and I am not aware of any material inconsistency between the CS, the Council's current Regulation 123 list and/or the CIL rates proposed.

Economic viability evidence

8. The Council commissioned a series of CIL Viability Assessments, dated July 2012 (B2); these were subsequently updated in January 2013 (C3), with further detailed testing of Strategic Development Areas in November 2013 (D5). A final CIL Viability Assessment updating the evidence base was published in August 2014 (E3). The assessments employ a residual valuation approach, using reasonable standard assumptions for a range of factors such as building costs (including policy specific energy requirements), profit levels, fees and changes in relation to national policy.
9. The model took into account relevant current land values, including Land Registry data and some recent actual transactions, bearing in mind that there are variations in average land values across Wealden. In general, the benchmark land values used are sufficiently realistic for comparison purposes

in a generic study of this type. In addition to this the charging schedule has been informed by discussions with stakeholders and consideration of the representations made on the series of consultations carried out by the Council.

10. The viability assessments seek to establish a residual value by subtracting all costs (except for land purchase) from the value of the completed development (the Gross Development Value). The price at which a typical willing landowner would be prepared to sell the land (the Benchmark Land Value) is then subtracted from the residual value to arrive at the overage or 'theoretical maximum charge'. This is the sum from which the CIL charge can be taken provided that there is a sufficient viability buffer or margin.
11. The Guidance states that it would be appropriate to include a buffer or margin so that the levy rates are not set at the margins of viability and are able to support development when economic circumstances adjust. This can also provide some degree of safeguard in the event that gross development values have been over-estimated or costs under-estimated and to allow for variations in costs and values between sites. Wealden have proposed CIL charges that provide a reasonable viability margin or buffer commensurate with the type of development being brought forward. On this basis, the evidence which has been used to inform the Charging Schedule is robust, proportionate and appropriate.

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

CIL rates for residential development

12. The Council originally proposed three residential charging bands/zones for the district. However, based on evidence from the CIL Viability Assessment of August 2014 (E3) the Council have merged the lower and mid bands into a single lower band. On this basis Wealden now propose two charging bands/zones for residential development in the district, a CIL charge of £200psm in the higher band and £150psm for the lower band. The higher band CIL rate predominantly applies to development in the north and west of the district, with the lower CIL rate in the south and east. There are exceptions to this in the case of both Crowborough and Uckfield where based on viability evidence the Council have proposed that residential development should be charged in the lower band.
13. The CIL Viability Assessments considered a sufficient range and number of size and type of residential development schemes across Wealden. These schemes are suitably reflective of the new housing projects likely to come forward locally in the current market conditions and provide the necessary information against which to assess viability, including the strategic sites identified in the district.
14. In particular, the viability assessments recognise that, by definition, site specific abnormal costs cannot be accounted for in such generic analyses. Additionally, it is likely that any significant abnormal costs would reasonably be expected to be reflected in lower benchmark land values. Furthermore, the viability testing has properly examined the most likely scenarios and clearly cannot address all possible eventualities surrounding new development projects.

15. There may be a few cases where the CIL rates would render a project unviable, but the analysis shows that this would not have a significant effect on the overall amounts of new housing to be delivered across Wealden.

Residential (higher band)

16. The proposed CIL rate of £200psm for Residential (higher band) has been the subject of extensive viability testing, including factoring in recent rises in values, construction costs and the application of the CS policy requirement of 35% affordable housing. This culminated in the CIL Viability Assessment of August 2014 (E3). This tested 8 viability scenarios in total, demonstrating that the proposed CIL rate of £200psm would maintain a viability buffer of between £700psm (4 Units with no affordable housing) and £412psm (100 Units with 35% affordable housing). In relation to strategic sites within the higher band area these would maintain a viability buffer of £335psm (100 Units with 35% affordable housing). These buffers would ensure that the vast majority of new housing development within the higher band zones could be delivered in accordance with the CS.
17. These findings and the proposed CIL rate of £200psm were largely supported by developers in the hearing. They considered that the rate was reflective of the higher sales values that could be achieved; due to the north and west of the district being within commuting distance of London and the desirability of the High Weald Area of Outstanding Natural Beauty. I note there have been written representations suggesting that the rate of £200psm is not consistent with rates set by other Councils in the south-east. However, there was no substantive detailed evidence presented to indicate that the proposed CIL rate should be lower in Wealden. I am therefore satisfied the proposed rate of £200psm for Residential (higher band) is justified on viability grounds.

Residential (lower band)

18. Wealden propose a rate of £150psm for Residential (lower band). This is derived from the CIL Viability Assessment of August 2014 (E3). The upper limit of the viability modelling was set at 100 units. This is based on market conditions where larger developments (strategic sites) are often sub-divided into smaller phases to enable financing. Testing 12 viability models demonstrated that the proposed CIL rate of £150psm would maintain a viability buffer of between £540psm (4 Units with no affordable housing) and £212psm (100 Units with 35% affordable housing). Viability testing of strategic residential sites within the lower band area demonstrated that the proposed CIL rate of £150psm in lower band areas would maintain a viability buffer of £181psm (100 units with 35% affordable housing) on strategic sites. This buffer would ensure that the vast majority of new housing development within the lower band areas could be delivered in accordance with the CS.
19. Representations were received in relation to parishes located in the lower band zones stating that the higher band CIL charge should be applied to meet locally identified infrastructure needs. Concerns have also been raised by developers regarding the Council's assumptions about costs, particularly related to larger strategic sites, and consistency with density requirements set out in the emerging Wealden Strategic Sites Local Plan (A4) (WSSLP). However, the Council confirmed at the examination hearing that the emerging

WSSLP had been withdrawn.

20. I can understand the representations by parishes; however, CIL rates need to be determined by reference to the developments ability to viably pay it, rather than the specific infrastructure needs of a parish or locality. In relation to density, I consider that the 35 dwellings per hectare assumption would not result in an overestimate of the sales values, and consequently the viability of CIL being exaggerated. I accept that sites may have been developed at lower densities; however, there is no evidence before me to suggest that lower densities would directly result in a development being on the margins of viability. Further, in relation to profit, finance and marketing costs these were examined during the hearing with developers present confirming that whilst there can be variations in approach, the methodology used in the viability testing was largely consistent with the local market conditions and practices. I consider that the approach taken by Wealden Council is a balanced one which takes into account market conditions. This is reflected in the identified viability buffers which would provide some degree of safeguard for variations in the market. I am therefore satisfied that the proposed rate of £150psm for Residential (lower band) is justified on viability grounds and strikes an appropriate balance that should not prevent the overall delivery of residential development including the strategic sites in accordance with the CS.

Retail rates

21. Policy WCS3 of the CS sets out a projected requirement for future retail provision in Wealden to 2027. There is a projected net requirement of 16937 sq. metres of retail floorspace. The CIL Viability Assessment of August 2014 (E3) considered a range and number of size and type of retail development schemes across Wealden to be suitably reflective of retail projects likely to come forward locally and to provide the necessary information against which to assess viability.
22. Wealden have proposed differential rates for retail development, with a charge of £100psm for convenience retail development and £20psm for comparison retail. The CIL Guidance allows charging authorities to apply differential rates according to type and scale of development, provided they are justified on grounds of economic viability. Paragraph 21 of the CIL Guidance adds that differential rates should not be used as a means to deliver policy objectives.
23. Dealing first with the type of development, CIL Regulations and the Guidance allow charging authorities to set rates by reference to the different intended uses of development and paragraph 22 is clear that 'use' is not tied to the classes of development in the Town and Country Planning (Use Classes) Order 1987. There is strong evidence in the CIL Viability Assessment of August 2014 (E3) to indicate that convenience retail stores have a greater degree of viability across Wealden than comparison retail development within the same use class. This is reflective of retailing trends in the UK where comparison retailing is in a period of transition due to changes in shopping patterns, including the significant rise in online shopping and fewer shopping trips.
24. Concerns were raised by some retail operators that the assumptions used to evidence the proposed CIL rates were not reflective of the current market conditions and that fine grain sampling should have been undertaken.

Representatives of Limited Assortment Discounters (LADS) suggested that the viability testing did not address their specific operating model. Whilst other examples of construction/development costs were advanced, these did not lead me to a different conclusion with regard to costs associated with retail development in Wealden. In relation the sampling, I consider that the testing carried out is appropriate in the context of Wealden and would not disadvantage convenience retailers with alternative operating models. Although convenience retail is subject to transition, as a whole, the sector is more robust and the transition is largely structural within the sector. This is evidenced by growth in both the high end luxury grocery stores and at the discount end of the market (LADS), alongside online convenience sales.

25. The appraisals in the CIL Viability Assessment of August 2014 (E3) suggest that a maximum CIL of up to £154psm would be viable on larger edge/out of centre convenience stores and that a theoretical maximum of £109psm would be viable on smaller in-town metro style stores. A rate of £100psm would allow a buffer of around £54psm against the maximum viable CIL. Although the viability buffer would only be around £9psm for smaller in-town metro style stores, market demand is likely be met through re-provision of existing space, rather than new development within town centres. Therefore, this represents a balanced and pragmatic approach given that no substantive viability evidence has been presented to indicate otherwise. On this basis, I am satisfied the proposed rate of £100psm for convenience retail development is justified on viability grounds.
26. The CIL Viability Assessment of August 2014 (E3) stated there were difficulties in modelling town centre comparison retail development due to the variations in values due to locational sensitivities, footfall patterns and the varying size of units allied to the overall market conditions (impact of online shopping/out of town/retail park offers). Despite these difficulties, Uckfield town centre and an edge of centre retail park were used to produce a viability model. In the town centre location there was insufficient viability to be able to justify a CIL charge. However, the edge of centre modelling suggested that a maximum CIL of up to £41psm would be viable.
27. In addition to the evidence before me, the Council set out at the hearing that due to a contraction in demand for town centre comparison retail space, new development in these locations is unlikely to take place in the foreseeable future. The Council further stated that within Wealden, any comparison retail requirement in town centres is likely to be met through re-provision of existing space and/or extensions. However, there was evidence to suggest there is demand for quality comparison retail at edge of centre locations where development is viable and complements online comparison retail shopping.
28. Consequently, given the limited likelihood of new comparison retail development in town centre locations, the proposed CIL rate of £20psm would not be disproportionate and in most cases would not prevent development coming forward in Wealden. I consider that based on the evidence before me that this is a pragmatic approach and I am satisfied the CIL rate is justified on viability grounds and strikes an appropriate balance given the market conditions.

Standard charge

29. In relation to other uses Wealden have proposed a standard charge of £0psm. These small scale uses (including laundrettes, scrapyards, and youth hostels amongst other things) are not critical to the delivery of the core strategy. They are by their nature either likely to utilise existing premises rather than new build or based on evidence relating to similar uses unlikely to be able to support a viable CIL charge.
30. The decision of Wealden not to charge a levy on offices, industrial and warehousing, education, health and community facilities is consistent with the evidence in the CIL Viability Assessments. These demonstrate that current market rents for these uses are too low to absorb any level of CIL. I am satisfied that for the reasons given in the CIL Viability Assessment of August 2014 (E3) setting a rate of £0psm for these uses is evidence based and appropriate.

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

31. Wealden District Council's decision to set the proposed rates is based on reasonable assumptions about development values and likely costs. The evidence suggests that residential and retail development will remain viable across most of the area if the charge is applied. Only if development sales values are at the lowest end of the predicted spectrum would development in some parts of Wealden be at risk.

Conclusion

32. In setting the CIL charging rate the Council has had regard to appropriate available evidence on infrastructure planning and the economic viability evidence of the development market in Wealden. The Council has sought to be realistic in terms of achieving a reasonable level of income to address an acknowledged gap in infrastructure funding, while ensuring that a range of development remains viable across the district.
33. Finally, it is important to keep the charging schedule and its impact on the delivery of development under review. The Council during the examination hearings set out how monitoring arrangements would be linked to their Annual Monitoring Report, I consider these measures to be appropriate for Wealden. However, it would help to provide clarity and certainty if the data indicators are published on a regular basis (annually) and this is confirmed at the time of adoption.

LEGAL REQUIREMENTS	
National Policy/Guidance	The Charging Schedule complies with national policy/guidance.
2008 Planning Act and 2010 Regulations (as amended)	The Charging Schedule complies with the Act and the Regulations, including in

	respect of the statutory processes and public consultation, consistency with the adopted Core Strategy and Infrastructure Delivery Plan and is supported by an adequate financial appraisal.
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34. I conclude that the Wealden 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.

Jameson Bridgwater

Examiner