The Planning Inspectorate

Report to Trafford Council

by Mr Philip Staddon BSc, Dip, MBA, MRTPI

an Examiner appointed by the Council

Date: 31 January 2014

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

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

Charging Schedule submitted for examination on 3 October 2013

Examination Hearings held on 9 and 10 December 2013

File Ref: PINS/Q4245/429/2

Non Technical Summary

This report concludes that, subject to modifications, the Trafford Council Draft Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area.

The main modifications can be summarised:

- That the levy rate for apartments in the 'cold' and 'moderate' charging areas be reduced to £0 psm.
- That the levy rate for supermarket development in defined town centres be reduced to £0 psm.
- That the definitions of 'supermarket' and 'neighbourhood convenience stores' be revised for clarity.
- That the 'base rate' be reduced to £0 psm.

Subject to these modifications, the Council is able to demonstrate that it has sufficient evidence to support the schedule and can show that the levy rates would be set at levels that will not put the overall development of the area, as set out in its Core Strategy, at risk.

Introduction

1. This report contains my assessment of the Trafford 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 national guidance (Community Infrastructure Levy Guidance – DCLG – April 2013).

2. To comply with the relevant legislation the local charging authority has to submit what it considers to be a charging schedule that sets an appropriate balance between helping to fund necessary new infrastructure and the potential effects on the economic viability of development across the district.

3. The basis for the examination, on which Hearing sessions were held on 9 and 10 December 2013, is the submitted Draft Charging Schedule (DCS), which was published for public consultation between 13 May 2013 and 24 June 2013, and the subsequent Statement of Modifications. The DCS and the Statement of Modifications were submitted for examination on 3 October 2013.

4. The Council's CIL proposals include charges for residential development and for most types of commercial development.

5. The residential CIL proposals relate to three defined geographical charging zones within which different CIL rates would apply. The zones are termed 'hot', 'moderate' and 'cold' and would attract CIL charges of £80 / £40 / £20 per square metre (psm) respectively for development of private market houses. 'Apartments', including sheltered accommodation and retirement apartments, would be further differentiated and incur CIL charges of £65 / £10 / £10 psm in the 'hot', 'moderate' and 'cold' zones respectively.

6. The commercial development CIL proposals are not subject to geographical zoning. A feature of Trafford's CIL proposals is that, other than excluded development types ('education', 'health', 'community and emergency services', 'public transport'), all development would incur a CIL charge. Specific charges for retail development are differentiated into retail warehouses (£75 psm) and supermarkets (£225 psm). 'Offices', 'industry and warehousing', 'leisure', 'hotels' and 'all other development' would incur a £10 psm CIL charge.

7. This report is structured under the headings (in bold) of the main issues that I identified through the examination. I draw conclusions after exploring each issue.

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

Core Strategy

8. The Trafford Local Plan: Core Strategy (CS) was adopted in January 2012. It sets out Trafford's approach to sustainable economic growth for the period up to 2026. Importantly, it includes the borough's commitment to accelerated growth within the wider Manchester City Region.

9. The strategy seeks to release land to accommodate *"a minimum 12,210 new dwellings"* in the plan period (CS Policy L1.1) and this figure includes a 20% uplift in the period to 2018, reflecting Housing Growth Point status. Of the total housing requirement, well over a third (4,710) is planned at five Strategic Locations – Pomona Island; Trafford Wharfside; Lancashire County Cricket Club site; Trafford Centre Rectangle and Carrington. The majority of the remainder (5,650) are located in the broader 'south city region' area, with the balance (1,850) on 'other Trafford Park / North Trafford Area Sites'. Throughout the borough, most of the new housing development (83%) will be on brownfield sites and four out of the five strategic locations are 100% brownfield. It is worth noting that whilst the Council reported that its land supply to meet the growth point uplift had been on target, delivery rates in recent years had, due to the economic downturn, been depressed (to about half the target rate).

10. The CS also directs much of the planned employment development to the strategic locations. Carrington, in particular, is expected to contribute 75 hectares of the 190 hectares of CS planned total requirement for employment land.

Infrastructure planning evidence

11. The Council's CIL evidence included a comprehensive Infrastructure Note (2013) which refreshed and updated the evidence contained in the Local Infrastructure Plan (2010) that had been used to support the Core Strategy examination. The Infrastructure Note identifies a range of infrastructure projects covering transport; flood defences; schools and education and sports, recreational and open space facilities. The assessed funding gap is circa £233 million and of this total, the majority, circa £186 million, relates to transportation projects and schemes.

12. In developing its CIL proposals the Council used this assessment of infrastructure needs to distil a draft CIL Regulation 123 list. When first published in May 2013 the draft list was very broad-brush but it was refined, in September 2013, to set out more specifically a range of major projects which would be funded from CIL receipts. Importantly, these projects relate closely to the CS and some are critical to the delivery of planned development in the CS's identified 'strategic locations'.

13. The Council estimates that its draft CIL proposals could generate circa £41 million in the plan period. This would amount to about 17.6% of the estimated infrastructure funding gap. Whilst a significant gap would remain, the CIL charges would make an important contribution towards funding infrastructure required to help support planned sustainable growth in the borough. The clarity and transparency provided by the draft Regulation 123 list signals a clear intention by the Council to use CIL receipts to support development in the CS's identified 'strategic locations'.

Economic viability evidence

14. The Council commissioned consultants to undertake an Infrastructure and Economic Viability Study (2012) which was supplemented by later addendum reports and a technical note. This collective of economic viability study evidence is hereafter referred to as the 'EVS'.

15. The EVS used a computer based CIL viability testing model. For residential developments, a notional hectare of land was assessed to determine the value of development by inputting assumed land acquisition and development costs. A similar approach was used for commercial developments but here the testing is per notional square metre of commercial floorspace. The output of the model is the developer's residual margin. For residential developments, where that margin exceeds an assumed benchmark of 20% of cost, it is assumed there is potential to support a CIL charge. Commercial developments were similarly assessed but an additional 10% (of value) was added before a development was deemed viable (and potentially able to support a CIL charge).

16. Clearly, such modelling involves making a wide range of assumptions about appraisal inputs. For residential development scenarios, this includes making assumptions about factors such as land costs, build costs, fees, densities, housing mix, affordable housing content, contingencies, sales values, profit levels etc. For the commercial development types, similar assumptions were made but with assumed rents and yields being the key value determinant (rather than sales values). Each notional modelling appraisal undertaken is bespoke, as the modelling inputs are tailored and adjusted for each modelled development scenario.

17. The robustness of the residential modelling assumptions used in the EVS was tested through the examination. Build costs were drawn from BCIS rates and finessed to reflect the variations that can be expected on large / small sites due to economies of scale, and by market area relating to home specification levels. Affordable housing content was modelled in line with CS policy, which varies the proportion of affordable homes depending on the geographical location. Reasonable assumptions about fees, contingencies, finance and

residual (site specific) S.106 costs were also included. The commercial modelling assumptions were similarly tested.

18. Overall, most of the residential and commercial modelling assumptions were found to be reasonable and robust. However, there were some challenges of the modelled assumptions for some of the key viability components. These were explored through the examination and are summarised, along with my assessment, below:

Profit Levels – the use of 20% on cost was challenged by the development industry as being too low. It was argued that 20% on Gross Development Value (GDV) was more appropriate and had been accepted in other CIL examinations. In response, the Council felt it was robust and reasonable and had not been challenged in a developer workshop that had been held to inform the EVS preparation. In my view, there is no 'right' profit level for CIL testing purposes and the use of 20% on GDV by some other Charging Authorities (CA) does not amount to a precedent that must be followed, as each CA's area will display different viability characteristics. Whilst most developers would prefer, and some perhaps expect, a higher profit level, no detailed viability appraisal evidence has been submitted to support this position. On balance, I consider that 20% on cost is not an unreasonable profit figure for use in the high level modelling required for a CIL examination. Ultimately, the figure has to be considered 'in the round' in the context of other allowances and viability 'buffers'. I return to this later.

Land Values – although transactional evidence was limited, for both residential and commercial land, I am satisfied that the assumptions made are reasonable and have been triangulated from a range of sources. These include data from the Valuation Office Agency (VOA), including assessments of alternative use values, alongside land agent and developer soundings. This is appropriate and available evidence.

Residential Sales Values - the key issue here was less to do with whether the empirical data used was robust, but whether, in some cases, the assumed sales rates would be realised on certain sites, particularly the more challenging strategic location sites. However, these locations relate to areas where the lowest CIL charges are proposed and are, as with profit levels (above), matters to be considered 'in the round'. I return to this later.

Housing Densities – house builders challenged the assumed densities used on the notional site testing, arguing that the range of 36 – 40 dwellings per hectare was too high and should be reduced. However, the Council confirmed that the densities assumed accorded with its CS. CIL examination must be based on CS compliant evidence and, for that reason, I endorse the Council's density assumptions. However, the Council should note carefully the reservations expressed by the industry about the ability of the market to achieve the assumed densities; this is clearly a matter for monitoring and review.

Supermarket Development Assumptions –there were challenges to the assumptions made. As this is a discrete issue I deal with it fully later (see paras 35 - 36).

Conclusions on background evidence

19. The CS is up to date and recently adopted. It is an ambitious plan, based on strong principles of sustainable development and growth. Significant housing and employment development is proposed in identified strategic locations. The CS was supported by a comprehensive Local Infrastructure Plan, and this has been refined and updated to produce an Infrastructure Note to support the CIL proposals. This, in turn, has been used to define a draft Regulation 123 List that identifies infrastructure projects necessary to support planned growth, including planned developments in the strategic locations. Anticipated CIL receipts would make an important contribution towards the funding of those projects. The CS and infrastructure evidence provide a solid foundation for the introduction of a CIL charging regime.

20. The background economic viability evidence for both residential and commercial development that has been used is reasonable, robust, proportionate and appropriate. The assumptions on developer profit levels and sales rates are considered acceptable for CIL modelling purposes, subject to being considered in a wider viability context. The use and interpretation of these assumed variables is considered below.

Are the Residential CIL charging zones and charging rates informed by and consistent with the evidence?

Charging Zones

21. Whilst many Councils are, through the progression of CIL proposals, seeking to identify and map areas of differing economic viability for the first time, Trafford has some experience. In developing its CS, the Trafford Economic Viability Study (2009) had used a similar residual appraisal technique to assess the ability of developments in different locations to support affordable housing and remain viable. This led to the definition of 'hot', 'moderate' and 'cold' market areas that now form part of the adopted CS and to which different affordable housing policy requirements are set (clearly the highest levels being in the 'hot'). At the risk of oversimplifying the pattern, the strongest values and viability lie in the south of the borough, and the lowest values and viability lie to the north (closest to Manchester city centre) and to the west (Carrington). The remainder of the borough makes up the middle ground.

22. However, rather than use this policy specific, and now slightly dated, evidence, the EVS re-assessed the zones through its CIL specific modelling. It also undertook further modelling in the light of consultation responses on the CIL proposals, most notably in respect of one of the strategic locations, Trafford Centre Rectangle, and Altrincham town centre. This resulted in a more cautious approach for Trafford Centre Rectangle (moving it from 'moderate' to 'cold') but no change for Altrincham, as the further testing appeared to support the 'hot' designation. The resultant proposed CIL charging zones are therefore similar, but not identical, to those previously defined by for affordable housing policy purposes.

23. In my view, the charging zones were well evidenced and robust. There are clear distinctions in viability that justify a geographically differentiated charging regime for residential development. Indeed, given the differences in viability, together with the importance of securing CS planned regeneration through the more challenging strategic locations, the evidence does indicate a need to differentiate charges geographically to strike an 'appropriate balance' under CIL Regulations. The alternative would be to adopt an unduly low borough wide CIL rate, which would clearly have major implications for CIL receipts and infrastructure project delivery.

Charging Rates - Houses

24. The EVS modelling demonstrated that all tested scenarios (large and small sites within the three proposed charging zones) were viable, and showed margins that comfortably exceeded the 20% on cost assumed viability threshold. There was a range from the lowest of 23.4% (large site in the 'cold' zone) to the highest of 25.9% (large and small sites in the 'hot' zone).

25. In setting the proposed CIL rates for houses, the EVS modelled the maximum potential CIL rates that could be achieved. In essence, this is all of any surplus after allowing for the developers assumed 20% on cost margin. To avoid setting the CIL charge "right up to the margin of economic viability" (Para 30 DCLG CIL Guidance 2013) the Council has, following its consultants' advice, drawn back from the maximum to identify charges in 50 -75% range (of the theoretical maximum). I pass no comment on whether that is necessarily the right range other than to say that, even at the upper levels of the charge setting 'zone', there would still be a not insignificant buffer. Such buffers are important, not just in terms of allowing for scheme variation across a charging zone, but also to mitigate concerns about some of the modelling assumptions, raised by the development industry. Clearly, the bigger the buffer the greater is its ability to absorb developers' higher profit aspirations and concerns about densities and sales values.

26. In my view, the setting of draft rates has been well conceived. The rate setting is designed to reinforce the geographical differentiation based on viability, and the closely associated variables of risk and difficulty. This is illustrated by the setting of the 'cold' £20 CIL rate at the 51st percentile (of the maximum); the 'moderate' £40 CIL rate at the 63rd percentile and the 'hot' £80 CIL rate at the 68th percentile. This ensures that, whilst viability buffers are maintained throughout all areas, the viability buffer is notably greater in the 'cold' market area which includes the strategic locations. The viability evidence supports this approach.

27. At my request, the CIL charges were calculated as a percentage of GDV, to provide a further health check. This revealed that the CIL charges would amount to 1.1% of GDV in the 'cold' market areas, 1.8% of GDV in 'moderate' areas, and 2.4% GDV in 'hot' market areas. I regard these levels as reasonable and acceptable.

28. I conclude that the proposed CIL charging rates for houses are sound.

Charging Rates - Apartments

29. The charging rates for apartments are less straightforward and the issues here open the 'base rate' debate, which I cover, in more depth, later in this report. Only in the 'hot' market area does the modelling of apartment development show a surplus above the assumed developer margin of 20% on cost. Here, there is a theoretical maximum modelled CIL rate of £97 psm and it is proposed to set the rate at £65 psm (the 67th percentile and about 1.7% of GDV). This is reasonable, gives a good degree of buffering and is in line with the CIL rates for houses.

30. However, apartment development in both 'cold' and 'moderate' areas is modelled at levels which do not achieve the chosen benchmark viability margin of 20% on cost in the original EVS, with the modelled margins being 17.1% and 18.2% respectively. Later sensitivity analysis (September 2013) using updated build costs and sales values suggested these figures improved to 17.7% and 20.3% respectively. The CIL rate proposed for apartments in the 'cold' and 'moderate' areas is £10 psm. This rate, whilst low, is nonetheless a viability burden on developments which are, using the EVS adopted methodology, deemed either unable to support CIL charges ('cold') or are only marginally viable ('moderate') i.e. there is little headroom. Indeed, the sensitivity analysis evidence indicates that sales values would need to improve to support any positive CIL charge with comfort. Accordingly, for these reasons, I conclude that the £10 psm CIL charge on apartment development in the 'cold' and 'moderate' areas is not supported by the evidence. I recommend that it be modified to a nil rate.

Are the Commercial CIL charging rates informed by and consistent with the evidence?

31. The examination of borough wide commercial CIL charging proposals raised a number of issues and these are set out below.

Retail Differentiation and Definitions

32. The EVS testing of different types and scales of retail development demonstrated significant differences in viability characteristics. Town centre comparison retail was found to have negative viability (-14%), whereas retail warehousing (+17%) and supermarkets (+23%) were viable. Neighbourhood convenience retail was also viable but only marginally so, achieving +11% against a benchmark viability of +10%. Based on these results the Council has sought to differentiate its charges based upon the type of retail use. I am satisfied that the evidence does support differentiation based on type and scale of retail use.

33. However, the definitions set out in the modified DCS generated some debate at the Hearing sessions. The key issue centred around the differentiation between 'supermarkets' and 'neighbourhood convenience stores', many of which are of course operated by supermarket chains. The Council's definition includes a number of described characteristics for each. These included the Sunday Trading Act floorspace threshold of 280 square metres. However, it became clear in the examination that the Council does not intend the 280 square metre threshold to be prescriptive but rather an indicator to be

considered amongst the other characteristics. It confirmed that the small format 'basket shop' outlets operated by supermarket chains (often circa 400 square metres) would fall under 'neighbourhood convenience stores'. This is not clear in the charging schedule definitions and needs modification. I have included a recommended clarification in the Appendix to this report.

Retail CIL Charges

34. The 'retail warehouse' CIL charge is straightforward in my view. The modelling indicates a maximum achievable CIL rate of £123 psm. The proposal to set the charge at £75 psm sits comfortably below that maximum i.e. there is a healthy viability buffer.

35. The original EVS 'supermarket' CIL modelling indicates a maximum achievable CIL rate of £320 psm. The proposed rate of £225 psm is well below that and allows for a good buffer, along with the 10% buffer built into the model itself. However, these figures assume a 'normal' out of centre serviced site. The more detailed EVS modelling of a town centre supermarket development reduced viability considerably, to the point where it only just crossed the 10% viability threshold (it was 10.04%). Furthermore, at the Hearing sessions development industry representatives expressed the view that supermarket rents were in decline and that the modelled rent (£200 psm) was not achievable in the current market. The Council accepted that any reduction in rents would impact materially on viability.

36. It is important to note that the CS does not envisage, or plan for, any significant supermarket development, and the Council has actually not included any CIL receipts in its income projections. However, the CS does plan for the enhancement of the vitality and viability of its town centres. In the case of Sale town centre, a regeneration proposal in line with the CS (Policy W2.5) is now proposed to be anchored by a supermarket, and the developer's evidence at the Hearing was that the proposed CIL rate would render the scheme unviable. I am persuaded by those arguments, and the marginal viability demonstrated in the modelling, and conclude that the risks to viability are such that supermarket development in the CS's defined town centres (Altrincham, Sale, Streford and Urmston) should be exempt from CIL charges.

The Base Charge

37. The Council's proposal to impose a £10 psm CIL 'base charge' on most other types of development has generated considerable debate. For the main employment uses of 'offices' and 'industry and warehousing' there are effectively two opposing views. First, the Council's view is that, whilst the modelling evidence demonstrates that these development types are not currently viable, the reality is that there will be development in these categories (for pre-lets and owner occupiers) and the base rate is set so low that it will have no undue impact. To support its position it has undertaken sensitivity testing to seek to demonstrate that the charge will be such a small element of costs that it will not be a determining factor in whether a development takes place. The contrary view, expressed clearly by the development industry, is a simple one – CIL should not be imposed on unviable development, as it makes unviable development even more unviable and less likely to happen.

38. This base rate debate, concerning employment development types, raises important issues about the CIL charging concept and about the process of examination. I have weighed these issues carefully. I do understand the Council's approach – it is seeking to develop proposals that reflect the founding philosophy that CIL should spread the burden of infrastructure funding widely across development types, given that all will, in some way, have impacts and place demands upon that infrastructure. However, I must give greater weight to the fact that CIL examination is an evidence based process and charges cannot, in my view, be imposed where the Council's own evidence base indicates that developments are not viable. I have noted carefully the demonstration that the amount would be small but that is not the point; imposing <u>any</u> charge on development that has been demonstrated to be unviable, can only serve to lessen viability further. I am also mindful of paragraph 8 of the CIL Guidance (2013) which sets out the expectation that the levy will have a 'positive economic effect' and I do not consider that the Council's evidence demonstrates that the base charge, for employment development types, will achieve this. To justify such charges, the Council would need to present clear 'real world' evidence that there was a case for departing from the methodology and viability benchmarks that it has set, and which have formed the basis of its EVS. It has not done so. For these reasons, I recommend that the base charge is reduced to a nil charge for 'offices' and 'industry and warehousing'. However, the Council may well wish to gather further evidence, through its monitoring and review processes, to explore the future potential for widening its CIL charging base.

39. The two development types of 'leisure' and 'hotels' were tested through the EVS and did show positive viability results although the margins are small. For these developments, which are not expected in any great quantity, I consider, on balance, the £10 charge to be justified. I did not consider that sufficient evidence was presented to support the £10 charge on 'all other development' which could encompass a very wide variety of development types with varying viability characteristics.

Overall Conclusions

40. The evidence demonstrates that, subject to my recommended modifications, the overall development of the area, as set out in the CS, will not be put at risk if the proposed CIL charges are applied. In setting the CIL charges the Council has used appropriate and available evidence which has informed assumptions about land and development values and likely costs. The CIL proposals will achieve a reasonable level of income to help address a well evidenced infrastructure funding gap.

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 Trafford Local Plan: Core Strategy and is supported by an adequate financial appraisal.

41. I conclude that, subject to the modifications set out in Appendix A, the Trafford Council Community Infrastructure Levy Charging Schedule, as modified by its Statement of Modifications, 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, subject to my modifications, the Charging Schedule be approved.

P.J. Staddon

Examiner

This report is accompanied by Appendix A (attached) – Modifications that the Examiner specifies so that the Charging Schedule may be approved.

Appendix A

Modifications that the Examiner specifies so that the Charging Schedule may be approved.

NOTE – these modifications should be read in conjunction with the Modified Draft Charging Schedule submitted for examination (Examination Document CE2)

Modification No.	Modification
EM1	Page 8 – Levy Rates – Apartments Cold Charging Zone - delete "£10" and replace with "£0" Moderate Charging Zone - delete "£10" and replace with "£0"
EM2	Page 8 – Levy Rates – Supermarkets Replace "Supermarkets" with "Supermarkets outside defined town centres" Insert new line "Supermarkets within the defined town centres of Altrincham, Sale, Stretford and Urmston" - CIL Charge £0 Add inset maps to Charging Schedule to define the town centres of Altrincham, Sale, Stretford and Urmston
EM3	Page 8 – Levy Rates For 'offices', 'industry and warehousing' and 'all other development' delete £10 and replace with £0.
EM4	Page 10 Appendix 1 Supermarket definition – first line – insert the word "format" after large *[format]* Supermarket definition – first bullet –insert the word "significantly" after *generally be [significantly]* Neighbourhood convenience stores definition – first bullet - replace sentence with "Trading areas will either be less, or will not significantly exceed, the Sunday Trading Act threshold of 280 square metres."