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## **Report to Daventry District Council**

**by Keith Holland BA (Hons) Dip TP, MRTPI, ARICS**

**an Examiner appointed by the Council**

**Date: 19 June 2015**

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PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

### **REPORT ON THE EXAMINATION OF THE DRAFT DAVENTRY DISTRICT COUNCIL COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE**

Charging Schedule submitted for examination on 30 January 2015

Examination hearings held on 15 May 2015

File Ref: PINS/Y2810/429/3

## Non Technical Summary

This report concludes that, subject to one change, the Daventry Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area. Subject to the one change 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.

The one modification needed is to reduce the levy per square metre for residential development at or above the affordable housing threshold in the rural zone from £150 to £65.

The specified modification recommended in this report is based on matters discussed during the public hearing sessions and 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 Daventry 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 national guidance (Community Infrastructure Levy Guidance –June 2014).
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, on which hearings sessions were held 13 May 2015 is the submitted schedule of 30 January 2015, which is effectively the same as the document published for public consultation June 2014.
3. The Council propose a matrix approach with the following levy per square metre. Residential development within the urban zone and the Sustainable Urban Extensions (SUEs) £50. Residential development in the rural zone at or above the affordable housing threshold £150. Residential development in the rural zone below the affordable housing threshold £200. Retail (excluding central zone) £100. All other uses £0

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

### *Infrastructure planning evidence*

4. The West Northampton Joint Core Strategy Local Plan (JCS) was adopted in December 2014. This sets out the main elements and locations for growth in

West Northamptonshire which comprises three council areas – Northampton Borough, Daventry District and South Northamptonshire. An Infrastructure Delivery Plan was produced in 2011 to support the emerging JCS. This was updated in 2013 and again in 2014. The latest indication is that the infrastructure funding requirements to 2029 are some £856.6 million with secured or likely funding around £101.1 million. Clearly there is a very substantial funding gap which was not challenged at the hearings or in the representations.

5. In the light of the information provided, the proposed charge would therefore make only a very modest contribution towards filling the likely funding gap. The figures demonstrate the need to levy CIL.
6. Northampton Borough Council published a Planning Obligations Position Statement in January 2015. This statement was welcomed by those appearing at the examination hearings and provides reassurance that charging authorities will not seek to secure funding for infrastructure using S106 obligations for projects that the Council intend to fund in whole or in part through the CIL. The other two Councils within the CS area have not produced comparable documents but the examination was told that both intend to follow the same approach with the aim of avoiding what is colloquially called “double dipping”.

#### *Economic viability evidence*

7. The West Northamptonshire Joint Planning Unit commissioned a CIL Viability Assessment from GVA, an experienced firm of property consultants. A CIL Economic Viability Assessment Report (hereafter described as the VR) was prepared dated June 2014. This VR provides what is described as a high level appraisal based on the residual appraisal model using 2012 values and prices. The VR included some appraisals based on predicted 2016 values and prices. These 2016 appraisals have been ignored in this report as the national CIL guidance is clear that assessments should be based on current values and prices. In December 2014 GVA produced two addendum reports – one relating to residential development in rural areas and the other to development in the SUEs. The rural areas report contains details of 4 schemes granted consent with details of the actual Section 106 (S106) contributions secured in each case. Two of the schemes are in South Northamptonshire and were granted permission in 2013 and two in Daventry District granted permission in late 2012 and mid-2013. The SUE addendum is intended to provide additional information about the effect of varying the level of S106 payments.
8. The VR tested a series of development schemes based on both primary and secondary sources, including work done by a different consultant on affordable housing viability. The appraisals rely on the concept of a viability benchmark which the VR describes as a judgement on the level of value required in order to incentivise a landowner to sell land for development. On developed sites the assumption used is that a premium of at least 20% above existing use value is required to incentive landowners to bring their land forward for development. On agricultural land or land used for horticulture a base value of £247,000 - £250,000 per hectare is used. The appraisals assume that to be viable the testing outcome needs to show a residual land value that is within

20% of the benchmark.

9. There is understandable criticism from some making representations that it is illogical to refer to the benchmark as the price at which an owner will have an adequate incentive to sell land for development and then to say that a site would be viable at up to 20% below the benchmark. The use of the terminology in the VR is undoubtedly confusing. From the tables in the VR it is clear that the viability appraisals treat the benchmark value as the value of land before CIL. As CIL is a cost to the developer it is logical for that cost to reduce the residual land value and the appraisals are based on the assumption that a landowner of an undeveloped site would accept up to 20% less for their land once CIL is in place – this figure is perhaps best described as the threshold value. No better or alternative figure to the 20% has been advanced or adequately justified. For land that is already developed the threshold value would, it is assumed, be EUV plus 20%. Whatever the merits of these assumptions it is clear that establishing benchmarks and threshold levels is fraught with difficulty because the requirements and demands of different landowners vary widely depending on their circumstances and priorities. The VR describes setting the benchmark as “one of the most significant challenges”. Consequently the use of residual land valuations and the conclusions drawn from them in high level CIL viability appraisals need to be treated with great caution.
10. The VR breaks West Northamptonshire down into 3 residential value areas (low, medium and high) based on data from the Land Registry, the findings of the affordable housing study and discussions with local agents. This breakdown of the area is justified by the evidence.
11. The assumptions built into the residual land valuations derive from several sources including national and regional appraisal toolkits, local stakeholder consultation and the experience that GVA have of working both with developers and private clients. The assumptions are of necessity generalisations and no doubt it would be possible to cite examples of developments where one or more of the assumptions would be wrong. However by and large the assumptions are within the range of normal industry standards.
12. The VR includes a range of calculations to test what maximum level of CIL could theoretically be charged for each of the three residential value areas excluding the SUEs. The affordable housing element included the following levels of affordable housing - 0%, 25%, 35%, 40% and 50% with three tenure splits 70:30 affordable rent/intermediate, 70:30 social rent/intermediate and 35:35:30 affordable rent/social rent/intermediate. Calculations were also provided showing the proposed CIL charge as a percentage of Gross Development Value and of build costs. Seven schemes were tested ranging from 3 dwellings to 200 dwellings for each value area. For the two smallest schemes (3 and 6 dwellings) the assumption was made that there would be no residual S106 and for the others it was assumed that the residual CIL would be £1000 per dwelling.
13. Several residential led mixed use schemes were also tested. It is considered that these are of limited value as they are unlikely to accurately represent a type of development that would be relatively common in the area.

14. For the SUEs the testing in the VR involved a hypothetical example of a 1000 dwelling scheme which would take seven years to build and sell. The assumptions used reflect the fact that such schemes usually benefit from economies of scale but, recognising that enabling works can be a major factor, the appraisal assumes £20,000 per dwelling for enabling works. The base land value is assumed to be £250,000 per gross hectare. A residual S106 charge of either £2000 or £6000 per dwelling is allowed for with affordable housing at 10%, 20% and 30%. The December 2014 addendum report shows the results with an additional affordable housing element at 40% and 4 different levels of a combined contribution for CIL/residual S106 – £6,200, £10,200, £15,000 and £20,000. The assumed average CIL payment varies with the amount of affordable housing provided from £4,181 with 10% affordable housing to £2,787 with 40% affordable housing.
15. For commercial non retail development 4 types of development were appraised. Office (urban) – 2,900 sq.m, office (business park) – 2,200 sq.m, employment (small B1, B2 B8) – 4,700 sq.m and employment (pre-let/sale B2, B8) – 9,300 sq.m. It was assumed that the sites are vacant and freehold. Assumed benchmarks per ha were based on stakeholder consultation, Valuation Office Agency data and GVA's experience.
16. For appraising retail viability, thirteen theoretical schemes were tested ranging from 300 sq.m town centre comparison/convenience to retail (non-food retail park) of 9,290 sq.m. The appraisals are based on the anticipated profit levels sought by a developer not a store operator because store operators use their own particular business model and experience shows that they might pay significantly more for a site than can be justified by conventional property appraisal methods.
17. Finally the VR assesses CIL viability for the following other uses: hotels, residential care homes, student housing, leisure complexes, health facilities and education facilities

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

#### *CIL rates for residential development*

18. The rural parts of Daventry District are regarded as high value areas. Within such areas the 2012 viability evidence shows that a small residential scheme with no affordable housing requirement would be viable, assuming land values remain within 20% of the benchmark, with a maximum CIL charge of £375 per sq. m. This figure does not allow for any buffer as recommended by the relevant guidance. While no examples of actual schemes have been provided that support this evidence the difference between the proposed charge of £200 per sq. m and £375 leaves a considerable margin. It is extremely unlikely that the proposed charge would undermine the Plan in relation to small scale housing in rural areas. Accordingly a charge of £200 for residential development in the rural zone below the affordable housing threshold is supported.
19. In contrast the proposed charge of £150 for schemes in the rural zone outside SUE areas but above the affordable housing threshold is not supported by the 2012 evidence. Again based on land values within 20% of the benchmark and

taking into account the 40% affordable housing policy requirement, the Council's evidence shows that the highest charge possible without prejudicing viability would be £135. This would be for a 6 dwelling residential scheme without any viability buffer. For such a scheme the evidence is that CIL as a percentage of GDV would be between 6.3% and 6.6% depending on the type of affordable housing being provided.

20. With more dwellings with the same affordable housing arrangement (40% with a 70:30 affordable: intermediate split) the maximum CIL charge drops. For a 50 dwelling scheme the figure falls to £40 and to nil for schemes of 100 – 200 dwellings. This evidence suggests that any CIL charge would in most instances threaten the delivery of the JCS housing policies outside the SUEs. However the evidence is somewhat dated, pre-dating the recent strengthening of the housing market. Furthermore it is dependent on assumptions about the benchmark value and the landowner incentive. All parties at the hearing session agreed that these considerations are very difficult to be certain about and could well be subject to considerable variation. For these reasons I attach limited weight to the Council's 2012 viability findings
21. The 2012 evidence is supplemented by examples of 2 recent schemes at Brixworth and Moulton each providing 29% affordable housing. Assuming a residual CIL charge of £1000 per unit the Council calculates that the combined CIL/residual s106 would be between 12% higher for Brixworth and 23% higher for Moulton than the actual consented s106 charge. The Council assesses that this level of additional cost would reduce the land value by between 6 and 7% - a level that is unlikely to deter a reasonable landowner from bringing their land forward for development. I agree that this level of reduced land value should not deter a reasonable landowner but this evidence needs to be treated with some caution for three reasons. Firstly two examples is a very small sample. Secondly the use of the £1000 residual S106 assumption could very easily be unreliable given the different circumstances that apply to different sites. Thirdly the schemes do not meet the 40% affordable housing policy requirement.
22. It is appreciated that housing targets in the rural part of the District are being met or exceeded and that this demonstrates the viability of residential development in the area. However this delivery is apparently at the expense of the provision of affordable housing at the level sought, subject to viability considerations, by the Council's policy. Clearly it is a matter for the Council to decide how to implement their policy but for the purposes of setting a CIL charge they are required to take all of their policy requirements into account in their viability assessments.
23. The Council is understandably concerned about how necessary infrastructure would be provided in the future without a CIL charge given the restrictions on pooling arrangements. Their strategy to deal with the issue is to stress that they see CIL as substantially a substitute for S106 with the consequence that residual S106 agreements would be relatively modest. This is clearly a reasonable and logical approach. Looking at the history of s106 agreements in Daventry it is noted that the 5 year 2009/10 – 2013/14 S106 averages £8,120 per dwelling. However the provision of affordable housing during this time falls below the rural areas policy requirement of 40%.

24. Drawing these considerations together to arrive at a recommended CIL rate inevitably relies on assumptions. Given the details about the arrangements at Moulton and Brixworth a residual S106 of £1000 looks reasonable notwithstanding the likelihood of this varying quite considerably with circumstances. Assuming that CIL would largely be a substitute for S106 and based on an average dwelling size of 95 sq. m a CIL charge of £75 per sq.m would bring the average CIL/residual S106 charge in line with what has been achieved over the last 5 years. It is noted that the average S106 charge of £8120 per dwelling referred to above relates to situations that include affordable housing. As CIL does not apply to affordable housing it is arguable that the historic figure for open market housing only, of £10,671 should be used. However this contention is not accepted and a more cautious approach is favoured for the following reasons. First there is the context of a lack of convincing support for the Councils suggested charge provided by its 2012 viability evidence. Even though this evidence is given limited weight, in combination with the need to ensure that CIL incentivises new development (NPPF paragraph 175) it is considered that the prudent approach is to use the lower historic figure of £8120 to arrive at an acceptable charge. Taking into account the fact that in recent years the affordable housing policy requirements have not been met it is considered that the CIL charge should be lower than £75 to allow for the possibility of getting closer to the affordable housing policy requirement. On this basis a CIL charge of £65 is recommended for rural housing developments above the affordable housing threshold.
25. Turning to the residential urban zone (excluding the SUE) the proposed charge of £50 is not supported by the 2012 viability evidence. The evidence indicates that a nil charge would be appropriate. However that evidence is based on sales values that are unrealistically low in the current housing market, although it must be remembered that costs are also likely to have gone up since 2012. That viability assessment work also suffers from the problem of uncertainty about the incentive needed for landowners to bring land forward for development. The assumption used in the assessment is that a premium of 20% above Existing Use Value would be the minimum acceptable incentive to landowners. No evidence of any better figure was presented to the examination and the acceptable premium is likely to vary considerably, often depending on the landowner's circumstances and priorities.
26. The Council argue that a charge of £50 is nominal and would represent only around 3% of the 2012 cost of a typical house. Given that the housing market has strengthened since 2012 and the intention of the Council to significantly reduce residual S106 charges, the proposed charge of £50 is very unlikely to adversely impact on the viability of development in the Daventry urban area. In addition the use of monies raised through the CIL charge for improved infrastructure would in all probability make the area more attractive to potential investors. For these reasons the proposed charge is acceptable.
27. Moving to the SUE the assumption is that for viability testing purposes the base land value is £250,000 per gross hectare. The viability testing in 2012 did not take into account the full affordable housing policy requirements. This failing was criticised by some, including the HBF, but was rectified in the SUE addendum work undertaken by GVA for the Council in December 2014. To

retain some comparability with the earlier work the 2014 study retained the 2012 values and costs assumptions. The assessments assumed enabling costs of £20,000 per dwelling and build costs (CSH 3) at £936 per sq. m. The 2014 viability work indicates that with 40% affordable housing the only situation where a CIL charge would be acceptable would be in a high value area with the combined CIL and residual S106 charge restricted to £6,200 per unit. As a percentage of sales and costs a £50 CIL charge with 40% affordable housing would represent 2% of gross development value and 3% of build costs. These modest amounts suggest that a charge of £50 would not necessarily make schemes unviable in SUEs in Daventry.

28. In reality in West Northamptonshire developments are coming forward. Moreover developments in the area are coming forward with S106 charges that are much higher than £6,200 per unit. The reality is that developments within the SUEs are proving to be viable with S106 charges of between £15,000 and £20,000 albeit with lower affordable housing provision. There may be a number of reasons why the theoretical viability assessments are not proving to be correct including higher sales values, lower than expected enabling costs and lower base values. The evidence about what is happening on the ground shows that care should be taken when attaching weight -to the theoretical viability work undertaken by GVA.
29. The 2012 viability work undertaken by GVA used two figures for the residual S106 - £2000 and £6000. Some objectors do not appear to have appreciated that the assessment included not only a residual S106 but also an allowance of £20,000 per unit for enabling works. Although some claim that the enabling work allowance is not high enough, no convincing counter evidence has been submitted.
30. A number of housing developers challenge various costs included in the viability work undertaken for the Council. These include developers profit, marketing, professional fees, sales rates and contingency allowance. While it does appear that GVA have taken a possibly optimistic view about various costs, the figures used are not unreasonable or exceptionally modest having regard to conventional industry standards. The Council's advisors are experienced and confirmed at the hearing that in preparing their viability assessments they have discussed their approach and assumptions with various other property professionals who are familiar with the area. The examination was told no serious challenge was forthcoming as a result of these discussions. In any event for the high level viability work that is relevant for CIL assessments, these considerations are relatively inconsequential in comparison with matters such as the appropriate benchmark level, the scale of affordable housing or the base land value.
31. The Council stresses that its approach is essentially one of substituting a combined residual S106/CIL charge for the existing S106 arrangement without materially increasing the cost to the development industry. This would be achieved by reducing the S106 element. In the case of the SUEs the testing done by the Council assumes a maximum residual S106 of £6000 per unit. As the present arrangement is demonstrating that a S106 payment of £15,000 to £20,000 is not inhibiting development in the SUEs there is no reason to think that the proposed CIL of £50 per sq. m. would threaten the delivery of the proposals in the West Northamptonshire Core Strategy, unless the residual



S106 payments are far higher than £6000. With a CIL charge of £50 and residual S106 payments in the order of £6000 an adequate viability buffer would be in place and it should be possible to deliver the plans proposals including the provision of the needed affordable housing.

*Commercial rate*

32. The only challenge to the commercial rates of £100 for retail development outside the central zone is from the HBF who are consider that within major housing developments a separate retail rate is unhelpful. The HBF did not provide any substantive evidence on this point and quite reasonably did not seek to argue that the proposed rate would jeopardise the delivery of major housing schemes. The conclusion is that the proposed retail rate is acceptable.

33. The viability work done for all other uses fully supports the proposed nil rates

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

34. The evidence suggests that residential and commercial development will remain viable within the residential urban area. Within the rural zone (outside the SUEs) for residential sites with a policy compliant affordable housing requirement there is a serious danger that the proposed charge would undermine the viability of schemes that seek to meet the Council’s policy requirements.

**Conclusion**

35. In setting the CIL charging rate the Council has had regard to detailed evidence on infrastructure planning and the economic viability evidence of the development market in Daventry District. The Council has tried 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. The proposed schedule of charges should be adopted, subject to the reducing the rate within the rural zone for residential sites above the affordable housing threshold.

<b>LEGAL REQUIREMENTS</b>	
National Policy/Guidance	The Charging Schedule complies with national policy/guidance.
2008 Planning Act and 2010 Regulations (as amended)	The Charging Schedule complies with the Act and the Regulations, including in respect of the statutory processes and public consultation, consistency with the West Northamptonshire Joint Core Strategy and Infrastructure Delivery Plan and is supported by an adequate

	financial appraisal.
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36. I conclude that subject to the modification set out in Appendix A, the Daventry District Council 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 as amended be approved.

*Keith Holland*

This report is accompanied by: Appendix A Modification that the examiner specifies so that the Charging Schedule may be approved.

#### Appendix A. Modification Specified

The charging schedule for residential development in the rural zone at or above the affordable housing threshold be reduced to £65.