
Report to Ryedale District Council

by Mr Philip Staddon BSc, Dip, MBA, MRTPI

an Examiner appointed by the Council

14 October 2015

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

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

Charging Schedule submitted for examination on 10 July 2015

Examination hearings held on 22 September 2015

File Ref: PINS/Y2736/429/5

Non-Technical Summary

This report concludes that the Ryedale District Council Draft Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area. 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 adopted Ryedale Plan – Local Plan Strategy, at risk. The proposals will secure an important funding stream for infrastructure necessary to support planned growth in the district.

Introduction

1. This report contains my assessment of Ryedale District Council's draft Community Infrastructure Levy (CIL) Charging Schedule in terms of Section 212 of the Planning Act 2008 (as amended). 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 set out in the National Planning Practice Guidance (PPG).
2. To comply with the relevant legislation and guidance the local charging authority has to submit a charging schedule that should set an appropriate balance between helping to fund necessary new infrastructure and the potential effect of the proposed CIL rates on the economic viability of development across its area.
3. The basis for the examination, on which Hearing sessions were held on 22 September 2015, is the March 2015 Draft Charging Schedule (Revised), hereafter referred to as the 'DCS'. The DCS was published for public consultation between 4 March 2015 and 15 April 2015.
4. The DCS proposes CIL charges for residential development and for certain types of retail development.
5. The proposed residential development CIL charges are differentiated geographically into a 'higher charge' area and two 'lower charge' areas. The 'lower charge' areas comprise the wards of Rillington and Sherburn (which lie along the A64 corridor west of the main town of Malton) and the wards of Norton West and Norton East (which lie to the south of Malton); the CIL charge in these areas would be £45 per square metre (psm). The 'higher charge' area would cover all of the rest of the district, with the exception of the northern parts that fall under the jurisdiction of the North York Moors National Park Authority. In the higher charge area, the proposed CIL charge would be £85 psm.
6. The proposed retail CIL charges are not zoned and would apply across all

parts of the district (except the National Park areas). The DCS proposes a £120 psm CIL charge for 'supermarket' development and a £60 psm CIL charge for 'retail warehouse' development.

7. For completeness, the DCS sets out that CIL would be zero rated for 'public/institutional facilities' and 'all other chargeable development (incl. apartments).'

Background evidence – Ryedale district, the development plan, infrastructure needs and economic viability evidence

The district of Ryedale

8. Ryedale is a geographically large district in North Yorkshire, located to the north of York and to the west of Scarborough. It covers an area of approximately 580 square miles and it is predominantly rural. It includes parts of the North York Moors National Park and the Howardian Hills Area of Outstanding Natural Beauty (AONB). The district is one of the most sparsely populated areas in England and its population of just over 50,000 has strong influences and dependencies with the larger towns and cities outside the district (notably York and Scarborough).

The Ryedale Plan

9. 'The Ryedale Plan – Local Plan Strategy' (LPS) was adopted in September 2013. It sets out the Council's vision and strategy for sustainable growth in the district in the period to 2027. The LPS seeks to ensure that development in Ryedale is delivered in the most sustainable places whilst avoiding harm to the landscape, heritage and general character of the area. To achieve these objectives, its spatial strategy establishes a settlement hierarchy and directs most of the planned growth to the upper tiers, most notably the principal towns of Malton and Norton, the market towns of Pickering, Kirkbymoorside and Helmsley, along with a network of ten 'service villages'.
10. The LPS plans the delivery of at least 3000 new homes over the plan period of 2012 – 27 (about 200 per annum) of which about 50% (1500 units) will be in Malton and Norton; 25% (750 units) in Pickering; 10% (300) in Kirbymoorside; 5% (150 units) in Helmsley and the remaining 10% (300 units) spread across the service villages.
11. The LPS seeks 35% on-site affordable housing provision on sites of 5 dwellings / 0.2 hectares or more, with an additional commuted sum requirement (equivalent to a further 5%) in specified higher value areas. Below the 5 dwelling / 0.2 hectare threshold, the policy seeks a pro rata financial contribution. In essence, the LPS requires all sites to contribute to affordable housing delivery, subject to viability. The Council's evidence indicates that, in practice, developments receiving planning permission either achieve, or come close to, the levels of affordable housing set out in its policy.

12. The LPS approach to employment proposals seeks to support new developments in the higher tier settlements and allow, more generally, for the expansion of established major employers and smaller businesses subject to specified criteria. The scale and location of new employment land allocations follows the settlement hierarchy, with most (80%) directed to Malton and Norton and smaller allocations at Pickering (15%) and Kirkbymoorside and Helmsley (5% combined).
13. The LPS approach to retail development seeks to support and enhance its established retail hierarchy of market towns. Whilst it assesses that there is no need for any further food (convenience) retail floorspace until at least 2026, there is an identified need to increase non-food comparison retail floorspace. The assessed need for new comparison floorspace is circa 7,700 square metres (net) and the LPS proposes that 70% of this will be directed to Malton and Norton, with the remainder to be provided at Pickering, Kirkbymoorside and Helmsley.
14. The LPS is now supported by the recently adopted (July 2015) Helmsley Local Plan. A 'Sites Allocation' plan for the remainder of the district is currently being prepared and a draft is expected to be issued for public consultation early in 2016.

Infrastructure planning evidence

15. The LPS was supported by an Infrastructure Delivery Plan (IDP). Although it has not been comprehensively refreshed since its production in January 2012, it remains a reasonably up to date assessment of the district's infrastructure needs arising from the growth planned in the LPS.
16. The IDP assesses and analyses the district's future requirements in respect of flood defences and utilities; communication / broadband; transport; open space, recreation and burial space; health and education and 'local projects'. Costs and funding sources are included where known.
17. Based on known costs or estimates, the Council's evidence assessed a total infrastructure 'funding gap' of circa £64 million. However, it became clear at the Hearing sessions that one of the major transport projects had now been funded and implemented. Adjusting the figures to allow for this now completed project reduces the funding gap to circa £58 million for the plan period to 2027. The majority of that funding gap relates to transport schemes (£26.6 million combined) and education projects (£22.87 million combined). There is also a 'local project' of an estimated £8.3 million value, which relates to a planned refurbishment and remodelling of a cultural venue in Malton (the Milton Rooms).
18. The Council estimates that, once existing commitments (schemes with planning permission that will not attract CIL) are taken into account, its CIL proposals may generate a total revenue of £6.24 million in the remaining plan period. The majority of that sum (circa £6.0 million) is anticipated from the residential development CIL charges.

19. The evidence indicates that the funding gap is substantial and that the imposition of a CIL regime is justified. CIL revenue would make a modest, but nonetheless important, contribution to reducing that gap and supporting the delivery of new infrastructure required to support growth.
20. The Council has produced a Draft Regulation 123 list that sets out the infrastructure that it intends to fund, partly or wholly, through CIL receipts. The list includes the infrastructure categories drawn from the IDP, which are supplemented with specific projects (such as the location of new primary schools) and sub-categories in defined geographical areas. In my view, the Draft Regulation 123 list is clear and comprehensive and provides the certainty and transparency on the destiny of CIL revenues.

Economic viability evidence – methodology, data sources and assumptions

Methodology

21. The Council commissioned consultants to undertake a Viability Assessment to support its CIL proposals. The evidence has been subject to three iterations: the Viability Assessment (August 2013); the Addendum Report (April 2014) and the Revised Draft Charging Schedule Report (February 2015). Through that iterative process, the methodology was revised to incorporate the use of a new financial model developed by the consultants specifically for CIL testing. Unfortunately, that new model contained a cell referencing error but the third and most recent report has corrected this and also refreshed the evidence and modelling inputs. This collective of Viability Assessment evidence is hereafter referred to as the VA.
22. The VA uses a residual valuation approach. The modelling seeks to establish a Residual Land Value (RLV) by subtracting all development costs (including an allowance for developer profit) from the value of the completed development (the Gross Development Value or GDV). The RLV is then compared to Benchmark Land Values (BLV), which are set at levels at which it is assumed a typical willing landowner would be prepared to sell the land. If the RLV exceeds the BLV then any surplus or 'overage' could be used to make CIL contributions. Where this overage occurs, the modelling expresses it as a financial value per square metre and this value can be seen as the maximum theoretical 'ceiling' for setting CIL.
23. Clearly, such modelling involves making a wide range of assumptions about the component inputs of development costs and revenues, and these have been adjusted and updated through the modelling iterations. Some of the inputs, such as sales values, land costs, building costs and developer profit levels, can have a profound influence on the modelling outputs and, accordingly, assumptions need to be reasonable and robust.

Residential development modelling assumptions

24. The residential modelling was undertaken for site scenarios of 0.25 hectare, 1 hectare and 5 hectares. This aims to reflect the range of sites and assumed densities and housing mixes that the Council considers will make up most of the supply of new homes. Although some suggested that testing

should be extended to include larger strategic scale sites, the evidence (in terms of recent schemes and the development plan content), does not suggest that very large sites will be a feature of planned development in Ryedale. I am satisfied that the 5 hectare test scenario is a reasonably robust proxy for the sites at the larger end of the development spectrum.

25. To establish residential sales value assumptions, the Council's consultants initially undertook an analysis of Land Registry data by electoral ward. The consultants gathered achieved sales values and applied typical floorspaces to house type categories to give suggested sales values per square metre. This data was also used to produce 'heat maps' to show the variation in sales values across the district.
26. The achieved sales values analysis was complemented by a website based review of asking prices for new homes in the district, with discounts applied (reflecting assumed lower achieved prices) along with a stakeholder workshop in July 2013. The evidence was refreshed and updated (in a similar manner) in the April 2014 and February 2015 iterations of the VA. Based on these findings, the Council proposed three value levels for new houses of £2,125 (lower), £2,250 (moderate) and £2,425 (higher) psm for testing purposes.
27. The Council has used available evidence to assess sales values and that data set is reasonably comprehensive and up to date. However, a note of caution is required in its approach of seeking to define a quite narrow band of average sales values, given the range of values that does exist, both across different house types, and across different locations in the district (a sales value range of £1,656 - £2,942 psm was included in the earliest VA evidence). The variability either side of the averages is a matter that needs to be considered when interpreting the results and ensuring that CIL rates are set with appropriate viability headroom (or 'buffers').
28. To establish assumed land values the Council triangulated evidence from a number of sources, recognising that transactional evidence was limited. These included Valuation Office Agency (VOA) reports, known local transactions, discussions with developers and agents active in the market, and an assessment of applying premium uplifts to existing land use values (employment and agricultural uses). This process was updated and refined through the report iterations and led to the establishment of three assumed benchmark land values (BLVs) of £850,000 per hectare (low value), £1,000,000 per hectare (moderate value) and £1,200,000 per hectare (high value) reflecting the assessed variation in land prices across the district. To ensure comparability, the later modelling assumes that all sites were readily developable i.e. greenfield sites were fully serviced 'parcels' and brownfield sites cleared and remediated. Given the limited availability of hard transactional evidence, I consider the Council's approach on assumed land values to be reasonable and appropriate.
29. 'Base' building costs for residential schemes were drawn from Building Cost Information Service (BCIS) rates using the median value for estate housing, with adjustments made for the assumed value areas (reflecting the higher

buyer specifications in higher value locations) and site size. The February 2015 iteration of the VA updated the figures to reflect recent build cost inflation. Additional allowances for external works (10%) and contingencies (5%) were applied on top of the base build costs. I consider the building cost assumptions to be reasonable.

30. Costs assumptions in respect of fees, contingencies and finance conformed with accepted industry norms. Developer profit was assumed at levels of 20% of GDV on market housing and 6% of GDV on affordable housing, which I consider reasonable.
31. Affordable housing costs were modelled at policy compliant levels in terms of the 35% proportion on site (plus 5% equivalent sum in higher value areas), on sites over the qualifying threshold. On smaller sites, the appropriate commuted sum was applied. Although there have been some recent national policy changes and legal challenges concerning affordable housing requirements on small sites¹, these do not directly affect the Council's CIL approach. This is because its modelling has consistently assumed that small sites will incur affordable housing costs in line with its policy (which accords with the current national position following the judgment of the High Court).
32. The modelling assumed that residual S.106 planning agreement costs would be limited to £500 per unit on all sites. Based on the Council's evidence, I consider this to be reasonable.

Commercial modelling assumptions

33. The commercial development modelling used similar assumptions and methodology to assess the viability of different types of office, industrial and retail uses. The assumptions employed for assumed rents, yields, build costs, developer's margin and finance all appeared reasonable for high level CIL testing purposes.

Conclusions on background evidence

34. The LPS provides a clear strategic planning framework to guide sustainable growth in the district to 2027. The Plan's strategy has a strong focus on delivering most housing and employment growth in the principal town of Malton and Norton, with supporting contributions from market towns and service villages. The IDP identifies the infrastructure required to support this planned growth in population and jobs. The evidence demonstrates a sizeable infrastructure funding gap that justifies the introduction of a CIL regime. CIL receipts will help to reduce that gap, although a significant funding shortfall will remain.
35. Overall, the background economic viability evidence for both residential and commercial development that has been used is reasonable, robust,

¹ West Berkshire District Council and Reading Borough Council v Secretary of State for Communities and Local Government [2015] EWHC 2222 (Admin).

proportionate and appropriate. The interpretation and use of that evidence in defining the proposed CIL rates and zones is discussed more fully below.

Residential Development CIL –appraisal findings, zones and charges

Appraisal findings

36. The broad brush methodology employed by the Council generates a relatively concise set of 'overage' results that are expressed as maximum CIL rates psm. In total there are nine results, comprising overage calculations for the three site size typologies (0.25, 1.0 and 5.0 hectares) in each of the three assumed value areas (low / moderate / high). The modelling does not include any sensitivity testing but all of the tested permutations generate positive results i.e. there is a modelled surplus after all costs and profit have been deducted that could be used to fund CIL payments.
37. In the 'low value' scenario, the modelling indicates maximum CIL rates of £72 psm, £68 psm and £87 psm for the 0.25, 1.0 and 5.0 hectare scenarios respectively. The 'moderate value' results were maximum CIL rates of £121 psm, £116 psm and £127 psm. With the 'high value' sales and land values applied, the modelling indicates results of £123 psm, £117 psm and £121 psm.

Charging zones and proposed CIL rates

38. Based on these results the Council proposes a two-tier charge approach. The evidence supports this, given that the 'moderate' and 'higher' results all fall in relatively close proximity (largely a result of the additional 5% affordable housing cost in the higher value areas). By contrast, the 'low' results are markedly below those generated in the other value scenarios.
39. These most recent VA results, along with updated property price 'heat maps', have been used by the Council to inform the definition of two charging zones. This evidence does demonstrate the notably lower sales values in the wards that comprise the proposed 'lower charge area'. The setting of zone boundaries for CIL purposes can sometimes prove to be contentious but I note the absence of any substantive challenge to the Council's zoning proposals, lends some support to my conclusion that the approach taken is well founded.
40. The approach to setting the proposed CIL charges is to take the lowest of the appraisal results in each of the zone areas and apply a viability 'buffer' from that theoretical maximum.
41. In the 'lower charge' area, the lowest result was £68 psm and the Council's proposed charge of £45 psm would allow a buffer of about 34% from the maximum. In the 'higher charge' area (which includes the 'moderate' and 'high' test results), the lowest result was £116 psm. The Council's proposed charge of £85 psm would include a buffer of about 27%.

42. Whilst the buffer percentages are not identical, the Guidance makes clear that there is no requirement for a proposed rate to exactly mirror the evidence² and the Council takes the view that, in the higher value areas (where there is no shortage of developer interest), a slightly narrower buffer is appropriate. Furthermore, the Council's approach of using the lowest viability result as the reference point for establishing its charge rates ensures that the buffers cited above are the minimum modelled levels and, in all other cases, more substantial viability headroom will exist. Based on the evidence, I am satisfied that the charges will not threaten the viability of residential development schemes.

Apartment developments

43. Apartments appear in the DCS as nil rated for CIL purposes. Although the Council has not undertaken any detailed viability testing, it is clear that the absence of any development activity is an indicator that such schemes are not currently economically viable. Based on current evidence and circumstances, the nil rate is appropriate.

Non-residential development – viability appraisal evidence and proposed CIL charges

44. The non-residential assessments tested a range of different types of commercial development including town centre office, business park office, industrial and different types of retail development. With the exception of certain types of retail development, the commercial appraisals demonstrated that these could not currently support CIL charges. The VA tested different types of retail development, in varying sizes, formats and covenant strengths, which are explored below (in each case relating to the most recent testing results).
45. 'High Street comparison retail' development, using reasonable yields, rents and other cost assumptions, was found to be not sufficiently viable to support a CIL charge, and generated a substantially negative CIL 'value' of -£289 psm. Small 'neighbourhood convenience' store (500 square metres gross floorspace) fared slightly better, but the modelled CIL rate was still a negative value, at -£81psm.
46. The testing of a large format 'retail warehouse' generated a maximum CIL rate of £95 psm. In my view, the assumptions employed appeared reasonable and the proposed CIL charge of £60 psm would allow a reasonable viability buffer, although there is no currently planned or anticipated development of this type in the district. Indeed, the Council advised at the Hearing sessions that such developments were unlikely as the market was effectively served by the established retail warehouse locations outside the district (notably in York).
47. The testing of a 4,000 square metre 'supermarket' development type generated a maximum modelled CIL rate of £196 psm. The Council's

² PPG Paragraph: 019 Reference ID: 25-019-20140612

proposal to set CIL at £110 psm would include a reasonable buffer, although it should be noted that the LPS does not envisage the need for any further supermarket development for at least ten years (beyond a site with an extant planning permission).

Overall Conclusions

48. The evidence demonstrates that the overall planned development of Ryedale district, as set out in its LPS, will not be put at risk if the proposed CIL charges are applied. I conclude that, in setting the CIL charges, the Council has used appropriate and available evidence that has informed assumptions about land and development values and likely costs. The CIL proposals are anticipated to achieve an important income stream that will help to address a well evidenced infrastructure funding gap.
49. Overall, I conclude that the Ryedale District Council Draft Community Infrastructure Levy Charging Schedule (Revised March 2015) 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.

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, and consistency with the Local Plan Strategy for Ryedale District and is supported by an adequate financial appraisal.

P.J. Staddon

Examiner