The Planning Inspectorate

# Report to London Borough of Haringey Council

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**an Examiner appointed by the Council**

**Date: 4 February 2014**

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

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

Charging Schedule submitted for examination on 28 October 2013

Examination hearings held on 18 December 2013

File Ref: PINS/Y5420/429/7

**Non Technical Summary**

This report concludes that, subject to three modifications, the LB of Haringey Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the borough. The Council has sufficient evidence to support the schedule and can show that the levy is set at levels that will not put the overall development of the area at risk.

The modifications are needed to meet the statutory requirements and can be summarised as follows:

- Include an OS based map defining the residential zone boundaries (EM1),
- Add the name of the charging authority to the schedule (EM2) and,
- Add a definition of Retail Warehouses (EM3).

The specified modifications recommended in this report are based on matters discussed during the public hearing sessions and do not alter the basis of the Council's overall approach or the appropriate balance achieved.

## Introduction

1. This report contains my assessment of the LB of Haringey 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 (Charge Setting and Charging Schedule Procedures – 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 which sets an appropriate balance between helping to fund necessary new infrastructure and the potential effects on the economic viability of development across the borough.

3. The basis for the examination, on which hearings sessions were held on 18 December 2013, is the submitted schedule of 28 October 2013. This included a number of modifications from the consultation draft schedule of April 2013 put forward by the Council to take account of responses from representors.

4. The Council proposes single rates of £95 per square metre (psm) for new superstores/supermarkets, £25 psm for retail warehouses and significantly differing rates for new housing in three distinct zones (West – £265 psm, Central - £165 psm and East - £15 psm) across the borough. These would all be in addition to the Mayoral CIL rate of £35 psm that currently applies in Haringey. All other uses would be nil rated, including small scale retail (use classes A1 – A5) and those to which the Mayoral CIL would nevertheless still apply, such as offices (B1), industrial (B1/B2) and warehousing (B8).

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

*Infrastructure planning evidence*

5. The Haringey Local Plan Strategic Policies (LP), formerly the Core Strategy, was adopted in March 2013. This sets out the main elements of growth that will need to be supported by further infrastructure in the borough to 2026, including about 10,660 new homes. It is supported by an Infrastructure Delivery Plan Update of April 2013 (IDP), which outlines local community requirements and infrastructure needs. Taking into account other likely funding sources, including direct from government, a shortfall of around £230 million (m) is currently estimated. The largest single elements are for transport (£88m) and education (£78m).

6. Currently, S.106 legal agreement contributions in relation to larger schemes in the borough are raising an average of about £2.3m per year (excluding an exceptional year in 2011/12), according to the Council's 2011/12 Annual Monitoring Report (AMR) (March 2013). At present, the Council anticipates that the CIL would raise roughly equivalent amounts on an annual basis. In the light of the above, the proposed charges would make only a modest contribution towards filling the likely funding gap, in the short to medium term at least. Nevertheless, the relevant figures clearly demonstrate the need to introduce the CIL.

7. In these circumstances, it is reasonable and realistic for the Council to have based their current Regulation 123 list of spending priorities for CIL income on a relatively restricted range of schemes and projects already committed in principle or otherwise confirmed to take place. The Council has also made a clear statement that the contents of the CIL spending list will be reconsidered on an annual basis, in the light of outcomes from the Annual Monitoring Report and, importantly, subject to public consultation before any revision.

8. 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 recently adopted LP, as a whole. There is therefore no material inconsistency between the LP, the Council's current Regulation 123 list and/or the CIL rates proposed.

*Economic viability evidence*

9. The Council commissioned an Updated Viability Study (UVS), dated April 2013. This essentially utilises a standard residual valuation approach, using entirely reasonable assumptions for a range of factors such as building costs, including RICS Building Costs Information Service (BCIS) localised figures and Level 4 of the Code for Sustainable Homes (CSH) requirements for all new housing. It also took into account relevant current land values, based on Valuation Office Agency data for Outer London and recent actual transactions. It is reasonable to take the value of employment land in the borough as a starting point as this provides the most opportunities for re-development locally and, in general, the benchmark land values used are sufficiently realistic for comparison purposes

in a generic study of this type.

10. The UVS has also included current sale values based on a variety of local sites; as well as suitable housing densities/mixes and gross to net ratios, reasonable developer profit levels and professional fees etc, amongst other factors. It also sensitivity tested alternative affordable housing targets and tenure splits, as well as higher and lower sales values and build costs, thereby enhancing the robustness of its conclusions. Overall, I am satisfied that the study's methodology is in line with the guidance in the Harman Report (June 2012) (Viability Testing for Local Plans).

11. The Council itself describes Haringey as "an outer London suburb with inner city challenges" and this is partly reflected by the wide variation in local residential land values. In particular, the west is characterised by affluent tree lined avenues of Edwardian housing, such as in Highgate, whereas most of the population lives in the central and eastern areas, with some of the wards in the latter being amongst the 10% most deprived in England. Accordingly, the "in principle" justification for having different residential charging zones relating to viability across the borough is clear and convincing.

12. The evidence in the Council's UVS also demonstrates that, at current rental levels, new office development in the borough is not viable at the moment and that the same is true for industry and warehousing. Consequently, a nil rate is appropriate for these uses, just as it is for health and education, which often need public funding in whole or in part in any event.

13. It is also clear that, in Haringey at least, based on current figures, the viability of new student accommodation and of specialist housing for the elderly is not sufficiently variable from that of mainstream residential development to justify any special or different treatment in the charging schedule. This is despite some differing aspects in the form of development, as the built density and site coverage of such projects usually involve more communal space but also less on site car parking, for example. Also, any increased funding costs due to sometimes delayed sales are balanced by higher unit sale values psm taking into account the specialist facilities provided etc.

*Conclusion*

14. The draft charging schedule is supported by detailed evidence of economic viability and local community infrastructure needs. 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*

15. Whilst not exhaustive, the UVS considered a sufficient range and number of size and type of residential development schemes across the borough to be suitably reflective of new housing projects likely to come forward locally and to provide the necessary information against which to assess viability, including in the three separate zones identified. In particular, a reasonable allowance (5% of total build costs) has been made for contingencies, recognising that, by

definition, site specific abnormal costs cannot be accounted for in such generic analyses. Rather, the viability testing has properly examined the most likely scenarios and clearly cannot address all possible eventualities surrounding new development projects. There may be a few cases where the proposed rates would render a project unviable, but the analysis shows that this would not have a significant effect on the overall amount or distribution of new housing.

16. In addition, the UVS makes no allowance for any reductions in CIL liability that would apply to the loss of existing built floorspace on brownfield sites in most instances in Haringey, thus enhancing the potential viability of many re-development schemes across the borough. However, an allowance of £5 psm has been made in the UVS for demolition costs, which would also help to cover the conversion of any buildings to be retained in such projects. Overall, the scheme typologies and land/sales values that have been used in the UVS are considered to be suitably reflective of the forms of new housing being planned across the borough, bearing in mind that the majority of new development is expected to be on former employment land.

17. In general, the infrastructure costs associated with actual S.106 legal agreements for particular schemes already permitted are not directly comparable with the proposed CIL rates, even for similar projects. This is not least because the CIL liability will be assessed on a different basis, including an allowance for the loss of existing floorspace (under normal circumstances), and varying rates for differing use classes of development based on viability, amongst other factors, including an exemption for all new social housing. Nevertheless, the available local evidence suggests that, on average across the borough, the imposition of the CIL should not lead to any significant increase in total infrastructure contributions psm by developers in relation to new housing (or indeed other, including mixed use) schemes.

18. The Mayoral CIL of £35 psm already applies to most new built development in the borough and this has, of course, been taken into account in the Council's evidence assessing potentially viable local rates as an addition, including in the lower value eastern zone. The UVS has also properly taken into account the financial implications of all the relevant adopted policies in the LP, including for affordable housing, as well as suitable anticipated sales rates/periods for larger new housing schemes.

19. This includes Level 4 of the Code for Sustainable Homes (CSH) for <u>all</u> new homes, not just for affordable housing, as clarified during the examination. In particular, it has also made no allowance for any new "affordable rent", rather than "social rent" units in the various generic analyses of new housing schemes, albeit any such substitution would be likely to improve the prospective viability of most such projects in London, to a degree at least.

20. Taking into account the allowance made in the UVS (an average of £1k per unit) for continuing S.106 contributions post CIL adoption and the likely impacts of the nil rate for social housing, as well as the reduction for lost floorspace, the overall effect on the viability of most schemes of introducing the proposed CIL rates is not expected to differ greatly from the current position. This includes in the higher value western and central zones, where the intended rates are entirely consistent with and justified by the Council's evidence on current local land and housing sales values.

21. National guidance in the Harman Report (Viability Testing Local Plans – June 2012) confirms that only current costs and values should be relied on. Nevertheless, it is also relevant to note the firm evidence from reputable sources, including Land Registry data, of a material increase in local housing sales values since the UVS was prepared in early 2013. This is greater than the assessed generalised percentage impact of the CIL on current build costs for housing across the borough, again including in the two higher value zones.

22. It therefore provides some further reassurance that the proposed rates would allow a reasonable viability margin in most instances and not excluding the lower land value east zone (see below). The fact that new housing, including an appropriate level of affordable units, has come forward at the level sought in the relevant strategic target in the last few years, including since adoption of the Mayoral CIL, adds to the overall conclusion that new residential development is clearly generally viable across the borough at present and would remain so post CIL adoption, with reasonable viability margins.

*Zones*

23. The Council's evidence is clear that the eastern part of the borough has much the lowest level of viability for new development, in comparison with the proposed central and particularly the western charging zones. It is also the area most in need of new investment in regeneration projects, not least the new stadium and related development for Tottenham Hotspur Football Club, and where the majority of new housing is expected to come forward over the LP period. Accordingly, despite the absence of individual strategic level new housing sites across the borough, it is critical to the delivery of the plan, notably its social and economic objectives, that any CIL rate imposed should not give rise to a serious risk to delivery in viability terms in this locality.

24. However, the viability evidence is clear that a low CIL rate in the eastern zone would be viable. So, the suggestion that all or some parts of the east zone, notably those where regeneration projects are most needed at present, should be nil rated for the CIL would introduce an inconsistency and unnecessary complexity to the prospective charging regime.

25. It would also potentially raise the spectre of "state aid", in the sense of conferring direct financial advantage on one particular scheme and/or developer, as well as risking setting a form of precedent for the expected treatment of future regeneration projects in the area. In circumstances where the Mayoral CIL already applies across the borough, and with no firm evidence to date that this is proving to be a serious disincentive to schemes coming forward, such an arrangement is neither appropriate in principle nor necessary in practice, especially as the additional localised CIL rate proposed relates to such a relatively small percentage element of overall scheme costs.

26. In the light of all of the above, and taking into account the relevance of the prospective CIL income expected to achieving the objectives of the LP, I am satisfied that the proposed residential CIL rates (in addition to the Mayor's £35 psm) would not give rise to a significant risk in relation to overall viability in any of the zones, nor to the delivery of the majority of new residential development in the eastern zone, as things stand.

*Zone Boundaries*

27. As proposed, the boundary between the central and western charging zones is very clearly delineated by the main railway lines, running almost north to south through the borough. Although there is some information indicating differing land values within the identified zones, including for specific small parcels, these are not so marked as to justify ignoring the very clear physical barrier of the rail lines as properly marking the transition in character and viability between one part of the borough and another. In contrast, there is firm evidence of a significant difference in valuation terms either side of the railway, which reinforces it as the logical choice to provide a clear boundary between charging zones in this area of the borough at present.

*Retail/Commercial rates*

28. The level and extent of testing in the UVS, whilst limited, is sufficient to clearly demonstrate that new retail development at the larger scale would be viable across the borough. The available evidence also indicates that, despite the lower land values in the east compared to the west, there are no relevant local market conditions or variations that are sufficient to justify different charging zones being identified for superstores/supermarkets and/or retail warehouses.

29. Moreover, the CIL retail rates to be imposed closely reflect the evidence in terms of the potential maximums that could be imposed whilst retaining overall viability. This is demonstrated by the various allowances made, including for a landowner's premium of 20% above existing use values, which are themselves robust and locally realistic as well as an equivalent developer's profit, in the UVS.

30. The fact that, for superstores/supermarkets, the likely total CIL liability, inclusive of the existing Mayoral CIL, would amount to only around 3% of overall development costs reinforces this conclusion. The percentage impact of the significantly lower rate for retail warehouses, which generally have lower overall build costs per sq m, would be generally comparable and consequently a similar conclusion may be drawn, for the reasons given above.

31. Direct comparisons with retail viability work in adjoining boroughs or elsewhere are not normally relevant, given the likely differences in land values and other relevant local factors that are influential in relation to outcomes. This includes in respect of smaller scale retail schemes where the overall level and location of new floorspace anticipated in the relevant plan, the position of centres in the retail hierarchy and the implications of other local policy requirements will all have an effect on scheme viability. Accordingly, under normal circumstances, this can only properly be tested on an individual borough, or local area basis, rather than comparatively as such.

32. Subject to the inclusion of suitably worded definitions, so that the particular type of retail schemes to which the CIL rates apply is not in doubt, it is not essential to also include any particular floorspace threshold figure or figures, to differentiate between large and small retail, given that new retail floorspace of less than 100 sq m is exempt from charges in any event. It is however necessary to include a written definition of "Retail Warehouses", in addition to that for "Superstores/Supermarkets", for clarity for all concerned and to

facilitate practical implementation (**EM 3**).

33. The liability for CIL should then be readily apparent for prospective developers once the schedule is adopted and requires no further clarification or qualification in respect of the differing formats and business models of various retail operators, large or small, national or local. Any such alternatives or exceptions risk not only potentially conferring selective advantage, contrary to national guidance, but also of unnecessarily overcomplicating the administration of the CIL by creating room for disputes as to liability.

34. The Council's changes to the earlier draft schedule in response to evidence from representors included omitting the former "miscellaneous" charging rate of £50 psm on general viability grounds. This would have applied to new hotels, for example. In the absence of any viability evidence to the contrary, and as the Council is not anticipating much if any significant new development in this sector locally in the next few years, it is considered reasonable that such a nil rate should apply in Haringey at present.

35. In conclusion, the available evidence is sufficient to show that it is appropriate in principle to impose a CIL rate for large format retail schemes, given that it is a readily identifiable use(s) in terms of its characteristics, functions and shopping patterns. At the levels set, it would not give rise to a serious threat to the future delivery of new retail development in the borough over the plan period, including where it forms part of a larger, mixed use, scheme.

*Other Matters*

36. Regulation 12 2) c) of the CIL regulations requires that the boundaries of any separate charging zones must be identified on an OS based map that accompanies the charging schedule. Therefore, albeit the proposed zones are based on existing electoral ward boundaries within the borough, it is necessary to formally recommend that such a plan be provided (see Appendix B) (**EM1**). The name of the charging authority must also appear on the adopted version of the schedule (**EM2**).

37. Whilst not part of my remit to consider in any detail, it is relevant to note that the Council has also published helpful clarification on the Mayoral CIL, collection, exemptions, payments in kind and the intended interaction with S.106 legal agreements, which will continue to be needed in some instances, to avoid any "double counting" once the charging schedule is adopted. The Council is also intending to operate an instalments policy for CIL payments, in line with that already established and in use for the Mayoral CIL. This should assist developers in respect of cash flow and therefore overall viability, particularly for larger and/or phased projects over time.

38. No specific review date for the CIL schedule rates has been confirmed by the Council as yet. Nevertheless, given the recent adoption (2013) of the LP and the Council's intent to produce further Development Management and Site Allocation documents, as well as Area Action Plans for parts of the borough, including for Tottenham, over the next couple of years, the initial estimate of a review in 3 – 5 years time seems wise in principle.

39. It would provide an opportunity to assess the impact and operation of the CIL

over its first few years and to reconsider rates in the event of any material changes in local economic circumstances affecting new development in the borough. Greater clarity and certainty for all concerned would follow from formal confirmation by the Council that this is intended at the time the charging schedule is adopted.

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

40. The Council's decision to set three different rates for residential development in the West, Central and East zones and an overall rate across the borough for larger retail schemes only is based on reasonable assumptions about development values and likely costs. The available evidence indicates that both residential and retail development should remain viable across most, if not all, of the area if the charges are applied. Only if development sales values are at the very lowest end of the predicted spectrum might development in some parts of the Borough be at risk.

**Conclusion**

41. 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 across Haringey. 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 wide range of development remains viable across the borough.

42. All of the above factors reinforce my conclusions that, overall, the CIL rates proposed should not put the delivery of the development envisaged in the LP at significant risk, but rather materially assist in the implementation thereof by making a meaningful contribution to funding the necessary infrastructure over the plan period and thereby have a positive economic effect overall.

| **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 Local Plan Strategic Policies (March 2013) (formerly the Core Strategy) and the Infrastructure Delivery Plan Update (April 2013), and is supported by an adequate financial appraisal. |

43. I conclude that, subject to the modifications set out in Appendix A, the London Borough of Haringey 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.

*Nigel Payne*

Examiner

This report is accompanied by: Appendices A and B

**Appendix A** - Modifications that the examiner specifies so that the Charging Schedule may be approved:

- EM1 – Append the OS based map enclosed (Appendix B), defining the residential zone boundaries, to the schedule.

- EM 2 - Add the name of the charging authority to the schedule.

- EM 3 – Add a definition of Retail Warehouses as follows; "Retail warehouses are large stores specialising in the sale of household goods (such as carpets, furniture and electrical goods), DIY items, and other ranges of goods, catering mainly for car borne customers.".