



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Report to Rhondda Cynon Taf County Borough Council
Adroddiad i Gyngor Bwrdeistref Sirol Rhondda Cynon Taf

by Philip Staddon BSc, Dip, MBA, MRTPI

gan Philip Staddon BSc, Dip, MBA, MRTPI

an Examiner appointed by the Council

Date: 4 June 2014

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

**REPORT ON THE EXAMINATION OF THE DRAFT RHONDDA CYNON
TAF COUNTY BOROUGH COUNCIL COMMUNITY INFRASTRUCTURE
LEVY CHARGING SCHEDULE**

Charging Schedule submitted for examination on 27 February 2014

Examination Hearings held on 7 May 2014

File Ref: PINS/LDF 1513

Non Technical Summary

This report concludes that, subject to three modifications, the Rhondda Cynon Taf County Borough Council Draft Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area.

The three modification required are:

1. The reduction of the CIL charge for 'Class A3 Development' from £25 psm to £0 psm
2. The reduction of the CIL charge for 'Primary Healthcare Development (D1)' from £10 psm to £0 psm
3. The addition of 'All Other Development Types' with a CIL rate of £0 psm to the Charging Schedule for clarity.

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 Local Development Plan, at risk.

Introduction

1. This report contains my assessment of the Rhondda Cynon Taf County Borough Council 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 (Community Infrastructure Levy Guidance – DCLG – February 2014).
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 effects on the economic viability of development across its area.
3. The basis for the examination, on which Hearing sessions were held on 7 May 2014, is the submitted Draft Charging Schedule (DCS), which was published for public consultation between 27 June 2013 and 7 August 2013 and the associated Statement of Modifications (SOM), which was published for public consultation between 28 February 2014 and 10 April 2014.
4. The Council's CIL proposals include charges for residential development and for specified types of commercial development.

5. The residential CIL proposals relate to three defined geographical charging zones within which different CIL rates would apply. Zone 1 is in the north and covers the Rhondda and Cynon valleys (but excludes the part of the borough in the Brecon Beacons National Park). Zone 1 extends to more than half of the borough area and includes the larger settlements of Abercynon, Mountain Ash, Aberdare, Porth, Tonypany and Treorchy, along with a network of smaller village settlements. The residential CIL charge in Zone 1 would be £0 per square metre (psm). In the originally published DCS, Zone 2 covered a limited area in the south east of the borough, focused on the town of Pontypridd and the villages surrounding it. However, under the SOM it is proposed to extend Zone 2 to the west to include the settlement of Tonyrefail and its hinterland (previously in Zone 3). The Residential CIL charge in Zone 2 would be £40 per square metre (psm). Zone 3 occupies the south of the borough closest to the M4 corridor. It includes the settlements of Church Village, Llantrisant and Pontyclun. Through the revisions proposed in the SOM, the residential CIL charge in Zone 3 would be £85psm (reduced from £100 psm in the DCS).
6. The commercial CIL charges are not zoned and would apply throughout the county borough. Three types of commercial development listed in the DCS would be subject to CIL charges. First, 'Retail (A1)' development would incur a CIL charge of £100 psm. Second, 'Retail (A3)' development would incur a CIL charge of £25 psm. Third, 'Primary Healthcare Development (D1)' would, through the revisions proposed in the SOM, incur a £10 psm charge (reduced from £60 in the original DCS).
7. This report is structured under the headings (in bold) of the main issues that I identified through the examination.

Background evidence – local development plan, infrastructure and economic viability evidence.

Local Development Plan

8. The Rhondda Cynon Taf Local Development Plan (LDP) was adopted in March 2011 and covers the period to 2021. The Wales Spatial Plan was updated in 2008. Together, these two documents set out the strategy for and the level of growth that will need to be supported by the provision of new or upgraded infrastructure. The LDP identifies and seeks to manage the challenges arising from a county borough that falls into two distinct parts. The Northern Strategy Area (NSA) comprises the central and northern valleys which has suffered from deprivation, depopulation and low levels of house building, all linked to a decline of traditional industries most notably through the colliery closures in the mid-1980s. By contrast, the Southern Strategy Area (SSA), which covers roughly the southern third of the county borough, has experienced growth pressures due to its accessibility and proximity to the M4 corridor and the major south-east Wales urban centres.
9. The LDP's housing growth proposals amount to 14,385 over the plan period, of

which 1770 would be affordable homes. The LDP proposes 98 hectares of new employment development and some 36,400 sq metres of new retail development. Critical to the delivery of the LDP's objectives are eight identified strategic sites, five of which are in the NSA, with the remaining three in the SSA. Collectively, the allocation of these eight sites is designed to boost house building rates in the borough. The eight sites are expected, in total, to yield up about a third of the plan's housing and approximately two thirds of the plan's employment development. One of the strategic sites is also expected to deliver the lion's share of the new retail floorspace (23,400 sq metres or 64% of the total).

10. The LDP is supported by a portfolio of supplementary planning guidance (SPG) which includes its 'Draft Planning Obligations' (May 2013) document which defines and clarifies the role of S.106 planning agreements under the proposed CIL regime.

Infrastructure planning evidence

11. The LDP's evidence base included a detailed assessment of infrastructure necessary to deliver the plan's allocations and objectives. This was refreshed and updated in March 2013 to produce an Infrastructure Assessment Background Paper (IABP). It itemises the specific strategic social and physical infrastructure projects necessary and includes details about estimated costs and funding sources.
12. The overall Council assessed funding gap is significant, at £243.1 million. Road network and education infrastructure have the largest funding gaps which the IABP puts at around £157 million and £77.5 million respectively.
13. The Council has assessed that CIL receipts from residential development may yield circa £12 million in the plan period. It has assessed the first five years' residential CIL receipts at just over £6 million. This will be supplemented to a degree by the commercial CIL charges from specified development types, which the Council assesses, may yield circa £0.5 million over the LDP period. It is clear that CIL receipts will only make a relatively small contribution to closing the substantial funding gap. Nonetheless, the evidence does demonstrate the need to introduce CIL to assist in delivering some of the infrastructure needed to support planned growth in the county borough. The Council made clear that CIL would be used as a lever to other funding sources including, potentially, from the European Union.
14. The Council's draft Regulation 123 List identifies four school projects and nine road projects, drawn from the IABP, that it considers are likely to be funded by the CIL receipts.

Economic viability evidence

15. The Council's economic viability evidence has, through the passage of time and multiple iterations, become somewhat complicated. The Council, along with its neighbouring authorities of Merthyr Tydfil CBC and Caerphilly CBC,

commissioned District Valuer Services (DVS) to undertake an economic viability study (EVS) to inform and help define its CIL proposals. This was produced in 2012 and the Council has added to it with further testing, updates and clarifications. Essentially, all of the EVS modelling uses a residual valuation approach to test the viability of residential development schemes on a range of sites. In essence, this involves taking the end value of a development and deducting a range of costs (building, land, overheads, fees, profit etc.) to determine the surplus (or deficit) that may exist to support a CIL charge.

16. The robustness of the EVS and the degree to which its development appraisals justify, in terms of viability, the CIL rates and charging zones, are central to the examination. There were a number of challenges to the Council's modelling, particularly in terms of some of the assumptions used. Accordingly, I explore these matters in relation to the main issues and questions I have identified (in bold) below.

Conclusions on the background evidence

17. The LDP sets out a clear strategy for sustainable growth in the county borough. That growth requires substantial physical and social infrastructure provision as evidenced in the LDP itself and the more recent IABP. There is a substantial funding gap that justifies the imposition of a CIL regime. CIL receipts will only make a relatively modest, but nonetheless important, contribution to funding necessary infrastructure. The Council's CIL proposals are supported by detailed viability evidence, which is explored in greater detail below.

Whether the residential development viability evidence is sound and justifies the proposed CIL charging zones and CIL charges?

EVS modelling

18. The original 2012 EVS testing related to 10 schemes on actual housing development sites, albeit that they were anonymised to avoid prejudicing future developer negotiations. The sites selected by the Council included a good range, covering both brownfield and greenfield land, and relatively small sites (30 units on 0.9 hectare) up to very large sites (700 units on 20 hectares). Housing mix and density were tailored to the specific test sites and informed by local market intelligence. Affordable housing was modelled at full LDP policy target compliance (10% in the NSA and 20% in the SSA). Geographically, the sites were spread across the county borough and, in terms of the final charging zones that emerged (a matter I return to later), four were in Zone 1 and three each in Zone 2 and Zone 3.
19. Through the DCS consultation process, the house building industry challenged the 2012 EVS testing and submitted four notional appraisals using its preferred assumptions, notably of higher costs and profit levels. In response, the Council undertook further viability testing in October 2013, which effectively hybridised these notional appraisals, using (if not entirely agreeing

with) some but not all of the house builders' preferred assumptions, a matter I explore further below. The Council also extended the study at that point to examine larger strategic sites and sheltered housing developments.

20. A further updated viability testing document was produced in February 2014 and yet a further clarification note, seeking to explain and summarise the various pieces of evidence, was issued, at my request, in April 2014. The Council's final set of viability testing, using the most up to date sales rates and build costs, relating to the four 'notional' sites, was submitted shortly before the Hearing.
21. It is worth noting at this point that these different elements of modelling, from different points in time, using different approaches (actual sites and notional sites) and different assumption inputs, does create some issues. On a positive note, it presents a very significant evidence base and demonstrates the Council's efforts to engage with and respond to representations made. However, it does also create challenges in terms of comparability and consistency. One particular issue here is the mix of actual site modelling and notional site modelling; whilst modelling actual sites is arguably more reflective of the real world, it invariably throws up some anomalies (which tend to get ironed out in notional site modelling). Through the examination the Council made clear that the 2012 testing (of the ten schemes on actual sites) remained its primary evidence source and that the further testing of notional and strategic sites supplemented and supported it. Accordingly, my examination has sought to weigh and triangulate this complexity of evidence to reach a balanced view.

Assumptions

22. All of the EVS modelling involves making a wide range of assumptions about appraisal inputs such as land costs, build costs, fees, densities, housing mix, affordable housing content, contingencies, sales values, profit levels etc. Although some of the inputs were uncontentious, or at least any differences of view were negligible, a theme running through the life of the Council's CIL proposals has been a degree of disagreement with the house building industry over assumed model inputs and values. This becomes clearer by reference to my analysis below of the substantive areas where there has been some disagreement.

Land values

23. The EVS employs the use of 'benchmark land values' to set an assumed price at which a landowner will release the site for development. In the case of active sites (i.e. with an existing use) this included a premium, over the existing use value. DVS set these benchmarks using available transactional evidence and professional opinion and they are tailored to each of the tested sites. The benchmarks are expressed in money values per imperial acre and, in the original EVS, ranged from £100,000 / acre in the north of the county borough up to £225,000 / acre in the south.

24. The house builders submitted transactional evidence on a limited number of sites which indicated higher values were being paid for land and it suggested that the benchmarks should be raised in Zones 2 and 3 to £225,000 and £250,000 respectively on green field sites. It applied these values in its submitted appraisal evidence, which modelled four notional sites.
25. In my view, this is not a particularly easy matter to arbitrate and there are a number of factors to consider. First, the land value 'backcloth' in the county borough is not particularly strong, especially in the north due, primarily, to the profound socio-economic forces of decline and depopulation that the LDP is seeking to manage. Second, whilst land values are generally low they are much stronger in the south. Third, 'benchmark' land values can only ever be broad brush and they are conceptual in nature, being based on assumed decisions of landowners in terms of the amount of 'uplift' required to trigger a land sale. Fourth, all of the benchmark land values used in the EVS represent a substantial uplift to a landowner (particularly on agricultural land). Fifth, CIL will inevitably filter through to affect underlying land values and that influence is clearly not yet apparent in the limited transactional data available.
26. On balance, I am persuaded that the benchmark land values employed by the Council in its 2012 study are reasonable for CIL viability testing purposes and remain so. However, the higher benchmark values suggested by the house builders are a useful sensitivity test, which the Council did adopt in its October 2013 testing.

Profit levels

27. The use of 17.5% of Gross Development Value (GDV) as the profit assumption on private market housing was challenged by the development industry as being too low. It argued for 20% profit on GDV, stating that this was more appropriate. In response, the Council felt that whilst 20% on GDV was appropriate immediately after the 2007 fall in the market, a lower 'base allowance' of 17.5% was more appropriate today, now that market stability had returned. In my view, in the areas of the county borough where viability is more challenging (i.e. the NSA), I do think that it is possible that banks and other funders may seek returns above 17.5% for lending purposes. However, CIL will not be charged in these areas, so the rate applied here is of limited relevance. On balance, I consider that the Council's 17.5% adopted profit rate in the initial EVS is not unreasonable for high level CIL modelling purposes, subject to it being considered 'in the round' in the context of other allowances and viability 'buffers'.

Housing sales values

28. The EVS derived its sales value evidence from real world transactions through DVS's access to Stamp Duty and Land Tax returns. Although such data sources are invariably skewed to the sale of existing (rather than new build) stock, they are an appropriate and available indicator of the local tone of the residential sales market across the county borough. Helpfully, the house building industry's submissions included some specific data on recent new build sales, which assisted the Council in its later modelling, and contributed to the changes set out in its Statement of Modifications. Accordingly, I concluded

that the sales value evidence used in the EVS modelling was reasonable and sound.

Build costs, external works and fire sprinklers.

29. Base build costs were drawn from Building Costs Information Service (BCIS) median average costs, adjusted to the locality. However, there was a clear difference of view over the allowances that ought be added to base building costs to reflect external works, abnormals and the Welsh Government's requirement for fire sprinklers in domestic properties from January 2016. The Council's approach involved the addition of a default 17.5% to baseline build costs to cover external works (15%) and sustainability features (2.5%). The development industry argued for the addition of a higher figure of 27% for external works, reflecting the challenges of sites in the area, which may include abnormal costs, plus a further £3,075 per plot for fire sprinklers.
30. These are not easy issues to untangle and, in my view, there are likely to be a wide spectrum of external works costs which may range from comfortably below the Council's assumption (for serviced sites) to levels more akin to those cited by the house builders (on more challenging sites). However, I must also give weight to the Council's transactional evidence and market intelligence that has underpinned the modelling, which will have reflected the 'norm' of development costs in the county borough.
31. With regard to the fire sprinkler requirement, this will not be an actual and incurred construction cost until January 2016, but I am mindful that house builders must consider those costs in their appraisals and land buying activities now, along with any CIL charges that may be adopted. These extra costs cannot, therefore, be ignored.
32. Having considered the evidence carefully I do not consider it necessary to define a 'right' percentage to be added to base build costs for externals, abnormals and fire sprinklers, because I do not think that is possible, given the variability of schemes. However, the examination of this evidence does underline the importance of setting CIL rates at levels that include sufficient headroom to allow for the spectrum of different development schemes.
33. A final point on build costs related to the effects of build price inflation. The Council confirmed that it had employed BCIS build costs that were contemporaneous with sales value data in its 2012 study. It further adopted the rounded costs used by the house builders in the later 'notional' testing. It was acknowledged that there had been some cost inflation (from the BCIS medians used in the modelling) but the Council submitted that this was more than offset by the growth in sales values (which had risen 5.5% in the last 12 months in the county borough) i.e. the viability buffer will have expanded.

S.106 Allowances

34. The EVS modelling made no specific allowance for residual S.106 obligations relating to site specific infrastructure. The house builders argued for the inclusion of a notional £1000 per plot, in line with a number of CIL studies

elsewhere. There are merits to both arguments - the first that it is inordinately difficult to estimate such costs and, the second, that there will be such costs and applying a notional amount per unit recognises that.

35. However, the Council appears to have elected, for good reasons, to channel its future CIL revenues into two specific areas of infrastructure – schools and roads. The consequence of that is that other site specific infrastructure may need to be dealt with under S106 planning obligations, in line with the Council's LDP and supporting SPG. Examples of this include the categories of 'outdoor recreation' and 'environment landscape biodiversity' set out in the Council's SPG: Draft Planning Obligations (May 2013). The Council's own evidence of S.106 planning agreements in recent years does seem to suggest that the costs related to such provision are not uncommon. Indeed, a number of developments include recreation contributions of circa £1000 per dwelling.
36. Although I note the Council's reasons for not including such costs in the substantive modelling, I do think that the evidence suggests that it would have been prudent to include an allowance. However, I am satisfied that, for the reasons I outline above, and the reasonable viability buffers proposed (discussed below), that the council's failure to include S.106 allowances in the modelling does not in itself necessitate a change to the CIL rates.

The basis for geographical differentiation into three charging zones

37. The evidence does provide a convincing basis for geographically differentiated charging zones. Put simply, sales values and development viability are much stronger in the south of the county borough than in the north. The key issues for the examination were around the geographical definition of the middle ground of Zone 2 (essentially the 'Tonyrefail issue') and the proposed charges generally. I will explore these issues by reference to each zone.

Zone 1 - £0 psm

38. Zone 1 covers all of the NSA and a small area to the west of Tonyrefail. The EVS tested four schemes on actual sites (two brownfield and two greenfield) in this zone. The tested schemes ranged from 30 units up to 150 units. All of the sites generated negative viability results. When expressed as potential CIL rates the results varied from -£23 psm through to -£62 psm, demonstrating the challenging viability in this large part of the county borough. There were no challenges to the boundaries of Zone 1 or to the conclusion reached from the evidence that a £0 CIL rate was justified at the present time.

Zone 2 - £40 psm and the Tonyrefail Issue

39. Zone 2 includes the area around Pontypridd and, through the zone changes set out in the SOM, the area around Tonyrefail. The 2012 EVS tested three sites in these locations. One scheme in the Pontypridd area (30 units on a greenfield site) generated a maximum residual CIL of £58. The other two sites were in the Tonyrefail area and generated residual maximum CIL rates of £39

psm (100 units on a brownfield site) and £68 psm (700 units on a greenfield site).

40. The later modelling in October 2013, adopting some, but not all, of the house builders preferred assumptions, tested notional 50 and 100 units in the Tonyrefail area, generating residual CIL of £82 psm and £76 psm respectively.
41. Through written submissions and through the Hearing, an elected Council member for the Tonyrefail area expressed concerns about the inclusion of the area in Zone 2. It was argued that Tonyrefail sales values were higher than those used in the modelling and that the area should have remained in the higher CIL charge Zone 3, which would secure greater revenues for infrastructure provision, including in the Tonyrefail area.
42. This debate at the Hearing does highlight some of the difficulties in setting charging zones and the Council did concede that there were many potential zoning variants. However, the Council wished to keep its approach simple and that objective accords with the CIL guidance, which advises against over complication. The Council indicated that it had been persuaded by the arguments and evidence that viability in the Tonyrefail area was not as strong as in the area further south. Whilst I acknowledge that there may be instances of higher sales values within the area, reflecting its attractive location, the evidence before me does confirm the Council's view.
43. Indeed, if I look at the results from the various model runs (both on actual sites and notional sites) none of them reach the higher CIL rate of £85 psm proposed in Zone 3. There are three sets of Zone 2 CIL results. First, the 2012 'actual' sites that generated maximum CIL rates of £58, £39 and £68 psm. Second, the 2013 'notional' sites testing that generated maximum CIL rates of £82 and £76. Third, the 2014 notional sites with inflated build costs that generated maximum CIL rates of £68 and £63. Whilst accepting the inconsistencies, in terms of method, time and assumptions that led to these results, the crude average of these seven values is about £65 psm, and that seems to be a reasonable indicator of the viability tone of the area based on the evidence before me.
44. The Council's proposal to set the Zone 2 CIL rate at £40 would allow a comfortable viability buffer. The rate would be about 61.5% of the crude average of the maximum CIL values. Only one of the seven results failed to achieve the CIL rate – this was a 30 unit brownfield 'actual' test site which achieved £39 psm CIL. This alone would not be critical in LDP terms and, in practice, it may be that the LDP policy flexibility around affordable housing on sites where viability is an issue, would come in to play.
45. Overall, I conclude that the Zone 2 boundaries and its associated £40 psm CIL charge are sound and informed by the evidence. However, I do think that Representors' inputs on these matters have been positive and helpful and have alerted the Council to a need for close monitoring and future review of CIL rates.

Zone 3 - £85 psm

46. Zone 3 in the south of the borough is, without doubt, the area with the strongest sales values and viability, due primarily to its proximity to the M4 and major urban centres. The key examination issues in this zone related, essentially, to the CIL charge rate, including whether that rate might prejudice strategic sites.
47. Again, my examination has wrestled with multiple sources of appraisal evidence. The initial 2012 modelling, with the full policy target 20% affordable housing, showed strong viability on the three tested actual sites with the maximum CIL results of £233, £147 and £116 psm, giving some credence to the Council's original £100 psm CIL charge set out in the DCS. The October 2013 'notional' site modelling, using some of the house builders' preferred assumptions, generated results of £125 and £117. It also included the testing of three strategic sites (in this zone) giving results of £164, £151 and £114 psm. The final set of results (May 2014), with build cost inflation added to the two notional sites, generated £105 and £98 psm.
48. Given the spread of results I do not intend averaging them (as I did with the Zone 2 results). However, a number of key conclusions can be drawn. First, the evidence shows strong viability throughout, with no scheme under or very close to the proposed £85 psm charge. Second, for most schemes viability is comfortably, even substantially, above the proposed CIL charge. Third, the presence of a few results around the £100 psm mark and one of the strategic sites at £114 does confirm to me that the originally proposed £100 psm charge may have been too high. The reduction to £85 psm through the SOM is sound and well founded and, based on the evidence, builds in a good viability buffer throughout.
49. Based on the evidence I conclude that Zone 3 £85 psm CIL charge is sound.

Other Residential CIL Matters

50. I examined the case for treating agricultural workers dwellings differently for CIL purposes but I did not find that evidence supported a different approach for such developments which, in any event, appear to be rare in the borough. I also examined the case for treating developments involving specialist accommodation for elderly people in a different way. However, the additional modelling undertaken by the Council indicated quite strong development viability, able to comfortably sustain the residential CIL charges.

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

51. The EVS provided clear evidence that certain commercial development types were not currently viable and could not sustain CIL charges. These included all employment type developments (Use Classes B1, B2 and B8) along with developments of residential care and nursing homes, hotels and cinemas. For all of these uses the £0 psm charge listed in the DCS is justified. It was agreed at the Hearing that it would be helpful, for clarity, to list 'all other development' and an associated £0 psm CIL rate on the charging schedule. I have included in my recommendations a minor modification to that effect.

52. I turn now to the three development types where positive CIL charges are proposed.

Class A1 Retail- £100 psm

53. The EVS tested three sites, each involving relatively large format shops. The results varied markedly. The two largest stores generated potential maximum CIL rates of over £1000 psm. However, the smallest of the three schemes generated a negative result (-£76). On examination, I was persuaded that the two strongly positive results were the more representative of retail development that may happen in the LDP period, whereas the other was something of an anomaly due to its location and characteristics. In that context I am satisfied that the £100 psm CIL charge is reasonable and would leave significant headroom for the most retail development scenarios.

Class A3 – Restaurants, Cafés and Drinking Establishments- £25 psm

54. The Council does not envisage any significant Class A3 development in the plan period. However, its evidence to support a £25 psm CIL charge was unconvincing. It tested just one development – a small restaurant on a brown field site. This generated a maximum CIL of £16 psm, well below the rate actually proposed. At the Hearing, the Council sought to rely on evidence from adjoining authorities where modelling showed stronger results. The Council also explained that its tested site was not in a commercially attractive area.

55. Whilst I am mindful that there is a practical limit to the appraisal testing, particularly for developments that are not likely to be forthcoming in any great quantity, there is nonetheless a need for a prospective Charging Authority to demonstrate that its proposals are sound, informed by evidence and that they would serve a positive purpose. I can only reach conclusions based on the evidence presented and I am unable to speculate on what Class A3 viability may be in other parts of the county borough. I have considered whether the rate could be reduced to a smaller positive charge, but given the very low modelled CIL value and the limited evidence itself, I have concluded that the charge should be deleted i.e. reduced to £0 psm. The Council may choose to gather evidence and revisit this matter in its first review.

Class D1 – Primary Healthcare Development - £10 psm

56. The Council's proposal to introduce a CIL charge on primary healthcare development has some history. The neighbouring authorities of Caerphilly CBC and Merthyr Tydfil CBC had included £60 CIL charges in their DCSs. I jointly examined those proposals in January 2014 and explored the contention and representations (from the health authorities). My conclusion there was that the evidence did not support such a level of charge. The key issue was not so much whether such development can be subject to CIL (as it clearly can) but whether the viability evidence supported the proposed charge.
57. A particular complexity is that the category of development defined under the term 'primary healthcare development' embraced a spectrum of development models. This ranges from the highly commercial (investors building facilities for NHS tenants) to less commercial models (doctors building new or extending existing surgeries).
58. The Council has clearly considered these matters further, along with the further representations submitted directly to it. It proposes, through its SOM, to reduce the charge to £10 psm. In terms of the available evidence before me the Council tested just one site and that generated a strong (£221 psm) CIL value. Whilst that does demonstrate that the charge would be a very small cost burden on the larger 'commercial' variants of development in this category, I have not been provided with any evidence to support the imposition of a charge on the less commercial variants. I am unable to speculate on whether or not a CIL charge, even a seemingly nominal £10 psm, is justified. I am also mindful of the health and deprivation profiles of parts of the borough, which are identified as key issues in the LDP. For all of these reasons, I conclude that the proposed CIL charge would not serve the positive economic effect on development as set out in the CIL Guidance 2014, and may possibly frustrate primary healthcare development in the county borough. I therefore recommend that the charge be reduced to £0 psm. I would add that, if the Council wishes to revisit CIL charges for primary healthcare development, perhaps at its first CIL review, it needs to consider how it can differentiate the types of development and provide suitably fine grain supporting economic viability evidence.

Other Commercial CIL Matters

59. Concerns were raised about transitional issues, particularly with regard to a major town centre scheme which was soon to hand over a significant highways contribution under the terms of a S.106 Planning Agreement. The particular concern was of 'double dipping' whereby, if a fresh future planning application was required, CIL may become liable (on top of the already paid S.106 payments). Whilst I do not feel that my examination role can extend to resolve that specific issue, the Hearing did prove to be a useful forum for the Council and the developer, and the parties are working together to produce a memorandum of understanding on the matter to build confidence on both sides. I commend that process.

Overall Conclusions

60. The evidence demonstrates that, subject to three recommended modifications, the overall development of the area, as set out in the LDP, 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.
61. I conclude that, subject to the modifications set out in Appendix A, the Rhondda Cynon Taf County Borough Council Draft 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.

LEGAL REQUIREMENTS	
National Policy/Guidance	The Charging Schedule complies with national policy/guidance.
2008 Planning Act and 2010 Regulations (as amended)	The Charging Schedule complies with the Act and the Regulations, including in respect of the statutory processes and public consultation, consistency with the adopted Rhondda Cynon Taf Local Development Plan and is supported by an adequate financial appraisal.

P.J. Staddon

Examiner

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

Appendix A

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

Note – the modifications are referenced against the Draft Charging Schedule Statement of Modifications dated 27 February 2014.

Modification No.	Modification
EM1	Table 1 Retail (A3) - delete "£25" and replace with "£0"
EM2	Table 1 D1 Primary Healthcare Development - delete "£10" and replace with "£0"
EM3	Table 1 Add "All Other Development Types" in column 1 and "£0" in column 2.