The Planning Inspectorate

Report to London Borough of Harrow Council

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an Examiner appointed by the Council

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PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

REPORT ON THE EXAMINATION OF THE DRAFT LONDON BOROUGH OF HARROW COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE

Charging Schedule submitted for examination on 2nd April 2013

No Examination Hearings were held

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Non Technical Summary

This report concludes that the London Borough of Harrow Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area. 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. No modifications are needed to meet the statutory requirements.

Introduction

1. This report contains my assessment of the London Borough of Harrow Council Community Infrastructure Levy (CIL) Charging Schedule in terms of Section 212 of the Planning Act 2008. It considers whether the schedule is compliant in legal terms and whether it is economically viable as well as reasonable, realistic and consistent with national guidance (Community Infrastructure Levy Guidance – DCLG – April 2013).

2. To comply with the relevant legislation the local charging authority has to submit what it considers to be a charging schedule 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, which took place through written representations, is the submitted schedule of 18th March 2013. This is the same as the document published for public consultation from 15th November to 20th December 2012.

3. The Council proposes charges per square metre (psm) for different types of development. £110psm for residential (use classes C3); £55psm for hotel (use class C1) , residential institutions except hospitals (use class 2), student accommodation, hostels and HMOs (sui generis); £100psm for retail, financial and professional services, restaurants & cafes, drinking establishments and hot food takeaways (use classes A1-A5); and £nil for all other uses.

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

Infrastructure planning evidence

4. The Harrow Core Strategy (CS) [CL12] was adopted in February 2012. This aims to deliver at least 6,050 net additional homes 2009-2026 of which at least 2,800 should be provided in the Harrow & Wealdstone Intensification Area. Core Policy CS1 sets out the main elements of growth, and the strategic infrastructure items that will be needed for delivery are listed. The policy states that CIL will help their funding. Policy CS2 sets out a broad strategy for the Intensification Area and refers to the potential role of CIL and planning obligations to fund infrastructure. The Area Action Plan, found sound and awaiting adoption, will take forward planning for the Intensification Area to deliver the homes plus 3,000 additional jobs and other new uses.

5. Chapter 14 of the CS refers to the Council's Infrastructure Delivery Plan (IDP) which set out the social and physical infrastructure requirements to support sustainable development, economic growth and residents' quality of life. The Infrastructure Assessment and Delivery Plan [CL4] described as a working document contains an Infrastructure Delivery Schedule with estimated costs, delivery mechanisms, funding sources and time scales for an extensive number of projects. This information forms a firm basis for calculating the funding gap associated with implementation of an up-to-date local plan [1].

6. The Infrastructure Planning and Funding Gap document [CL3] indicates that 223 projects in the IDP list would be eligible for CIL. Bearing in mind that Harrow is likely to review its charging schedule after 3-5 years, it was estimated that 124 projects would be CIL eligible during the first five year period and their cost would be about £108.3m. Total available funding from all known sources for 2011-15 was calculated as some £47.1m, leaving an aggregate funding gap for CIL of £61.2m. Projected CIL income would amount to about £5.7m leaving a residual funding gap of £55.5m. The proposed charge would make only a modest contribution towards filling the likely funding gap. The need to levy CIL has been adequately demonstrated.

Economic viability evidence

7. The Council commissioned a CIL Viability Study, July 2012 [CL2][2]. The consultants took account of the views of local developers, agents and landowners when establishing the methodology and devising model assumptions. The assessment used a residual appraisal methodology, as recommended by the RICS[3]. Residual valuation was applied to different land use or development types and, where relevant, to different parts of the Borough. Four benchmark land values were selected to provide a broad indication of values across the Borough. Development should provide a competitive return to landowners and so a 20% premium above current use value was assumed for establishing benchmarks. If the residual value were above the benchmark value, the Study judged development would be viable.

8. The excess value or overage represents the maximum amount that could potentially be captured as CIL. The Study treated the Mayoral CIL as an output and deducted £35psm from the maximum figure for CIL. Allowance was made for a "buffer" to mitigate risk factors and ensure that CIL would not be set at the margins of viability. The suggested CIL rates in the Council's draft schedule were based on discounting the maximum figures minus the Mayoral CIL by 40%. Sensitivity analysis of the model's outputs tested different assumptions for change in values and costs.

9. The Borough's proposed CIL in combination with the Mayoral CIL and s106 obligations must avoid "double-dipping"[4] which could render development unviable. The Draft Charging Levy includes a draft Regulation 123 list, and a

[1] CL3 - CIL Infrastructure Planning and Funding Gap Aug 2012 Rev 2,CIL Knowledge> BNP Paribas Real Estate for LB Harrow
[2] CL2 – CIL Viability Study, July 2012, BNP Paribas Real Estate
[3] Financial Viability in Planning - RICS guidance note, 2012
[4] Community Infrastructure Levy Guidance, as amended 2013, DCLG – paragraph 85

Planning Obligations SPD [CL10] is being progressed. These mechanisms should ensure that a distinction is drawn between strategic infrastructure for funding by CIL and site-specific requirements subject to s106 obligations.

10. I conclude that the CIL Viability Study which has been used to inform the charging schedule is robust, proportionate and appropriate. The draft charging schedule is supported by detailed evidence of community infrastructure needs.

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

CIL rates for residential development (Use Classes C3)

11. For residential development, the Viability Study used sales' values based on research of the local market. Build cost assumptions were based on the Royal Institution of Chartered Surveyors' Building Cost Information Service (BCIS) plus a contingency of 5%. Allowance was made for meeting the code for sustainable homes level 4 and for developer's profit levels of 20%, among other things. Benchmark land values provided a broad indication of land values across the Borough.

12. Seven development typologies, ranging from 4 houses to 300 flats at varying densities reflecting the range of schemes experienced across the Borough, were used in the appraisals. Concern was raised that developers would move away from providing small flats suitable for first-time buyers with the introduction of CIL. The Council's Housing Needs Assessment and Strategic Housing Market Assessment both showed a significant need for small flats in the Borough. For the past five years, more than 80% of housing delivered has been for 1 and 2 bed flats indicating that provision has been viable with no evidence that market demand is diminishing. The Viability Study indicated that higher density schemes would have higher build costs and be challenging. They would be unviable in all but the high value areas. However, schemes with a mix of flats and houses would generate the optimum results for CIL in the lower value areas. There is no substantive evidence that flatted development for first-time buyers would fail to come forward with CIL in place.

13. Affordable housing of 40% on schemes of 10 or more homes was tested, reflecting CS policy. No receipt of grant in future was assumed, and consideration was given to introduction of the new affordable rent tenure. The appraisal showed differing results across value areas, for different tenure splits in weak/strong markets and with different benchmark assumptions. It is clear that meeting the overall 40% target and securing CIL payments will present a challenge, but the Council pointed out that critics of its appraisal had overlooked the fact that much planned development would take place on previously developed land. Taking account of existing floorspace would reduce the CIL liability. Also affordable housing would be exempt from CIL.

14. The Council's paper on past schemes subject to s106 obligations [App A, CL11] showed that affordable housing provision had ranged from 0% to 100% on schemes permitted over the last three years. However, this paper suggested that, "cumulatively the Council has delivered upon its affordable housing target for the past three years". The Viability Study [CL2] concluded that CIL was unlikely to be an overriding factor for determining scheme

viability as it would typically account for 2 to 3.5% of value. Insufficient evidence has been provided, in my view, to demonstrate that the proposed CIL residential charge rate would undermine the Council's policy for affordable housing or render development unviable.

15. Suggested CIL rates from the Viability Study, after allowing for the Mayoral CIL and a buffer, ranged from £90psm for South Harrow to £220psm for Harrow Hill. The Council sought to keep the rates relatively simple whilst securing an appropriate funding contribution for local infrastructure. It observed that, in both South Harrow and Harrow Hill, with the lowest and highest viability, the planned levels of development would be modest compared with the Harrow and Wealdstone Intensification Area which is expected to accommodate the greatest amounts of development. There, the viability study had suggested a rate of £110psm, and it seems to me appropriate that this should be applied as a flat rate across the Borough. I conclude that a residential charge of £110psm is robust and justified.

Commercial development

16. The Viability Study appraised a series of hypothetical commercial developments at average rent levels which had been achieved on lettings of commercial space in actual developments. An intensification of the existing use was assumed, with commercial rents and yields estimated from local information. Build costs were sourced from BCIS and profit levels of 20% of development costs were assumed. The results demonstrated that viability varied between uses and areas across the Borough. Office developments were considered unlikely to be viable except for high quality development in selected locations. In the context of an oversupply of offices in the Borough, any significant level of office development in the near future was not expected. I consider that the proposed £nil rate is accordingly justified.

17. For retail development, BNP Paribas asked attendees of its viability appraisal workshop to comment on the development scenarios and an agreed approach was designed. The appraisal indicated that new retail space in Harrow, Pinner, Wealdstone and Stanmore would be sufficiently viable to support a CIL charge. The Council observed that these are the areas where growth is proposed. Retail warehousing and supermarkets were shown to be viable throughout the Borough. The recommended flat rate of £100psm for all retail development in the draft charging schedule would allow a substantial buffer below the estimated maximum rate. Even though the Viability Study refers to only one development scenario, I consider the proposed rate to be reasonable. The impact on smaller retail units would most likely be negligible. Developments with a gross internal area of new build of less than 100sqm would not be liable, and many new small retail businesses would take over existing buildings. I have seen insufficient evidence to support either alternative retail rates or the claim for discretionary relief in particular circumstances.

18. A rate of £nil is proposed for industrial and warehousing floorspace and D1 and D2 uses, which I support, as the appraisal of relevant developments indicated that these uses are unlikely to generate positive residual values[5]. As

[5] D1 & D2 uses – Non-residential institutions, assembly and leisure uses

the Council observed, water/ wastewater facilities would be exempt from CIL being sui generis uses and consisting of buildings into which people would not usually go.

Hotels, residential institutions, student accommodation, hostels and HMOs

19. These uses, on the other hand, were shown to generate sufficient surplus residual values to support a CIL charge (hotels up to £138psm and student accommodation up to £116psm). After allowing for the Mayoral CIL and a buffer for site-specific factors, a CIL rate of £55psm was put forward.

20. Residential institutions would include housing for older persons or care homes. A separate appraisal for the Council of a 50 unit scheme took account of the significant space taken by communal areas in older persons' developments, the likely split of 1 and 2 bed units and the likelihood that the rate of sales would be slower than for standard residential development [6]. The impact of CIL on total development costs and the residual land value was demonstrated to be very modest. CIL Guidance is clear that differential rates should be set according to economic viability, and not to give selective advantage. Therefore, even if private care homes give significant community benefits, this does not justify a zero CIL charge. I am satisfied that a CIL charge of £55psm is very unlikely to prevent suitable schemes for this type of development from coming forward. I conclude overall that the rates for the differing categories of use are informed by and consistent with the evidence.

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

21. A draft Instalments Policy is included in CL1 based on that adopted by the Borough of Redbridge and recommended for adoption throughout London. This should assist the delivery of major development. In response to concerns of Natural England, the Council drew attention to its Draft Regulation 123 list which includes references to green infrastructure. The Council advised English Heritage that it did not support discretionary relief from CIL for development associated with heritage assets but would keep this under review once CIL was implemented. I have seen no viability evidence which would support exceptional relief at this stage.

22. The Council's decision to set CIL rates as in paragraph 3 above is based on reasonable assumptions about development values and likely costs. The evidence suggests that residential and commercial development will remain viable across most of the Borough, especially those parts where substantial development is planned, if the charge is applied. I conclude that the proposed charge rate would not put the overall development of the area at serious risk.

Conclusion

23. 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 Harrow. The Council has tried to be realistic in terms

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[6] CL9–Older Persons Housing – BNP Paribas Real Estate for London Borough of Harrow CIL

of achieving a reasonable level of income to address an acknowledged gap in infrastructure funding, while ensuring that a range of development needed for delivery of the Core Strategy, recently adopted in 2012, remains viable across this London Borough. An appropriate balance between the desirability of funding infrastructure from the levy and the potential effects on economic viability across the Borough has been struck.

24. I conclude that the London Borough of Harrow Community Infrastructure Levy Charging Schedule satisfies the legal requirements of Section 212 of the 2008 Act and the 2010 Regulations (as amended 2013)[7]. I therefore recommend that the Charging Schedule be approved.

Jill Kingaby

Examiner

[7] CL11 Statement of Compliance with the Relevant Regulations and CIL Guidance, March 2013, LB Harrow Council provides details. NB. The latest CIL Guidance is dated April 2013