



The Planning Inspectorate

Report to North Somerset Council

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an Examiner appointed by the Council

Date: 5 May 2017

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

REPORT ON THE EXAMINATION OF THE DRAFT NORTH SOMERSET COUNCIL COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE

Charging Schedule submitted for examination on 16 December 2016

Examination Hearing held on 28 February 2017

File Ref: PINS/D01221/429/11

Non Technical Summary

This report concludes that the North Somerset 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.

Six modifications are needed to meet the statutory requirements. These can be summarised as follows:

- Introduce a definition of Strategic Development Areas (SDAs) within North Somerset, to which the relevant CIL charge will apply.
- Introduce a charge of £20 psm for residential development within SDAs within Zone B.
- Introduce a charge of £40 psm for residential development within SDAs within Zone C.
- Introduce a definition of use class C2 extra-care homes
- Introduce a zero charge for use class C2 extra-care homes across the District.
- Introduce a commitment for the Council to review the CIL once a revised Local Plan (or equivalent document) has been adopted.

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 North Somerset Council Community Infrastructure Levy (CIL) Charging Schedule in terms of Section 212 of the Planning Act 2008. It considers whether the schedule is compliant in legal terms and whether it is economically viable as well as reasonable, realistic and consistent with national guidance (Community Infrastructure Levy Guidance – June 2014).
2. The local charging authority, in order to comply with the relevant legislation, has to submit a charging schedule which sets an appropriate balance between helping to fund necessary new infrastructure and the potential effects on the economic viability of development across the District. The basis for the Examination, on which Hearing sessions were held on 28 February 2017, is the submitted schedule of August 2016, which is effectively the same as the document published for public consultation [November 2012], with one exception; further sensitivity testing in the updated viability work by the Council's consultants has led to an increase for residential (C3) in Zone C from £60 per square metre (£ psm) in the 2012 document to £80 psm in the submitted schedule.
3. In summary, the Council proposes a matrix approach for qualifying

development. All the rates referred to in the charging schedule and in this report are in pounds per square metre (£psm). There are three geographic zones for residential development whilst a set of rates for other qualifying development would apply equally across the entire District. The table below sets out these rates.

Table 1: North Somerset Draft Charging Schedule

Locations	Use Class	Proposed rate/sm
Zone A: Weston Town Centre/Inner Weston	Residential (C3/C4)	£0
Zone B: Outer Weston	Residential (C3/C4)	£40
Zone C: Rest of District	Residential (C3/C4)	£80
All (Zones A,B and C)	Purpose-built student accommodation/halls of residence	£40
	Care homes (C2) (residential accommodation and care to people in need of care)	£40
	Large-scale retail (A1/A2/A3/A4/A5): more than 280sm net sales area	£120
	Small-scale retail (A1/A2/A3/A4/A5): less than 280sm net sales area	£60
	Commercial (B1/B2/B8)	£0
	All other qualifying development	£0

Source: Examination Document C1, Appendix A.

Issue 1 - Is the charging schedule supported by background documents containing appropriate available evidence?

Infrastructure planning evidence

4. The North Somerset Core Strategy (CS)¹ was adopted on 10 January 2017. The CS sets out the main elements of growth that will need to be supported by further infrastructure in North Somerset. The latest infrastructure evidence to support the delivery of the CS is set out in an Infrastructure Delivery Plan (IDP) dated June 2016². The total costs of infrastructure to implement the CS over the remainder of the plan period (to 2026) including the residual housing total of 13,156 dwellings, is estimated to be in the region of £892.7 million, of which £306.2 million has been identified, leaving a funding gap of £586.5 million. The Council, in its Regulation 123 List, is seeking funding for a wide range of infrastructure elements as part of this total, and its latest submission is illustrated in its response to my questioning on the Council's approach to strategic sites³, which is noted.
5. The Council's latest estimates (February 2017) are that CIL revenues may amount to around £1.3 million per annum (pa) levied on the 4,496 dwellings potentially subject to CIL (the remainder either have planning permission, or planning approval subject to Section 106/Section 278 or are otherwise

¹North Somerset Council (NSC): North Somerset Core Strategy (CS); January 2017 [Examination Document E12]

² NSC North Somerset Core Strategy Infrastructure Delivery Plan (IDP); June 2016 [Examination Document C4].

³ NSC: MF5 Further Submission on approach to strategic sites, Appendix A; 17 March 2017.

deemed likely to be consented prior to CIL). This would realise a total in the region of £12.75 million, if CIL were to become operational by mid-2017. The majority of this would be raised from residential development over the rest of the plan period, once CIL becomes operational.

6. Although this is significantly less than the amount raised from Section 106 Agreements over the last five years, which averages £3.58 million pa⁴, the Council would also receive receipts from 'residual' Section 106 Agreements, whilst Section 278 (Highways) Agreements have also yielded a modest amount which is expected to continue at the same rate (approximately £76,000 over the period 2011-2016)⁵. The Council considers that the overall difference in receipts would be minimal once CIL were operational.
7. The Council does not expect the proposed CIL rates to result in a significantly higher overall charge for each new house, after taking into account the revised approach to Section 106 (and Section 278 highways) Agreements that would apply once CIL is adopted. In the light of the above information, the proposed CIL charge would only make a small contribution towards filling the likely funding gap. However, over half of the costs of infrastructure projects in the updated IDP⁶ that are deemed priority 1, including 100% of flood related schemes, already have funding obtained, and the anticipated CIL revenues need to be set against an identified priority 1 shortfall of around £99.9 - £102.9 million, which at an estimated £12.75 million would leave a gap of between £87.15 - £90.15 million⁷.
8. Although the Council has identified a wide range of potential funding sources, including New Homes Bonus and several statutory infrastructure providers, and Government funding for flood defence and education provision, the figures still demonstrate the need to levy CIL. It will always be the case that some CIL revenue may assist other projects but it is not part of my Examination remit to question the Council's specific spending proposals either geographically or on a sector/priority basis, beyond confirming that, in general terms, the projects in the Council's Regulation 123 List should clearly assist the delivery of the CS as a whole. Nor is there any material inconsistency between the list and the policies in the CS and/or the intended CIL rates.

Economic viability evidence

9. The Council commissioned the independent viability consultants, Dixon Searle Partnership (DSP) to prepare a CIL Viability Assessment (VA)⁸, dated October 2012, together with a VA Update in August 2016⁹. These assessments use a residual valuation approach, using reasonable standard assumptions for a

⁴ NSC Community Infrastructure Levy (CIL) Draft Charging Schedule; August 2016, page 12 [Examination Document C1].

⁵ NSC: Response to Inspector Request MF1 – Explanatory Note on Section 278 Agreements; 17 March 2017.

⁶ NSC: North Somerset Core Strategy IDP 2006-2026 Update; June 2016 [Examination Document C4].

⁷ Ibid: The difference of £3 million between the two priority 1 totals is a range of £12-£15 million covering primary schools in Weston Town Centre and central Weston.

⁸ DSP Housing and Development Consultants: North Somerset Council-Community Infrastructure Levy Viability Assessment (VA); October 2012 [Examination Document A7].

⁹ DSP: North Somerset Council-CIL Viability Review Update; August 2016 [Examination Document C5].

range of factors such as benchmark land values, building and related costs, based on Building Cost Information Service (BCIS) data, affordable housing (AH) provision, sustainable construction (reflecting Building Regulations requirements through equivalence to Code for Sustainable Homes Level 4 standards), and profit levels, fees, etc.

10. Valuation appraisals were run on an appropriate range of residential and commercial/non-residential typologies, which although notional were reasonably representative of schemes considered likely to come forward in North Somerset. For residential schemes, six value levels were tested.
11. A series of notional scheme types was also assessed in relation to commercial/non-residential scenarios, including several retail and business development typologies, students' accommodation, hotel use, care home and institutional /community /health and leisure. Several local development industry stakeholders were invited to supply any readily available market information. There were also consultations with local estate agents and CIL discussions took place within local development forums during the preparation of the submitted CIL charging scheme.
12. The gathering and reviewing of property data was carried out in several stages. Firstly, desk top research using on-line property marketing (such as right move and zoopla) provided a good indication of the levels and patterns of house prices across the district. This was followed by further research using Land Registry data and a form of 'automated valuation model'¹⁰ to provide current price indications based on very large data sets and trends.
13. Based on CS policy CS16, a tenure split of 30% AH was assumed on all developments of 10 dwellings or more (or on sites of 0.3 ha or above).
14. The Updated VA (August 2016) provided recent market information with the aim of informing the Council whether there was viability scope to review CIL over the four years since the first VA was undertaken. The Council has taken the view that there is no evidence based on the VA Update to extend the proposed range of development uses to which positive CIL rates should apply, although the Update led the Council to increase the proposed CIL charge for residential development in Zone C.
15. Specific criticisms of the methodology and key assumptions are considered later in my report. I am satisfied, however, that overall the methodology is sound. In addition I consider that it is in line with the guidance in the Harman Report¹¹.

Zones

16. Following initial research, the VA identified a clear differentiation between the typical lower value levels in the inner urban areas of Weston-super-Mare as against those in the outer areas of the town, and again with those in the rest of the District. There was general agreement that there were inherent viability issues within inner Weston, including the town centre, which make the levy of

¹⁰ An 'automated valuation model' is based on the zoopla search engine and gives a view on current pricing and the pattern of land values in the District.

¹¹ *Viability Testing Local Plans: Advice for planning practitioners* (the Harman Report); June 2012.

a positive CIL charge unrealistic in these areas. On the basis of the VA evidence, I consider that the extent and boundaries of Zone A (Weston town centre and the inner Weston area) which has a proposed CIL rate of £0 psm, are appropriate.

17. The point was made by some representors, however, that there are some anomalies in the other proposed zoning boundaries between Zones B (Outer Weston) and C (Rest of District). It is not surprising, however, that some anomalies are bound to arise within a local authority area as large and varied as North Somerset. I consider that the mapping has been clear; it follows easily identifiable lines wherever appropriate, such as roads, railways and settlement boundaries. Moreover, the advice in the national Planning Practice Guidance (PPG) is that plans to set differential rates should avoid undue complexity¹², and I consider that the Council has followed this advice.

Issue 2 - Is the charging rate informed by and consistent with the evidence?

CIL rates for residential development

18. The Council's CIL rates for residential development have taken account of the relevant policies in the CS, in line with national guidance. The VA and its update have taken a 'high level' approach as recommended in the Harman Report, which states that: "*It cannot guarantee that every development in the plan period will be viable, only that the plan policies will be viable for the sufficient number of sites upon which the plan relies in order to fulfil its objectively assessed needs*"¹³. The Council accepts that some sites incur exceptional costs and that current use values will inevitably vary.
19. Several of the VA assumptions were questioned in the representations and at the Hearing, and I address each of them in turn.
- (i) *Relevant local data*
20. In connection with the use or otherwise of relevant local data, the Council points to a considerable amount of local research, which is documented in the VA. As the VA states, the approach taken is a 'high level' view, in accordance with the PPG, which warns against excessive detail¹⁴. The VA analyses potential valuation levels based on large data sets from on-line property marketing sources within North Somerset. These are appraised at six value levels, which are summarised in Figure 6 in the VA, with the detailed data sets provided in Appendix III¹⁵. The VA also advises that the situation in practice is a dynamic, highly variable one, and that the viability work is not an exact science.
21. Figure 6, in setting out a range of six residential values across the District, provides the basic rationale for the zoning approach which the Council has adopted in its CIL. In brief, Value Level (VL) 1 with revenue sales values of

¹² PPG Reference ID: 25-021-20140612 *Can differential rates be set?*

¹³ Harman Report, 5th key principle, page 10.

¹⁴ PPG ID: 25-019-20140612 *How should development be valued for the purposes of the levy?*

¹⁵ VA Appendix III Market and Values Research [Examination Document A10].

around £1,700 psm, applies to the town centre and inner urban Weston-Super-Mare, and this has been included in Zone A in the CIL charging schedule. VL2, at around £2,000 psm, applies to outer Weston and the lower value villages on the edge of Weston, and these have been included in Zone B; VL3, at around £2,300 psm and VL4, at around £2,600 psm apply to Nailsea, Portishead, Clevedon and lower value villages (rural), which are all included within Zone C; and finally VL5, at around £2,900 psm and VL6, at around £3,200 psm, apply to the higher value villages (rural), which are also included in Zone C. This work, which was supplemented during the consultation process, including a stakeholder consultation exercise, justifies setting the differential rates proposed.

22. Taking all of the above factors into consideration, I am satisfied that the Council's high level approach is in accordance with the PPG, and provides an appropriate basis for setting the boundaries of the Council's CIL charging zones.

(ii) Range of site types tested

23. There was no significant disagreement over the use of small site typologies, with scheme types based on 1, 5, 10, 25 dwellings being tested. There was also testing for schemes of 30 and 80 dwellings for certain matters as well as for 100 and 500 dwellings. A key area of discussion at the Hearing centred on the lack of any scheme testing within the 25-100 dwelling range, on schemes which would be subject to differing densities, net/gross land take and infrastructure costs.
24. The Council's view is that the principal cut-off in scheme viability is between small sites and strategic sites, and it defines a strategic site as one of sufficient scale to be critical to whole plan delivery in its own right, and a site which involves significant infrastructure provision as development mitigation, e.g. on-site school provision or a major road extension. The threshold for such sites, the Council argues, might be considered to be around 500 dwellings, and sites in the 25 - 100 dwellings group do not share these characteristics, and are, generally speaking, relatively straightforward to develop.
25. I heard no persuasive arguments for increasing the range of site analyses to include further sites of between 25-100 units, and on the evidence before me, I consider that the range which is assessed in the VA/Update is sufficient for the purposes of this CIL.

(iii) Density assumptions

26. There were challenges to the housing density assumptions used in the CIL viability work, and in particular the use of 50 dwellings per hectare (dph) in rural areas, which were considered to be unrealistic. The Council stated that three density assumptions were used – at 30, 40 and 50 dph. It also pointed out that a density of 50-55 dph is not an unusual assumption for mixed housing development, including a range of house types, incorporating townhouses and flats. This accords with Appendix A of the Harman Report, which gives typical densities for greenfield sites at 40 dph, whilst brownfield sites typically vary from 80 to 160 dph.

27. As for rural sites, I note that those on the edges of villages can typically be built at densities of around 50 dph in North Somerset. Moreover the CS, with its focus on urban areas, aims to achieve relatively high density housing, whilst the Council's emerging Site Allocations Development Plan Document (DPD)¹⁶ suggests an expected average density of 57 dph. On this basis and the lack of any robust evidence to the contrary, I consider that the Council's density assumptions in its CIL viability work are reasonable.

(iv) Gross to net land take assumptions

28. Some representations state that the Council has shown lack of clarity in its gross to net land take assumptions used in the VA. The Harman Report is quoted, which states that the difference between net and gross areas can be significant, and applying an average density to the gross area can give a very misleading result¹⁷. The Council has recognised this danger and has applied a notional 10% land take increase¹⁸. Whilst this is perhaps not the ideal method, it has the benefit of simplicity and transparency in the calculations. In the context of a high level valuation method, such as this, applying a notional increase is an appropriate approach.

(v) Allowance for infrastructure costs

29. The Council's allowance of £4,000 per dwelling unit for infrastructure costs is criticised as falling a long way short of the range set out in the Harman Report¹⁹, which is £17,000 - £23,000 per unit. This, however, refers to strategic sites, whilst the main focus in North Somerset for the remainder of the CS period (in which the CIL will be operational) will be on small sites. I consider the allowance for infrastructure costs to be reasonable.

(vi) Residual Section 106/Section 278 costs

30. The Council's figure of £3,000 per dwelling unit for residual Section 106/278 costs is criticised in some representations as not being supported by sound evidence. The Council's explanation is that the figure of £3,000 per unit has been incorporated into DSP's viability appraisals, and that the results of the VA show that the figure is, if anything, overgenerous. Considering this, the figure used appears to me a reasonable one. In the absence of any more convincing alternative evidence, it should be regarded as appropriate.

(vii) Assumptions on profit levels, build costs and finance costs

31. Concern is expressed in some quarters that the Council's assumptions covering a range of profit levels, build costs and finance costs, are over-optimistic, leading to flawed viability conclusions. The Council has assumed profit levels of 20% of gross development value (GDV) for private sector housing and 6% for AH, where the level of risk is much lower. The point is made by the Council, however, that in many current schemes, lower

¹⁶ Examination Document E15.

¹⁷ Harman Report, Step 3, under final bullet point, page 36; also see Appendix B.

¹⁸ The Council, in its MF2: Explanatory Note, has confirmed that all sub-500 dwelling scenario testing used a 10% non-development land area assumption, whilst for the 500 dwelling scenario tests, a 12.5 ha net development area and a 17 ha gross (total) site area was assumed.

¹⁹ Harman Report, Appendix B, Section 2: Strategic infrastructure and utility costs.

percentage profit margins are built in, with 17% not an uncommon figure in the 'real world' experienced in North Somerset in recent years. Clearly, profit levels can vary from one developer to the next and from one scheme to the next.

32. In relation to build costs, the VA, based on BCIS, assumes 15% for external works (covering servicing, access, landscaping, etc. associated with non-strategic scale development), plus a £4,000 per dwelling site preparation allowance. The Council maintains that this estimate is generous and that recent experience reveals figures as low as 10% have been used. Moreover, a further contingency element of 2% has been added, to reflect enhanced energy efficiency, but again the Council's viability consultants state that this element is only irregularly used in practice.
33. Finally, in relation to finance costs, fees and build cost contingency, the VA makes allowance for these at full levels, whilst in practice these levels vary. On the basis of the evidence presented at the Examination, I concur with the Council's submission that its assumptions on profit levels, build costs and finance costs are not only realistic but are, if anything, generous.

(viii) Affordable housing (AH) assumptions

34. Concern was expressed, firstly that the AH assumptions in the draft CIL charging rate were for lower proportions of AH than in the CS; secondly that the make-up of the AH provision might not reflect the local needs situation in North Somerset; and thirdly that starter homes should not be included as part of the AH provision for the District.
35. The Council explained that the lower AH figures were part of the sensitivity testing for the Weston Town Centre Supplementary Planning Document (SPD), and should be viewed in this exercise as contextual. This work has not driven down the AH assumptions used in formulating the proposed CIL rates for North Somerset.
36. Policy CS16 of the CS provides for 30% AH to meet local needs on all residential developments of 10 dwellings or more or on sites of 0.3 ha or above. The make-up of AH within policy CS16 is for 82% social housing and 18% intermediate housing. The Council clarified at the Hearing that the VA and VA Update were based on these parameters²⁰.
37. The issue of starter homes was raised by some representors at the Hearing. The Council's response to the concerns raised was that starter homes were not included in the 30% AH proportion. Its view is that: "*The potential introduction of starter homes would create a further element of 'viability contingency' against which our proposed rates are set. At the current time, however, no reliance at all has been placed on the influence of potential future changes, with many unknowns still involved in such respects and unlikely to be settled quickly in the coming months*".²¹
38. The Council's responses to the above concerns did not lead to further

²⁰ See, for example, VA paragraph 2.3.10 [Examination Document A7].

²¹ NSC Response to Participant Hearing Statements, top of page 15 [Examination Document E10].

challenges or questioning at the Hearing. In conclusion, I consider the Council's explanations to be reasonable and appropriate as to the way the AH assumptions contributed to informing the CIL charging rate.

(ix) Changes in land values

39. Concern was expressed that no evidence has been provided in relation to land values. However, the VA Update, which covers the implications of the 19% rise in house prices between the 2012 and 2016 in North Somerset, explains that the main conclusions of the 2012 VA held good. The only change in the Draft CIL Schedule arose from a further added sensitivity test of £80 psm for the outer areas in Zone C (which had been recommended for £60 psm in the initial CIL preliminary draft charging schedule²²). In the light of a number of factors including the rise in land values, this shows the limited impact that a marginal increase in the CIL rates would have in VL areas 4, 5 and 6 covering the higher value areas of the District²³.
40. On the basis of the evidence before me, I am satisfied that the Council has taken land values into account, including their increases between the 2012 VA and the VA Update in 2016 in the determination of the submitted CIL charging rates.

(x) Viability buffer

41. Concern was expressed that the VA failed to provide a viability buffer. In response, the Council explains that the methodology it has used in the VA is to avoid putting forward CIL charging rates at the margins of viability through the use of appropriately set, prudent assumptions; this has kept charging rates well away from maximum levels. In this way, buffering has been built into the whole approach, and there is therefore no need to set an additional amount as a buffer. On the basis of the evidence, I concur with the Council's explanation as to why a separate viability buffer has not been included in its methodology.

Strategic sites

42. The Council's submitted charging schedule applies to all qualifying development, including strategic housing sites. Some respondents express concerns that the viability implications for larger sites are significantly different than for smaller sites, and that the Council will be bringing forward sites of 500 dwellings and above during the CS plan period. They state that the emerging West of England Joint Strategic Plan (JSP)²⁴ is likely to bring forward additional larger sites in the near future, including some within North Somerset. They recommend that the Council should identify a size threshold, above which CIL is charged at a nil rate and infrastructure and environmental mitigation for these sites is secured through Section 106 Agreements. However, there is no agreed general definition of 'strategic sites' in relation to CIL; even the phrase 'larger sites' can be misleading, as in planning terms,

²² NSC: Community Infrastructure Levy-Preliminary draft charging schedule; November 2012, page 11 [Examination Document A1].

²³ VA Update, Section 3 and especially paragraph 3.2.8.

²⁴ West of England Joint Spatial Plan (JSP): *Towards the Emerging Spatial Strategy Document*; November 2016.

sites as small as 10 dwellings can be included within this category.

43. Evidence was presented by Savills to argue for the definition of strategic sites to be as low as between 100-200 units²⁵. The Council's rebuttal²⁶ states that the table of infrastructure site costs relating to sites of 200-500 dwellings (table 3 in Savills evidence) only illustrates the range of costs that might apply, and cannot in any way be used to provide an 'average' as claimed. The Council points out that the figures range from £5,116 per dwelling for combined scheme enabling and abnormal costs/Section 106 scheme mitigation for a scheme in Tameside in Greater Manchester, to £48,300 per dwelling for a scheme in Cherwell District Council.
44. I consider that it is inappropriate to apply the results of this table directly to North Somerset, as there are too many 'unknown' characteristics of the sites assessed, e.g. whether they are brownfield/greenfield; urban/rural; or subject to significant abnormal costs, in addition to the differing land markets represented in the examples listed in the table, and that it: "*does not in any way inform the North Somerset scenario*"²⁷. The Council also makes the telling point that once the Section 106 costs are excluded, table 3 shows a range of £3,000 to £34,000 per dwelling, with a mid-point of around £17,000. The Council's consultants, DSP, use a figure of £25,000 per dwelling, which whilst higher than that suggested by Savills, still demonstrates viable results, and the Council's results also apply to smaller developments.
45. Having considered all the evidence presented before, at and after the Hearings, I am not persuaded that sites of around 200-500 dwellings should be treated in the same way as sites of over 500 dwellings. I therefore do not agree that a nil or lower CIL rate should be introduced for sites of below 500 dwellings.
46. Turning to sites of 500 dwellings and above, the VA Update refers to the recent growing practice for the use of Section 106 as the key infrastructure contributions tool for strategic site development, where Section 106 is considered to offer greater flexibility than the CIL charging regime. The VA Update advises that "*NSC may also wish to consider an alternative approach if there remains a significant level of strategic development still to come forward by the time its CIL is due to be implemented*"²⁸ and goes on to suggest an approach in the range of £0-40 psm for schemes which are crucial to securing the overall delivery of the plan.
47. In response to the representations and considering the advice of its consultants, the Council acknowledges that Section 106 development contributions can be advantageous in securing the timely delivery of infrastructure and enabling delivery-in-kind. It argues, however, that this consideration is outweighed by the Section 106 pooling restriction to five separate agreements. Although the report of the national CIL Review Team

²⁵ Statement by Savills on Strategic Sites, in response to Document MF3.

²⁶ NSC Response to Document MF3: Strategic Site Note by Savills; 24 March 2017 [Examination Document MF11].

²⁷ Ibid, Appendix A, paragraph 6.

²⁸ Ibid, paragraph 3.3.18.

recommends the removal of the pooling restriction²⁹, this is not Government policy, and there is no guarantee that it will become so.

48. Unlike some local authorities, which have had positive experiences in delivering strategic infrastructure and achieving important environmental mitigation through the use of Section 106 Agreements, this has not been the case in North Somerset. Recent experience here has been more problematic. A case in point has been the situation in the Weston Villages, where initial expectations of delivery through five planning applications have been undermined through additional developer applications to change their proposals and/or expand their development areas.
49. The Council also stated in its evidence and at the Hearing that most or all of the large sites programmed for delivery within the remainder of the CS plan period either have planning permission or will have permission prior to the CIL becoming operational, and that in any event, the main focus in the CS for the remainder of the plan period is an emphasis on smaller sites. The Council also makes the point that once established, the CIL is likely to yield a smooth flow of finance rather than the uneven, wildly fluctuating income experienced in the flow of Section 106 receipts over recent years.
50. From the debate at the Hearing and from several representations, it is clear that the Council realises the potential benefits from increased financial contributions which could be realised from Section 106/Section 278 Agreements and the bespoke way in which these financial inputs can secure key infrastructure elements, such as schools. In its response to my questioning, the Council has made a further submission on its approach to strategic sites³⁰. This document states that the approach to strategic sites needs to be reviewed alongside the review of the emerging Local Plan in 2018/19, and I return to this later in my report.
51. The Council's further submission refines the definition of Strategic Development Areas (SDAs) to include the following:
 - The Weston Villages, as defined in the Weston Villages SPD, or as amended through subsequent planning policies;
 - Individual development sites of 500 or more dwellings;
 - Any other strategic sites or SDAs identified in an appropriate planning policy by NSC.
52. I consider that the above definition of SDAs is appropriate for North Somerset, and provides a sound basis to consider the viability of these areas. It is therefore formally recommended as a modification that this definition is included within the CIL **[EM1]**.
53. The 500 dwelling scenario test has been updated and extended in the Council's further submission and the assumptions are set out in that document³¹. In

²⁹ Report by the CIL Review Team: *A New Approach to Developer Contributions*, paragraph 5.2.8-second recommendation [Examination Document E12].

³⁰ NSC: Note in response to MF5-Further Submission on Approach to Strategic Sites; 17 March 2017.

³¹ Ibid, six main assumptions explained on page 5.

brief, the document states that the most recent testing has looked at (i) housing mix and assumed density unchanged at 40 dph; (ii) assumed developable area of 12.5 ha against a gross site area of 17 ha; (iii) assumed upfront land cost of £250,000/ha applied to the gross area (£4.25 million for 500 dwellings); (iv) BCIS build costs and all the other assumptions including on dwelling size, sales revenues and AH revenue, which have been set by the 2016 VA Update; (v) an allowance of £25,000 per dwelling for site works and infrastructure (in excess of the Harman Report guide range of £17,000 – £23,000 per dwelling); and (vi) testing has been carried out for Outer Weston (Zone B) at VL2 and for Rest of District (Zone 3) at VL3, which represents a 'worst case' scenario.

54. Based on the above considerations and the need to strike a balance between infrastructure delivery and development viability, the Council proposes a series of further amendments. No changes are proposed in relation to Zone A (inner Weston) as this is already proposed for a zero CIL charge, and I see no reason to come to a different view.
55. Strategic sites are already well advanced in Zone B (outer Weston) and unlikely to be liable for CIL. I share the Council's concern about introducing changes which might lead to developers wishing to 'unpick' existing agreements on the basis that a CIL regime may be more favourable. The Council also points out that it is already experiencing difficulties, as the original five intended planning applications have increased to nine, and there is still the possibility of one or two sites of around 500 dwellings coming forward during the plan period.
56. In the light of these considerations, the Council has adopted a more cautious approach and proposes a 'nominal' charge of £20 psm to be applied to strategic sites in Zone B, representing 50% of the standard residential charge. It would also protect the Council's ability to deliver off-site infrastructure, including transport requirements. I recommend this amendment **[EM2]** as a reasoned and proportionate approach to addressing the viability and deliverability issues likely to affect Zone B.
57. The Council has applied the same reasoning in relation to the Rest of the District (Zone C). It suggests that the CIL rate for this area is set at 50% of standard rate, i.e. £40 psm. It is possible that, although the JSP is at an early stage, two SDAs provisionally identified for North Somerset at Nailsea/Backwell and the M5 to A38 transport corridor would appear to be subject to only 'normal' infrastructure requirements rather than 'showstopper' issues. The picture is not straightforward, and there would be significant requirements for community infrastructure such as new schools (for example five new primary schools costing £30 million to serve an estimated 5,400 new dwellings in the M5 to A38 corridor). On balance, however, I agree with the Council's suggested amendment to the rate for Zone C as pragmatic in the circumstances and I recommend the suggested amendment **[EM3]**.
58. The critical caveat to the Council's proposed changes to its approach to CIL charges in relation to strategic sites is its suggested review of the CIL, once the implications of further growth allocations are known. An early review of the CIL is therefore a key requirement and it is formally recommended as a modification that a commitment to review the CIL should be made once the

revised Local Plan (or equivalent document) has been adopted **[EM4]**.

59. Overall, in the light of the above, I concur that the application of the levy to strategic sites is justified by the evidence.

Older peoples' housing

60. The submitted CIL includes a proposed rate of £40 psm for all C3 uses within Zone B and £80 psm within Zone C. Use Class C3 includes a wide spectrum of market housing. The Council's view is that it would be inequitable to support a reduced or other differential rate for sheltered, retirement or other types of age-restricted housing, which it considers to be no less viable per se than other forms of market housing.
61. Representations in favour of a zero CIL rate for older peoples' housing are based on firstly, the need to cater for the ageing population; secondly, the minimal (or 'unrefined', as one representor puts it) amount of base evidence to assess the viability of sheltered housing (only one scheme analysed) in North Somerset; and thirdly, on the body of evidence from elsewhere in the country, that sheltered and other age-related housing schemes are not viable with a positive CIL charge.
62. The Council agrees that it is important to make provision for housing for older people, and points to a number of CS and Development Management DPD policies³² as evidence that it takes the matter seriously. The Council also makes the point that CIL should not be used to implement policy objectives, which could run foul of state aid considerations.
63. In relation to detailed viability information on older persons' housing, the Council points to a recent C3 retirement scheme of 57 units in Portishead, which achieved sales values over the period November 2013 to mid-October 2015, equating to just under £3,600 psm. This compares to the average range for Portishead for one and two-bed apartments and other house types in that area which equate to £2,737-£3,095 psm i.e. a differential of £505-£863 psm³³. It is also the case that many schemes for older occupiers will be classified as AH and are exempt from CIL, or that they will be built as redevelopments of existing properties, leading to a reduction of charges on the grounds of existing floorspace.
64. One of the representations offers a list of characteristics which it considers may be identified within C3 extra-care housing³⁴. I have read through this list, and I come to the view that this list generally supports the Council's view that C3 extra-care housing should not be differentiated from other forms of C3 housing for older people. I am therefore not persuaded that this amounts to compelling evidence to justify a lower or zero CIL rate for housing which falls within Use Class C3.

³² CS policy CS15 (mixed and balanced communities); and Development Management Policies DPD policy DM40 (retirement accommodation and supported independent living for older and vulnerable people) and policy DM41 (nursing and care homes for older people and drug and alcohol rehabilitation units).

³³ Ibid: The full calculations are set at the top of page 7.

³⁴ Pegasus Group: Note in response to MF4 – Definition of C3 extra-care housing and viability implications; 17 March 2017.

65. Whilst I note the examples of market housing for the elderly elsewhere in the country which have been drawn to my attention, no evidence has been submitted to this Examination which challenges the Council's evidence on 'real world' conditions in North Somerset, limited though it is. On balance, taking account of all the evidence submitted, I consider that the evidence supports the rate proposed for market housing for older people under Use Class C3.
66. I now turn to the provision of specialist, extra-care housing, which is classified as Use Class C2. A fundamental part of the C2 Use Class definition is its reference to accommodation which offers housing with care, and I take this 'care' aspect as being an integral element of the accommodation offered. My view is in line with an appeal decision for a scheme at Slade Road, Portishead³⁵ which I was referred to at the Hearing. In this decision, the sole issue was whether the proposed use fell into Use Class C2, as opposed to Use Class C3. In coming to his conclusion that it did fall into Class C2, one of the Inspector's key observations is stated in paragraph 21: "*It seems to me that the provision of care pervades the whole of the development*".
67. The submitted CIL includes a proposed rate of £40 psm for C2 uses across all three charging zones in North Somerset. The point is made by representors that C2 extra-care housing is significantly different to general market housing in terms of structure and funding. Firstly, the funding streams for C2 schemes are generally provided up front by the provider, and with this comes an element of risk. In addition, a significant proportion of the total development floorspace is set aside for care and communal facilities. I was informed that these additional communal areas can typically lead to the net floorspace being around 55% to 60% of the gross floorspace, as evidenced by the Corby CIL Viability Study³⁶, which stated within its Executive Summary that: "*care homes, extra care housing and other residential institutions are unlikely to be sufficiently viable to absorb any CIL contributions*".
68. Furthermore, evidence was presented that in several cases, the 'extra-care' dimension of C2 accommodation involves the setting up of an integrated care team on the site, together with specialist equipment, all of which is expensive and needs to be in place from the outset. These considerations all point to a fundamentally different viability model to C3 housing schemes.
69. In response, the Council accepts that there is an "*absence of definitive information*" in relation to C2 accommodation³⁷, and justifies its submitted charge of £40 psm as a 'mid-range' between the charging rates for Zones B and C. Even with this justification, it is difficult to understand why the proposed charge is set across all three charging zones, including Zone A, which has a zero CIL charge for C3 uses. In any event, the Council's proposed CIL charge for C2 uses cannot be described as 'robust', which is a requirement of the PPG³⁸. In the Council's response to statements from other parties at

³⁵ Appeal Reference APP/D0121/A/12/2168918; for 51 apartments for people aged 55 and over at former Portishead Primary School Site, Slade Road, Portishead, BS20 6BD; allowed on 9 October 2012 [Document MF8].

³⁶ Corby CIL Viability Study, by BNP Paribas; dated October 2012.

³⁷ NSC Response to Key Issues Discussion Paper; February 2017, page 14, second paragraph [Examination Document E4].

³⁸ PPG ID: 25-016-20140612 *What evidence is required to inform levy rates?*

the Examination³⁹, it suggests a revised CIL for C2 extra-care housing as follows:

- Nil rates for Zones A (Inner Weston) and B (Outer Weston)
- A continued use of £40 psm for Zone C (Rest of District), which it refers to as a balanced response.

70. Taking account of the above factors, I consider that the implications of the extra-care dimension would apply across the entire District. As such I conclude in relation to use class C2 that it should be exempt from a positive CIL charge. It is therefore formally recommended as a modification that the CIL charge for C2 extra-care uses should be set at a zero rate across the entire District **[EM5]**. The Council, in its response to my question⁴⁰, requested that the following definition of C2 extra care housing should be included in the CIL Charge Schedule, a definition with which I concur **[EM6]**:

"Accommodation available to rent or buy for older people or others in need of care and which meets the following criteria:

- *Residents are subject to an assessment of minimum care needs to establish eligibility to buy or lease a property;*
- *Residents are required to purchase a 'minimum care package' as a condition of occupation, to include at least 2 hours of domiciliary care per week focused on the health and social care needs of those residents; and*
- *The development has a minimum non-saleable floorspace in excess of 30% of gross internal area."*

Student accommodation

71. The VA assesses students' accommodation in the form of halls of residence and similar arrangements, and concludes that it could accommodate a CIL charge of £40 psm. Although a higher range could have been considered, the Council has aligned it to the middle of the CIL range, and notes that there is a strong investment market for it. The 80% site coverage is also a positive indicator in support of the CIL charge. In the absence of robust evidence to the contrary, I consider that this charge would not render such development unviable across the District as a whole, and which is therefore an appropriate charge to be levied.

Retail development

72. The proposed CIL charge is £120 psm for large scale developments of more than a 280 sm net sales area, and a lesser charge - £60 psm – for smaller retail developments. The retail scenarios which were run in the VA revealed the best viability of any type of development in the District, even higher than for residential. Although the Council is confident that these rates could be increased even further, with scenarios of up to £140 psm showing healthy profit margins, the lower charging rates selected by the Council were made

³⁹ NSC Response to CIL further submissions on C2/C3 extra-care housing with reference to MF4 and MF6; 24 March 2017 [Examination Document MF10].

⁴⁰ Ibid, Conclusion 2, page 6.

after taking into consideration the varied outcomes that are possible within North Somerset. On the basis of the evidence, I consider that the proposed CIL rates are therefore appropriately balanced.

73. The viability characteristics of smaller retail schemes are considered to be significantly different from larger schemes (which I define below). Two aspects stand out. Firstly, many smaller retail schemes are developed on previously developed land; and secondly, they are often associated with mixed use developments, where they are required to make a positive contribution to less viable uses, such as neighbourhood centre/community related developments. The smaller retail developments comprise three types, as distinguished by the Competition Commission and the Office for Fair Trading⁴¹. These are – (a) 'one stop shops' over 1,400 sm; (b) 'mid-range stores' between 280 sm and 1,400 sm; and (c) 'convenience stores' which are less than 280 sm. The evidence points to 280 sm as being an appropriate threshold consistent with the distinguishable difference in markets, use and viability.
74. The VA confirms the work of the national bodies referred to above, and shows noticeably lower levels of viability for smaller schemes than those indicated in the large scale retail scenarios. On the basis of the above evidence I consider that the proposed CIL charges for retail development are fair and appropriate for North Somerset.

Other uses

75. The VA does not recommend positive CIL charges for any other uses. In relation to business development, the VA advises that only with the most optimistic capitalised rental scenarios, high site coverage and /or lower land value expectations are there marginally viable schemes, and the scenarios point to little scope for CIL charging. The hotel scenarios gave a range of poor outcomes, and again a zero charging rate was considered to be appropriate. I see no reason to disagree with the Council's findings on these matters.
76. Many community uses in North Somerset were found to generate very low or sub-market income level streams and as a general rule required very significant levels of subsidy to support their development cost. Again I agree with the Council that they should be zero rated for CIL purposes.

Issue 3 - Does the evidence demonstrate that the proposed charge rate would not put the overall development of the area at serious risk?

77. The Council's decision to set three CIL geographic charge zones across the District for residential development and across the board charges for a number of other uses is based on reasonable assumptions about development values and likely costs. The evidence suggests that residential and some other forms of development will remain viable across most of the area if the charge is applied. Only if development sales values are at the lowest end of the predicted spectrum would development in some parts of the District be at risk.
78. The only charging zone that I believe would put development at risk is for C2

⁴¹ This is discussed in more detail in the VA, section 3.4 [Examination Document A7].

extra-care housing, and for this reason I have recommended that this use category should incur a zero CIL charge throughout the local authority area. I have also amended the CIL provisions in relation to SDAs in line with the Council's suggestions, based on its post-Hearing submission document.

Other matters

79. Points have been raised about the Council's monitoring of the CIL, discretionary relief and the allocation of CIL receipts to Parish Councils. However, these are matters for the Council and have no bearing on my Examination.

Conclusion

80. 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 North Somerset. The Council has tried to be realistic in terms of achieving a reasonable level of income to address an acknowledged gap in infrastructure funding, while ensuring that a range of development remains viable across the authority area. The North Somerset CS is adopted, and the emerging West of England JSP is now in its second phase of consultation, and it is intended to be adopted in 2018. In view of the implications for strategic sites in the JSP, I have already recommended (EM4) that the CIL should be reviewed in the event of changes to local spatial policies, and it may be appropriate to consider a review of the charge earlier than this date.
81. The review should consider the implications for CIL of any additional growth that is proposed, in particular if new strategic developments are identified. However, the review may conclude that no changes to the rates are required and if this is the case, the Council would not be required to resubmit rates for further examination and the originally approved Charging Schedule would continue to have effect.
82. For clarification and the avoidance of doubt, table 2 below indicates the amended charging schedule that flows from the report's modifications.

Table 2: Summary of amended CIL Charging Schedule

Locations	Use Class	Rate psm
Zone A: Weston town centre	Residential C3/C4)	£0
Zone B: Outer Weston	Residential (C3/C4) development on sites not designated as Strategic Development Areas (SDAs)	£40
	Residential (C3/C4) development on sites designated as SDAs	£20 [change from £40 in submitted CIL schedule]
Zone C: Rest of District	Residential (C3/C4) development not designated on sites designated as SDAs	£80
	Residential (C3/C4) development designated on sites designated as SDAs	£40 [change from £80 in submitted CIL schedule]
	Purpose-built student accommodation/halls of residence	£40
	Extra-care (C2) housing	£0 [change from £40 in submitted CIL Schedule]
	Large-scale retail (A1/A2/A3/A4/A5): more than 280 sm net sales area	£120
	Small-scale retail (A1/A2/A3/A4/A5):less than 280 sm sales area	£60
	Commercial (B1/B2/B8)	£0
	All other qualifying development	£0

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 Core Strategy and Infrastructure Delivery Plan and is supported by an adequate valuation appraisal.

83. I conclude that, subject to the modifications set out in Appendix A, the North Somerset 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.

Mike Fox

Examiner

This report is accompanied by:

Appendix A (attached) – Modifications that the examiner specifies so that the Charging Schedule may be approved.

Appendix B (attached) – Glossary of terms used in this report.

Appendix A – Examiner Modifications [EMs] recommended in order that the Charging Schedule may be approved

Examiner Modification [EM]	Page/paragraph number	Modification
EM1	Page 12 Paragraph 54	Include a definition of Strategic Development Areas (SDAs) within North Somerset, to which the relevant CIL charge will apply.
EM2	Page 13 Paragraph 58	Introduce a charge of £20 psm for residential development within SDAs within Zone B.
EM3	Page 13 Paragraph 59	Introduce a charge of £40 psm for residential development within SDAs within Zone C.
EM4	Page 13 Paragraph 60	Commit on adopting the CIL to review the CIL once a revised Local Plan (or equivalent document) has been adopted. Such commitment should be made as part of the Council report recommending publication of the Charging Schedule.
EM5	Page 16 Paragraph 72	Introduce a zero charge for use class C2 extra care homes across the District.
EM6	Page 16 Paragraph 72	Introduce a definition of use class C2 extra care homes.

Appendix B – Glossary of terms

A1	Use Class A1 - Shops
A2	Use Class A2 – Financial and professional services
A3	Use Class A3 – Restaurants and cafes
A4	Use Class A4 – Drinking establishments
A5	Use Class A5 – Hot food take-away
AH	Affordable housing
B1	Use Class B1 – Business
B2	Use Class B2 – General industrial
B8	Use Class B8 – Storage and distribution
BCIS	Building Cost Information Service (provided by the RICS)
C2	Use Class C2 – Residential institutions, including care homes
C3	Use Class C3 – Dwelling house
C4	Use Class C4 - House in multiple occupation
CIL	Community Infrastructure Levy
CS	North Somerset Core Strategy
DPD	Development Plan Document
dph	dwellings per hectare
DSP	Dixon Searle Partnership (the Council's viability consultants)
ha	hectare
IDP	Infrastructure Delivery Plan
JSP	West of England Joint Strategic Plan
LIT	Local Infrastructure Tariff
NSC	North Somerset Council
pa	per annum
PPG	National Planning Practice Guidance
psm	per square metre
SDA	Strategic Development Area
sm	square metre
SPD	Supplementary Planning Document
VA	Valuation Assessment
VL	Value Level