



**London Borough
of Hounslow**

Hounslow Community Infrastructure Levy

Background Paper A

Examiner's Final Report

June 2015

Report to the Council of the London Borough of Hounslow

by Robert Mellor BSc DipTRP DipDesBEnv DMS MRI CS MRTPI

an Examiner appointed by the Council

Date: 4 June 2015

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

REPORT ON THE EXAMINATION OF THE DRAFT HOUNSLOW COMMUNITY
INFRASTRUCTURE LEVY CHARGING SCHEDULE

Charging Schedule submitted for examination on 28 November 2014

Examination hearings held between 18 & 19 March 2015 as part of a joint examination
with the Hounslow Local Plan

File Ref: PINS/F5540/429/6

Non-Technical Summary

This report concludes that the Hounslow 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.

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

Having regard to the viability study evidence, student housing should be charged at a nominal rate rather than at the residential rate
The simplification and clarification of the definition of the larger scale retail unit developments to which the retail charge rate is to be applied
The exclusion of ancillary parking for retail development from the definition of retail floorspace in favour of its redefinition as an 'all other use' to which the nominal charge rate shall be applied.

The specified modifications recommended in this report are based on matters discussed during the public hearing sessions and in correspondence with the Council 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 Hounslow 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 Planning Practice Guidance – June 2014).
2. To comply with the relevant legislation the local charging authority 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 hearings sessions were held on 18 and 19 March 2015 as part of a joint examination with the Hounslow Local Plan, is the submitted schedule of 8 November 2014, which is effectively the same as the document published for public consultation in September 2014.
3. The Council proposes a matrix approach whereby in summary the borough's area would be divided in to 3 charging zones for residential development with rates of £200 per square metre (psm) in CIL Zone 1 (East), £110 psm in CIL Zone 2 (Central), and £70 psm in CIL Zone 3 (West). Retail development of more than 280 sq m in floor area would be charged at £155 psm across the Borough. There would be a nil charge for healthcare, education and emergency services facilities. All other uses across the Borough would be charged at £20 psm which the Schedule describes as a nominal rate.

Is the charging schedule supported by appropriate available evidence?

Infrastructure planning evidence

4. In accordance with paragraph 175 of the National Planning Policy Framework, the Community Infrastructure Levy has been worked up, and is being tested, alongside the emerging Hounslow Local Plan. The Hounslow Local Plan 2015-2030 has been examined alongside the charging schedule and there have been Joint Hearing Sessions. The Local Plan sets out the main elements of growth that will need to be supported by further infrastructure. The Supporting Information document for the CIL Schedule (Document CIL02) identifies in Table 1.7 the objectives of the emerging Local Plan. These include those towards which CIL receipts would be put. The table includes a draft Regulation 123 list which relates these objectives to particular types of infrastructure. The infrastructure items may change during the Local Plan period and it is not part of the role of this CIL Examination to review which items are included on that list. CIL expenditure is currently proposed on:

public spaces (to support town centres);

heritage assets (to reinforce local character and identity);

green and blue infrastructure (to maximise its benefits);

education, health, leisure and cultural facilities and community halls (to deliver community infrastructure); and

transport and connectivity (to enhance connectivity).

The funding from CIL contributions would replace some existing payments made under Section 106 of the Act. However affordable housing provision and a number of site specific items would remain the subject of negotiations and contributions under Section 106.

5. In response to questions raised for Session 13 of the Examination the Council has provided updated approximate cost estimates for the main infrastructure that would be at least partially funded by CIL. These costs would include up to £124m for education facilities. This calculation assumes that schools would be extended by an additional 29.5 forms of entry across the Borough. They also include up to £65m on transport infrastructure. The transport infrastructure includes an updated breakdown of specific public transport projects. These 2 items alone would make for a total infrastructure cost of up to £189m. In addition the costs for some other infrastructure items were included in the Infrastructure Delivery Plan 2015-2030 (LP08). These included almost £26m for healthcare capital costs and between £5.75m and £6.85m for libraries. Supporting Information in Document CIL02 provides more detail in an appended Infrastructure Delivery Schedule.
6. The annual total income from S106 payments in recent years has been between £3m and £8m. Two of the largest elements have been spending on education and public transport. These would be substantially replaced by CIL funding. However the S106 payments have also included payments for affordable housing and for site specific matters, which would continue. For

residential development the viability study assumed continued S106 costs of £1,500 per unit but also tested higher payments of £3,000 per unit.

7. Against these estimated future infrastructure costs the projected CIL receipts in the 15-year Plan period are about £36.6m from residential development and £1.2m from commercial development including retail, office and all other uses. Whilst the identified need for infrastructure demonstrates the need for the CIL levy to contribute to these needs there would thus remain a very substantial funding gap to be met from other sources. Based on the above figures that gap would be up to £190m. However apart from some continuing S106 payments other sources of funding would include the new homes bonus and the recently announced housing zones grants for the development of brownfield land. In February 2015 three such housing zones were announced by the Mayor of London for sites in and around Hounslow town centre.
8. Development in Hounslow is already subject to a CIL charge of £35 per square metre (psm) for all development. It is imposed by the Mayor of London to fund Crossrail and would remain as an additional charge in Hounslow. This has been taken into account in the viability study that supports the charging schedule.
9. In the light of the information provided, it is concluded that the proposed charges would therefore make a modest but necessary contribution towards filling the likely funding gap. The figures demonstrate the need to levy CIL but other funding sources will also be needed. It is improbable that sufficient funding would be available from any other source to cover the identified infrastructure costs without the addition of the proposed contributions from the CIL charge.
10. The draft Charging Schedule is supported by evidence of community infrastructure needs. On this basis, the evidence which has been used to inform the Charging Schedule is robust, proportionate and appropriate.

Economic viability evidence

11. The Council commissioned a '*Community Infrastructure Levy and Local Plan Policies: Viability Study*', dated March 2014. The assessment uses a residual valuation approach, employing reasonable standard assumptions for a range of factors such as building costs (including sustainable construction requirements), profit levels, fees etc.
12. For residential development the model was adapted by relevant local data on existing land values for 4 types of benchmark redevelopment. All were for the development of previously-developed brownfield land (high or low value offices, industry or publicly owned land). Development on greenfield land is unlikely in Hounslow and thus was not modelled. A range of development typologies were applied with different housing mixes and densities. Likely sale prices per square metre were applied. Alternative affordable housing ratios were tested. A sensitivity test also considered increased sales values and build costs.
13. For commercial development (offices, industry, warehousing and retail) it was reasonably assumed that there would be intensification of an existing

commercial development on the same site and that values would be higher for the new development. Otherwise it would be unlikely that the new development would proceed. The study also considered hotel development, student housing, and development in Use Classes D1 and D2. However only a limited number of scenarios could practically be tested.

Conclusion

14. The DCS is supported by evidence regarding both community infrastructure needs and viability. Although some Representors are critical of specific assumptions in the VS, these criticisms are either not justified or they would not materially affect overall viability and the development strategy. Overall I consider the evidence which has been used to inform the Charging Schedule to be robust, proportionate and appropriate.

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

CIL rates for residential development

15. The Viability Study tested the viability of conventional forms of residential development (houses or flats) in 7 market areas across the Borough. It found that the ability of such schemes to make CIL contributions varied according to area and the current use of the site. However, it concluded that where these residential schemes are otherwise viable they should be able to absorb a maximum CIL rate of between £140 and £335 per square metre (psm) inclusive of the Mayoral CIL that is already applied. The study recommended a reasonable buffer between the maximum CIL rate and the proposed charge. That would allow for some variation in actual costs and values. To simplify the charging regime the study recommended grouping the 7 assessed market areas across the borough into only 3 zones. It then recommended CIL rates for these 3 zones of £200, £110 and £70 psm which are the rates now proposed in the draft Schedule.
16. Some Representors have been critical of some aspects of the Viability Study, asserting variously that the build costs, professional fees or marketing costs are too low or that a different instalment regime could affect viability.
17. Build costs were reasonably based on standard Building Cost Information Survey (BICS) data. The professional fees were subject to sensitivity testing which showed only a marginal effect on some non-strategic sites where fees to be assessed at 12% rather than 10%. Sensitivity testing on the sales period for housing developments showed no significant effect. Sensitivity testing of amendments to the assumed timing of instalments also had only a minimal impact on scheme viability.
18. Some residential developments would be unviable due to market factors, particularly in the west of the Borough where residential values are lower. Thus whereas it may be viable, for example, to replace low value outdated office space in the central or eastern parts of the Borough with higher value residential property, in the west of the Borough it may not be viable to replace high value modern office space with relatively low value housing. Consequently such schemes would be unlikely to proceed whatever CIL rate were to be proposed. Affordable housing provision on mixed tenure residential

schemes in the west of the Borough could also be affected by viability considerations, as the study demonstrates. However the current Local Plan strategy is not dependent on significant residential development in this western area. Moreover the proposed west of Borough partial plan review would provide an opportunity to reassess viability should more substantial residential development be proposed.

19. In any event, the emerging Local Plan only includes a strategic target for 40% overall affordable housing provision from all sources across the Borough. There are no targets for individual sites where provision will be subject to negotiation on a case-by-case basis in relation to viability considerations. The Viability Study concluded that where schemes show viability, they can accommodate an affordable housing requirement of between 10% and 40% without grant subsidy and between 30% and 40% in higher value areas. However many proposed housing sites are already part occupied by buildings which may qualify for vacant building credit and that may affect the provision of affordable housing. This suggests that if the 40% overall target is to be achieved there will need to be additional forms of provision. These may include 100% affordable housing schemes by the Council or registered social landlords or forms of grant funding such as the housing zones. To maximise affordable housing provision the Council is also proposing policies to support the negotiation of provision above 40% where this is shown to be viable.
20. The Viability Study does demonstrate that residential development of the Local Plan's strategic sites in the central and eastern parts of the Borough would be viable with the proposed CIL rates and with an assumed 40% affordable housing and at Level 4 of the Code for Sustainable Homes. Whilst that Code has since been withdrawn by the Written Ministerial Statement of 25 March 2015, the associated construction costs are unlikely to be materially higher when applying different carbon reduction requirements in accordance with the provisions of that statement. The conclusions of the Viability Study thus remain valid. The Viability Study also tested higher sustainability standards for residential and commercial development but these were found to affect viability and are not being pursued by the Local Plan. Neither would national policy now support their application to residential development.
21. Not all residential development would be for conventional houses and flats for general occupation. Other types of residential development could include specialist housing for students, the elderly or other groups.
22. The Viability Study appraised a single student housing scheme in Brentford and concluded at paragraph 6.49 of the study that it could have supported a maximum CIL rate of only £28 psm. Such a rate would be much lower than the proposed CIL rates for residential development. The same paragraph concluded with the sentence: *'Allowing for a buffer, which in our experience we consider to be reasonable to deal with site-specific factors, we suggest a rate nil rate [sic]'*. There is a typographical error in that last phrase. However in the Executive Summary to the Study at Table 1.7.1 there is advice that the rate for student housing should either be a nil or nominal rate.
23. As there are no separate definitions of different types of residential development the schedule would apply the same rate to student housing as to houses and flats which could thus be up to £200 psm. That would be so far

above the assessed maximum CIL rate that it would likely threaten the viability of student housing. Given that the Local Plan is seeking to encourage higher education in the Borough and also that the London Plan has identified a strategic need for student housing across London, to deter such development would impact adversely on local and regional planning objectives.

24. To reflect the advice in the study it would be necessary to reduce the rate for student housing to either a nil or nominal rate. The assessment does suggest that student housing is capable of making some contribution to infrastructure. The nominal £20 rate would leave a buffer of about 30% below the maximum CIL rate. In the circumstances I conclude that the rate for student housing should be reduced from the full residential rate of £70-£200 to the nominal rate of £20.
25. There are other forms of housing which were not identified or appraised in the Viability Study and yet which may vary to some degree in terms of values and construction costs. These could include assisted living housing, retirement/extra care/sheltered housing, and houses in multiple occupation. As forms of residential development these would be subject to the main zonal rates. However some of these housing types are unlikely to be new build developments. Conversions of existing space would be credited with that space resulting in a lower CIL charge, if any. The costs and values of some of the other new build housing types such as sheltered housing are unlikely to be very different from some of the high density flats developments that have been modelled.
26. The Council points out that no representations were received which challenged the proposed residential definition in the Charging Schedule or suggested an alternative rate for other residential types. The Council suggests that while the characteristics of extra care residential housing might differ in terms of floorspace breakdown to standard residential housing, overall the viability would not be expected to differ between the two types. The variations in floorspace will not impact on the overall viability of the scheme, with extra care housing generally being designed with larger communal areas than standard housing but built at a higher density to offset any reduction in values.
27. Where development would be viable the proposed CIL residential rates include a buffer below the maximum rates that were identified in the Viability Study. There remains a possibility that the viability of some types of specialist housing might be affected at the margins. This is a matter which should be examined more closely at the next review of the CIL charging schedule. However there is unlikely to be a significant effect on the objectives of the emerging Local Plan.
28. It is concluded that, subject to the reclassification of student housing as a use subject to the nominal rate rather than the residential rate, the proposed rate for residential development is adequately justified by the evidence and is robust, proportionate and appropriate.

CIL Rate for Retail Development

29. The Viability Study found that the viability of retail development varies both

with its location within the Borough and with the size of the premises. On the first count, the Viability Study concluded that retail development in Chiswick and Hounslow town centres would in principle generate values sufficient that even small new shops could viably support a significant CIL contribution. However as these town centres both provide little scope for new retail floorspace, and because small extensions up to 100 sq m would attract exemptions from the charge, the Study reasonably recommended against seeking to apply more than a nominal levy rate in that area. Elsewhere in the Borough a high charge rate on the development of small retail premises would be more likely to risk the viability of such developments. For these reasons the Study therefore recommended that all smaller retail premises be subject to only the nominal charge rate.

30. However the Study found that larger retail premises are likely to have enhanced viability, particularly as they are more attractive to national retail chains. The lower risk of such developments would reduce yields and enhance their capital value. Neither are these values highly location sensitive. The draft charging schedule therefore proposes a levy rate across the Borough of £155 psm for any retail development that falls within the following definition: *'Convenience-based supermarkets or superstores and retail warehousing creating net additional space of over 280 sq m or where the gross retailing space is over 280 sq m'*. Footnotes provide the following additional definitions:

Footnote 1 *'Superstore/supermarkets are shopping destinations in their own right where food shopping needs are met and which can also include non-food floorspace as part of the overall mix of the unit.'*

Footnote 2 *'Retail warehouses are large stores specialising in the sale of household goods (such as carpets, furniture and electrical goods), DIY items and other ranges of goods, catering mainly for car-borne customers.'*

31. These complex definitions could create difficulties of interpretation. In combination they do not in fact exclude the sale of any type of goods in premises over 280 sq m. As footnote 2 includes *'other ranges of goods'* it would not for example exclude clothing or office supplies, as the Council has confirmed. There is no locational definition of retail warehouses. Indeed there is nothing to distinguish a 'retail warehouse' from any other retail unit of the same size. Also the distinction between those 'retail warehouses' with 'mainly car-borne customers' and those without does not have clear underpinning evidence on grounds of viability. Neither is the same requirement applied to supermarkets even though they may generate higher values than some comparison goods shops. If the car-borne customers test were to be used to determine whether or not a development should pay the charge, then it would be necessary to predict in advance how customers would be likely to travel to the store. That would be difficult without a survey of customer habits at that location and such a survey would not be possible as the shops would remain unbuilt at the time of assessment.
32. The references to net and gross floorspace are also confusing given the way that such terms are used for commercial property. Here it could either refer

to the net addition of gross retail floorspace or alternatively to the addition of net retail floorspace, resulting in different figures.

33. Given the lack of discrimination between different types of retail premises on any grounds other than floorspace, the definitions are unnecessarily complicated. They should be amended in the interests of clarity and certainty such that the charge would apply to all new retail premises over 280 sq m gross floor area and to all extensions to existing retail premises where the increase in gross floor area is itself over 280 sq m.
34. At hearing Session 14, consideration was given to whether smaller extensions to retail premises should be charged if the resulting floor area of the whole retail unit then exceeded 280 sq m. However extensions of less than 100 sq m would be exempt from a charge in any event. Moreover, as the draft charging schedule refers to a charge only where the net additional space is over 280 sq m, it could not be amended at this stage. To do so would bring other smaller types of development within the scope of the charge for the first time. That would require that the schedule had first been subject to another round of public consultation and examination. Should the Council wish to pursue that approach it would need to await a future review of the schedule.

Ancillary Covered Parking

35. A CIL charge would not in any event apply to surface parking for any form of development since it only applies to floorspace within buildings. However, as it applies to all ancillary floorspace within buildings it would apply to covered parking such as garages or basement parking for all types of development. In most cases this is likely to have only a marginal effect on development costs and values. However a number of Representors have queried the application of the CIL charge to ancillary parking for retail development.
36. Retail development may include extensive covered parking which could potentially equal or even exceed the amount of retail floorspace. To charge the full £155 retail rate on such floorspace would risk a significant effect on development returns that has not been justified by viability evidence. In particular it would place retail developments with covered parking (typically in town centres) at a disadvantage compared to retail development with surface parking (often out of centre). To discourage basement or multi-storey parking would also mean that land may be used less efficiently. Following discussion the Council supports an amendment to the Schedule which would apply only the nominal £20 rate to such parking for ancillary development. That same rate would already apply to covered ancillary parking for other types of commercial development which are to be the subject of the nominal rate for all floorspace. Covered parking for residential development would be charged at the same rate as residential floorspace in the same zone.
37. It is concluded that, subject to the simplification of the definition of retail development (which would not materially affect the liability to the charge) and to the amended footnote reference to ancillary parking for retail development, the retail charging rates (including the nominal rate for smaller premises) are justified by the evidence.

Nil CIL Rate for Specified Uses

38. The Viability Study considered a range of uses within Use Classes D1 and D2. Because of the variety of such uses individual viability testing was not practicable. However the study commented that many uses do not accommodate revenue generating operations and often require public subsidy to cover high operating costs. The study therefore recommended a nil or nominal rate for most such uses. However in the specific case of healthcare, education and emergency services facilities the Study recommended their exclusion which can be achieved by applying a nil rate in line with practice for the Mayoral CIL. That is appropriate and justified.

Nominal CIL Rate for 'All Other Uses'

39. The Viability Study examined a number of other types of commercial and other development including offices, industry and warehousing, hotels, student housing and some uses within use classes D1 and D2 which may include gyms, theatres, cinemas and places of worship. However it was not practicable to test every scenario. In the case of offices the only location which the study concluded could support a higher CIL charge was in a part of Chiswick which is however already built out. Otherwise the Study concluded that these uses would only support a nominal or nil charge (in addition to the Mayor's CIL charge). Some uses would attract exemptions due to their charitable status.
40. The Government's Planning Practice Guidance provides that there is no requirement for a CIL rate to exactly mirror the evidence. The Guidance also identifies that charging authorities do not have to set a nil rate, they can set a low rate (paragraph 21, Reference ID: 25-021-20140612). The Council has proposed a nil charge for healthcare, education and emergency service facilities but a rate of £20 psm for all other uses.
41. Some Representors have objected that a £20 rate has not been tested by specific evidence for uses such as warehousing or theatres. The Council responds that the CIL charge would replace the majority of S106 and S278 contributions previously required, that it would be unreasonable to expect developments not to contribute to infrastructure, and that the nominal rate would be so small a proportion of Gross Development Value (GDV) as not to be the determining factor in scheme viability (eg hotel 0.34%, industrial 0.85%, office 0.31-0.57%). Because it would also be a small proportion of overall costs it is unlikely that the nominal rate would be a determining factor as to whether the other types of developments proceed.
42. The Representors have not provided substantive evidence to contradict the Council's claims or to demonstrate that there would be harm to viability such that development that is important to the Local Plan would not proceed.
43. In the circumstances it is concluded that the application of the nominal rate is unlikely to materially affect whether development does or does not proceed and that its application is justified.
44. Overall and subject to the above modifications it is concluded that the proposed charging rates 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?

45. The Council's decision to employ a matrix approach is based on reasonable assumptions about development values and likely costs. The evidence suggests that residential, commercial and other forms of development will remain viable across most of the area if the charge is applied. Some developments would not be viable, whether or not CIL is charged at the proposed rates. However the instances of a development not proceeding only because of the CIL charge are likely to be few and would be unlikely to materially affect the development strategy in the Local Plan. The Council is not proposing to allow for relief from the charge in exceptional circumstances. That decision is at the discretion of the Council and not a matter for this examination. It could be introduced at a later date should the Council conclude that it is necessary because certain types of desirable development are being frustrated. The Council is proposing to require CIL payments by instalments and the same instalments system would then apply to the Mayoral CIL in Hounslow.

Proposed Modifications

46. For the above reasons the Council has agreed that the definition of retail development should be simplified (including deletion of the relevant footnotes), that ancillary parking for retail development should be subject to the nominal rate (including new footnote), and that the rate for student housing should be reduced from the residential rate to the nominal rate (including new footnote).
47. None of these changes are required to comply with the drafting requirements but, for the avoidance of doubt, they are set out in the Appendix at the end of this report. This includes an additional footnote to confirm for clarity that covered parking for residential development would be charged at the same rate as residential floorspace in the same zone.

Conclusion and Recommendation

48. In setting the CIL charging rate the Council has had regard to detailed evidence on infrastructure planning and also to the economic viability evidence of the development market in Hounslow. The Council has sought 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. Subject to the proposed modifications the Charging Schedule would ensure an appropriate and necessary contribution towards infrastructure provision to deliver the Hounslow Local Plan.
49. The Hounslow Local Plan has just been examined and is likely to be adopted within a few months. It may be an appropriate time to consider any revision to the charge before the end of the first 3 years of the Local Plan period and certainly within 5 years. In any case a review may be needed to accompany the Council's proposed partial reviews of the Local Plan. In particular, the proposed West of Borough Plan review of the Local Plan is likely to propose more development in line with the Heathrow Opportunity Area estimates in the

London Plan. The evidence for the CIL examination suggests that development viability is more challenging in that part of the Borough.

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 Local Plan I have examined and Infrastructure Delivery Plan and is supported by an adequate financial appraisal.

50. I conclude that subject to the modifications set out in Appendix A the Hounslow 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.

R P E Mellor

Examiner

This report is accompanied by:

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

	<p>Add:</p> <p>'Footnote 3</p> <p>Covered parking for residential development would be charged at the same rate as residential floorspace in the same zone.'</p>
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