The Planning Inspectorate

Report to Lichfield District 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 LICHFIELD DISTRICT COUNCIL COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE

Charging Schedule submitted for examination on 26 November 2015

Examination hearings held on 28 January 2016

File Ref: PINS/K3415/429/6

Non-Technical Summary

This report concludes that, subject to some recommended modifications, the Lichfield District Council Draft Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area.

There are three modifications required. First, the reduction of the residential development CIL to £14 per square metres in all of the Strategic Development Allocations and the 'North of Tamworth' Broad Development Location as defined in the Local Plan Strategy. Second, a clarification that residential apartments will not incur CIL. Third, the introduction of definitions for retail development types that will be subject to CIL.

Subject to these modifications, the Council is able to demonstrate that it has sufficient evidence to support the Schedule and can show that the levy rates would be set at levels that will not put the overall development of the area, as set out in its adopted Local Plan Strategy 2008 - 2029, at risk. The proposals will secure an important funding stream for infrastructure necessary to support planned growth in the district.

Introduction

1. This report contains my assessment of Lichfield District Council's draft Community Infrastructure Levy (CIL) Charging Schedule in terms of Section 212 of the Planning Act 2008 (as amended). It considers whether the schedule is compliant in legal terms and whether it is economically viable, as well as reasonable, realistic and consistent with national guidance set out in the National Planning Practice Guidance (PPG).

2. To comply with the relevant legislation and guidance the local charging authority has to submit a charging schedule that should set an appropriate balance between helping to fund necessary new infrastructure and the potential effect of the proposed CIL rates on the economic viability of development across its area.

3. The basis for the examination, on which Hearing sessions were held on 28 January 2016, is the Draft Charging Schedule, hereafter referred to as the 'DCS'. The DCS was published for public consultation between 20 March 2015 and 1 May 2015. The DCS proposes CIL charges for residential development and for certain types of retail development.

4. The DCS proposes two levels of CIL charge for new residential development based on geographic location. Most of the Lichfield district would fall under the 'High Value Area' charging zone where the CIL would be £55 per square metre (psm). The 'Low Value Area' charging zone comprises three limited

areas on the periphery of the district; these are broadly the areas around Fazeley (in the south of the district), Burntwood (to the west) and Armitage with Handsacre (to the north-west). The CIL would be £25 psm for residential developments in these locations.

5. The proposed retail CIL charges are not zoned and would apply across all parts of the district. The DCS proposes a £160 psm CIL charge for 'supermarket' developments; a £70 psm CIL charge for 'retail warehouse' developments and a £20 psm CIL for 'neighbourhood convenience retail.'

6. For completeness, the DCS sets out that CIL would be zero rated for 'all other development.'

Background evidence – Lichfield district, the development plan, infrastructure needs and economic viability evidence

Lichfield district

7. The district of Lichfield lies in south–east Staffordshire and has a population of just over 100,000. It is quite a diverse district with two main settlements, the historic cathedral City of Lichfield and the town of Burntwood, complemented by a network of smaller rural settlements and villages. The district has strong interdependencies and functional relationships with settlements beyond its administrative boundaries. These include the West Midlands conurbation (Birmingham and The Black Country) to its south-west, Tamworth to the south-east, Cannock and Stafford to the north-west and the East Midlands to the north-east. The south-western half of the district is washed over by the West Midlands Green Belt.

The Local Plan Strategy 2008 – 2029 (adopted February 2015)

8. Lichfield's 'Local Plan Strategy' (LPS) is a recently adopted and up to date development plan. It sets out the Council's vision and strategy for sustainable growth in the district in the period to 2029. The LPS seeks to direct growth to the most sustainable and accessible locations in line with the district's defined hierarchy of settlements. It also seeks to promote the most efficient use of land and prioritises the use of previously developed or 'brownfield' land.

New Homes

9. The LPS plans the delivery of at least 10,030 new homes over the plan period of 2008 – 2029 i.e. an average of about 478 new homes per annum. The capacity of existing urban areas and brownfield land is limited and the balance of the housing requirement is proposed to be met by a series of Strategic Development Allocations (SDAs) and a Broad Development Location (BDL), typically on greenfield urban extensions sites. The LPS defines seven SDAs and one BDL. It includes 'Concept Statements' for all of the SDAs, which set out details of the development rationale, objectives,

design principles and infrastructure requirements. There is no concept statement for the North of Tamworth BDL.

10. Following the principles of the defined settlement hierarchy, the highest proportion of new homes is proposed in the Lichfield itself, which is classed as a 'strategic centre'. Here, about 3,900 homes (38% of the requirement) are planned, split between sites within the existing urban area (46% of the Lichfield allocation) and SDAs (54% of the Lichfield allocation). There are four Lichfield SDAs; three to the south (1,350 homes combined) and one to the east (750 homes).

11. In addition to the LPS designated Lichfield SDAs, a further large scale development is being promoted to the north-east of the town (but is opposed by the Council). The promoters consider that, ultimately, an urban extension of between 2,000 – 4,000 new homes could be delivered in this location. A planning application for 750 homes and associated development, including a neighbourhood centre, has been the subject of a recent planning appeal. The Public Local Inquiry concluded on 22 January 2016 and the Secretary of State's decision is awaited.

12. The district's second tier settlement of Burntwood is classed as an 'other large centre' and is proposed to accommodate about 1,350 homes (13% of the Plan's new homes requirement). Most of these (70%) are expected to be delivered from within the Burntwood urban area, including through the redevelopment of poor quality employment sites. The balance of the new homes is planned through a SDA of approximately 375 homes (east of the Burntwood Bypass).

13. The next settlement tier identified in the Plan is that of 'neighbouring towns' where growth is planned to the urban areas of Tamworth and Rugeley through a BDL and a SDA which cross the administrative boundary. These are large strategic sites, being 'around 1,000 homes' for the North Tamworth BDL and 1,130 for the East of Rugeley SDA. These account for 10% and 11% of the planned housing requirement respectively.

14. A further SDA is proposed at Fradley, which is classified as a 'key rural settlement'. This SDA is focused on a former airfield and is expected to deliver 1,250 homes (about 12% of the district total). The balance of the housing requirement (16% of the total) is planned to be met by smaller allocations within Fradley and the other 'key rural settlements' of Fazeley, Shenstone, Armitage with Handsacre, Whittington and Alrewas.

15. The LPS seeks 'a target of up to 40%' of new dwellings to be provided as affordable homes. In Lichfield and Burntwood, the qualifying site size threshold is 0.5 hectares or 15 units. Outside these two main urban areas, the Council employs a lower site size threshold of 0.2 hectares or 5 units.

Employment

16. The LPS seeks to support employment growth, with a target of creating between 7,300 and 9,000 additional jobs in the Plan period. It also seeks to

improve the ratio of job numbers to economically active residents (which is notably lower than in surrounding areas). To assist in delivering this objective, the LPS proposes the allocation of 79.1 hectares of employment land, which includes a 12 hectare allocation in one of the south Lichfield SDA's (Cricket Lane SDA). The Council advised that about 10 hectares of employment land is expected to be defined by its Local Plan Allocations document, to ensure flexibility of provision.

Retail and town centres

17. The LPS approach to retail, leisure, office and cultural facilities follows the settlement hierarchy, with a strong focus on the two largest centres of Lichfield and Burntwood, complemented by the smaller centres in the lower tier settlements.

18. For Lichfield, the LPS identifies and supports a need for up to 36,000 square metres of new retail development, of which the majority (31,000 square metres) would be for comparison shopping. A major town centre scheme, 'Friarsgate', would deliver much of the planned new shopping. A planning application has been submitted which includes retail, a cinema, multi-storey parking, housing, a new bus station and public spaces. The LPS also proposes up to 5,000 square metres of 'bulky goods' retail warehousing outside of Lichfield town centre.

19. For Burntwood, up to 14,000 square metres of new retail space is proposed, with most (13,000 square metres) proposed for comparison retailing.

Infrastructure planning evidence

20. The LPS was supported by an Infrastructure Delivery Plan (IDP) and this has been refreshed in 2015 to support the CIL proposals. The IDP provides an up to date assessment of the district's infrastructure needs arising from the growth planned in the LPS. It assesses and analyses the needs in respect of 'physical', 'green' and 'social and community' infrastructure. The IDP also assesses projects by classifying them as either 'strategic' or 'local' infrastructure. Costs, funding sources, phasing and lead delivery organisations are included where known. The IDP is a thorough, up to date and clear analysis of the district's infrastructure needs.

21. Based on known costs or estimates, the Council's evidence assesses a total infrastructure bill for strategic infrastructure of circa £127.7 million, of which circa £119.5 million is currently unfunded. Almost half of this relates to major town centre improvements in Lichfield and Burntwood, with much of the remainder assigned to transport schemes and new schools, and a smaller allocation to strategic leisure and green infrastructure projects. Although some representors considered that the major costs (£50 million) associated with the Friarsgate scheme in Lichfield town centre should be excluded (or at least reduced), even doing so would still leave a very significant funding gap (of circa £70 million).

22. The Council estimates that, once existing commitments (schemes with

planning permission that will not attract CIL) are taken into account, its CIL proposals may generate a total revenue of £11.65 million in the remaining plan period. The majority of that sum (circa £10.84 million) is anticipated to derive from the residential development CIL charges.

23. Overall, the evidence indicates that the funding gap is substantial and that the imposition of a CIL regime is justified. CIL revenue would make a modest, but nonetheless important, contribution to reducing that gap and supporting the delivery of new infrastructure required to support growth.

24. The Council has produced a Draft Regulation 123 list that sets out the infrastructure that it intends to fund, partly or wholly, through CIL receipts. The list includes a range of strategic and integrated transport projects; school expansion schemes; sports, 'green' and environmental projects, along with health, social and community infrastructure schemes. The list includes a column that identifies where infrastructure would be dealt with by S.106 Planning agreements. For example, specified SDAs are expected to fund, through S.106 obligations, identified primary education, playing field, open space and community facilities that are directly associated with these planned major developments.

25. In my view, the Draft Regulation 123 list is relatively clear and comprehensive, although it is very much in 'draft' form, with a number of gaps and details to be added. Nonetheless, the list does provide the certainty and transparency on the destiny of CIL revenues.

Economic viability evidence – methodology and modelling assumptions

Methodology

26. The Council commissioned consultants to undertake a Viability Assessment to support its CIL proposals. There are three separate volumes of work. First, the 'Viability Study Final Report (January 2014)' which informed the preparation and publication of the Preliminary DCS proposals. Second, 'Draft Charging Schedule Viability Report (January 2015)'. Third, the 'Post Draft Charging Schedule Report (October 2015)' which deals with SDAs and small housing site viability. This iterative collection of Viability Assessment evidence is hereafter referred to as the 'VA'.

27. The VA uses a residual valuation approach. The modelling seeks to establish a Residual Land Value (RLV) by subtracting all development costs (including an allowance for developer profit) from the total value of the completed scheme - the Gross Development Value (GDV). The RLV is then compared to Benchmark Land Values (BLV), which are set at levels at which it is assumed a typical willing landowner would be prepared to sell the land. If the RLV exceeds the BLV then any surplus or 'overage' could be used to make CIL contributions. Where this overage occurs, the modelling expresses it as a financial value per square metre and this value can be seen as the maximum theoretical 'ceiling' for setting CIL.

28. Clearly, such modelling involves making a wide range of assumptions about

the component inputs of development costs and revenues, and these have been adjusted and updated through the modelling iterations. Some of the inputs, such as sales values, land costs, building costs and developer profit levels, can have a profound influence on the modelling outputs and, accordingly, assumptions need to be reasonable and robust.

Residential development modelling assumptions- the scheme 'typologies'

29. The initial residential modelling was undertaken for site typologies of 0.25 hectare, 1 hectare and 5 hectares. The housing mix, size and density was tailored for low, moderate and high value scenarios, with lower densities and larger homes assumed in the higher sales value areas. The Council considered that this would reflect the main range of sites that it expects to make up most of the supply of new homes (outside of the SDAs / BDL).

30. In terms of establishing local residential sales value assumptions, the Council's consultants undertook an analysis of Land Registry data of recent transactions and supplemented this with an analysis of new build asking prices (which were discounted to reflect assumed slightly lower actual sales values). Based on a triangulation of these findings, the Council proposed three value levels for new houses of £2,100 psm (lower), £2,275 psm (moderate) and £2,450 psm (higher) for testing purposes. For apartments, the respective figures used were £2,000 psm, £2,100 psm and £2,350 psm.

31. The Council has used available evidence to assess sales values and that data set is reasonably comprehensive and up to date. However, the methodology employed to establish assumed sales values is, inescapably, quite generalised. Whilst I do not consider the Council's approach to be inappropriate for CIL testing purposes, it is important to recognise that the spectrum of actual values in Lichfield district is much wider (a sales value range of £1,623 - £3,303 psm is cited in the VA). The variability either side of the averages is a matter that needs to be considered 'in the round' when interpreting the results and ensuring that CIL rates are set with appropriate viability headroom (or 'buffers').

32. To establish assumed land values the Council gathered quantitative and qualitative evidence from a number of sources. These included Valuation Office Agency (VOA) reports, considerations of existing use values with uplifts applied and soundings from local agents active in the market. To ensure comparability, the modelling assumes that all sites were readily developable i.e. greenfield sites were fully serviced 'parcels' and brownfield sites cleared and remediated. This process led to the establishment of three assumed BLVs of £650,000 per hectare (low value), £900,000 per hectare (moderate value) and £1,100,000 per hectare (high value) reflecting the assessed variation in land prices across the district. Although the absence of a substantial body of transactional evidence necessitates a degree of judgment in setting these BLVs, I consider the approach to be reasonable and note that the land values employed went largely unchallenged through the DCS consultation exercise.

33. 'Base' building costs for residential schemes were drawn from Building Cost

Information Service (BCIS) rates using the 'estate housing generally' category, with adjustments made for the assumed value areas (reflecting the higher buyer specifications in higher value locations). Additional allowances were made for external works (10% of base build costs) and contingencies (5% of base build costs, external works and professional fees). Although the BCIS base used was, by the time of the examination, a little dated (December 2014 figures were used), I am satisfied that any intervening build cost inflation can be factored in to the ultimate assessment of the 'headroom' above the proposed CIL rates. Overall, I consider the building cost assumptions to be reasonable and assumptions in respect of fees, contingencies and finance conformed to accepted industry norms.

34. Developer profit was assumed at levels of 20% of GDV on market housing and 6% of GDV on affordable housing, which I consider reasonable.

35. Affordable housing cost assumptions were modelled at the policy target level of 40% of new homes, with a 65/35 tenure split between social rented and 'intermediate' (shared ownership) housing. The modelling includes this content on all of the tested schemes (small, medium and large). The affordable housing assumptions attracted some comment, as it was suggested that the Council rarely sought or achieved this level of affordable housing. In practice, it uses a 'dynamic viability model' to inform appropriate levels of affordable housing on a site by site basis. Following the publication of the DCS, the Council undertook some additional sensitivity testing (the October 2015 report) on smaller sites to assess the effect of affordable housing costs on viability. This included an additional very small site typology (0.13 hectare).

36. The modelling assumed that residual S.106 planning agreement costs for site specific requirements would be limited to £500 per unit on all sites.

SDA modelling assumptions

37. The Council had not undertaken any viability testing of very large scale development, such as those proposed at the SDAs, in the preparation of its DCS. However, it did undertake testing of two SDAs after the publication of the DCS. The two tested SDAs are both to the south of Lichfield and each is substantially larger than the 5 hectare site typology used in the earlier VA reports (each has a gross area of circa 40 hectares). Deans Slade Park SDA is a 450 unit housing site with a small amount (0.44 hectares) of commercial development; about half of the site's gross area is proposed to be a countryside park. Land off Cricket Lane SDA is a mixed use scheme of 450 homes and 12 hectares of employment land.

38. The modelling assumptions employed for the SDAs were similar to those used in the main testing exercise, with some adjustments made and a longer development cycle employed. The main cost differences were the application of an additional £10,500 per dwelling education cost (S.106) to reflect new school provision and a reduced build costs to reflect the economies of scale on a large site. No particular additional allowances appear to have been made for the new site infrastructure and enabling

works that may be required on these large sites. The BLV adopted was £900,000 per hectare for residential development (the 'moderate' BLV) and £400,000 per hectare for commercial / employment development.

Commercial development modelling assumptions

39. The commercial development modelling used similar assumptions and methodology to assess the viability of different types of office, industrial and retail uses. The assumptions employed for assumed rents, yields, build costs, developer's margin and finance all appeared reasonable for high-level CIL testing purposes.

Conclusions on background evidence

40. The LPS provides a clear strategic planning framework to guide sustainable growth in the Lichfield district to 2029. The Plan's growth strategy has a strong focus on delivering growth at the larger settlements in the district through a combination of sites within existing settlements and a portfolio of larger planned urban extensions (the SDAs and BDL). The IDP identifies the infrastructure required to support this planned growth in population and jobs. The evidence demonstrates a sizeable infrastructure funding gap that justifies the introduction of a CIL regime. CIL receipts will help to reduce that gap, although a significant funding shortfall will remain.

41. Overall, the background economic viability evidence for both residential and commercial development has been drawn from available sources and is well grounded and appropriate. The application, interpretation and use of that evidence, in defining the proposed CIL rates and zones, are discussed more fully below.

Residential Development CIL – appraisal findings, zones and charges

42. In essence, new housing development in Lichfield in the Plan period will derive from two main sources. Firstly, from the portfolio of large SDAs / BDL and, secondly, from a wide range of other sites, typically in existing larger settlements and often on brownfield land, spread across the rest of the district. The Council's DCS proposals have been developed from a viability analysis of the latter (the 'typology' testing) with SDA testing only being carried out post publication of the DCS. There are some reasons for this, but it does create some complications and implications. For clarity, I have separated my assessment of the 'non SDA / BDL', 'SDA / BDL' and 'apartments' developments.

'Non SDA / BDL' residential development

43. The broad brush methodology employed for the main set of tested development typologies generates a relatively concise set of 'overage' results. These are expressed as maximum CIL rates psm. In total there are nine results, comprising overage calculations for the three site size typologies (0.25, 1.0 and 5.0 hectares) in each of the three assumed value

areas (low / moderate / high). All of the tested permutations generate positive results i.e. there is a modelled surplus, after all costs and profit have been deducted, that could be used to fund CIL payments.

44. In the 'low value' scenario, the modelling indicates maximum CIL rates of £59 psm, £38 psm and £60 psm for the 0.25, 1.0 and 5.0 hectare scenarios respectively. The 'moderate value' results were maximum CIL rates of £107 psm, £81 psm and £84 psm. With the 'high value' sales and land values applied, the modelling indicates results of £133 psm, £96 psm and £81 psm.

45. The October VS report undertook sensitivity testing of the small site scenario (0.25 hectares) plus a new, even smaller, site scenario (0.125 hectares). This explored the effect of removing affordable housing costs, given that there had been some uncertainty arising from the Government's policy position and legal challenges by other Councils[1]. The testing showed that, with affordable housing costs removed, the viability of these schemes was substantially increased, with maximum CIL rates falling within a range of £250 - £346 psm.

46. The Council assesses that the main typology test findings support the principle of a two zone charging approach, given that the 'moderate' and 'higher' maximum CIL results all fall in relatively close proximity (the actual range is £81 psm up to £133 psm) whereas the 'low' results are markedly below those generated in the other value scenarios (the range being £38 psm up to £60 psm).

47. In terms of the geographic definition of the charging zones, the Council has used sales value 'heat mapping' (based on Land Registry data). This supports the view that, for most of the district, sales values are generally healthy and would be represented by the 'high' or 'moderate' value assumptions, but there are some localised areas where sales values are relatively weaker. The Low Value zone areas are those that have relatively lower sales values across all house types (detached, semi-detached, terraced and flats).

48. The approach to setting the proposed CIL charges is to take the lowest of the typology appraisal results in each of the zones and apply a viability 'buffer' from that theoretical maximum. Most of the district is represented by the combined results of the 'high' and 'moderate' value areas. As noted above, the range here is from £81 psm up to £133 psm. The Council's proposal to set the CIL at £55 psm across this 'high value area' zone builds in a comfortable 'buffer' from the lowest point in the range and a substantial buffer from the highest point.

[1] West Berkshire District Council and Reading Borough Council v Secretary of State for Communities and Local Government [2015] EWHC 2222 (Admin).

49. For the 'lower value area' zone, the proposed £25 psm CIL is similarly set below the test results of £60, £59 and £38 psm, building in a measure of viability headroom.

50. A case was made for the application of a single £55 psm CIL, which would improve the parish proportion in the Armitage with Handsacre area. However, based on the current evidence, this would jeopardise the viability of schemes in this area. There were also views expressed suggesting a greater number of zones and differing charges but the evidence before me does not present a compelling case for such an approach. I am also mindful that the Guidance encourages charging authorities in setting differential rates to avoid undue complexity[2].

51. Overall, the evidence supports the conclusion that the CIL charges will not pose a threat to scheme viability of 'non SDA' residential developments. All schemes are shown to be comfortably viable with CIL applied at the proposed CIL rates.

52. This conclusion is supported by the lack of any substantive challenge from the development sector in respect of non-SDA housing schemes. Indeed, most of the representations in respect of the Council's charging proposals (for non-SDA housing) express the view that CIL should be set at higher levels.

53. The evidence does support the view that, in theory, a higher CIL could be sustained on many sites, particularly if 'real world' affordable housing levels were employed in the modelling. However, the Council has correctly modelled the full policy target level and has chosen to opt for a cautious approach in setting its first CIL. My remit here is limited to testing any negative implications on scheme viability. In that respect, I conclude that the CIL proposals do not threaten the viability of non-SDL / BDL housing developments. The Council will no doubt wish to consider and revisit these matters when it undertakes its first CIL review.

SDA / BDL developments

54. Whilst the Council's approach to CIL on non-SDA / BDL developments is cautious and comfortable in terms of viability, I have some concerns about its approach to SDAs / BDL.

55. These large sites are fundamental to the delivery of the housing and employment growth set out in the LPS. Based on an update note produced at my request, the current seven SDAs and one BDL will account for 5,881 new dwellings in the plan period i.e. well over half of all new homes, as well as significant employment allocations.

56. With the exception of one site, they all appear to be at relatively early life cycle stages. The majority of the sites do have extant planning permissions, or are subject to 'minded to grant' resolutions that may be concluded before

[2] Planning Practice Guidance - Paragraph: 021 Reference ID: 25-021-20140612

the CIL regime is implemented. For these reasons, the Council appears to have regarded these schemes as 'banked' in planning terms.

57. However, the two SDAs that have been subjected to testing (post DCS publication) do not have planning permissions and, as currently proposed, would be subject to CIL. Furthermore, one of the largest sites is the North of Tamworth BDL and this only has permission for 165 out of a planned 1000 homes. The Council also cannot be certain that unforeseen circumstances on the other SDAs will not result in a need for fresh planning applications. There may also be future circumstances where new SDAs emerge and/or are required, perhaps when the LPS is reviewed. For all of these reasons, the viability impacts of the proposed CIL regime on these large sites needs to be assessed carefully, particularly given the emphasis of the Guidance to focus on *'strategic sites on which the relevant Plan relies.'*[3]

58. With regard to the two tested SDAs, the October appraisals revealed, unsurprisingly, that the additional S.106 education burden (£10,500 per dwelling) substantially reduces residential development viability (when compared to the notional 'typology' results). Deans Slade Park SDA returned a maximum CIL result of £33 psm when modelled at a density of 30 dwellings per hectare (dph). The viability was further challenged with a lower density applied (25 dph resulted in a £22 maximum CIL) and with higher densities (40 dph - £18 psm maximum CIL; 50 dph - £4 psm maximum CIL). The Cricket Lane SDA, where scheme density is more settled, generated a maximum residential CIL rate of £28 psm for all three phases. The testing of the commercial / employment development content at both SDAs found these elements to be currently unviable.

59. Concerns were expressed that, whilst school provision costs were included in the modelling, the Council had not made allowances for strategic infrastructure and utility costs that would normally be expected on large strategic sites. The 'Harman' guidance suggests that these costs may fall in the range of £17,000 - £23,000 per plot[4]. Applying these costs would clearly worsen the viability position. However, this concern is largely offset in my view by the assumed BLV, which, at £900,000 per hectare appears to be very high for strategic scale green field development land.

60. A more typical approach, employed in other CIL examinations, would be to adopt a lower BLV and to factor 'Harman' costs into the (SDA) appraisal. Research evidence on such greenfield land values is thin, but one study (now a little dated) commissioned by the Department for Communities and Local Government (DCLG) suggested a range of £250,000 - £374,000 per hectare[5]. Applying a 'mid Harman' strategic infrastructure cost and a modest assumed housing density to these suggested values would actually result in a similar value to the BLV adopted.

[3] Planning Practice Guidance - Paragraph: 019 Reference ID: 25-019-20140612.

[4] Viability Testing Local Plans – Local Housing Delivery Group (Chaired by Sir John Harman) June 2012.

[5] Cumulative Impacts of Regulations on House Builders and Landowners - Research Paper. Published by DCLG in 2011 (although commissioned by the previous Government in 2008).

61. In any event, the modelling demonstrates that neither tested SDA can sustain the proposed £55 residential CIL charge proposed by the Council (they are both located in the higher value zone). At the Hearing sessions, the Council confirmed its position that, notwithstanding its own evidence, it did not wish to forego potential CIL revenue from these major sites and preferred an approach of requiring these developments to 'make a case' to prove that they could not support the CIL charge. It indicated that, if that case was successfully made, it would use its proposed policy for discretionary relief for exceptional circumstances under Regulation 55 to address the issue.

62. I cannot support this approach. Imposing a CIL charge on SDAs, that the Council's own evidence indicates they cannot sustain, would conflict with the Guidance, which expects the levy to have a 'positive economic effect'[6]. It would also conflict with the National Planning Policy Framework that clearly advises that obligations and burdens should not be set at levels that threaten viability[7] and that CIL '*should support and incentivise new development*'[8]. This seems particularly pertinent on strategically significant sites such as Lichfield's portfolio of SDAs (and the BDL).

63. I do not consider that Regulation 55 (exceptional relief) mechanisms are appropriate to effectively 'means test' SDAs in the light of the Council's own evidence base. The SDAs, along with their associated development economics, cannot be seen as 'exceptional' but are, rather, a fundamental part of the development plan strategy.

64. Based on the evidence before me, there is a compelling case to differentiate the SDAs (and the BDL) and modify the DCS to align it with the evidence. I am presented with some challenges in terms of the most appropriate modifications to achieve that differentiation. The challenges are twofold. First, defining the sites with precision and, second, considering whether any CIL charge is appropriate.

65. With regard to defining the SDAs and BDL, the eight current sites are identified and set out in the LPS. The seven SDAs have clear plans identifying their boundaries (contained in the LPS 'concept statements') and the North of Tamworth BDL has a 'key diagram' with an indicative 'broad development location' boundary. Accordingly, it appears to be a straightforward matter to identify the geographic location on the charging schedule map and to include more detailed 'inset' maps to define their boundaries. Whilst this may be largely academic for the sites that are fully covered by extant permissions, it is appropriate to differentiate the sites in a consistent manner, as the Council has not given any indication that the development economics would be materially different on the six other sites (to the two tested schemes).

66. I have given consideration to views expressed that a wider differentiation,

[6] PPG - Paragraph: 009 Reference ID: 25-009-20140612
[7] NPPF – Paragraph 173
[8] NPPF - Paragraph 175

perhaps based on a strategic dwelling number threshold, should be employed as this would allow potential future SDAs to be addressed. However, I have no clear evidence to define such a threshold and my remit is focused on currently planned LPS development. Given that the LPS is a relatively recently adopted Plan, I consider that the CIL approach to future strategic scale developments is more properly addressed through the periodic CIL review process (which may coincide with any LPS review).

67. Turning to the issue of whether any CIL should be applied to the strategic sites, I share the Council's consultants' conclusions. These were that whilst the £55 psm CIL charge could not be sustained by the two tested SDAs, a more modest charge could be supported. Applying a similar approach to the typology evidence, a rate of £14 psm was recommended which would build in a reasonable viability buffer. Although this appears to be a relatively low rate, the two tested sites would still generate a combined CIL revenue of £872,578 which would, given the infrastructure funding gap, provide important funding worthy of collection. I conclude that the suggested £14 psm CIL for SDAs (and the BDL) is appropriate and justified.

Apartment developments

68. The testing of an apartment scheme on a small site (0.25 hectares) indicated that such developments were not viable under any value scenario with CIL psm results being all negative (ranging from -£55 psm to -£370 psm). The Council does not intend to impose CIL charges on apartment schemes. However, the DCS could be improved by making this more explicit. I have included a recommended modification to this effect.

Non-residential development – viability appraisal evidence and proposed CIL charges

69. The non-residential assessments tested a range of different types of commercial development including town centre office, business park office, industrial / warehousing and different types of retail development. With the exception of certain types of retail development, the commercial appraisals demonstrated that these could not currently support CIL charges.

70. The VA tested different types of retail development, in varying sizes, formats and covenant strengths. For high level CIL testing purposes, the assumptions on rents and yields were soundly drawn from published sources and complemented by local market intelligence.

71. 'High Street comparison retail' development, using reasonable yields, rents and other cost assumptions, was found to be not viable. Although only one scheme type of 6,000 square metres gross (a proxy for the Friarsgate development) was tested, the substantially negative CIL 'value' of -£492 psm suggests that other floorspace formats are unlikely to generate positive results.

72. The Council's testing of 'neighbourhood convenience' stores had caused

some confusion through the consultation stages. In the January 2014 VS report, this development type was defined in relation to 'top up' shopping activities and a format involving a trading area of 'less than 500 square metres'. However, it actually tested some notional developments somewhat above this threshold, leading some to question how this could be used to justify the differentiated charge. However, the most recent October 2015 VS testing did include a smaller unit with a gross floorspace of 450 square metres and a trading area of 405 square metres. The results here suggest a maximum CIL of £39 psm.

73. Although the evidence does not establish that the adopted 500 square metre floorspace threshold represents a critical viability watershed, it is a reasonable proxy for distinguishing smaller format convenience stores (with associated weaker rents and yields) from the larger formats, particularly in terms of the actual anticipated developments in the district (including small 'basket shop' stores in new SDAs). Based on the evidence, the £20 psm is readily affordable and the headroom allows for some scheme specific variation.

74. The testing of a large format 'retail warehouse' generated a maximum CIL rate of £125 psm. In my view, the assumptions employed appeared reasonable and the proposed CIL charge of £70 psm would allow a reasonable viability buffer.

75. The testing of a 4,000 square metre 'supermarket' development type generated a maximum modelled CIL rate of £236 psm. I consider the Council's proposal to set CIL at £160 psm to be acceptable as the evidence indicates that viability would not be compromised.

76. At the Hearing sessions, the Council agreed that it would be beneficial to modify the DCS by including definitions of the retail development types, consistent with those used in the VA.

Overall Conclusions

77. The LPS and the IDP provide a clear framework for planned growth and necessary infrastructure in Lichfield District. The planned growth will include development of a portfolio of urban extensions (SDAs and a BDL) and growth from within urban areas, particularly the larger settlements. There is a substantial infrastructure funding gap which justifies the imposition of a CIL.

78. The Council's residential development CIL proposals have been developed with a primary focus on the more general, 'non SDA / BDL', schemes anticipated in the Plan period. In this respect, the evidence demonstrates that the CIL will not pose a threat to these developments. Indeed, the evidence suggests that the CIL would be set at a level where there will be a comfortable viability buffer in most cases.

79. However, the Council’s treatment of SDA / BDL developments needs to be modified. Whilst many of the strategic sites have planning permission and may be implemented unaffected by the CIL regime, others do not. The evidence produced after the DCS publication demonstrates that these large sites cannot support the CIL proposed and imposing such a charge would threaten the viability of these strategically important developments. This matter needs to be addressed by modifying the DCS to reduce CIL charges on these sites to a level that the evidence indicates can be sustained. A modification is also required to clarify that apartment developments will not incur CIL.

80. The evidence indicates that the proposed CIL charges for specified types of retail developments will not threaten the viability of anticipated schemes. However, the DCS needs to be modified by the inclusion of development type definitions for clarity.

81. The evidence demonstrates that, subject to my recommended modifications, the overall planned development of Lichfield district, as set out in the LPS, will not be put at risk if the proposed CIL charges are applied. I conclude that, in setting the CIL charges, the Council has used an appropriate and available evidence base that has informed assumptions about land and development values and likely costs. The CIL proposals are anticipated to achieve an important income stream that will help to address a well evidenced infrastructure funding gap.

82. Overall, I conclude that, subject to my recommended modifications, the Lichfield District Council Draft Community Infrastructure Levy Charging Schedule will satisfy the requirements of Section 212 of the 2008 Act and will meet the criteria for viability in the 2010 Regulations (as amended). I therefore recommend that, subject to the modifications set out in Appendix A to this report, the Charging Schedule be approved.

LEGAL REQUIREMENTS	
National Policy / Guidance	Subject to recommended modifications, the Charging Schedule complies with national policy / guidance.
2008 Planning Act and 2010 Regulations (as amended)	Subject to recommended modifications, the Charging Schedule complies with the Act and the Regulations, including in respect of the statutory processes and public consultation, and consistency with the Local Plan Strategy for Lichfield District and is supported by an adequate financial appraisal.

P.J. Staddon

Examiner

Attached: APPENDIX A – recommended modifications

APPENDIX A

Modifications that the Examiner specifies so that the Lichfield District Council Draft Charging Schedule (October 2015) may be approved.

Reference	Clarification / Modification
EM1	Strategic Development Allocations Table 1 – add new row: Under 'Use' insert: *Market houses within Strategic Development Allocations (SDAs) and Broad Development Location (BDL)defined in the Local Plan Strategy 2008 – 2029 adopted 17 February 2015 (refer to Figure 1 and inset maps).* Under 'CIL Charge (per sq. m)' insert: *£14* Figure 1 – add SDA and BDL locations to map and identify in the legend Figures 2 – 9 – insert new inset plans to define the site boundaries of each SDA and the BDL for clarity.
EM2	Clarification - apartments Table 1 After 'All other development' - add '*including residential apartments.'*
EM3	Clarification – retail definitions Page 3 – Table 1 Add the following definitions either within the table or as footnotes: *Supermarkets* *Supermarkets are large convenience-led stores where the majority of custom is from people doing their main weekly food shop. As such, they provide a very wide range of convenience goods, often along with some element of comparison goods. In addition to this, the key characteristics of the way a supermarket is used include:* - *The area used for the sale of goods will generally be above 500 sq. m;* - *The majority of customers will use a trolley to gather a large number of products;*

	- *The majority of customers will access the store by car, using the large adjacent car parks provided; and* - *Servicing is generally undertaken via a dedicated service area, rather than from the street.* *<u>Retail warehouse</u>* *Retail warehouses are usually large stores specialising in the sale of household goods (such as carpets, furniture and electrical goods), DIY items and other ranges of goods. They can be stand-alone units, but are also often developed as part of retail parks. In either case, they are usually located outside of existing town centres and cater mainly for car-borne customers. As such, they usually have large adjacent, dedicated surface parking.* *<u>Neighbourhood convenience retail</u>* *Neighbourhood convenience stores are used primarily by customers undertaking 'top-up' shopping. They sell a limited range of convenience goods and usually do not sell comparison goods. The key characteristics of their use include:* - *Trading areas of less than 500 sq. m;* - *The majority of customers will buy only a small number of items that can be carried around the store by hand or in a small basket;* - *The majority of customers will access the store on foot and as such there is usually little or no dedicated parking; and* - *Servicing is often undertaken from the street, rather than dedicated service areas.*