The Planning Inspectorate

Report to Shepway District Council

by Rynd Smith LLB MA MRTPI FRSA

an Examiner appointed by the Council

Date: 3 March 2016

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

REPORT ON THE EXAMINATION OF
THE DRAFT SHEPWAY DISTRICT COUNCIL
COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE

Charging Schedule was submitted for examination on 31 July 2015

The Examination took place through Written Representations

File Ref: PINS/L2250/429/6

Non-Technical Summary
This report concludes that the Shepway District Council Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the Shepway District. 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. I recommend a minor change to the title of Table 4 to the schedule to remove doubt that it is intended to apply to 'all other development' not addressed by Tables 1 – 3. Minor changes to the maps are needed to meet statutory requirements. These can be summarised as follows: • replacement of the submitted Appendix 1 CIL Map with maps of an appropriate scale and precision; • replacement of the submitted Appendix 2 CIL Map with a map of sufficient precision, on an OS base and showing National Grid lines; and • replacement of the submitted Appendix 3 CIL Map with a map of sufficient precision, on an OS base and showing National Grid lines. The changes recommended in this report are minor. They do not alter the basis of the Council's overall approach or the appropriate balance achieved. Nor do they require a formal modification process as they clarify but do not materially change the submitted schedule and maps.

Introduction

1. This report contains my assessment of the Shepway District Council Community Infrastructure Levy (CIL) Charging Schedule in terms of Section 212 of the Planning Act 2008 (as amended). It considers whether the schedule is compliant in legal terms and whether it is economically viable as well as reasonable, realistic and consistent with national guidance (Community Infrastructure Levy Guidance –June 2014 [CD002-11 PPG-ID:25])[1].

2. To comply with the relevant legislation, the local charging authority has to submit a charging schedule which strikes an appropriate balance between

[1] Documents referred to in the examination are available in a library which can be found at: https://www.folkestone-hythe.gov.uk/planning-policy/cil-examination-library-202223. References in square brackets are to documents in the examination library.

providing additional investment to support infrastructure provision for development and the potential effect of charging on the viability of developments in the charging area. The basis for the examination is the submitted schedule dated June 2015 [CD001-1], which is effectively the same as the document published for public consultation from 9 February to 23 March 2015.

The charging proposals

3. The Council has proposed a combined zone and matrix approach to charging.

Residential rates

4. The district is divided into four zones for residential charging (defined as C3 and C4 uses, including sheltered accommodation) in CIL Table 1. For the rural area of the district these zones are shown on the submitted Appendix 1 Map and for the urban area of Folkestone[2] on the submitted Appendix 2 Map (an inset map). Charging is proposed as follows:
   - Residential Charging Zone A with a rate of £0 / sq m applied to an area centred on Lydd;
   - Residential Charging Zone B with a rate of £50 / sq m applied to two separate areas, Romney Marsh (excluding Dungeness and Lydd) and an area centred on Hawkinge;
   - Residential Charging Zone C with a rate of £100 / sq m centred on Hythe;
   - Residential Charging Zone D with a rate of £125 / sq m covering the North Downs area of the district; and
   - Folkestone urban area inset[2] (the Appendix 2 Map), in which the urban area is divided between each of the four residential charging zones A to D.

Retail and related development rates

5. The district is divided into two zones for retail and related development (defined as A1 – A5 uses) in CIL Table 2. The town centre area of Folkestone[2] is shown in the submitted Appendix 3 Map. The rural area, described for these purposes as '[r]*est of district*', is not mapped, as the zone applies to all areas of the district outside the Appendix 3 Map. Charging is proposed as follows:
   - Folkestone town centre[2] (the Appendix 3 Map), in which all convenience and comparison retail and other development akin to retail is proposed to be charged with a rate of £0 / sq m.
   - 'Rest of district' matrix:
     - Supermarkets, superstores and retail warehousing (net retail selling space of over 280 sq m) with a rate of £100 / sq m;
     - Other large scale development akin to retail (net retail selling space of

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[2] The residential (Appendix 2 Map) and retail (Appendix 3 Map) inset areas for Folkestone are different. The residential inset applies to the urban area of Folkestone as a whole. The retail inset applies to a smaller town centre area within Folkestone.

over 280 sq m) with a rate of £100 / sq m; and
- Other development akin to retail (net retail selling space up to 280 sq m) with a rate of £0 / sq m.

Strategic and key development site rate

6. There are four '*Strategic & Key Development Sites*' identified in CIL Table 3 and shown on the submitted CIL Schedule Appendix 4 Maps, which are all adopted local plan proposals.

- Core Strategy Policy SS6, for strategic redevelopment at Folkestone harbour and foreshore.
- Core Strategy Policy SS7, for strategic redevelopment at Shorncliffe Garrison in Folkestone.
- Core Strategy Policy CSD8, relating to the defined 'core development area' in the New Romney Masterplan.
- Core Strategy Policy CSD9, for strategic redevelopment at Sellindge.

All development within these sites is proposed to be charged with a rate of £0 / sq m and infrastructure funding is intended to be achieved through planning obligations under section 106 of the Town & Country Planning Act 1990 (as amended).

Other development rate

7. Other development not provided for elsewhere in the zone or matrix measures described above is provided for in CIL Table 4 and proposed to be charged with a rate of £0 / sq m.

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

Infrastructure planning evidence

8. The Shepway Core Strategy (CS) [CD003-2-1] was adopted on 18 September 2013 and runs from 2006 to 2031. It is supplemented by saved policies from the Shepway District Local Plan Review 2006 [CD003-2-2]. These set out the main elements of growth that will need to be supported by further infrastructure in the district.

9. The CS was supported during preparation by an infrastructure assessment, which identified infrastructure needs over the plan period and an infrastructure funding gap. Whilst a Community Infrastructure Levy (CIL) Charging Schedule was not prepared at the same time as the CS, the CS was prepared expressly anticipating the need to prepare a CIL Charging Schedule for the district (paragraph 1.5) and in a manner that provided the evidence base.

10. Delivery of the CS is supported by a 'CIL and Whole Plan Economic Viability Study' dated July 2014 [CD001-10, 10-1 – 3]. It is supported by an Infrastructure Delivery Plan (IDP) of June 2014, updated in December 2014 as part of the CIL consultation process and updated again to support submission of the CIL for examination [CD001-10-2 & 3] (these documents are referred to together as the 'viability report' below). The latest IDP is based on the CS

infrastructure assessment, and updates this in relation to more recent information about costs, delivery timing, funding sources and funding gaps. It is proposed to be reviewed on an ongoing basis by the Council in consultation with its infrastructure partners, including Kent County Council, parish and town councils, the South East LEP and relevant government agencies.

11. The CS and the IDP distinguish between strategically critical and necessary infrastructure, a distinction that is intended to inform prioritisation. Critical infrastructure is defined as including:

   - '*Measures to improve a choice of travel options and minimise the environmental impact of transport, including investment in High Speed 1 rail stations and key highway/ junction upgrades;*

   - '*Upgrading flood defences and maintaining coastal engineering;* [and]

   - '*The provision of social/community facilities (including schools) and green infrastructure required for the development of strategic sites, or major sites with planning permission'*.

   Necessary infrastructure is defined as infrastructure that is not critical, but that is still needed to deliver the CS and in summary relates to the provision of social/community/green infrastructures on sites other than strategic or major sites, business infrastructure, public realm improvements, cultural and heritage facilities and community safety infrastructure. Both of these categories of infrastructure underpin the regulation 123 list.

12. Of the infrastructures to which CIL will contribute, significant cost contributions arise from flood defences and coastal engineering, where there are substantial committed funds from the Environment Agency in early years and from the provision of largely primary education and other community infrastructure.

13. Up to 2031, the infrastructure assessment identifies aggregate infrastructure costs of £114m at 2014 prices, for the delivery of the combination of critical and necessary infrastructure needed to underpin the CS. If all potentially available sources of funding for this infrastructure are realised (a best-case scenario), a potential funding gap of £18.6m exists and this is the starting point from which CIL is sought to be charged. However, not all potentially available sources of funding are confirmed (in the sense of being committed to in a programme, obligation, contract or equivalent). A worst-case / maximum funding gap of £64m has been identified for the same period.

14. Residential development forms substantially the largest element of proposed CIL chargeable development. The CS proposes a minimum of 8,800 new dwellings in the period to 2031. However, even here, a significant proportion of development is proposed to be zero rated, due to it arising in strategic sites or in zero rated zones. The Council estimates that 6,800 dwellings will fall into this category. Approximately 2,000 dwellings would be CIL chargeable and the Council has modelled receipts from these as a proxy for overall CIL receipts to 2031. If these dwellings are delivered to the extent identified in the CS and SHLAA, residential CIL would yield £9.2m, or approximately 49%

of the best-case funding gap. When CIL administration costs are allowed for and a percentage of CIL yield is allocated to town and parish Councils, a best-case infrastructure fund from residential CIL would be approximately £7.5m net, or 40%, leaving a best-case shortfall of £11.5m. These CIL yields would need to be adjusted downwards if neighbourhood plans are prepared and or material amounts of potential funding were not to be realised, and a worst-case shortfall could be as much as £56.5m [CD001-3].

15. The Council provided evidence on s106 contributions by infrastructure type for the five year period 2010 to 2014. Approximately £7.5m was raised during this period, over 70% of which was allocated to improving primary school provision on strategic and key residential development sites [CD001-3]. The CIL schedule proposes to zero rate strategic residential development sites and work to develop s106 contributions for the proposals on these sites is already well advanced. The draft regulation 123 list also establishes clear project exclusions from CIL in respect of which s106 contributions would still be charged. Taking these provisions together, it is clear that whilst there is likely to be some reduction in s106 yield following the inception of CIL, s106 is still likely to provide a significant body of infrastructure funding in the Shepway District for the foreseeable future, from strategic sites. This has been taken into account in the Council's calculation of potentially available sources of infrastructure funding.

16. In this light, the proposed CIL charge would make a modest but material contribution towards filling the likely funding gap. The figures demonstrate the need to levy CIL.

17. Taking a pragmatic view, whilst the proposed CIL does project a potentially large funding gap in the period to 2031, the Council's evidence is clear that there is not a large funding gap in the short run. It is only to be expected that infrastructure programmed for later years will become less and less likely to enjoy confirmed funding and so the funding gap for later years can be expected to be large in the first iteration of CIL. It will be for the Council to review its infrastructure planning evidence base in line with CS AMRs and CIL receipts. It must ensure that as infrastructure currently programmed for medium to long-term delivery moves closer to the short-term delivery programme, either funding to fill the gap becomes committed, or CIL rates rise to the extent that viability allows at that point in time. However, this can be a task for the next CIL review cycle: it does not need to be done now.

18. The infrastructure planning evidence base was used to develop the Council's list of infrastructure eligible for CIL funding - the regulation 123 list [DC001-7]. The implications of this list for the potential for draw-down of funding from CIL and the adequacy of the CIL contribution to the funding gap were a source of concern for some representors who sought greater clarity on the draft list and on the distinction between the infrastructure projects CIL would fund and projects that would still be eligible for and need to be funded by s106.

19. The Council sought to address the matters raised by changes to the draft regulation 123 list between the preliminary draft stage public consultation [CD001-11-3] and submission [CD001-1, 5 & 7]. In summary, whilst the preliminary draft regulation 123 list was largely project specific, exposing the

Council to concerns that projects not identified in the list would not be eligible for CIL or for planning obligation funding, the submitted list takes a broader 'project class' approach. By specifying infrastructure types, the submitted list avoids ruling out the future applicability of CIL to emerging infrastructure requirements. By adding a description of 'project exclusions', the submitted list is also clearer about the known circumstances in which planning obligations funding will continue to be sought. The revised list assures against 'double dipping' and in large part addresses the concerns raised.

20. The PPG CIL Guidance [CD002-11: PPG Paragraph: 097 Reference ID: 25-097-20140612] makes clear that the Council may seek site-specific contributions where these are provided for in an examined document. The Shepway District Council Core Strategy Local Plan Draft Infrastructure Assessment & Delivery Plan (June 2015) (the IDP) is an examination Core Document [CD001-10-3]. This identifies the detailed elements of individual infrastructure projects provided for in the CIL schedule and records the circumstances in which planning obligation funding would still be sought. I consider that there is enough examined infrastructure planning information about the projects and sites in respect of which individual planning obligations are to be sought to enable the Council to negotiate these in a manner that is compliant with the PPG CIL guidance. The IDP addresses those representors who were concerned that there might be a shortfall in CIL and planning obligation receipts and those representors who considered that there was insufficient project description available.

21. Concerns were also raised that CIL would raise funds from rural areas including proposed Zone D which would have the highest residential charge, but that a significant amount of the proposed infrastructure would be provided in urban areas of the district. Having considered the Council's evidence about the need for infrastructure, together with its submission on the role of parish and town councils as CIL recipients, I agree that the Council's strategic, district-wide approach to the identification of infrastructure need is appropriate, as infrastructure with an urban location will be used by the surrounding rural population. The provisions in respect of CIL receipts for parish and town councils will ensure that rural communities including those in proposed Zone D are able to set priorities for their own receipts and therefore will receive material benefit from the operation of CIL in a manner that will also address the concerns that were raised.

Economic viability evidence

22. The assessment in the Council's viability report [CD001-10, 10-1 – 3] took as its starting point the approach to viability set out in the RICS Guidance, 'Financial Viability in Planning' (August 2012) and used a residual land valuation approach throughout. As it was prepared in combination with an IDP, its broad approach and content is described from paragraph 10 above.

23. Having reviewed the Council's evidence, I am satisfied that it demonstrates that the diverse physical and economic circumstances of the district have been taken into account, ensuring a CIL schedule that will not have an adverse effect on viability.

24. Concerns were raised about the effects of some residential zone rates on viability and I address these below. Concerns were also expressed about the degree to which CIL could adversely affect viability, taken together with building costs, and noting a period of possible transitional effect, when neighbouring authorities would not charge CIL. Concerns were raised about the possible effect of CIL on the viability of proposals relating to heritage assets, particularly those deemed to be 'at risk'.

25. The Council made clear that additional CIL costs would be offset by a reduction in the s106 burden after the inception of CIL, an equivalent to which would not be realised in neighbouring authority areas until CIL was implemented there too. The available evidence broadly supports the Council's position. Whilst there will be a period in which developers in Shepway will pay CIL when they would not do so for an equivalent development in an adjoining authority, I do not consider that these costs will be sufficient to make development in Shepway unviable. Further, in the absence of clear evidence to the contrary, the lack of an adopted CIL schedule in one or more neighbouring authorities does not provide a basis for not adopting a CIL Schedule: it is sufficient that Shepway Council have evidenced an infrastructure funding gap and that their proposed CIL rates will not have an adverse effect on viability.

26. Turning to viability in relation to development affecting heritage assets at risk, no specific evidence was provided that individual proposals or particular classes of proposal would be rendered unviable by the payment of CIL and the discretionary relief policy is not a matter for my formal consideration. However, I encourage the Council to monitor the effects of CIL with specific reference to at-risk heritage assets and to consider the action that it might take if viability concerns do arise on individual assets.

Conclusion

27. The draft Charging Schedule is supported by detailed evidence of community infrastructure needs, much shared with a Core Strategy that has been found sound and adopted in late 2013, but augmented with more recent work undertaken to update changed data and address changes to the CIL regulations. Whilst this evidence has been subject to some challenge in written representations, this has largely related to the basis for individual charging rates (and is therefore addressed from paragraph 29 below).

28. Having considered the submitted CIL and its economic viability evidence base overall, I accept that the viability evidence which has been used to inform the Charging Schedule is robust, proportionate and appropriate. I conclude that the proposed CIL will not have an adverse effect on the economic viability of development.

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

CIL rates for residential development

29. Table 1 in the submitted CIL Draft Charging Schedule [CD001-1] proposes four different residential rates, applied to zones shown on maps in appendices 1 and 2.

30. A housing sector representor was concerned that the proposed residential rates in Zones B, C and D (all of the residential rates proposed to be set above zero) were too high. It was concerned that developers would not be able to provide 30% affordable housing (the CS target) and pay the proposed rates. It proposed that in addition to Zone A, Zone B should also have a rate of £0 / sqm, Zone C should have a rate of £50 / sqm and Zone D should have a rate of £75 / sqm. It considered that aspects of the Council viability report's underlying valuation and cost assumptions were also open to criticism, in relation to issues such as the size of housing units.

31. The Council had referred this position to its viability consultants for review before submission and with reference to this review made clear that it still preferred the evidence prepared in its viability analysis to the alternative but incomplete picture advanced in this representation. It took comfort in the fact that no other housing sector bodies had challenged its viability evidence or sought reductions in the proposed charging rates for residential development.

32. Having considered both sets of evidence which do not agree, I am clear that the evidence in the Council's viability report is more robust because it relates to the district as a whole and takes account of a range of tested scenarios with clearly articulated assumptions. The same cannot be said of the evidence for the alternative view. The Council's evidence suggests that the rates shown in the submitted CIL schedule will not have an adverse effect on viability for residential development. On the evidence before me, I consider that it is not necessary to recommend a reduction in the proposed rates for zones B, C and D in order to ensure residential development viability.

33. There were concerns about the implications of CIL residential rates on the development of housing for the rural rental market, identifying that unlike housing for sale, the developer of housing for rent does not receive a capital receipt from sale to pay CIL and that a lower rate was warranted for this type of development. The Council responded that unless rental housing was a recognised form of affordable housing (subject to a CIL exemption) there was no policy justification for a differential rate [CD001-3].

34. There were concerns at the implications of CIL charging on the development of housing for essential rural workers, and a zero rate was suggested to ensure that the provision of such housing was not unduly inhibited by CIL. The Council responded that such housing could be a recognised form of affordable housing under regulation 49, which provides that social housing includes assured agricultural occupancies if let by a local housing authority, a registered social landlord or a private registered provider of social housing. It followed that there was a mechanism under which essential rural workers' housing could be delivered at a zero rate and the Council did not see any policy case for a wider exemption or a lower rate specific to this type of development where it was not providing affordable housing [CD001-3].

35. In agreeing with the Council's position, again I note that this proceeded from the evidence base provided in the viability report, whereas the concerns were not equivalently evidenced. I am unable to conclude that an individual and lower CIL rate for rural housing for rent or for essential rural workers' housing is required to ensure the ongoing viability of this development type, as

appropriate alternative means already exist whereby this can be treated as social /affordable housing.

36. My broader examination of the proposed residential rates in the light of the Council's response to my questions [ED002-05] leads me to the view that the proposed rates are sufficiently evidenced, a conservative approach has been taken to rate setting to preserve viability and that no other matters indicate a need to modify the residential rates proposed in the submitted CIL.

CIL rates for retail and related development

37. Table 2 in the submitted CIL Draft Charging Schedule [CD001-1] proposes four different rates, one applied to the Folkestone Town Centre Area shown on the map in appendix 3 and three applied to the rest of the district.

38. The Council proposed a zero rate for all retail and related development in the town centre area of Folkestone and for all small scale and convenience retail in the rest of the district, with a £100 / sq m charge for larger retail and related development in in the rest of the district. It had struck a net retail selling space threshold of over 280 sq m (the large shops threshold in the Sunday Trading Act 1994 (as amended)) as the boundary between the zero rate and the £100 rate.

39. Concerns were raised about the effect of a CIL charge on smaller supermarkets and specifically on limited assortment discounters (LADs) which require more than 280 sq m but tend to have smaller net retail floor areas than other supermarket types. A 2,500 sq m threshold was proposed by one representor as an alternative to the Council's 280 sq m threshold. This threshold was derived from NPPF paragraph 26, where it is used as the threshold for the requirement for the impact assessment of major retail planning applications in circumstances where there is no locally defined threshold for such an assessment to be triggered.

40. The Council's viability report found that, with the exception of supermarket/ superstores, retail warehousing and related large floor format development, most retail development anticipated in the district would be small in scale, based in existing or only marginally extended premises and most importantly, operating close to current understandings of economic viability. It recommended a zero rate for all such retail. In contrast, it found that supermarket/ superstores and retail warehousing outside the town centre could deliver economic returns competitive with those for housing at mid to higher value levels. Having tested CIL rates up to £180 / sq m at various trial land value and rental assumptions, a £100 / sq m rate was recommended as an appropriate conservative rate that would not have a general impact on viability.

41. A specific review of this position in the light of issues raised in representations was undertaken in the supplementary viability report of January 2015 [CD001-10-2 at para 2.1.3]. This confirmed the absence of a clearly identifiable retail viability threshold other than that proposed to be set at 280 sq m.

42. It follows from the evidence that the currently proposed cut-off point of

280 sq m does represent a realistic and fair typological transition point between small-scale retail with acknowledged viability concerns and supermarket and related retail which would remain viable with a CIL charge. Turning to the alternative NPPF derived threshold, this does not appear to be directly applicable to the current circumstances in Shepway. It is not a generally applicable boundary-line descriptor of major retail development. It has a specific function within the NPPF, which does not advocate its application as a threshold for CIL purposes. Nor does it describe a boundary between local and convenience and supermarket retail formats which was identified as the viability threshold in the viability report.

43. If the CIL transition point were to be moved to 2,500 sq m, there would need to be specific evidence that this is an appropriate threshold which describes a CIL viability cut-off. However, there is no submitted evidence to counter the supplementary viability report by showing that LADs would be made unviable by the currently proposed threshold or conversely would become viable if the threshold was changed. It also appears that this alternative threshold could arbitrarily divide supermarkets (whether operating as LADs or as other formats) around the 2,500 sq m charging threshold. There would be a significant risk of a disproportionate impact on supermarket development above the threshold which has not been evaluated in the evidence and hence would be contrary to the CIL Guidance [CD002-11: PPG Paragraph: 021 Reference ID: 25-021-20140612]. For these reasons, I do not recommend this change.

44. My broader examination of the proposed retail rates in the light of the Council's response to my questions [ED002-02] leads me to the view that the proposed rates are sufficiently evidenced, a conservative approach has been taken to rate setting to preserve viability and that no other matters indicate a need to modify the retail and related rates proposed in the submitted CIL.

CIL rates for strategic development

45. Table 3 in the submitted CIL Draft Charging Schedule [CD001-1] proposes a CIL rate of £0 / sq m for development in identified strategic and key development sites, shown on maps in appendix 4. The proposed sites are all local plan proposals.

46. I have noted the Council's evidence [ED002-03] that considerable progress has been made on bringing each of these sites forward for development and that this work includes progress on relevant planning obligations (s106 and s278 agreements as relevant) to secure infrastructure for these sites. The nature of these particular sites and their infrastructure requirements are such that they can be successfully developed and infrastructure can be provided, taking account of the reduced scope for planning obligations. I agree with the Council's viability assessment [CD001-10]) that each of these sites is in a location where viability is marginal, and taking account of the contributions sought via planning obligations that a zero rate is justified for each site.

CIL rates for other development

47. Table 4 in the submitted CIL Draft Charging Schedule [CD001-1] proposes a

CIL rate of £0 / sq m for other development not specifically provided for in Tables 1-3. This provision is proposed to apply district-wide.

48. Whilst table 4 makes express reference to the setting of a zero rate for '*B, C1, C2 & D uses*', it does not expressly set that rate for minerals and waste development. It is the intention of the Council that it should apply to "*all other developments (district wide)*". For clarity I recommend that the title to Table 4 should be changed to ensure that there is no misunderstanding.

49. I recommend no other changes to table 4.

Does the evidence demonstrate that the proposed rates would not threaten delivery of the plan as a whole?

50. The Council's decision to apply a combined zone and matrix approach to charging has led to inevitable complexity in the proposed CIL Schedule. The Council has argued that the level of complexity provides a realistic and justified response to the varied characteristics of the charging area that is physically and economically diverse, including as it does historic country towns, seaside resorts, urban areas undergoing significant economic restructuring, relatively remote rural areas, other rural areas with excellent rail and motorway connections and a complex pattern of development values which result from this diversity [ED002-01 - 5].

51. A simpler CIL Schedule with a less nuanced set of matrices and zones would have been likely to have had an adverse effect on viability in some locations and/or would fail to provide realisable infrastructure funding to meet identified needs. I am satisfied that the Council's CIL rates and zone proposals are based on reasonable assumptions about development values and likely costs. The evidence suggests that residential and commercial development will remain viable across most of the area if the charge is applied as proposed. Whilst there will be inevitable step effects at the boundaries of some zones and at rate thresholds, the Council's proposals as a whole are well attuned to the physical and economic characteristics of the charging area and would not impose disproportionate impacts on particular geographical areas, sectors or specialist forms of development.

Conclusion

52. In setting the proposed CIL charging zones and rates the Council has had regard to appropriate available evidence, including evidence on infrastructure planning and the economic viability of development in Shepway district and its constituent communities. The Council has been cautious in terms of achieving a reasonable level of income to address an acknowledged and significant gap in infrastructure funding, while ensuring that the expected range of development remains viable across the authority area. It will continue to rely on contributions sourced via s106 to fund infrastructure directly associated with strategic and key sites on which the majority of its residential development is proposed to be delivered. The proposed CIL improves efficiency by reducing the administrative burdens associated with the negotiation of planning obligations outside the strategic sites and providing contributions from small scale development that would not contribute to

infrastructure costs in the absence of CIL.

53. The proposed CIL supports and is supported by an adopted Core Strategy local plan, with which it also shares an evidence base. Clearly if the evidence and assumptions underlying the approach to infrastructure in the CIL and the Core Strategy were to change then the CIL would require review. However, at this point in time the CIL will not threaten the delivery of the plan.

Have relevant legal and formal requirements been met?

54. In examining the submitted charging schedule for compliance in respect of the CIL regulations, I identified that some of the maps in the appendices did not meet regulation 12 (2). The matters addressed by regulation 12(2) are of particular relevance, given the complex pattern of zones proposed. Whilst the basis for the zones has been fully justified, it is nevertheless important that users of the CIL schedule can understand which zone and hence which rate their proposal is subject to and that the scope for disputes between CIL payers and the charging authority about the applicable zone and charge is reduced as far as possible.

55. The map in submitted Appendix 1 (the charging zones) [CD001-1-1] uses an OS base, but was prepared at a very small scale (1:115,000 when reproduced on A4 paper as intended). If the map is printed at this scale, it is not possible to tell definitively whether a considerable number of locations or properties close to zone boundaries are in one or another adjacent zone. If the map is enlarged electronically (which not all users will have the facility to do), whilst the locations of zone boundaries can be inferred in most cases, the position and thickness of the zone boundary line notation used covers multiple properties and still leaves considerable room for doubt in some locations. During my site inspection, there were a number of instances in which I could not say with sufficient certainty whether particular properties were in one or an adjacent zone when using the map. For this reason this map needed to be replaced with a map or maps at a sufficiently large scale and with a more precisely drawn boundary notation in order for regulation 12(2) c (i) to be met.

56. Whilst the maps in submitted Appendices 2 & 3 (the town centre insets) [CD001-1-2] [CD001-1-3] record that they contain OS survey data, they are presented on a street atlas rather than an OS base. They do not show the location of buildings or the boundaries of land parcels, leading to uncertainty where zone boundaries do not follow large or readily identifiable physical features. Nor do they show National Grid lines or reference numbers. For this reason these maps needed to be replaced with maps that use an OS base and show National Grid lines and reference numbers in order for regulation 12(2) c (ii) and (iii) to be met.

57. The issues raised in respect of the map in Appendix 1 were addressed in correspondence, by replacing it with five individual maps for charging zone A (one map), B (two maps), C (one map) and D (one map) at larger scales (ranging from 1:10,000 to 1:35,000 when printed on A1 paper, as appropriate to the characteristics of each mapped zone) and by reducing the thickness (point size) of the zone boundary notations enabling the location and

boundaries of the zones to be identified without ambiguity. The issues raised in respect of the maps in Appendices 2 and 3 were addressed by replacing these with maps prepared on an OS base, showing National Grid lines and reference numbers.

58. A change to the submitted CIL Schedule to incorporate these replacement maps is necessary for the CIL Schedule to be legally compliant. However, on the basis that the Council has clarified but has not materially changed the zone maps or the boundaries shown on them, this is a change that can be made before adoption without carrying out a modification process under regulation 21(3), requiring notice and re-opening the right to make representations and to be heard.

59. No other legal requirements arose that gave rise to a need for modifications to the submitted Schedule.

Conclusion

LEGAL REQUIREMENTS	
National Policy/Guidance	The Charging Schedule complies with national policy/guidance.
2008 Planning Act and 2010 Regulations (as amended)	The Charging Schedule as recommended to be changed 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 financial appraisal.

Overall Conclusion

60. I conclude that subject to the changes set out in Appendix A, the Shepway 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.

Rynd Smith

Examiner

This report is accompanied by:

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

Appendix A:
Changes specified so that the Charging Schedule may be approved

Report para(s)	Changes
48	Amend the title of submitted CIL schedule Table 4 from: Table 4: Other Developments (B, C1, C2 & D uses) to: Table 4: <u>All</u> Other Developments (<u>including</u> B, C1, C2 & D uses)
54 – 58	Delete submitted Appendix 1 Map: CIL Residential Zones [CD001-1-1] Replace with the following maps under cover of the Council's letter of 11 January 2016 [ED04-2]: Appendix 1: Zone A (Lydd) [ED04-2-1] Appendix 1: Zone B1 (Romney Marsh) [ED04-2-2] Appendix 1: Zone B2 (Hawkinge) [ED04-2-3] Appendix 1: Zone C (Hythe) [ED04-2-4] Appendix 1: Zone D (North Downs) [ED04-2-5]
54 – 58	Delete submitted Appendix 2 Map: CIL Residential Zones - Folkestone [CD001-1-2] Replace with the following map under cover of the Council's letter of 11 January 2016 [ED04-2]: Appendix 2: Folkestone [ED04-2-6]
54 – 58	Delete submitted Appendix 3 Map: Folkestone Town Centre Retail and Commercial Area [CD001-1-3]. Replace with the following map under cover of the Council's letter of 11 January 2016 [ED04-2]: Appendix 3: Retail [ED04-2-7]