AN EXAMINATION UNDER SECTION 212

OF THE PLANNING ACT 2008 (AS AMENDED)

REPORT ON THE DRAFT ROYAL BOROUGH OF GREENWICH

COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE

Independent Examiner (appointed by the Council/Charging Authority):
Keith Holland BA (Hons) DipTP MRTPI ARICS.

Charging Schedule Submitted for Examination: 26 March 2024

Date of Report: **05 June 2024**

Main Findings - Executive Summary

In this report I have concluded that the draft Royal Borough of Greenwich Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area.

The Council has provided sufficient evidence that shows the proposed rates would not threaten delivery of the Local Plan.

Introduction

1. I have been appointed by the Royal Borough of Greenwich, the charging authority, to examine the Revised Draft Community Infrastructure Levy (CIL) Charging Schedule ('the Charging Schedule'). I am a chartered town planner and chartered surveyor with more than 50 years' experience including 25 years' experience inspecting and examining Development Plans and CIL Charging Schedules as a Government Planning Inspector.

2. This report contains my assessment of the Charging Schedule in terms of compliance with the requirements in Part 11 of the Planning Act 2008 as amended ('the Act') and the Community Infrastructure Levy Regulations 2010 as amended ('the Regulations')[1]. Section 212(4) of the Act terms these collectively as the "drafting requirements". I have also had regard to the National Planning Policy Framework (NPPF) and the CIL section of the Planning Practice Guidance (PPG)[2].

3. To comply with the relevant legislation, the submitted Charging Schedule must strike what appears to the charging authority to be an appropriate balance between helping to fund necessary new infrastructure and the potential effects on the economic viability of development across the charging authority's area. The PPG states[3] that the examiner should establish that:

   - the charging authority has complied with the legislative requirements set out in the Act and the Regulations;

   - the draft charging schedule is supported by background documents containing appropriate available evidence;

   - the charging authority has undertaken an appropriate level of consultation;

[1] The Regulations have been updated through numerous statutory instruments since 2010, most notably through the Community Infrastructure Levy (Amendment) (England)(No. 2) Regulations 2019.
[2] The CIL section of the PPG was substantially updated on 1 September 2019, and has been further updated as recently as 26 April 2024.
[3] See PPG Reference ID: 25-040-20190901.

- the proposed rate or rates are informed by, and consistent with, the evidence on viability across the charging authority's area; and

- evidence has been provided that shows the proposed rate or rates would not undermine the deliverability of the plan (see NPPF paragraph 34).

4. The basis for the examination, on which a hearing session was held on 16 May 2024, is the submitted schedule of 26 March 2024, which is effectively the same as the draft Schedule published for public consultation at the end of July 2023 (see paragraph 8 below).

5. A CIL has been in place in the Royal Borough since April 2015. The rates have been increased by about 37% since 2015, based on indexation. In establishing a CIL rate, account has been taken of the Mayoral CIL which takes precedence over the Borough CIL. The updated residential rates per square metre (sq. m) now proposed are for less than 10 units excluding extra care £150; 10 units and above (excluding extra care housing) Zone 1 £150; Zone 2 £96; and Co-living £90. Student accommodation, hotels, supermarkets/superstores and retail warehousing (280 sq. m+) rates have not been revised and are not dealt with at this examination. For all other uses, excluding healthcare, education and emergency service facilities, the proposed charge is £25 per sq. m. Map 1 in the Revised Draft Charging Schedule identifies the two zones.

6. The Royal Greenwich Local Plan: Core Strategy with Detailed Policies was adopted in July 2014[4]. Currently the Council is undertaking a review of the Local Plan[5]. The London Plan 2021 is also a relevant consideration[6]. A substantial amount of housing growth is expected in Greenwich as well as about 21,000 additional jobs. The housing target identified in the London Plan for the Royal Borough is over 2,800 units per year. The area includes five identified development opportunity areas (OA) with the Greenwich Peninsula OA being the largest area for growth in the Royal Borough.

7. There are several challenges to the CIL review on the grounds that the Royal Greenwich Core Strategy is out of date and that the CIL review should wait for the revised Local Plan that is currently being prepared. I do not consider that there is a need to introduce more delay into a planning system that is generally characterised by suffering from significant delays[7]. The Council confirmed that the broad strategic approach based on development

[4] View details of the Royal Greenwich Local Plan here: https://www.royalgreenwich.gov.uk/info/200191/planning_policy_and_strategy/869/local_development_framework/2
[5] See the timeline for the review: https://www.royalgreenwich.gov.uk/downloads/download/1320/local_development_scheme
[6] https://www.london.gov.uk/programmes-strategies/planning/london-plan/new-london-plan/london-plan-2021
[7] The Levelling-up and Regeneration Act 2023 is aimed, amongst other things, at streamlining the plan making process when implemented.

opportunity areas/strategic sites outlined in the adopted Core Strategy is unlikely to change to a material extent and there is no identifiable advantage in waiting for the Local Plan to be reviewed.

Has the charging authority complied with the legislative requirements set out in the Act and the Regulations, including undertaking an appropriate level of consultation?

8. The Council undertook a Regulation 16 consultation between 31 July and 25 September 2023. The published draft Charging Schedule was posted on the Council's online Commonplace platform and web site, copies were made available at the Eltham Centre, Greenwich Centre, Thamesmere and Woolwich Centre libraries and copies were sent to all those on the Council's planning policy database. Eight weeks were allowed for representations. The consultation process resulted in over 150 representations being made.

9. I am satisfied the Charging Schedule complies with the Act and the Regulations, including in respect of the statutory processes and public consultation, consistency with the adopted Local Plan and the Infrastructure Delivery Plan, and is supported by an adequate financial appraisal. I also consider it compliant with the national policy and guidance contained in the NPPF and PPG respectively.

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

Infrastructure Planning Evidence

10. An Infrastructure Delivery Plan (IDP), produced in October 2021, was revised in July 2023. A funding gap report was produced in March 2023. In calculating the funding gap account has been taken of the number of funding sources including Royal Greenwich Capital funding, Greater London Authority/Transport for London funding, government allocations and developer contributions. The estimated cost of required infrastructure 2021/22 – 2025/30 is over £514 million. Identified funding amounts to around £155 million leaving a gap approaching £360 million. Even after anticipated CIL income is taken into account, the funding gap is expected to be over £200 million. Comprehensive details of the infrastructure requirements and funding are provided in the IDP and the funding gap reports.

11. In the light of the information provided, the proposed charge would therefore make only a modest contribution towards filling the likely funding gap. The figures demonstrate the need to levy CIL.

Economic Viability Evidence

12. The Council commissioned a CIL Viability Update Study, (VUS) which was produced in March 2023. The assessment uses a residual valuation approach

applied to a range of six residential development typologies. These typologies reflect the types of residential development expected to come forward in the Royal Borough and range from 9 houses at a density of 100 units per hectare through mixed flats and houses schemes, to a 500-unit high density flats scheme. Both market housing and affordable tenures at a range of unit sizes are dealt with.

13. For market sales values, the VUS uses evidence on on-line databases for new build schemes as well as pricing schedules submitted by developers at the planning application stage. Sales values vary across the Royal Borough with the highest prices being achieved in the Greenwich Peninsula. The evidence shows that average sales values per square metre vary from just over £5,900 to a little under £9,700. The VUS includes sensitivity testing to take account of anticipated medium term property price increases and cost inflation. Both a growth and a "downside" scenario are included. Given the uncertainty about future price/cost rises, the sensitivity testing is described as being indicative only.

14. In relation to affordable housing, account is taken of Policy H3 in the Royal Borough Local Plan. Taking this policy and discussions with the Royal Borough into account, the viability study is based on a tenure split of 70% rented housing provided as London Affordable Rent (LAR) and 30% as shared ownership (SO). The weekly LAR used relates to 2022/23 figures identified by the Mayor of London and ranges from £168.34 for a 1 bed unit to £198.03 for a 4-bed unit. For SO schemes, account has been taken of local maximum income thresholds and the London Plan. The approach used in the VUS reflects the way values are established by registered providers. The study assumes nil grant funding as grant funding is expected to be the exception.

15. A Build to Rent (BtR) typology based on a 500-unit flat scheme is tested. The rents used in the assessment are based on those achieved in Royal Greenwich as detailed in the Molior London database. The yields used reflect 2023 research by Knight Frank and CBRE. Operating costs of 25% are allowed for. The delivery of BtR schemes is tested against a range of affordable housing percentages from 0% to 50%. Account is taken of the tenure split policy in the London Plan and the requirement that 30% of the units be provided at the equivalent of the London Living Rent (LLR), with the remaining at genuinely affordable rents. For the LLR, the data is based on the Greater London Authority's 2022-23 rents for Greenwich.

16. For older persons accommodation, two typologies are tested – a 40-unit retirement/sheltered flat scheme and a 130-unit extra care scheme. Allowance is made for 70% rented (LAR) and 30% SO. A mix of one and two bed units is assessed. The VUS notes a range of factors applicable to retirement/sheltered housing and extra care housing including less efficient gross to net ratios, modest sales rates and the premium values that these types of housing usually attract. The premium sales values for these types of accommodation are taken into account.

17. For Co-living, a 500-unit scheme with an average unit size of 40 sq. m (gross) is tested. The VUS refers to a number of Co-living schemes that have

recently been developed and bases rents and yields on this evidence. The rents tested range from £1,300 to £1,690 per month with an investment yield of 4.25%. 30% is allowed for costs such as void periods and management fees. An allowance for financial contributions for off-site affordable housing is included.

18. The VUS has referenced and taken into account relevant policies in the London Plan and the Royal Greenwich Local Plan. For build costs the assessment relies on the evidence in the RICS BCIS[8]. Account is taken of factors that affect costs such as the nature of the development, density and building height. External works ranging from 10 to 15% are included and a 5% contingency is allowed for. The additional costs introduced to meet low carbon standards are assessed at 5% based on research done in 2021 for the Cornwall Climate Emergency Development Plan Document (DPD). The costs associated with accessibility standards contained in both the London Plan and the Local Plan are included. These costs are based on the MHCLG[9] Housing Standards Review. Exceptional costs are not included. The understandable assumption is that these are site specific and should be reflected in the price paid for the land.

19. The VUS includes professional fees at 10%, development finance at 6.5%, marketing costs at 2.5% and 0.25% for legal fees on sales. Section 106 (s.106) costs are included based on s.106 agreements signed in the last three years in the Royal Borough. These amount to about £3,000 per unit for residential uses and £30 for commercial uses.

20. A sales rate of 6 units per month, which is described as conservative to take account of market conditions, is used. In relation to developers profit, the assumptions are for 17.5% of Gross Development Value (GDV) for private residential sales and 15% of GDV for commercial development, BtR and Co-living schemes. For affordable housing the study uses 6% of GDV as an appropriate profit level.

21. As the VUS notes, the benchmark land value is a critical consideration in residual valuations. The study assumes that the benchmark should be based on a 20% premium above existing use value. This approach is reasonable and in line with what might be expected in an area such as Royal Greenwich. The assessment makes the point that sites will have varying uses, particularly in urban areas, and to allow for this, four benchmark values (inclusive of a 20% premium) are adopted ranging from £3,746,000 to £11,629,000 per gross hectare. The highest figure is based on a three-storey secondary office block on 1 hectare of land with 35% site coverage letting at £12.50 per square foot (sq. ft). Higher and lower value secondary industrial space provides the basis for the two mid-range benchmarks. The lowest benchmark assumes open storage on a one-hectare site with 70% useable site area and a rent of £3.50 per sq. ft. The benchmark assessments take into account other relevant factors, such as refurbishment

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[8] Building Costs Information Service.
[9] Now known as the Department for Levelling Up, Housing and Communities (DLUHC).

options and letting voids.

22. The draft Charging Schedule is supported by evidence of community infrastructure needs in the Infrastructure Delivery Plan and a comprehensive assessment of residential viability in the Royal Borough. On this basis, the evidence which has been used to inform the Charging Schedule is robust, proportionate and appropriate.

Are the proposed rates informed by and consistent with the evidence on viability across the charging authority's area?

Residential Development

23. The VUS sets out maximum CIL charges at a range of residential values and affordable housing levels. It is noted in the work that there is a relationship between CIL and the provision of affordable housing and it is acknowledged that the Royal Borough wishes to minimise the impact of the CIL on affordable housing as far as possible. The study notes that CIL remains a marginal viability factor in comparison to the impact of the level of affordable housing sought. In the lower value parts of the Royal Borough, viability is challenging at higher levels of affordable housing. This is also the case where there are high benchmark land values.

24. The VUS notes that most charging authorities set their CIL at less than 5% of development costs and allow for a viability buffer of between 20% and 50%.

25. The VUS evidence is that for residential developments of under 10 units the maximum CIL per sq. m would be around £235. For more than 10 units the figure is £235 in Zone 1 and £165 in Zone 2. Having regard to the need for a sensible buffer, the recommended rates are £150 for under 10 units, £150 for over 10 units in Zone 1, and £96 for over 10 units in Zone 2. The zones are shown in Figure 6.20.1 of the VUS. The Zone 1 rate for 10 or more units and the rate for less than 10 units would average around 2.5% of development costs. The £96 rate proposed in Zone 2 is virtually the same as the current indexed rate and would represent about 2.1% of development costs. The same rates are recommended for BtR schemes. In Zone 1 the rate would be about 3.3% of development costs and in Zone 2 about 3%.

26. For retirement/sheltered housing, the VUS evidence is that developments could support a CIL at the same rate as that applied to conventional residential development. In both zones, the proposed charge would represent less than 2.5% of development costs. For extra care schemes, the view is that the costs involved in providing communal space make this form of development less viable and the recommendation is for a nominal charge of £25 per sq. m which would represent about 0.5% of development costs.

Commercial Rate

27. The VUS does not deal with the rates to supermarkets/superstores and hotels as these rates are not scheduled for revision. What is described as a

nominal charge (£25) in the VUS is recommended for all other uses, excluding healthcare, education and emergency services facilities. The viability study does not include detailed evidence relating to this proposed charge. The VUS contends that a charge of £25 would, in most cases, be less than 1% of development costs and would be unlikely to have a significant adverse impact of development viability.

Has evidence been provided that shows the proposed rate or rates would not undermine the deliverability of the plan (see National Planning Policy Framework paragraph 34).

28. A substantial proportion of the representations made favour a higher level of charges, largely on the grounds that the Royal Borough needs a considerable amount of infrastructure to support the proposed population increase. Many argue that the property development industry is making excess profits in the area. A number also point out that the proposed charges are lower than in some other London Boroughs. The PPG[10] advises the examiner should establish that 5 matters are satisfied: the legislative requirements, the evidence base, economic viability across the charging authority's area, the consultation process and whether the evidence shows that the proposed rates would not undermine the deliverability of the plan. The examiner can recommend approval of the Charging Schedule subject to modification where the proposed rates would be inconsistent with the evidence or would put the delivery of the relevant plan at risk. This examination does not deal with the question of whether the proposed rates are high enough, as this is a matter for the Council who are expected to strike an appropriate balance between funding for infrastructure and the impact on viability.

29. A number of those from the development sector making representations refer to the 2023 economic situation in the country citing, among other matters, a highly inflationary environment, a tightening monetary policy, falling demand for property and rising construction costs. The argument is that, in such an economic environment, the deliverability of development would be threatened by the proposed increases in CIL charges. Economic conditions do not usually remain static for any length of time. It is arguable that the overall condition of the economy has not continued to deteriorate in 2024 and may now be showing signs of improvement. In any event, national guidance[11] recognises that economic conditions fluctuate and thus advises that CIL rates should include a viability buffer to allow for changing economic circumstances.

30. The VUS deals with the question of the viability buffer. The maximum residential CIL rates possible within the context of viable development are tested. Six residential types, ranging from 9 dwellings at 100 dwellings per hectare to 500 flats at 500 dwellings per hectare, are tested against the four benchmark land values. The testing includes varied affordable housing rates

[10] See PPG Reference ID: 25-040-20190901.
[11] PPG Reference ID: 25-020-20190901.

(0-50%) and seven sales values ranging from £550 to £900 per sq. ft. The testing is comprehensive and shows that viability is challenging in several situations. Critical considerations include the level of affordable housing, local values and where the benchmark land value is high. This is not unexpected within a large urban area where there are a wide range of land and property values. The proposed CIL rates allow for viability buffers of around 30% to 45%. These buffers are likely to be more than sufficient to deal with all but the most extreme changes in economic conditions.

31. The VUS makes the valid point that CIL is a marginal factor in comparison with the impact of the level of affordable housing. The VUS argues that affordable housing cannot be maximised to the total exclusion of infrastructure funding and vice versa. The VUS therefore commends the Royal Borough on its "flexible application" of the affordable housing policy in the Core Strategy, despite the fact that the policy is expressed in unequivocal terms – "Developments of 10 or more homes on residential sites of 0.5 hectare or more will be required to provide at least 35% affordable housing" (Policy H3). In practice, the Council does not want to compromise its affordable housing policy and the available evidence is that the existing CIL has not materially undermined policy H3 – in 2019/20 the percentage of affordable housing included in planning permissions amounted to 50%, in 2020/21 it was 32% and in 2021/22 it was 33%.

32. A number of the representations from the development industry argue that the strategic development sites have demonstrably different characteristics to the typologies tested and should be treated separately either by having a Nil levy or a bespoke charge. Several of these representations draw attention to the PPG reference to strategic sites[12]. The argument is rejected. The PPG does not require strategic sites to be treated differently – it is a matter that the authority should consider as a possibility. The experience in the Royal Borough since 2015 shows that a CIL based on area-wide evidence has not prevented strategic sites from coming forward for development.

33. There are some challenges to the benchmark values shown in the VUS. These are effectively countered by the point that the benchmark values reflect the types of site that are likely to come forward for development in the area.

34. The finance costs included in the VUS of 6.5% is regarded by some as too low in current circumstances. Although interest rates have increased in recent times, finance for development is not tied to the base rates in the same way that mortgages are and it is considered that 6.5% is not unreasonably low, in overall terms, given the time scales involved in development finance arrangements.

35. As regards the implications of the proposed charges on development costs, the Council's viability advisors point out that, based on their figures, for 10 or more units in Zone 1 the proposed cost increase would be about 0.9%. In Zone 2, the recommended rate of £96 would be broadly in line with the

[12] PPG Reference ID: 25-026-20190901.

current indexed rate. At £150 in Zone 1, the CIL charge would account for, on average, 2.5% of development costs with the figure for Zone 2 being 2.1%. As the Council point out, these percentages take into account the existing CIL charges which are already embedded in the market. For Co-Living there is no current CIL so the proposed £90 charge would be a totally new element in the cost calculation. The VUS estimates this at 1.8% of development costs. It is clear from the above figures that the proposed CIL rates would represent a small element of the overall development cost and I agree with the Council and its advisors that at these modest levels the CIL would be very unlikely to threaten the delivery of development.

36. As regards delivery, the development on the Greenwich Peninsula is critical to the Council's strategy. The VUS notes that the Royal Borough's site-specific viability consultants have assessed the implications of the CIL proposals on the development by Knight Dragon – the company leading the regeneration of the Peninsula. The conclusion is that the proposed increase in the CIL would have only a nominal impact on the scheme's viability. The internal rate of return (IRR) profit measure would reduce from 6.22% to 6.02% and the profit assessed as a percentage of GDV would fall from 18.04% to 17.54%. This small change is very unlikely to jeopardise the delivery of the proposals for the Peninsula that are fundamental to the Council's housing strategy.

37. As is often the case in CIL examinations, there are challenges to a number of the assumptions made, for example the allowance for maintenance and management costs and the assumed build-to-rent yields. Although there is scope for disagreement on the assumptions in the VUS, they are broadly in line with what one would expect. The challenges made are not robust enough to demonstrate that the viability conclusions reached in the VUS are unreliable, or that the recommendations made by the VUS (and accepted by the Council) would threaten the delivery of the Local Plan.

38. In setting the CIL charging rate the Council has had regard to detailed evidence on infrastructure planning and the economic viability evidence of the development market in the Royal Borough of Greenwich. The Council has tried to be realistic in terms of achieving a reasonable level of income to address an acknowledged gap in infrastructure funding, while ensuring that a range of development remains viable across the Royal Borough.

39. I consider the viability assessment to be robust and conclude that the rates proposed would not threaten delivery of the Local Plan. The proposed rates are justified therefore.

Overall Conclusion

40. I conclude that the draft Royal Borough of Greenwich Community Infrastructure Levy Charging Schedule satisfies the drafting requirements and I therefore recommend that the draft Charging Schedule be approved.

Keith Holland

Examiner