APPENDIX 1

The Planning Inspectorate

Report to Wiltshire Council

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an Examiner appointed by the Council

Date: 16 March 2015

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

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

Charging Schedule submitted for examination on 23 June 2014

Examination hearings held on 27 and 28 January 2015

File Ref: LDF/001527

Non-Technical Summary

This report concludes that, subject to some minor modifications to improve clarity, the Wiltshire Council Draft Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area. 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 Core Strategy, 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 Wiltshire 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 (NPPG).

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 27 and 28 January 2015, is the submitted Draft Charging Schedule (DCS), which was published for public consultation between 13 January 2014 and 24 February 2014, along with a Statement of Modifications (published in June 2014) and a Further Statement of Modifications (published in December 2014).

4. The Council's CIL proposals seek to include charges for residential development and for specific types of commercial developments: hotels, student housing and retail developments. Development falling within 'all other uses' would be zero rated for CIL purposes.

5. Residential developments would incur CIL charges which are differentiated in two ways. First, by geographical location in one of two charging zones and second, by classification into strategic or non-strategic developments i.e. there are four charging categories. 'Residential development' on non-strategic sites would incur charges of £85 per square metre (psm) in Charging Zone 1 and £55 psm in Charging Zone 2. 'Residential development' on 'strategically important sites, as set out in the Wiltshire

Core Strategy', would incur a £40 psm charge in Zone 1 and a £30 psm charge in Zone 2. The 'further' modification to the DCS (December 2014) would exempt Service Family Accommodation (SFA) from any residential CIL charges.

6. 'Student accommodation' developments would incur a £70 psm in all locations i.e. the charges are not zoned.

7. 'Hotels' would also incur a £70 psm charge in all locations.

8. The proposed retail CIL charges fall into three categories. First, 'retail warehouse and superstore/supermarket' development would incur a £175 psm CIL charge in all parts of the county. Second, retail development (excluding retail warehouse and superstore development) would incur a £70 psm CIL charge in the defined shopping centres of Bradford on Avon, Chippenham, Marlborough, Salisbury and Trowbridge. Third, retail development elsewhere (again excluding retail warehouse and superstore development) would be nil rated for CIL purposes i.e. £0 psm.

Background evidence – the relevant plan, infrastructure needs and economic viability evidence

9. Wiltshire Council is one of the largest and newest unitary authorities in the country, formed in 2009 by the amalgamation of the former county council and the four component district councils (Salisbury, West Wiltshire, North Wiltshire and Kennet).

10. The authority's administrative area is significant in size and largely rural in nature. It includes parts of three separate Areas of Outstanding Natural Beauty, part of the Western Wiltshire Green Belt, an element of the New Forest National Park and a World Heritage Site (at Stonehenge and Avebury). The largest settlements are Salisbury, Trowbridge and Chippenham which are complemented by smaller towns and villages. The Council serves a resident population of some 460,000. There are strong interdependencies with larger settlements beyond the administrative boundaries, most notably Bath and Bristol to the west, Swindon to the north east and Southampton to the south east.

The relevant plan

11. The examination of the Wiltshire Core Strategy (CS) has only recently concluded, with the Examiner's report being published in December 2014. The CS represents the first Wiltshire-wide strategic plan since the Council was formed and replaces the strategic content of the Local Plans of the former district councils. Given the scale and diversity of the areas, the production of the plan was understandably complex and protracted.

12. The CS, as modified by the Inspector's recommendations, proposes 'at least 42,000' new homes (an increase on the 37,000 contained in the submitted

plan) and the provision of 178 hectares of employment land over the plan period which extends from 2006 – 2026.

13. The spatial approach to accommodating this housing and employment growth follows sustainable development principles. It reflects the settlement hierarchy, with the bulk of new development directed to Principal Settlements and Market Towns, with smaller quantities in Local Service Centres. In smaller villages and rural areas, there is a general policy approach of development restraint.

14. Core Policy 2 sets out the geographical distribution of the (minimum) 42,000 new homes across three defined Housing Market Areas (HMA), together with a smaller allocation (900) on the edge of Swindon. The majority of the new homes (about 59%) are planned in the North and West Wiltshire HMA, which includes the Principal Settlements of Chippenham and Trowbridge. About 25% of the housing requirement is planned in the South Wiltshire HMA, which includes the Principal Settlement of Salisbury. The remainder of new homes are planned in the East Wiltshire HMA (about 14%) and the 'West of Swindon' allocation (2%). Overall, there had been 16,385 completions at that time, with 20,269 in commitments and 5,664 yet to be allocated.

15. Central to the CS approach of accommodating planned growth is the identification of a portfolio of 'strategically important sites' which include housing, employment and mixed use allocations. In the submission draft of the CS there were a total of 20 such sites, but complications arose over the Chippenham site allocations which resulted in its 4 strategic site allocations being removed from the CS. The remaining 16 sites are, typically, green field allocations and, in terms of housing numbers, they would, together, deliver almost 10,000 new homes.

16. To address the increased housing requirement (the additional 5,664 homes) and to resolve the Chippenham issues, the Council has committed to produce Development Plan Documents (DPD) to ensure effective delivery of planned development. These will include a Chippenham Site Allocation DPD (planned adoption in January 2016) and a Housing Sites Allocation DPD (planned adoption in June 2016). The Council has also committed to an early partial review of the CS.

17. The CS also incorporates an Inspector modification which establishes a two tier locality based Affordable Housing requirement (30% and 40%). The originally submitted plan contained a 40% county-wide policy but viability evidence demonstrated geographical disparities and this informed the two zone approach.

18. The CIL proposals are being put forward against the backcloth of an up to date and very recently adopted CS. There is a degree of uncertainty over the Chippenham strategic site allocations, at least for the time being. It will be some time before the broader 'sites allocations' are settled and this may include further sites of a strategic scale (to meet the increased housing requirement) along with a range of other smaller sites.

Infrastructure planning evidence

19. The CS evidence included an Infrastructure Delivery Plan (IDP) which assesses and analyses the future infrastructure needs in the county. It is a thorough and comprehensive analysis, covering a broad range of physical, social and green infrastructure needs in each community area. Projects are categorised into either 'essential' or 'place-shaping', with understandably higher priority given to the essential projects.

20. The Council has undertaken an infrastructure funding gap assessment. This is based on the IDP projects but the analysis excludes any projects that are already funded, those where costs are unknown and infrastructure that would not be CIL funded (such as strategic site infrastructure that is anticipated through S.106 planning agreements). This refined list covers five categories: education, transport, open space / green infrastructure, community facilities and health. The total funding cost for these types of infrastructure is circa £897 million in the plan period (to 2026) and, of this figure, about £635 million is categorised as 'essential'. Once known funding is deducted, there is an estimated 'essential' infrastructure funding gap of £456 million. The largest 'essential' infrastructure type funding gaps are in education (£193 million), health facilities (£182 million) and transport (£74 million).

21. The Council estimates, using a 2011 baseline, that its CIL receipts in the plan period would be equivalent to circa £62 million, based upon the anticipated quantum of CIL liable development. The CIL revenue would therefore make a modest, but nonetheless important, contribution to filling the assessed funding gap. CIL revenues would equate to about 13.6% of the 'essential' infrastructure funding gap. The evidenced funding gap is substantial and provides a clear justification for introducing a CIL regime.

22. The Council has produced a Draft Regulation 123 list which sets out the infrastructure types that it intends to fund, partly or wholly, through CIL receipts. The list includes education, sustainable transport, open space / green infrastructure, flood mitigation, community facilities, emergency services, health facilities and cross boundary infrastructure.

23. The 2014 Guidance makes plain that it is not the purpose of the CIL examination to 'challenge' the Draft Regulation 123 list. However, there were quite a number of representations made on the list and some comment is appropriate. The representations sought revisions to the list to provide a more explicit identification of specific types of infrastructure projects.

24. In my view, I do not see any flaw with the Council's approach. It does clearly identify the CIL funded infrastructure categories and many of the project types promoted (by representors) could be covered. I am not convinced that there is any great merit in specifying more detailed 'sub-sets' of infrastructure under the broad identified types. Given the size of the funding gap for 'essential' infrastructure alone, there are inevitably going to be some difficult assessments around prioritisation, and specifying more

detailed project types might unduly raise expectations of funding. The important point is that the list does achieve the key purpose of providing the transparency and clarity about the use of CIL receipts.

25. The Council has also produced a Planning Obligations Position Statement (June 2014) which sets out the residual role for S.106 planning agreements once the CIL regime is in place. This document includes a helpful table setting out which infrastructure types would be CIL funded, alongside more localised S.106 secured 'mitigation' infrastructure. The latter includes a range of identified education projects such as primary schools on strategic urban extension sites. When reviewed together, the Draft Regulation 123 List and the Planning Obligations Position Statement provide a useful and unambiguous distinction between the two infrastructure funding mechanisms.

Economic viability evidence – methodology and modelling assumptions and challenges

Methodology

26. The Council commissioned consultants to undertake a Viability Study (VS) to support its CIL proposals. The VS was completed in November 2013, against the strategic policy backcloth of the submission draft CS, although there have been some later additions and updates.

27. The VS employs a residual valuation approach. In simple terms, this involves deducting the total costs of a development from its end value to calculate a residual land value (RLV). That residual land value is then compared to assumed benchmark land values (BLV) to test viability. If the RLV is higher than the BLV, the scheme would be judged viable and vice versa. For residential developments, the methodology involves testing the ability of schemes to support potential CIL charge levels, ranging from £0 up to £280 psm. For commercial schemes a 'maximum' CIL is computed.

Modelling assumptions - residential development

28. The testing of residential scheme viability included five notional development types which the Council assessed, at that time, to be representative of the likely development in the county and which also reflected assumptions made in an earlier (2011) affordable housing viability assessment. Densities varied from 25 dwellings / hectare for the smallest scheme, up to 50 dwellings per hectare for the larger schemes. I noted views expressed that the densities used for the larger schemes were considered too high and may, as a consequence, overstate the value that can be extracted from a set unit of land.

29. The VS also included bespoke testing of seven of the largest identified 'strategic' sites, albeit that three of these were Chippenham sites which were not confirmed through the CS. The sites ranged in size from 700 up to 2600 units and, together, would account for about 8,500 new homes.

30. In my view, the testing of notional sites is adequate, if a little limited given the scale and geography of the county. It is also complicated by the Council's indication that new build flats (included in three of the five notional types) are now not expected to feature to any great degree, due to higher costs and lower returns. However, the reduction of the flatted element does, to an extent at least, mitigate some of the industry criticism about the density levels employed. The testing of strategic sites, which are expected to yield significant housing numbers, is well grounded and in line with the CIL guidance, and creates a strong connection with the delivery route for many of the planned new homes. Taking the notional and strategic site testing together, I am satisfied that this is a reasonable testing platform for CIL viability modelling.

31. To undertake the viability analysis, the modelling on residential developments entailed making assumptions about a range of development costs and revenues. Sales values had been drawn from an analysis of 46 new build developments and 243 associated transactions, largely in 2012. This was complemented by data from about 200 transactions from the 'second hand' market from the same period. This data was used to define average sales values in four distinct 'settlement categories'. The highest average values (£3,294 psm) were in Category 1 which includes Marlborough and Pewsey. Category 2 averaged sales values of £2,648 and covers Bradford on Avon, Salisbury, Wilton and Chippenham. Category 3 averaged £2,314 psm and includes Corsham, Amesbury and Devizes. The lowest average sales values of £2,110 were in the Category 4 settlements which encompass Melksham, Trowbridge, Westbury, Dilton Marsh, Calne, Warminster, Tisbury and Mere.

32. These four categories are of some wider relevance as they reflect the two tier affordable housing requirements (the higher value areas in Categories 1 and 2 attracting a 40% requirement; the lower value areas 3 and 4 attracting a 30% requirement). The categories also relate to the two proposed CIL charging zones, with Categories 1 - 3 falling in Charging Zone 1 and Category 4 falling in Charging Zone 2.

33. There was a degree of challenge to the definition of the sales category zones. It was suggested that the zones did not accord with the local property price 'heat map' and that certain settlements and locations should be in different categories. In particular, I listened to views that Malmesbury, Mere and Chippenham should be moved from Category 2 to the lower sales value Category 3. Views were also expressed that certain anomalies may limit the element of CIL receipts that would be paid to parish councils.

34. In my view, there are a number of matters to consider here. First, any exercise of averaging sales values over such large areas is inevitably going to include an underlying range and, unavoidably, a degree of anomaly. Second, a degree of care is needed in using 'heat maps' as they are based on unit prices and may not be directly comparable to the Council's data set. Third, the sales value data, whilst quite wide ranging, is now a little dated and will underestimate today's values, which the Council reported had increased by 8.4% in the intervening period. Fourth, even allowing for a

degree of caution around the sales values employed in a few locations, these are matters that can be considered 'in the round' when assessing the modelling results and, indeed, the context of where new development is actually planned.

35. The establishment of robust BLVs is clearly of great significance in this type of viability modelling, as these become the yardsticks against which viability is judged. However, it is a perennial theme with CIL examinations that local available transactional evidence on land values is either thin or non-existent. This means that reliance has to be placed on published (but essentially amalgamated and approximate) sources, such as Valuation Office Agency (VOA) data or, simply, upon informed assumptions. The Council has used a combination of these sources to define four BLVs.

36. Based on VOA figures for the region, with adjustments made, the Council defined BLV1 as 'higher value residential land' at £1.35 million per hectare. BLV2 was set at £1.185 million per hectare reflecting the lower values for residential land elsewhere in the county. BLV3 was set at £1.038 million per hectare and would typically relate to secondary industrial / employment land and was helpfully informed by some 2011 transactional research carried out for the Council's affordable housing viability testing. BLV4 was defined at £350,000 per hectare and would relate to greenfield land values, based upon research contained in the Department for Communities and Local Government (DCLG) study[1] which suggested a range of £250,000 - £374,000 per hectare. At the Hearing sessions the Council expressed a view that it felt, with hindsight, it had set BLV4 at too high a level.

37. The Council stated that it expected most housing supply to come from the lower value land, notably BLV4, and that the higher land value BLV1 would only be relevant in localised areas. The Council also considered that the higher land values (BLV 1 and 2) would include a degree of legacy from the 'old' policy era, such as a reflection of times when grant aid was available for affordable housing and when CIL was not known or anticipated.

38. Base build costs for residential schemes were drawn from Building Cost Information Service (BCIS) rates at the time when the VS was produced (2013). The Council opted to use a base build cost figure of £815 psm for houses and £963 psm for flats, which it advised were the midpoint values from the BCIS range for the region at that time. On top of the base build costs, the Council made additional cost allowances for contingencies (5%), external works (15%) and Code for Sustainable Homes requirements (6%), which appeared reasonable (in fact the latter appeared to be over stated). On strategic sites, an additional allowance of £20,000 per plot was applied on most sites (the exception being a partly serviced site) to cover the costs associated with servicing greenfield sites e.g. providing new utilities infrastructure.

39. There was some challenge to the base build costs assumptions, with views

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

expressed that the rates should be increased in line with recent changes in the BCIS rates, which had risen by about 9% in the intervening period. In my view, the fact that build costs may have increased in recent times, is a matter that can be considered 'in the round', along with sales price increases, when assessing the modelling results. It is worth noting that, whilst the percentage increases in sales and build costs are similar, a growth in sales values has a much greater positive impact on viability than the negative impact of an equivalent percentage increase in build costs.

40. Costs assumptions in respect of fees, contingencies and finance conformed with accepted industry norms. Developer profit was assumed at 20% of Gross Development Value (GDV) on market housing and 6% of GDV on affordable housing, which I consider reasonable.

41. Affordable housing was modelled in line with the submission draft CS's 40% requirement. However, sensitivity analysis of lower levels for the notional sites included a 30% proportion, which enables, where appropriate, the lower tier policy compliant scenarios to be identified. At my request, the Council re-appraised the two strategic test sites that fell within the new lower tier (30%) affordable housing area. Assumed tenure split was in line with policy and the testing assumed an absence of any grant subsidy.

42. Residual S.106 planning agreement costs were included at a notional £1,000 per unit for site types 1 – 4. Site type 5 was assumed as the proxy for a large site and a S.106 allowance of £15,000 per unit was assumed to cover on-site infrastructure. For the strategic sites, where S.106 contributions are expected to be significant (primarily due to site specific education and strategic transport requirements), bespoke cost assumptions were made.

Modelling assumptions – commercial developments

43. The commercial development modelling used similar assumptions and methodology. Notional schemes for offices, various types of retail development, industrial, student housing and hotel developments were tested in the VS. A later testing of commercial residential care home developments was also undertaken. Other than employment schemes on greenfield sites, the tested schemes were assumed to involve an intensification of an existing use of the site and current use values were assessed based on assumed occupancy, rent and yields. The assumptions employed for the notional schemes all appeared reasonable, including the assumed rents, yields, build costs and profit levels. The commercial development modelling outputs were compared to three assumed Current Use Values (CUV) rather than BLVs and these appeared reasonable for CIL testing purposes.

Conclusions on background evidence

44. The CS provides a very recent and robust development plan framework for sustainable growth in the district. The strategy has a strong focus on strategic site development to deliver many of the planned new homes and

jobs. The CS examination outcome raises a number of complications for the CIL regime, but none of these undermine the key fact that there is an up to date relevant plan, which identifies 'the development of an area'[2] that needs to be supported by new infrastructure.

45. The IDP identifies the infrastructure required to support the CS 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.

46. The background economic viability evidence has been the subject of some representor challenge on detailed aspects, and there is a degree of time lag and limitation on some of the body of evidence. However, in my view, these are matters that can be considered 'in the round' when assessing the modelling outputs. Accordingly, I consider that, for both residential and commercial development, the Council's CIL testing platform is reasonable, robust, proportionate and appropriate. The actual interpretation and use of the economic viability evidence in defining the proposed CIL rates is discussed more fully below.

Residential Development CIL – viability appraisal findings and proposed CIL charges

Notional sites testing results and CIL rates

47. Although some details are yet to be finalised, about half of (unbuilt) CS planned new homes will lie outside of the identified strategic sites. The notional site testing on Types 1 – 4 is essentially the proxy for these developments (Type 5 is a proxy for larger more strategic development) which will typically be smaller than 'strategically important sites' (the smallest listed strategic housing site is 150 dwellings). These non-strategic sites will cover a wide range of greenfield, brownfield and infill sites spread across the county.

48. Interpreting the appraisal outputs for the notional sites requires a degree of care and judgement. The modelling methodology inevitably generates a matrix of results which includes scenarios that are likely to reflect anticipated real world development, alongside scenarios which are unlikely. For example, in many cases 'not viable' results are returned against the higher BLVs but this does not necessarily imply that CS planned housing numbers will not be delivered. Rather, it implies that where existing land values are higher (i.e. those sites occupied by existing development), residential development returns are insufficient to 'outbid' the existing use value. The Council advised that it expects most of the housing supply to come from lower value land and, in particular, BLV 4 land i.e. greenfield. However, I am also mindful of views expressed by the development industry

[2] Section 205(2) of the Planning Act 2008 (as amended by the Localism Act 2011).

that it is simply not possible to acquire smaller sites, particularly in established settlement locations, at the assumed BLV 4 land value. A balanced view is required.

49. In Settlement Category 1, the modelling showed strong viability across all five development types and all four BLVs. Indeed, the majority of the 'policy compliant' test scenarios hit the test CIL maximum of £280 psm and the lowest was £200 psm.

50. In Settlement Category 2, the modelling showed the effects of somewhat lower sales values. Whilst viability was still very strong for all schemes on BLV4 (generating four results at £280 psm and one at £220 psm), the higher values of BLV1 - 3 resulted in 'not viable' results at policy compliant levels of affordable housing. This suggests that such developments would either not happen or that there would be some pressure on affordable housing content.

51. Settlement Category 3 results reflected those in category 2, albeit that they were a little weaker due to lower sales values, although to an extent this was mitigated by the lower tier (30%) affordable housing level. The BLV4 test results were, from smallest scheme upwards, maximum CIL rates of £200 / £180 / £140 / £120 / £40 psm. The higher BLV 1 - 3 results were 'not viable'.

52. Settlement Category 4 was the most challenging in terms of scheme viability. Although the small 4 unit scheme (no affordable housing) generated a £220 psm maximum CIL result at BLV4, the remaining results, based on the 30% affordable housing level, were £20 psm (15 houses) and 'not viable' for the 50, 60 and 70 unit schemes. The sensitivity analysis suggested that only quite significant reductions in affordable housing content would enable viable schemes to come forward.

53. The Council undertook a process of assessing and blending the most relevant modelling results to define a suggested maximum CIL rate for each Settlement Category Area. The Council's assessed maximum rates for Categories 1 - 4 were, respectively, £200, £160, £120 and £100 psm. The process of arriving at these suggested maximums was not altogether clear and seemed to rely on judgement rather than any clear mathematical process. However, from my analysis, the assessment of maximum rates for Settlement Categories 1- 3 is reasonable and robust, as it enjoys a good correlation with the data set. However, a degree of caution is required in the Category 4 assessed 'maximum' CIL rate of £100, given that there were only two policy compliant positive results, one of which was £220 psm (four houses), the other £20 psm (15 houses with 30% affordable housing).

54. In terms of the CIL rates on non-strategic sites, the Council proposes two charging zones. Settlement Categories 1 – 3 would fall within Charging Zone 1 and would incur a £85 psm charge. Settlement Category 4, which includes the lowest sales value areas, would fall within Charging Zone 2 and would incur a £55 psm charge.

55. There were many different views expressed about the Council's approach to CIL zones and charges, including advocates for a single rate and for higher rates in particular areas, notably AONB locations which tend to attract premium house prices. However, it is not my role to determine whether the Council has adopted the 'best' approach, as there are many possible permutations and merits / demerits to each. My role is to assess the Council's published charging schedule and assess whether it sets an appropriate balance between helping to fund necessary new infrastructure and the potential effect on the economic viability of development across its area.

56. In that context, I am satisfied that the £85 psm CIL rate for non-strategic development in Charging Zone 1 is supported by the evidence. Viability across Settlement Categories 1 - 3 is generally positive, especially on the lower value land that the Council expects to be predominant in the supply of new homes. In almost all such cases, the £85 psm charge is readily absorbed, often with a substantial degree of headroom or 'buffer.'

57. The proposed £55 psm rate for non-strategic development in Charging Zone 2 is less straightforward. The VS modelling evidence indicates that development viability across this area (Settlement Category 4) can be challenging and policy compliant results were limited to just two, one of which would be below the proposed charge. However, this is an area which the Council reported continues to deliver new homes on small and large sites, along with reasonable levels of affordable housing and S.106 infrastructure contributions. Some examples of recent S.106 agreement content suggested CIL equivalent infrastructure contributions well above the £55 charge proposed (although examples quoted tended to relate to larger sites).

58. It is also important to recognise that the £55 psm charge evolved from the Preliminary DCS consultation, which proposed a £70 psm single rate for Wiltshire i.e. the Council has now sought to recognise the generally more challenging viability across Settlement Category 4. The Council has also calculated that the lower (£55 psm) rate in this zone would be equivalent to just 1.5% of development costs.

59. I am satisfied that, in these particular local circumstances, the lower (£55 psm) CIL charge in Charging Zone 2 is reasonable and, when considered alongside the reduced (30%) affordable housing target, reflects the lower viability in this area. In my view, it is unlikely to put development viability at risk. However, it is important that I record that the Council's VS evidence base could have been more comprehensive, but the CIL charge would comprise such a small component of overall development costs that it would be unlikely to be a critical determinant in terms of schemes coming forward. However, I would urge the Council to monitor carefully housing (and affordable housing) delivery, and the effects of CIL, in this area, given its importance in delivering CS housing numbers.

Strategically important sites testing results and CIL rates

60. 'Strategically important sites' will play a critical role in delivering the CS housing requirements. They comprise the identified sites in the CS and will be supplemented by further strategic sites that will emerge from the Chippenham Sites Allocation DPD and, possibly, further strategic sites that may arise through the Housing Sites Allocation DPD.

61. The VS tested sites included three in Chippenham. Whilst these are currently unconfirmed in terms of development plan status, the testing is still relevant as it, along with the other four sites, reflects the development economics associated with larger housing developments. The Council also confirmed that the Chippenham sites could be seen as in accord with the 'strategic intentions' of the CS.

62. The key differences from smaller scale development are the additional costs associated with servicing these typically large greenfield sites, along with the substantial site specific infrastructure costs, notably for strategic transport and new schools on each site.

63. Once adjustments were made for the lower (30%) CS affordable housing requirement on two of the sites, all seven tested schemes generated positive RLVs. However, with the exception of one high value site in Salisbury, all of the remaining six schemes generated RLVs below the BLV4 value of £350,000 / gross hectare. The range was from £85,500 / gross hectare (King's Gate) up to £343,400 gross hectare (Rawlings Green).

64. Although some caution is needed in comparing these figures (as the housing density is very low in certain cases), there is a clear pattern of relatively low, although still positive, land values on these strategic sites. Earlier in this report (paragraphs 38 -40) I drew attention to the difficulties of robustly evidencing land values for CIL testing purposes. Whilst the referenced DCLG study's suggested range of £250,000 - £374,000 per hectare is a useful starting point, that document itself does not contain any evidential rationale for its figures. Based on the Council's evidence, four of its seven tested strategic schemes would not reach the lowest point on the range, and it appears that the development economics of strategic sites in Wiltshire will typically result in RLVs below the range suggested by the DCLG paper (referenced in paragraph 36 of this report).

65. The Council accepts that, with hindsight, its £350,000 / gross hectare BLV4 for its strategic sites was too high a benchmark, given the local development economics and the substantial additional costs associated with such schemes. However, for reasons rehearsed earlier, it is very difficult to define a 'right' land value assumption for such sites. Guidance in the 'Harman Report'[3] notes the importance of setting 'threshold' land values to represent the level at which a landowner is likely to release land for development, and this chimes with the National Planning Policy Framework's reference to a 'competitive return' to a willing landowner.

[3] *Viability Testing Local Plans – Local Housing Delivery Group Chaired by Sir John Harman – June 2012.*

66. To add some perspective, the existing land use of these 'strategic' sites in Wiltshire is essentially agricultural, with an associated value reported by the Council to be circa £23,000 per gross hectare. In many cases the modelled RLVs would still generate very substantial 'uplift' on farm land values. Before CIL is applied these would range from multipliers of 3.7 on the least viable (Kings Gate) to 14.86 on Rawlings Green (and 37.7 for the high value Salisbury site).

67. The key issue here is whether the Council's proposed CIL rates would actually threaten viability and prevent important strategic schemes happening. The proposed CIL charges are effectively discounted 'normal' rates and would be £40 psm for the strategic sites falling in Charging Zone 1 (five of the tested sites) and £30 psm for those falling in Charging Zone 2 (two of the tested sites). Although views were expressed that such sites should not receive discounted rates, I do not agree, as the evidence demonstrates the substantial additional site specific infrastructure costs that would fall on these sites.

68. Although there is scope for some conjecture about RLVs and whether they are sufficient to trigger release for development, it seems unlikely that such conservative CIL charges will be critical factors. Expressed as a percentage of development costs, CIL would amount to a sum falling within a narrow range of just 0.9% - 1.1%. At these levels, it is my judgment that the CIL charges will not threaten these developments. This view appears to be confirmed by some late evidence from the Council that computed recent agreed S.106 contributions on larger 'real world' schemes in Settlement Category 4 (where viability is weakest); these suggested that the equivalent 'CIL' component of recently secured, or at least agreed, S.106 obligations would be well above the proposed CIL charges. However, it is plain from the examination evidence and process that there are some viability pressures that will need to be monitored carefully and reflected in S.106 negotiations and, at the appropriate time, in any future CIL review.

69. An important related issue concerns the treatment of (currently) unconfirmed strategic sites in the Chippenham area, along with other larger sites, potentially of 'strategic' scale and status, that may emerge through the Housing Sites Allocations DPD. The issue here is that within a relatively short space of time, a number of strategic sites will be identified and, subject to due process, confirmed in the DPDs.

70. The Council has an understandable desire to apply its proposed CIL approach on strategic sites to any future additional strategic sites that may come forward through the two DPDs. The development industry appears to agree. However, two contrasting suggestions to solve this conundrum were put forward. The Council suggested a narrative amendment to the DCS by adding to the CS strategic sites any <u>proposed</u> DPD allocations *"....that, by virtue of the intended number of dwellings, are required to deliver significant on-site infrastructure in line with policy and the Council's Infrastructure Delivery Plan e.g. new school(s), Sustainable Urban Drainage Schemes, utilities, highway connections, sustainable transport schemes etc."* The development industry suggested a 150 unit threshold to

distinguish strategic and non-strategic. Unfortunately, I do not consider either option is workable.

71. The Council's suggestion, whilst well intentioned, cannot comply with Regulation 12 of the Community Infrastructure Levy Regulations 2010 (as amended). This requires any geographically differentiated rates to be defined, in terms of locations and boundaries, on an Ordnance Survey based map. Whilst the Council is able to do this for its CS sites (and these are clearly identified on the DCS maps) it is not able to do so for unconfirmed sites, some of which may actually be unknown at this stage.

72. The development industry's suggestion of a threshold does have the benefit of simplicity and it does conform with Regulation 13 (as amended) which permits differentiation by reference to the intended number of dwellings. However, the problem here is that the evidence does not point to where that threshold should lie. The Council's evidence for the lower CIL rates on strategic sites is essentially based on seven sites of significant scale (the smallest was 700 units). The key factors in seeking to justify lower CIL rates were the additional costs of i) servicing large greenfield sites and ii) the additional on-site infrastructure costs of schools and strategic transport works. There is little doubt that developments of this scale (700+ units) will trigger such costs. However, that may not be the case with smaller schemes (such as the 150 unit scale suggested) as, for example, such developments are unlikely to be required to fund a new on-site primary school. They may also include brownfield sites with different development economics.

73. The only workable solution to this problem is to review the CIL regime once the DPD site allocations are settled, perhaps in around two years' time. I do appreciate that, in the meantime, there could be some complications should any new 'strategic' site proposals come forward through planning applications in advance of the DPD adoptions (and any planned CIL review). However, that seems to me to be an unavoidable issue in the first few years of 'settling in' the CIL regime, given the particular circumstances in Wiltshire. Although not ideal, should the issue arise, there is the potential for the Council to address it through flexibility and pragmatism in terms of S.106 negotiations and, possibly, adjustments to the Regulation 123 list, to ensure that there is a degree of parity between 'new' strategic sites and the identified CS strategic sites. In my view, the Council would be wise to timetable a CIL review to follow on from the DPD adoptions. This will not only enable the outstanding issues to be properly addressed, but also allow for any local impacts to be assessed and any fine tuning adjustments to be made.

Specialist types of accommodation for older people

74. The Council's DCS does not propose any differentiation for specialist types of accommodation for older people. There were some representations suggesting that there was a growing demand for such accommodation to meet an ageing population, and that lower rates or exemptions should apply. The Council did not specifically test the viability of retirement housing schemes but submitted that, in its view, the higher densities and sales

values associated with such schemes would offset the additional costs associated with communal (non-saleable) floorspace.

75. The Council did, in response to a representor request, run a viability test on a notional 60 bedroom residential care home. The results indicated that, with CIL applied, the RLV would be well above BLV1. However, this was challenged by operators who claimed that the floorspace allowance per resident used by the Council (22.88 square metres per resident) was too low and a much higher figure (48 square metres per resident) should be used. Employing the higher figure (more than double the Council's figure) resulted, unsurprisingly, in unviable schemes. However, the Council's assumptions appear to be well grounded as they are based on National Care Standards requirements, which are a reasonable 'base' position for CIL testing. I also noted the Council's calculation that the CIL charge would amount to 1.86% of development costs (at a Zone 1 rate of £85 psm).

76. Based on the evidence before me, I do not consider that the Council's CIL proposal will introduce any significant viability threat to such specialist forms of residential development coming forward.

Service Families Accommodation

77. Wiltshire has a significant and long standing association with the Armed Forces in terms of bases, training grounds and service personnel accommodation. The Council engaged in significant and positive discussion concerning the special circumstances that surround Service Family Accommodation (SFA). A Statement of Common Ground (SOCG) emerged from those discussions which recognised the similarities between SFA and affordable housing and the case for similar exemption from CIL charges. Agreement was also reached that should any SFA become surplus and released to the open market, legally binding agreements to cover obligations, payments and an element of affordable housing, would be entered into. I am satisfied that the special case for SFA locally is supported by the evidence.

Commercial CIL – viability appraisal evidence and proposed CIL charges

Employment development

78. The VA's testing of office, industrial and warehouse developments demonstrated that these employment uses are currently unable to support CIL charges. Indeed, the evidence suggests a considerable improvement in market conditions would be needed to achieve levels of viability that could support a CIL charge for such developments.

Student accommodation development

79. The Council's CIL proposals for student accommodation have been rather overtaken by events. When first conceived, there was the prospect of some

significant student accommodation development in the county. However, that now looks less likely, although future developments associated with institutions within, and just outside, the county cannot be ruled out. The VS testing, using reasonable modelling assumptions, indicated that a notional commercially operated student accommodation development could support a CIL charge of up to £142 psm. Even though such development now appears less likely, the evidence does support the conclusion that a £70 psm CIL charge is reasonable and can be absorbed with a good amount of headroom.

Hotel development

80. The VS testing indicated that budget hotel development, employing reasonable industry assumptions, could support a CIL rate of up to £253 psm on the most likely lower value land (CUV1). The Council advised that there had been a number of recent developments in the county including new hotels at Trowbridge and Devizes, suggesting an active market. The Council also considered its modelling was pitched at the least viable end of the spectrum and premium hotel operations would be able to absorb higher contributions. Based on the evidence, I am satisfied that the £70 psm county-wide CIL charge for hotel development will not create any undue threat to viability.

Retail development

81. The VS tested a range of different types of retail development, in varying locations, sizes and covenant strengths.

82. The testing of retail developments within the main retail centres (Trowbridge, Chippenham, Salisbury, Marlborough and Bradford on Avon) indicated surpluses able to support maximum CIL charges of £690 psm (CUV1), £316 psm (CUV2) and £181 psm (CUV3). Setting the CIL rate at £70 psm appears reasonable, as it allows for all CUVs (with a good amount of headroom) and also allows for variations (from the notional test scheme) in terms of rents, yields and site specific costs.

83. The testing of conventional retail developments outside of the main shopping centres demonstrated that these would not currently be viable. The £0 psm charge is supported by the evidence.

84. By contrast the testing of 'retail warehouse and superstore / supermarket developments' on a county-wide basis showed healthy viability. The Council advised that, if any such development came forward, they would typically be on greenfield sites where the proxy land value (CUV1) would result in a modelled maximum CIL of £316 psm. The proposed £175 psm charge, whilst accommodating a lower (although still substantial) buffer than the town centre CIL charges, is reasonable in my opinion.

85. Some views were expressed suggesting that the retail CIL charges might undermine a particular retail led regeneration scheme. However, the Council advised that this was on a site in its ownership and that it was content that

CIL should apply and be ‘recycled’ into infrastructure provision.

Overall Conclusions

86. Wiltshire is a geographically large and diverse area. Its CS has only very recently been adopted following a long and complex process which resulted in some key changes to housing numbers, allocations and affordable housing policy. Those complexities have implications for the Council’s CIL proposals, which were conceived alongside the earlier submission draft CS. This has resulted in an element of time lag and some challenges in terms of how to address the issues arising.

87. However, none of these complications suggest that the CIL regime is premature. Indeed, the evidence demonstrates that there is a significant funding gap for infrastructure that is considered essential to support the CS planned growth. Although, some of the Council’s supporting data is now several years old and, in a few areas, a little narrow, there is limit to the testing a charging authority can reasonably undertake. Viability testing for CIL purposes will always be a broad brush and strategic analysis of viability. On a number of matters where the Council’s evidence is a little dated, such as residential sales values, the effect is merely to understate development viability. Overall, I am satisfied that the Council has used appropriate and available evidence which has informed assumptions about land and development values and likely costs.

88. For housing development, given the scale and diversity of the county, there is little doubt that a wide range of CIL zoning / charging permutations could have been pursued. The Council’s approach is relatively simple and that is encouraged in the guidance. It differentiates areas where viability is more challenging, and further differentiates ‘strategic’ developments, that will typically carry much higher on site infrastructure costs. Such an approach unavoidably results in anomalies and some inconsistencies, but I am satisfied that the overall development of the area, as set out in the CS, will not be put at risk if the proposed CIL charges are applied. However, I have, through this report, drawn attention to the need for careful monitoring, particularly in areas where viability is more challenging. I have further suggested that the Council considers a relatively early CIL review to address the issues around additional strategic sites arising from its DPDs. That will also provide an opportunity for evidence to be refreshed and any fine tuning to be undertaken.

89. For commercial developments, the Council has used appropriate and available evidence and I conclude that the charges are reasonable.

90. I have made some recommendations for minor modifications to improve clarity and to confirm the ‘final’ DCS version. My first recommendation simply confirms the substantive DCS. The second recommendation is to reformat the charging table to distinguish student accommodation, hotels and SFA from ‘residential’ developments. The third recommendation is to

ensure that the retail categories employ consistent wording. These recommendations are attached as an appendix to this report.

91. I conclude that, subject to my recommended modifications, the Wiltshire Council Draft Community Infrastructure Levy Charging Schedule, as modified by its Statements of Modifications, 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.

LEGAL REQUIREMENTS	
National Policy/Guidance	The Charging Schedule complies with national policy/guidance.
2008 Planning Act and 2010 Regulations (as amended)	The Charging Schedule complies with the Act and the Regulations, including in respect of the statutory processes and public consultation, consistency with the adopted Wiltshire Core Strategy 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 Charging Schedule may be approved.

Reference	Clarification / Modification
EM1	Clarification For the avoidance of doubt the substantive DCS is the *Wiltshire Community Infrastructure Levy Draft Charging Schedule (post-submission version) – January 2015*
EM2	Clarification / Modification Page 3 – Table The clarity of the table can be improved by separating 'residential' (green shaded column) from the categories of 'student accommodation', 'hotels' and 'Service Family Accommodation' Add separate boxes and titles in the left hand column: 'student accommodation', 'hotels' and 'Service Family Accommodation'.
EM3	Clarification / Modification Page 3 – Table The clarity of the three retail development types can be improved by making the descriptions consistent. In the first and second categories, add '*/ supermarket*' after the word '*superstore*' to make these consistent with the third category.