

# **Community Infrastructure Levy Charging Schedule Examination**

## **Bassetlaw District Council Response to Examiner's Matters, Issues and Questions**

**24 August 2023**

## **Matter 1 – Procedural Requirements**

### *Compliance with the Regulations*

Q1. Has the Council complied with the requirements of the CIL Regulations (as amended) prior to submission of the schedule for examination?

#### **BDC Response:**

The Council considers that the requirements of the CIL Regulations (as amended) prior to the submission of the schedule have been met.

The Council prepared a Whole Plan Viability Assessment [PUB-010] to inform its draft levy rates and an Infrastructure Delivery Plan to inform its infrastructure planning and published those for consultation alongside a draft Charging Schedule in January 2020 in accordance with s15 of the Regulations. The consultation bodies identified by s15 of the Regulations were consulted and representations sought. The Council took account of the representations where appropriate.

Prior to submission in August 2021, and in accordance with s16 of the Regulations, the Council published the draft Charging Schedule, relevant evidence and the statement of representations procedure and made all available at the Council's principal offices in Worksop, at town halls and libraries in the District and on the Council's website. The consultation bodies were notified and representations sought as per s17 of the Regulations and an advert placed in the local media. In both cases a six week consultation was undertaken.

Details are set out in the Council's Statement of Consultation [CIL-001].

Q2. What are the reasons for producing the Statement of Modifications (dated February 2023)?

#### **BDC Response:**

Following receipt of, and in response to representations made on the draft Charging Schedule in August 2021, the Council considered that for clarity two modifications were necessary to the draft Charging Schedule. These related to the development type for retail.

A change in the Use Classes Order revoked Class A1. The modifications proposed replacing Class A1 with Class E (a). The original description of the development type referred to retail convenience. The modifications proposed replacing this with food supermarket retail to better align with the viability evidence.

A number of other changes were proposed to the supporting document to better align with the content of the submitted Local Plan.

The Statement of Modifications [CIL-004] for the draft Charging Schedule was published and consulted upon in July-August 2022.

Q3. Did the Council comply with the requirements of the CIL Regulations (as amended) insofar as the Statement of Modifications is concerned, having particular regard to Regulation 19?

#### **BDC Response:**

The Statement of Modifications [CIL-004] were consulted upon for 6 weeks in July-August 2022, in accordance with Regulation 19 of the CIL Regulations (as amended). Representors

that had previously made a formal representation about the Charging Schedule were sent a copy of the statement of modifications and the submission notice in accordance with the Regulations.

## **Matter 2 – Appropriate Available Evidence**

### *Infrastructure Planning Evidence*

Q1. Is the Council's Infrastructure Funding Statement up to date? Does it adequately identify infrastructure needs, the total costs of the infrastructure, the anticipated funding from developer contributions and set out the choices about how these contributions will be used? Are the infrastructure needs sufficiently up to date?

#### **BDC Response:**

As required by national Planning Practice Guidance the Council publishes the Infrastructure Funding Statement (IFS) annually by 31 December and reports on the infrastructure funding position from the previous financial year. The latest and most up to date Statement is that for 2021/22.

The 2022 IFS [PUB-005] identifies the infrastructure secured as a consequence of planning permissions and the anticipated funding from associated developer contributions. Page 4 of the IFS sets out the type of infrastructure developer contributions may be used to help deliver. The IFS also identifies that either developer contributions or the levy or a combination with other mechanisms and funding streams may be used to deliver infrastructure.

Table 7 of the IFS identifies the strategic infrastructure that the Council and its partners consider is needed to support new development in the district, and sets out the costs which the levy will contribute towards. It includes strategic projects identified by the Local Plan as well as other strategic infrastructure projects agreed with infrastructure partners as necessary to support committed development/regeneration projects in the district.

The highways costs and Worksop secondary school costs in Table 7 aligned with the submitted Local Plan and the accompanying Infrastructure Delivery Plan 2022, so were considered to be an appropriate position for the 2022 IFS to take. The Local Plan is now at Main Modifications stage and some infrastructure priorities have changed. As such, the Council intends to re-visit Table 7 in the 2023 IFS to better align with the emerging Plan and the Infrastructure Delivery Plan 2023 [MOD-007]. This is considered to be consistent with national guidance.

Q2. What is the current funding gap, what is this based on?

#### **BDC Response:**

The overall funding gap (cost of the infrastructure from the Local Plan site allocations) is c£46.2m as set out in paragraph 4.4 of the Infrastructure Delivery Plan (IDP) 2023 [MOD-007].

Tables 32-35 of the IDP set out the anticipated total cost of education, health care, green infrastructure/sports provision and transport infrastructure associated with the Local Plan site allocations. The basis for these figures is set out in the Local Plan evidence base and summarised within Section 3 of the IDP.

Tables 32-35 set out the expected level of developer contributions by infrastructure type. This totals c£36.7m leaving a residual funding gap of c£9.5m associated with the Local Plan.

Q3. When taking the above into account, has appropriate evidence been provided to demonstrate a need for the levy?

**BDC Response:**

The Council considers that the Infrastructure Delivery Plan 2023 (IDP) [MOD-007] and the Infrastructure Funding Statement (IFS) [PUB-005] together provide sufficient evidence of a funding gap and a levy funding target. The IDP identifies a residual funding gap of c£9.5m associated with the Local Plan. Paragraph 4.5 of the IDP acknowledges that there are a number of infrastructure items within the Local Plan that are not costed so the overall cost of infrastructure and the funding gap is likely to be larger than £9.5m.

Table 7 of the IFS states that the cost of strategic infrastructure that CIL will contribute towards is c£40.7m. The cost of the projects not identified by the Local Plan is c£19.5m.

National Planning Practice Guidance states that any significant funding gap should be considered sufficient evidence for a levy where other funding sources are not confirmed. As such, the Council consider that appropriate evidence has been provided by the IDP and IFS to justify the need for a levy.

Q4. Is it clear to developers, decision-makers and local communities what infrastructure will be funded by the draft charging schedule and what would be secured through planning obligations?

**BDC Response:**

Yes, it is clear what infrastructure will be funded by the draft Charging Schedule and what would be secured through planning obligations. As per national Planning Practice Guidance, Appendix 2 of the IDP 2023 [MOD-007] identifies for each Local Plan site allocation the infrastructure that is expected to be funded via the levy and what would be secured through planning obligations. Table 7 of the IFS 2022 [PUB-005] identifies the strategic infrastructure projects that CIL would be expected to make a contribution towards. In the case of the IFS, for infrastructure not identified in Table 7, the IFS clarifies by planning permission where planning obligations will deliver different types of infrastructure.

*Viability Evidence*

Q5. How were the typologies in the viability appraisals been arrived at?

**BDC Response:**

Paragraphs 4.12-4.17 of the Whole Plan Viability Assessment 2022 [PUB-010] set out how the typologies for residential and commercial development have been arrived at. The typologies are considered to be reflective of general types of development that are likely to emerge in the district over the plan period.

Q6. Are the assumptions made in the viability appraisals reasonable and up to date and are they based on recent available evidence in relation to the following:

- The costs of finance and professional fee allowances
- Abnormal costs
- Brownfield land values in relation to commercial sales values.
- Density and floorplate assumptions for commercial development
- Standard house types
- Construction costs
- The cost of implementing accessibility standards

**BDC Response:**

The Whole Plan Viability Assessment (WPVA) [PUB-010] uses industrial land value at £425,000 per Ha (as detailed in Appendix 1 of PUB-010) as the basis for brownfield 'existing use values' when applying the appropriate premium as set out in the land value benchmark methodology.

The Council's consultants, HEB Chartered Surveyors are RICS Registered Valuers and operate in the local/sub-regional commercial/land market. Based on engagement with landowners, site promoters and developers, in their view, the figure is realistic of land transactions in the District and comparable surrounding locations within the sub-region. It is also reflective of transactions that have taken place over the last 10 years, as evidenced by the consultants own commercial database.

The Council's consultants state that such engagement indicates that commercial land within the District might reasonably be expected to transact at between £250,000 to £700,000 per Ha, depending on location and site specifics. The figure and the range was benchmarked with data taken from the following nationally recognised data points (WPVA, Appendix 1, p7):

- CoStar System – a nationwide subscription database covering commercial property issues
- Zoopla / Rightmove (professional user subscriptions)
- EGI – a further subscription database covering commercial property uses
- RICS Commercial Market Survey (quarterly)
- RICS Rural Land Survey H2 2021

The figure adopted is therefore considered to be a reasonable median 'tone' figure, to reflect the varied topography of the District, in which urban, rural and trunk road locations will influence demand / value.

The density and floorplate assumptions are based on the significant experience of the Council's consultants in undertaking development appraisals for various types of commercial development in the East Midlands. These are considered to be typical of average developments within the use types set out in the WPVA.

For example, the same floorplate assumptions successfully informed the viability evidence at the following locally based examinations in the last 5 years:

Newark & Sherwood DC CIL 2017  
Newark & Sherwood DC Local Plan 2018  
Nottingham CC Local Plan 2019  
Rushcliffe BC Local Plan & CIL Examination 2019  
Mansfield DC Local Plan 2019

The standard house types are based on the significant experience of the Council's consultants in undertaking development appraisals for the full range and type of residential development in the East Midlands. To inform the WPVA our consultants engaged with site promoters and volume and regional housebuilders active in the District and sub-region. This indicated that the standard house types are appropriate to the local market.

The standard house types assessed are also broadly reflective of the type and mix of housing identified by the Council's Housing and Economic Development Needs Assessment 2020 as being part of an appropriate mix for sites in the District over the plan period.

Construction costs are based on the cost allowances contained within the WPVA, Appendix 2 Basis of Costs, paragraphs 1-4, page 3. Detailed construction costs are set out within Appendix 2, Section 3.0 pages 13-14.

The accessibility standards are based on the same source material as that for the cost allowances within the WPVA, Appendix 2 Basis of Costs, paragraphs 1-4, page 3. Further information relating to assumptions is set out within the WPVA, Appendix 2, p4 under Access Standards Category 2.

Industry standard fee allowances are based on the significant experience of the Council's consultants negotiating an appropriate allowance with the development industry, including surveying practices such as Savills as well as a range of national volume housebuilders such as Barratt Homes, Persimmon Homes, Bellway Homes, and regional housebuilders including Avant Homes, Rippon Homes. All are currently operating in the District.

The fee allowances were benchmarked with the following nationally recognised data points (as per WPVA, Appendix 1, p7):

- CoStar System – a nationwide subscription database covering commercial property issues
- Zoopla / Rightmove (professional user subscriptions)
- EGI – a further subscription database covering commercial property uses
- RICS Commercial Market Survey (quarterly)
- RICS Rural Land Survey H2 2021

These allowances have successfully informed the viability evidence at the following locally based examinations in the last 5 years:

Newark & Sherwood DC CIL 2017  
Newark & Sherwood DC Local Plan 2018  
Nottingham CC Local Plan 2019  
Rushcliffe BC Local Plan & CIL Examination 2019  
Mansfield DC Local Plan 2019

Q7. Are the costs assumptions in relation to biodiversity net gain (BNG) and tree planting sufficient to include any tree planting required as a result of revised policy ST50?

**BDC Response:**

The WPVA, p31 [PUB-010] makes an allowance of £500 per dwelling for 10% biodiversity net gain. This is broadly comparable to the 2018 Defra assessment 'Biodiversity Net Gain' which estimates £17,757 of cost per Ha to achieve the requirement. This allowance is included in the overall per dwelling allowance for S106 contribution and biodiversity net gain (WPVA, paragraph 4.27).

The Infrastructure Delivery Plan (IDP) 2023 [MOD-007] costs tree planting at £100 per dwelling/1000sqm non residential floorspace.

For site allocations of 49 or less, the Local Plan, informed by the WPVA assumes a £4000 figure per dwelling for developer contributions, with CIL. The Plan proposes that site allocations of 50 or more have a zero levy rate. As such, the expectation is that the level of developer contributions that could be sought on the larger sites will be higher than £4000 per dwelling. The IDP 2023 identifies the types of infrastructure expected to be sought by developer contributions, which includes tree planting.

The Council consider that the level of developer contributions that could reasonably be expected to be required as per the IDP can be accommodated as part of the overall per dwelling allowance for S106 contributions with Biodiversity net gain and tree planting.

### **Matter 3 – Residential**

Q1. Is the levy rate for Residential (Use Class C3) –of £20sqm of less than 50 dwellings, justified by appropriate available evidence, having regard to national guidance, local economic context and infrastructure needs, including the various adopted and emerging planning policies for Bassetlaw?

#### **BDC Response:**

The WPVA supports residential CIL rates of £83-£97sqm for greenfield development and £32-£45 for brownfield development based on the general typology tests (para 6.13-6.14 of WPVA April 2022 [PUB-010]). Differential levy rates cannot be set in relation to existing land uses (e.g. greenfield and brownfield) so the Council has been careful to set the rate at a level that will not threaten the deliverability of brownfield development whilst generating significant contributions to help deliver the infrastructure requirements of the District. On that basis, the Council considers the levy rate for residential development of less than 50 dwellings to be justified, when taking into account national guidance, local economic context, infrastructure needs and the emerging Local Plan.

Q2. Is the levy rate of zero for Residential (Use Class C3) – 50 or more dwellings, justified by appropriate available evidence, having regard to national guidance, local economic context and infrastructure needs, including the various adopted and emerging planning policies for Bassetlaw?

#### **BDC Response:**

A series of viability assessments were undertaken in the WPVA 2022 [PUB-010] for the larger strategic sites (50 dwellings or more), ranging in scale from 61 dwellings to 1080 dwellings. All of these larger sites are likely to encounter higher site opening costs for items such as for highway works, drainage attenuation.

The IDP 2023 [MOD-005] shows that the sites of 50 or more are expected to generate higher site specific S106 contributions for construction of bespoke new facilities to meet the development's needs and to appropriately mitigate impacts upon the local community. This has been assessed through the WPVA.

On that basis, the Council considers the zero levy rate for residential development of 50 or more dwellings to be justified by appropriate evidence, when taking into account local economic context, infrastructure needs and the emerging Local Plan. It is also consistent with national Planning Practice Guidance which states that this approach may be appropriate where plan policies require significant contributions towards housing or infrastructure through planning obligations and this is evidenced by a viability assessment.

Q3. The PPG advises that it is appropriate to ensure that a 'buffer' or margin is included, so that the levy rate is able to support development when economic circumstances adjust. In all cases, the charging authority should be able to explain its approach clearly (Paragraph: 020 Reference ID: 25-020-20190901). How has this been reflected in the proposed rates in the charging schedule, having particular regard to previously developed land? Overall, do they strike an appropriate balance between helping to fund new infrastructure and the potential effects on economic viability with particular regard to securing the delivery of housing in Bassetlaw?

**BDC Response:**

In general the Council has sought to provide a minimum buffer of 30% of the available viability margin. This minimum buffer has guided the CIL rate of £20sqm based on the lowest brownfield viability margin of £32sqm for 30 dwelling urban typology test (para 6.13-6.14 of WPVA April 2022 [PUB-010]). It is considered this provides an appropriate balance between helping to fund new infrastructure and the potential effects on viability particularly for housing development in the district.

**Matter 4 - All Other Uses, Including Retail Class E(g)/(A1) Retail Use**

Q1. Is the levy rate of £100sqm for food supermarket retail justified by appropriate available evidence, having regard to national guidance, local economic context and infrastructure needs, including in relation to the Council's recently adopted planning policies?

**BDC Response:**

Yes, the levy rate of £100sqm for food supermarket retail is justified. The WPVA indicates a viability margin potential for a levy rate of up to £190sqm for brownfield development and £265sqm for greenfield development so the proposed rate allows a significant buffer. In the Council's view, this strikes an appropriate balance when having regard to national guidance, the local economic context, general infrastructure needs and the emerging Local Plan.

Q2. Is the levy rate for all other uses justified by appropriate available evidence, having regard to national guidance, local economic context and infrastructure needs, including in relation to the various adopted and emerging planning policies for Bassetlaw?

**BDC Response:**

Yes, the WPVA shows that all other commercial uses demonstrate negative viability and indicate a zero levy rate. In the Council's view, the approach taken strikes an appropriate balance when having regard to national guidance, local economic context and general infrastructure needs and the emerging Local Plan.

Q3. Overall does this strike an appropriate balance between helping to fund new infrastructure and the potential effects on economic viability?

**BDC Response:**

Yes, the Council considers that a cautious approach to levy rate setting has been taken, based on the viability and infrastructure planning evidence, particularly in relation to greenfield development. This will strike an appropriate balance between providing funding for infrastructure and ensuring deliverability of the housing and employment development proposed by the Local Plan.

As per national Planning Practice Guidance the Council considers it has created a realistic and viable charging schedule.