The Planning Inspectorate

Report to North Kesteven District Council

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an Examiner appointed by the Council

Date: 23 May 2017

PLANNING ACT 2008 (AS AMENDED)

Section 212(2)

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

Draft Charging Schedule submitted for Examination on 15 July 2016

Examination Hearing held on 28 February 2017

File Ref: PINS/M2515/429/3

Non-Technical Summary

This report concludes that subject to recommended modifications the North Kesteven District Council draft Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area.

In summary 4 modifications are recommended to the Draft Charging Schedule as follows:

- Amend the rate for new residential development in Zone 1 to £25 per square metre;
- Amend the rate for new residential development in Zone 2 to £15 per square metre;
- Amend the rate for new residential development in Zone 3 to £20 per square metre; and
- Amend the description of Zone 3 to read *"Developments at Canwick Heath, Grange Farm, Western Growth Corridor and Witham St Hughs Phase 3"*.

Subject to these modifications the Council is able to demonstrate that is has sufficient, appropriate evidence to support the Schedule. The Schedule will strike an appropriate balance between the desirability of funding necessary infrastructure whilst ensuring that it does not put at risk the viability of development in the area as set out in the Central Lincolnshire Local Plan.

Introduction

1. This report contains my assessment of North Kesteven District Council's draft Community Infrastructure Levy ('CIL') Charging Schedule in terms of Section 212 of the Planning Act 2008 (as amended). It considers whether or not the Schedule is compliant in legal terms, and then whether it is economically viable, as well as reasonable, realistic and consistent with national planning policy and guidance.[1]

2. To comply with the relevant legislation the local charging authority has to submit a charging schedule which sets an appropriate balance between helping to fund necessary new infrastructure and the potential effects on the economic viability of development in the District.

3. The starting point for the examination is the draft Charging Schedule ('DCS') submitted on 15 July 2016. A hearing was held on 28 February 2017 to examine the Council's evidence and the rates proposed.

4. As submitted the DCS proposes three Zones with three different rates for new residential development. Zone 1 covers the Lincoln Strategy Area ('LSA') as defined in the *Central Lincolnshire Local Plan* ('CLLP') and proposes a rate of £30 per square metre. Zone 2 covers parts of the District that fall outside the LSA where a rate of £20 per square metre is proposed. Excluded from both areas, and falling Zone 3 is part of the Western Growth Corridor, South East Quadrant ('SEQ') and South West Quadrant ('SWQ') Sustainable Urban Extensions ('SUEs'). Zone 3 also includes land at Witham St Hughs (Phase 3) where roughly 1,250 dwellings are remaining to be built as part of a new village. Within Zone 3 residential development would be charged at £25 per square metre.

5. Across all zones the DCS proposes a rate of £40 per square metre for convenience retail, whilst all other uses, including apartments are nil rated.

6. The North Kesteven DCS has been prepared alongside the schedules for the City of Lincoln Council and West Lindsey District Council. Although each one has been examined individually, the three local authorities have worked collaboratively and share the same evidence base[2].

Assessment of Compliance with the Act and Regulations

7. The Council consulted on the initial DCS for a period of four weeks from 19 May 2016 to 16 June 2016 as required by the Regulations. The draft Regulation 123 List, draft Instalments Policy and draft Payments In-Kind Policy were also published as part of this consultation, in addition to the relevant evidence-based documents[3]. Following this consultation the Council has provided a Statement of Representations as required by regulation 19(1)(b) of the Community Infrastructure Levy Regulations (2010) (as amended).

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[1] As set out in the National Planning Policy Framework and the National Planning Practice Guidance
[2] Document GEN101
[3] Documents NK001 – NK008 and GEN101 – GEN103

8. The consultation identified two errors which the Council has sought to rectify. These are set out in the Statement of Modifications[4] and confirm that the DCS submitted for examination has been amended by including a column to confirm that apartments are nil rated. This is consistent with the similar DCSs for the City of Lincoln and West Lindsey District Council. To further clarify how the rates would be applied the text *"dwellings excluding apartments"* was also added.

9. In accordance with regulation 19(4) of the Community Infrastructure Levy Regulations (2010) (as amended) a copy of the Statement of Modifications was issued to each person that was invited to make representations under regulation 15. Only two additional responses were received. One clarified that Historic England had no further comments to make, the other formally withdrew an objection from McCarthy and Stone Retirement Lifestyles Ltd and confirmed that they no longer wished to be heard by the Examiner. Both representations are set out in Document NK007a. For the purposes of the Regulations the correct procedural matters were followed.

10. Regulation 12(2)(c) also requires that where a charging authority sets differential rates a map must be produced which meets certain criteria. This includes identifying the location and boundaries of the different zones.

11. The clarity of each zone is discussed below. However, for the purpose of the Regulations the Council has produced a map which distinguishes between the different zones. This is based on an ordnance survey base, contains grid lines and meets the requirements of Regulation 12(2)(c).

Is the DCS supported by background documents containing appropriate available evidence?

Infrastructure Planning Evidence

12. Examination of the CLLP has recently been completed and the Plan was adopted on 24 April 2017. It is a joint Local Plan which covers the local planning authority areas of the City of Lincoln Council, West Lindsey District Council and North Kesteven District Council. It has been prepared by the Central Lincolnshire Joint Strategic Planning Committee in a formal partnership between the three authorities and Lincolnshire County Council. The plan sets out the main areas of growth that will need to be supported by new infrastructure across Central Lincolnshire and provides an appropriate basis for CIL in the three local planning authority areas.

13. The Infrastructure Delivery Plan[5] ('IDP') sets out the relevant infrastructure required to support the amount and location of development identified in the CLLP. In summary, it states that the greatest need for investment relates to the provision of the Lincoln Eastern Bypass ('LEB') and secondary/6th form education.

14. The LEB has been identified by the Council as a key piece of infrastructure that will help facilitate the delivery of growth in Central Lincolnshire. In particular,

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[4] Document NK007

[5] Document GEN102

it will allow some of the SUEs to come forward and deliver significant new housing close to Lincoln City Centre. The socio-economic advantages of the by-pass will also be wider, as it will provide benefits to existing residents and businesses throughout Lincoln, North Kesteven and West Lindsey. Assessing the funding gap and the contribution that CIL will make to the shortfall as a whole (rather than a requirement for each charging authority) is therefore reasonable in this particular instance.

15. It is estimated that the LEB will cost around £96m. Of this total roughly £50m will be provided by the Department for Transport, with an additional £12m from a Lincolnshire County Council grant. A further £2.8m is likely to come from developer contributions through existing Section 106 Agreements. This leaves a funding gap of approximately £31.2m.

16. It has been suggested that because the project is already underway the LEB must have funding in place for its completion, and therefore no gap exists. However, during the examination the County Council confirmed that because the LEB is a priority the funding shortfall will be met by borrowed capital in the short-term to ensure that the scheme can go ahead. By relying on finance that the County Council does not currently have, a funding gap therefore still exists which CIL receipts will help contribute towards.

17. In terms of secondary education and 6th form provision the IDP identifies a shortfall of £86.1m for Lincoln, £17.2m for Sleaford, £16.2m for Gainsborough and £9.4m for the rural areas. The total funding gap across Central Lincolnshire therefore amounts to approximately £128.9m.

18. As with the LEB, the estimated cost of secondary and 6th form education provision has not been broken down by each local authority. Although it is possible to compare individual school capacity with proposed developments, the geography of Central Lincolnshire is such that students often live in one area and attend school in another. For example, parts of North Hykeham form part of Lincoln's urban area but fall within North Kesteven. When also taking into account that development has been planned on a joint basis through the CLLP, this approach is reasonable.

Conclusion on Infrastructure Planning Evidence

19. When combined, the estimated cost of funding the Regulation 123 list items amounts to around £160.1m. In comparison, the IDP suggests that the housing growth in the CLLP is likely to yield around £35m from CIL based on assumptions regarding unit sizes. An alternative amount of approximately £39m across the plan area is identified in the Projected CIL Income paper[6]. But even using the higher value, the contribution that *this* CIL is expected to make, alongside similar levies in West Lindsey and the City of Lincoln would only be very modest.

20. In conclusion therefore, the information provided clearly points to a need to introduce the levy.

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[6] Document GEN103

Economic Viability Evidence

21. The Council's viability evidence is set out in the *Central Lincolnshire Local Plan and Community Infrastructure Levy Viability Study 2016*[7] ('VS'). The approach taken to the viability assessments is based on a residual value methodology. This attributes a value to a range of different developments and deducts any associated costs such as land acquisition, construction, external works, fees, contingencies, finance, planning policy costs and planning obligations. An allowance for developer profit is included and the difference between the development value and the total cost is the maximum amount that could be charged for CIL whilst ensuring that development remains viable. Alongside the IDP and information provided by representors this is the main source of evidence relating to viability.

Site size and density

22. The starting point for the VS is to consider a suitable range of sites that reflect the type of development likely to come forward in the area. This has been done by reviewing sites which informed the CLLP in the *Strategic Housing and Economic Land Availability Assessment* ('SHELAA'), past delivery and discussions with developers at workshops. In summary, the VS tested greenfield sites with capacity for 3, 4, 5, 10, 35, 100 and 300 dwellings, in addition to SUEs with a standardised size of 2,000 units. An addendum was also produced in May 2016 which looked at greenfield sites of 1,000 houses.

23. Across all the greenfield sites a density of 35dph was used. Evidence provided by a representor for the hearing session confirms that the density assumptions are broadly correct when applying the same net site area. The brownfield scenarios considered sites with a capacity for 20 and 50 units at a higher density of 40dph, in addition to a scheme for 50 flats at 65dph.

24. Although variations will no doubt occur on individual sites, overall the typologies used in the VS and assumptions regarding net developable areas and densities are reasonable. For the purposes of this assessment they adequately reflect the size and scale of development likely to come forward in the area through the CLLP.

Dwelling size

25. Average sizes for detached and semi-detached houses throughout Lincoln, Gainsborough, Sleaford and the rural areas of North Kesteven and West Lindsey are included in the VS. The data is based on properties for sale in March 2015 and shows considerable variations throughout Central Lincolnshire. For example, the average size of a dwelling in Gainsborough was 85 square metres, whereas in Sleaford it was 110 square metres. Because the VS seeks to assess viability on a plan-wide level a generic house size of 95 square metres was used. This represents the mid-point size across a range of house types throughout Central Lincolnshire, excluding Lincoln City Centre apartments.

26. Evidence submitted by a representor suggests that local developers are not achieving such sizes, with market housing typically around 87 square metres per unit. But this is only based on an assessment of 5 sites. Whilst I

[7] Document GEN101

appreciate that not every house built over the plan period will measure 95 square metres, it is a reasonable starting point upon which to base the VS. It is also based on proportionate available evidence.

Sales values

27. Different values have been provided for Lincoln, Gainsborough, Sleaford and rural North Kesteven/West Lindsey. Separate values for apartments in Lincoln, the LSA and West Gainsborough have also been included. In summary, this demonstrates that the highest sales values[8] are typically found in Lincoln and the LSA (which includes the surrounding villages), with the lowest values in West Gainsborough.

28. The values have been derived from analysing around 2,000 new properties included on the Land Registry database between 2012 and 2015. Asking prices from the website 'Rightmove' have also been used. Although the latter does not give a true reflection of the final sales price, Land Registry data does not provide the full picture either as it does not include information such as the size or condition of a property. Using both sources of data, combined with input from the developer forums represents a sound yet proportionate methodology. Based on discussions with developers a cautious approach to the higher sales values in the LSA was also taken by applying a discount of up to 10%.

Land Values

29. Paragraph 173 of the Framework states that to ensure viability, the costs of development should provide competitive returns to a willing landowner and willing developer to enable development to be deliverable. A critical part of this process is ensuring that land can come forward for new development.

30. The VS compares the residual value of each development scenario against a threshold land value ('TLV'), or the value that a willing landowner is likely to release a site for development. For generic (non-strategic) scenarios other sites have been assessed to help reach an informed judgement on the value of a typical, fully serviced plot. Due to the lack of publically available data concerning land transactions the VS has used asking prices for a range of sites and 'sense-checked' values through the developer workshops. Values are expressed as £ per net developable hectare and range from £500,000 for a fully serviced plot in Gainsborough, Sleaford and the rural areas to £680,000 for a greenfield site in the LSA. Given the limited amount of transparent evidence available, and considering that no alternative assessment has been provided on the same scale, the TLVs for the non-strategic sites are reasonable. They also reflect the fact that sales values are typically higher within the LSA than elsewhere in Central Lincolnshire.

31. For the SUEs a different approach has been used. It is based on the existing agricultural value of the land multiplied by 10. This is intended to reflect a premium above the existing use value that would provide a competitive return to a willing landowner to enable a site to come forward for development. Paragraph C.1.12 of the VS states that:

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[8] Examiner's Note: Expressed as £ per m^2

"As a 'rule of thumb' it is generally accepted in the development industry that landowners can anticipate a return of between 10 and 20 times the agricultural value of the land. This is supported by the HCA Viability toolkit assumptions (2010 Annex 1 'Transparent Viability Assumptions)".

32. Using this methodology a review of sales values in the wider area suggests that typical low grade agricultural land is expected to cost between £20,600 and £25,700 per gross hectare (or roughly £8,300 - £10,400 per gross acre). These values are intended to reflect the existing use of the SUEs and have been multiplied by 10 to provide the landowner with an incentive to sell. This is regarded as the minimum value that would be expected, and the VS has used a figure of £210,000 per gross hectare (or approximately £85,000 per gross acre).[9] Converted into a net figure (consistent with non-strategic sites) results in an un-serviced TLV of £300,000 per hectare for the SUEs.

33. Trying to determine how much above an existing use value would be sufficient to bring forward strategic sites for development is inherently difficult. Sites vary in terms of their location and market attractiveness, as do landowners' expectations. In this particular case no alternative methodology has been provided either, and there is no comparable data available in the public domain relevant to Central Lincolnshire.

34. However, different representors throughout the process, from the developer workshops to consultation on the DCS, have all expressed concerns that the TLV of £85,000 per gross acre is too low. I am also mindful that the SUEs around Lincoln represent large areas of predominantly open land, allocated for residential-led mixed-use development in the CLLP, on the edge of the City where house prices and demand is strong. The SUEs have also been progressing through the planning system for a significant period of time and site promotion costs will have been incurred which need to be factored in. Although the Council controls part of the Western Growth Corridor and can borrow capital at more competitive rates, there are other landowners to consider. It is also reasonable to assume that despite wanting to see development come forward, the Council would also wish to secure best value for the site.

35. As a consequence, although £85,000 per gross acre is a reasonable minimum TLV, it is possible that this figure could be higher. Furthermore, paragraph 6.3.26 of the VS confirms that *"It is important to appreciate that assumptions on threshold land values can only be broad approximations subject to a wide margin of uncertainty."* In the absence of any transactional evidence relating to strategic sites it is therefore important to incorporate a suitably sized buffer in setting the CIL rates for the SUEs.

<u>Section 106 and Site Opening up Costs</u>

36. The VS includes an allowance for Section 106 costs of £2,000 per dwelling on non-strategic sites, and £4,300 per dwelling for the SUEs. The generic site cost is based on an assessment of completed Section 106 agreements with an average of infrastructure contributions excluding the LEB and secondary/6th form education.

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[9] Examiner's Note – The figures in the residual appraisal summaries in Appendix F of Document GEN101 are based on a net site area, and are therefore different to the TLVs in Table 6.3

37. It is possible that some sites may have contributed more in the past through Section 106 Agreements. Others may have contributed less. But no assessment on a comparable scale has been provided to indicate that the figure used for non-strategic sites in the VS is fundamentally wrong. The Hearing Statement provided by Chestnut Homes indicates that assuming CIL is in place, the average Section 106 cost across 5 of their sites would be £2,177. This aspect of the VS is therefore broadly accurate.

38. Section 106 costs associated with each of the SUEs are set out in the IDP.[10] It lists items of infrastructure likely to be required which are not covered by CIL. For the SEQ the Section 106 costs are estimated to be around £16.4m including a contribution towards the LEB, or approximately £14.5m[11] without. Should funding towards the LEB be secured through CIL the anticipated Section 106 cost per dwelling would be around £4,143. The figure of £4,300 per dwelling used in the VS is therefore reasonable. No site specific evidence has been submitted to indicate that a different value should have been used.

39. For the Western Growth Corridor the table in Appendix 1C of the IDP has been presented slightly differently, and includes highways infrastructure as a Section 106 cost. At roughly £17.8m (net) for 3,200 houses this alone exceeds the £4,300 per plot figure in the VS. However, at the hearing the Council advised that the bulk of this cost relates to the construction of new bridge links to gain access to the site, and should more accurately be included as a site opening-up cost, rather than a Section 106 cost.

40. Site opening-up costs have been attributed a separate value of £10,000 per plot in the VS. This is based on consultation with site promoters and agents who suggested that a range of £6,000 - £10,000 per plot would be reasonable. A review of viability assessments associated with approved SUEs in the area endorsed this view. Given the varying degree of works likely to be required across the SUEs in respect of utilities, drainage and highways connections, adopting the higher figure of £10,000 per plot is reasonable.

41. Deducting the £17.8m highways costs from the table in the IDP, and treating it as a site opening-up, rather than Section 106 cost, leaves a total planning obligation contribution of £16.3m. This excludes any costs associated with the Lincoln Park & Ride which is not a policy requirement in the CLLP, and results in an estimated Section 106 cost of £5,094 per plot. Although values could change as more details become known, the evidence provided in the IDP therefore points to a slightly higher cost per plot than has been accounted for in the VS. This further emphasises the importance of incorporating a suitable viability buffer to account for any variations in the cost of providing items of non-CIL infrastructure such as primary school and healthcare provision.

42. At the hearing session the Council advised that the £2.5m attributed to flood mitigation could also be considered as a site opening up cost. However, this includes work such as raising land levels, upgrading drainage systems and improving management practices. It is therefore necessary to mitigate the effects of flooding, rather than open the site up for development in the same way as a new bridge or road access.

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[10] Document GEN102 Appendix 1C

[11] Examiner's Note: This is based on the contribution to the LEB being secured through CIL

43. Elsewhere the IDP estimates that Section 106 costs for the SWQ are likely to be in the region of £4,236 per dwelling. The requirement to provide the first phase of the Lincoln Southern Bypass has been included as a site opening-up cost, and no evidence has been provided to suggest that this assumption is wrong. The figures used in the VS are therefore appropriate in this regard.

44. Similarly, in Sleaford the IDP estimates that the total Section 106 cost per plot at the West Quadrant SUE is likely to be around £3,886. The Sleaford South Quadrant already has planning permission and paragraph 3.6.12 of the VS confirms that package of Section 106 contributions total roughly £4,137 per unit.

45. Within North Kesteven land at Witham St Hughs (Phase 3) is allocated for 1,250 dwellings. Although the site is not identified as a SUE, the VS identifies that significant new infrastructure will still be required. Amongst other things this is likely to include a new loop road, expansion of the primary school, contributions towards creating a health facility, expansion of the existing community centre, green infrastructure, open space, utilities connections and a noise bund. The same estimates of £4,300 per plot for Section 106 contributions and £10,000 for site opening up works have therefore been used and are appropriate in this instance.

Developer Profit

46. The VS refers to developer profit as a percentage of GDV for both market and affordable housing. This represents common practice and was used by the majority of representors at the hearings for all three charging authorities.

47. During the workshop in February 2015 participants discussed using 20% for market housing and 6% for affordable housing. In contrast, the final VS adopts a figure of 17.5%. This is based on the average figure that housebuilders have been prepared to accept in the region as cited at an RICS 'Case Study Analysis' event.

48. Although it relates to data from August 2013, no alternative sources of information have been provided to substantiate comments that a significantly higher percentage is more representative of market conditions. Subject to incorporating a healthy buffer it is a reasonable figure to use in this instance.

Planning Policy Costs

49. The VS includes a breakdown of costs associated with each of the policies in the CLLP. One exception is the requirement to meet the higher water consumption standard of 110 litres per occupier per day. Nonetheless, at the hearing it was agreed that the figure of roughly £9 per dwelling in the Council's Statement broadly reflects the cost associated with meeting this standard. In the context of the overall costs of constructing a new house this is highly unlikely to make schemes unviable.

50. At the time the VS was prepared in April 2016 draft Policy LP11 of the CLLP required affordable housing to be provided on all qualifying housing sites of 4 or more dwellings. MMs advanced during the examination of the plan amended Policy LP11 which now requires affordable housing on sites of 11 or

more units in accordance with the PPG[12]. However, this will have the effect of making developments of between 5 and 10 dwellings *more* viable. This is evidenced by the appraisals in the VS which tested a 0% affordable housing requirement on sites of 5 and 10 dwellings on greenfield sites.

Other Costs

51. Build costs are based on the Building Cost Information Service (BCIS) median figures. Median costs have been used rather than a mean figure to discount any abnormalities. Although the data is from February 2015, it was agreed at the hearing that increases in material costs are likely to have been offset by increases in sales value, as evidenced in the Council's Matter 2 Statement. The data is therefore robust.

52. Applied to the BCIS build costs is a contingency rate of 5% and allowance for external works equivalent to 10% on all residential development. No evidence has been provided to suggest that this is not representative of development schemes in the area. Similarly, I am satisfied that an 8% allowance on build costs for professional fees is reasonable in this instance, and that the BCIS figures clearly demonstrate that build costs for flats are higher than for houses (£1,061 compared to £898 per square metre).

Non-Residential Development

53. In addition to residential schemes the VS has also tested different types of commercial developments, including light industrial schemes, in and out-of-centre comparison retail, convenience retail and student accommodation. As with the residential scenarios, the VS has established the GDV and deducted development costs including developer profit.

54. Based on the evidence provided the values and costs cited for non-residential schemes represent reasonable assumptions. The range of scenarios used also adequately reflects the type of development likely to come forward in the area as set out in the CLLP.

Conclusion on Economic Viability Evidence

55. Viability testing is not a precise science and the VS has been informed by robust, appropriate and proportionate evidence wherever possible. However, the accuracy of some assumptions in the VS are limited due to the amount of transparent, comparable data available, especially concerning the TLV for the SUEs and the Section 106 costs for the Western Growth Corridor. Given that the SUEs are expected to contribute a significant amount of new housing across Central Lincolnshire, it is important that the buffer is large enough to allow for any additional costs that may be incurred in bringing forward the sites for development.

Charging Zones

56. The evidence contained in the VS demonstrates that typically, sales values are higher in the LSA. This is because the City of Lincoln serves as the main employment area for residents in North Kesteven and West Lindsey, with a

[12] Paragraph: 031 Reference ID: 23b-031-20161116

relatively high level of self-contained labour supply[13]. The higher demand and higher sales values in this area justify having a separate charging zone for the LSA (Zone 1) and the non-LSA (Zone 2).

57. It is also largely uncontested that the SUEs have different viability considerations. Although developers can benefit from economies of scale the infrastructure and site opening up costs are often significantly greater. Due to their size SUEs also typically take longer to come forward before new houses can be built and sold. As a result, this justifies identifying the Western Growth Corridor, the SEQ and the SWQ separately, within Zone 3. The same reasons also justify including Witham St Hughs (Phase 3) within the same zone.

58. A similar approach has not been taken with the two SUEs in Sleaford. The summary of recommended rates in the VS demonstrates that at 15% affordable housing the Sleaford SUEs could viably contribute £15 per square metre. The same rate is recommended for development elsewhere in Sleaford and the surrounding rural areas where a 20% affordable housing contribution would apply.[14] As such, there is no need to create a different zone for the other SUEs in Sleaford.

Are the rates informed by, and consistent with, the evidence available?

Residential Rates

<u>Zone 1</u>

59. Within the LSA the VS concludes that some non-strategic sites will only be able to viably contribute up to £34 per square metre. It therefore recommends adopting a CIL rate of £25 per square metre to allow an appropriate 'buffer'. The buffer ensures that new residential development will be able to fund CIL should economic circumstances in the area change. This is highly likely given the cyclical nature of the housing market.

60. In contrast, the DCS proposes a rate of £30 per square metre. Document NK005 seeks to justify this approach. It states that historic Section 106 Agreements have contributed £4,000 - £6,000 per dwelling towards infrastructure and remained viable. A scheme is also cited as providing £9,800 per dwelling with a 35% contribution towards affordable housing. In addition, the Council's hearing statement confirms that the proposed rates fall under the recommended maximum amount, and would be less than 2% of GDV.

61. However, adopting a rate of £30 per square metre would only provide a buffer of around 12%. This leaves very little scope for changing economic circumstances. It is also important to consider that assumptions regarding land prices in the VS were based on relatively limited data. The appraisal therefore advised, with caution, that:

> *"It is not appropriate to assume that because a development appears to be viable, that the land will change hands and the development proceed...There can be no definite viability cut off point owing to variation in site specific circumstances, including the land ownership expectations. To compensate*

[13] Paragraph 9.2.3 Document GEN101

[14] Examiner's Note: As set out in CLLP Policy LP11

for the risk of limited transactional evidence, it will be important to allow a buffer away from the theoretical maximum charge."

62. By seeking to adopt a CIL rate that only leaves a buffer of around 12% for non-strategic sites in Zone 1 the DCS is not informed by, or consistent with the evidence available. Given the uncertainties regarding land values, and taking into account the need to allow for changing economic circumstances, the proposed DCS could put at risk the delivery of development in the area. It is therefore recommended that a rate of £25 per square metre is adopted in Zone 1 as set out in the VS. (**RM/1**)

<u>Zone 2</u>

63. A similar approach has been taken in Zone 2. The VS recommends a rate of £15 per square metre, whereas the DCS proposes a rate of £20 per square metre.

64. Outside the LSA the maximum charge that non-strategic sites could viably contribute towards is £24 per square metre. As proposed the Council's rate would therefore only provide a buffer of approximately 17%. Although this is greater than in Zone 1, it still leaves very little headroom for the least viable sites, and is contrary to the available evidence.

65. Furthermore, Zone 2 includes the SUEs at Sleaford. Taking into account the requirement to provide 15% affordable housing in the CLLP the SUEs would only be able to viably contribute £30 per square metre. By adopting the recommended rate of £15 per square metre the schedule would provide a suitably sized buffer to ensure that their viability is not undermined. This is vital given the importance of the SUEs to housing growth in Sleaford, and bearing in mind the uncertainty regarding the accuracy of the TLVs. In accordance with the VS I therefore recommend a rate of £15 per square metre in Zone 2. (**RM/2**)

<u>Zone 3</u>

66. In Zone 3 the rate proposed in the DCS is also £5 per square metre higher than the rate recommended in the VS.

67. I appreciate that even at £25 per square metre the size of the buffer in Zone 3 is significantly greater than for developments in Zones 1 and 2. For example, the maximum viable CIL rate for new residential development at the Lincoln SUEs is £59 per square metre. Adopting the Council's proposed rate therefore includes a healthy buffer of around 58%.

68. However, for the reasons set out above there remains some uncertainty regarding the accuracy of the TLV used to calculate the viability of the SUEs. Paragraph 6.3.26 of the VS confirms that *"This uncertainty has been factored into the assessment when drawing conclusions and recommendations."* In the absence of any robust information having been provided to reduce this margin of uncertainty, adopting a higher rate therefore goes above and beyond the scope of the available evidence.

69. Furthermore, interrogation of the IDP demonstrates that even when accounting for highway works as site opening up costs at the Western Growth Corridor, the amount payable for infrastructure under Section 106 could exceed the £4,300 per dwelling used in the VS. Work surrounding essential

flood mitigation is also ongoing, and bringing forward later phases at the NEQ involves redevelopment of a former quarry. Although the site promoters and developers informed the local plan examination that the sites are viable developable, specific costs are likely to become clearer as the projects move forward, and could rise.

70. When taking these factors into account, and considering the importance of the SUEs to the delivery of the plan as a whole, it is critical that their viability is not undermined by CIL. I therefore recommend that a rate of £20 per square metre is applied in Zone 2 as set out in the VS. Adopting this rate will ensure that the schedule is consistent with the available evidence. (**RM/3**)

71. In reaching this conclusion I note that house prices have increased throughout North Kesteven by approximately 13.4% since 2015[15]. Nevertheless, the same evidence confirms that build costs have also risen by roughly 7.8%. This does not justify departing from the evidence available. Similarly, no robust analysis has been provided to substantiate comments that higher sales values in the LSA would allow developers to pay more for the SUEs and ensure that projects remained viable.

72. The site at Witham St Hughs for 1,250 new dwellings also falls within Zone 3. As a non-SUE within the LSA 25% affordable housing would be required in accordance with the CLLP. The May 2016 Addendum to the VS has specifically tested a 1,000 dwelling scenario and confirms that the maximum CIL surplus for such a site in and around Lincoln would be £39 per square metre. Despite not being identified as an SUE in the CLLP, Witham St Hughs Phase 3 is still intended to deliver a significant number of houses as part of a new settlement. As such, it also necessitates a suitably sized buffer, and further justifies the need to reflect the rates recommended in the VS.

73. A further change is also required to the DCS. As submitted it refers to Zone 3 as *"Developments of 1000 [units] or more and sustainable urban extensions within the Lincoln Strategy Area labelled as Canwick Heath, Grange Farm, Western Growth Corridor and Witham St Hughs Phase 3."* However, this could become misleading as no other sites of over 1,000 dwellings are allocated in North Kesteven and no windfall proposals of such a scale have been identified. For clarity the DCS should therefore simply refer to each site (**RM/4**). For the same reasons the possibility of including an additional column for 'other' sites over 1,000 units, as discussed at the hearing, is unnecessary.

<u>Apartments</u>

74. The VS demonstrates that apartments and flats are unable to support CIL even at 0% affordable housing. This is partly down to the higher build costs, with apartments containing communal areas and circulation spaces which contribute towards construction costs but are not translated into sales revenue. A block of apartments also need to be substantially completed before sales can begin, unlike a phased scheme of houses. A rate of £0 per square metre is therefore justified across all zones.

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Retail Rates

75. Student accommodation, comparison retail, office and light industrial developments have all been demonstrated as unable to contribute towards CIL and remain viable. A nil rate is therefore justified across all zones.

76. However, the VS has tested different sized convenience retail stores and concludes that the least viable development (a larger format store) would be able to support a charge of up to £73 per square metre. The proposed rate of £40 per square metre is therefore informed by, and consistent with the evidence available. It also provides a generous buffer of approximately 45% to account for changing economic circumstances affecting retail development.

Would the charging rates put at risk the delivery of development?

77. All of the sites in Zone 3 form an important part of the CLLPs housing strategy and safeguarding their viability is critical to ensure that housing needs are met locally. Adopting a CIL rate which exceeds the evidence provided, without sufficient justification, risks undermining the delivery of these strategic sites. Similarly, the rates proposed for non-strategic sites leaves very little room for manoeuvre, and should economic circumstances change, it would put at risk the delivery of development in the area.

78. It is therefore recommend that the rates in the charging schedule are reduced by £5 per square metre in each zone to reflect the recommendations of the VS. Subject to adopting the rates set out in the VS the available evidence demonstrates that CIL would not prejudice the delivery of new residential and convenience retail development. It would strike an appropriate balance between the desirability of funding necessary infrastructure and the potential impact on the viability of development in the area as required by national guidance[16].

79. In reaching this view it is appreciated that CLLP Policy LP11 allows the percentage of affordable housing to be negotiated if viability testing demonstrates that relevant targets cannot be met in full. But this is intended to offer flexibility in specific circumstances on a site-by-site basis. It is not appropriate to set a CIL levy rate that would rely on applicants having to negotiate other planning policy requirements such as affordable housing. This would place an unreasonable and disproportionate burden on applicants and local planning authorities. It would also be contrary to paragraph 174 of the National Planning Policy Framework which states that the cumulative impact of standards and policies should not put at risk implementation of the plan.

Other Matters

80. It has been suggested that other types of residential development such as service family accommodation and houses for agricultural and forestry workers should be subject to a lower rate. However, the PPG advises that charging authorities should set a rate which does not threaten the ability to develop viably the sites and scale of development identified in the relevant Plan. No specific proposals for service personnel have been included in the CLLP. In the event that dwellings for agricultural workers come forward and are liable for

[16] Paragraph: 008 Reference ID: 25-008-20140612

CIL, I have seen no evidence that this is likely to be on a scale that would undermine the delivery of development identified in the plan.

81. Representations also state that there are other infrastructure needs that the Council should fund through CIL. But this is not a matter for me. Instead, I am required to consider whether or not, in general terms, the projects in the Regulation 123 would assist the delivery of the CLLP. As identified above, the LEB and secondary/6th form education will assist with the delivery of the plan, and there is clearly a need for additional funding for both projects through CIL.

Overall Conclusion

82. Subject to modifications the North Kesteven District Council Community Infrastructure Levy Charging Schedule will satisfy the requirements of Section 212 of the 2008 Act and will meet the criteria for viability in the 2010 Regulations (as amended).

83. I therefore conclude that the Charging Schedule be approved based on the modifications set out in Appendix 1.

Matthew Birkinshaw

EXAMINER

APPENDIX 1 – RECOMMENDED MODIFICATIONS

Reference	Modification
RM/1	Amend the rate for Zone 1 to £25 per m^2
RM/2	Amend the rate for Zone 2 to £15 per m^2
RM/3	Amend the rate for Zone 3 to £20 per m^2
RM/4	Amend description of Zone 3 to read *"Developments at Canwick Heath, Grange Farm, Western Growth Corridor and Witham St Hughs Phase 3"*

The effect of these recommendations would be to create a charging schedule that reads as follows:

NORTH KESTEVEN DISTRICT COUNCIL CIL CHARGING SCHEDULE RESIDENTIAL CHARGING RATES			
		Dwellings excluding apartments	Apartments
Zone 1	The Lincoln Strategy Area	£25	£0
Zone 2	The Non - Lincoln Strategy Area	£15	£0
Zone 3	Developments at Canwick Heath, Grange Farm, Western Growth Corridor and Witham St Hughs Phase 3.	£20	£0

NORTH KESTEVEN DISTRCT COUNCIL CIL CHARGING SCHEDULE COMMERCIAL CHARGING ZONES (APPLICABLE TO WHOLE DISTRICT)	
Convenience Retail	£40
All other uses*	£0

*'All other uses' and the £0 rate include comparison retail and retail warehousing.