The Planning Inspectorate

Report to Bath and North East Somerset Council

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an Examiner appointed by the Council

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PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

REPORT ON THE EXAMINATION OF THE DRAFT BATH AND NORTH EAST SOMERSET COUNCIL COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE

Charging Schedule submitted for examination on 10 October 2014

Examination hearings held on 8 January 2015

File Ref: LDF/001597

Non-Technical Summary
This report concludes that, subject to some modifications, the Bath and North East Somerset Council Draft Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area. The modifications required to the Schedule relate to a more precise definition of a development types for older persons' accommodation and for student housing, and to the creation of zero rated charging zone around the Bath Western Riverside site. Subject to these changes, 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 the Bath and North East Somerset Council's (B&NESC) 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 8 January 2015, is the submitted Draft Charging Schedule (DCS), which was published for public consultation between 24 July 2014 and 18 September 2014, along with a Statement of Modifications (SOM), which was published for public consultation in the four weeks before 11 November 2014. The Council also made some post submission requests to me for consideration of further (minor) amendments to the schedule.

4. The Council's CIL proposals include charges for residential development and for certain specified types of commercial development.

5. The proposed CIL charges for 'residential (Class C3) including Specialised, Extra Care and Retired Accommodation' developments, would be £50 per square metre (psm) on defined strategic sites and urban extensions, and

£100 psm elsewhere (district wide).

6. The proposed CIL charges for commercial developments relate to specified types of retail, hotel and student accommodation. The retail CIL charges are differentiated by type and by geographical location: 'retail – in centre/high street retail' would incur a £150 psm CIL charge in Bath City Centre, but a £0 charge elsewhere; 'supermarkets, superstores and retail warehouse' developments (over 280 square metres) would be subject to a £150 psm CIL charge in all locations i.e. district wide. Hotel developments would incur a £100 psm charge in Bath but a £0 rate in the rest of the district. Student accommodation developments would incur a £200 psm charge for market rent schemes, but a £0 psm rate would apply to schemes with 'sub-market' rents set through S.106 planning agreements. For completeness, the schedule also includes 'offices (Class B1)', 'industrial and warehousing' and 'any other development' all of which would be zero rated for CIL purposes (district wide).

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

7. The B&NES district stretches from the outskirts of Bristol southwards to the Mendip Hills and east to the Cotswolds and Wiltshire border. It is an attractive and diverse district which contains significant cultural, heritage and environmental assets. The main urban centre is the city of Bath which is complemented by a range of smaller towns, villages and hamlets. Bath's cultural and built heritage is of international renown and it has a substantial and mature visitor economy. The city also fulfils a significant regional role as an economic centre with substantial employment, higher education facilities and shopping attractions. About half of the district's population live in Bath. There are two other notable population centres in the district. These are the town of Keynsham and the settlements that make up the area known as the Somer Valley (Midsomer Norton, Radstock, Westfield and nearby villages). The remainder of the district (over 90% by area) is rural and includes substantial areas of designated Green Belt and Areas of Outstanding Natural Beauty (AONB).

The relevant plan

8. The B&NES Core Strategy (CS) was adopted in July 2014. It responds to the challenges, constraints and opportunities of the district to define a strategy for sustainable growth in the period from 2011 to 2029. That strategy identifies a housing requirement of about 13,000 new homes and an economic growth aspiration of 10,300 new jobs in the plan period.

9. The CS directs the majority of new development (homes, jobs and community facilities) to the most sustainable locations, with a focus on primarily brownfield sites in the urban areas of Bath, Keynsham and the Somer Valley. However, these locations cannot meet all of the growth needs. To meet the assessed needs, the CS complements the existing urban locations with the allocation of four strategic sites which have been released

from the Green Belt. These are at Odd Down (Bath), East Keynsham, South West Keynsham and Whitchurch.

10. To support its CIL proposals, the Council has undertaken an analysis of the scale and spatial distribution of new housing development that it anticipates will be liable to its CIL charges. This is helpful, given that much of the CS housing requirement is already built, under construction, or the subject of extant planning permissions. The Council's analysis suggests that 4,594 units of its CS housing requirement (circa 13,000) will fall under its CIL regime, with over half of this amount in Bath (2,567) and smaller contributions from Keynsham (754), the Somer Valley (517) and Whitchurch (200) along with the balance from the rural areas (556). About a quarter (1,070) of the anticipated CIL liable new homes would be on the strategic sites.

11. Above set thresholds, the CS requires affordable housing at a proportion of either 40% or 30% dependent on location. This two zone approach to affordable housing was informed by earlier viability work which underpinned the CS policy approach to affordable housing provision. In essence, where viability is stronger the higher affordable housing proportion is sought. The Council reported at the examination Hearing sessions that CS affordable housing requirements were generally achieved.

12. The CS also includes specific policies which encourage the development of additional hotel bed spaces and support schemes to meet the demands for student accommodation. These policies are of some relevance to the respective proposed CIL charges for these development types.

13. The Council is currently consulting on a 'Placemaking Plan' which will complement the strategic planning framework set out in the CS by defining detailed design principles and development aspirations, along with specific requirements for identified development sites.

Infrastructure planning evidence

14. The CS was supported by an Infrastructure Delivery Programme (IDP) which assesses and analyses the future infrastructure needs in the district. It assesses categories of infrastructure including energy, education, health, transport, green infrastructure, community facilities, leisure, public realm, minerals and waste and affordable housing. It is a comprehensive assessment which draws upon significant engagement with service providers. It includes costs where known and identified funding sources. It is a 'live' document and the Council is continually updating it.

15. The Council has undertaken an infrastructure funding gap assessment. For the entire infrastructure set out in the IDP, it assesses a net funding gap of circa £234 million in the plan period (to 2029). The Council has also assessed the funding gap based solely on 'key and strategic' infrastructure; this results in an assessed net funding gap of circa £85 million in the plan period.

16. The Council estimates that its CIL receipts from residential development in the plan period would be circa £14 million. This will be supplemented by an unknown, but much smaller, amount from commercial development CIL charges. The residential CIL revenue would therefore make a relatively modest contribution to filling the assessed funding gap, equating to about 16.5% of the 'key and strategic' funding gap. Although there were some challenges to whether all of the schemes, included in the 'key and strategic' analysis, were actually essential (i.e. development could not happen without them), the gap is substantial. Even allowing for a degree of caution around the definition of 'key and strategic', the evidence provides a compelling justification for introducing a CIL regime.

17. 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 infrastructure types covering strategic transport, early years and school schemes, social and community facilities, strategic energy, health and well-being, strategic waste and green infrastructure.

18. For the most part, the list is clear and comprehensive. However, there were some challenges and concerns from some representors on two points. First, some wished to see specific projects more clearly identified and second, there was a degree of confusion arising from some of the terminology, particularly around the circumstances where education facilities might become an 'on site' provision requirement (through a planning agreement).

19. On the first point, I do not see any flaw with the Council's approach, as it does clearly identify the CIL funded infrastructure categories and many of the project types promoted (by representors) could be covered. On the second point, it did become clear at the Hearing sessions that, to all intents and purposes, education would be a wholly CIL funded infrastructure type, unless it related to specific primary school provision associated with strategic site proposals. The only circumstances when this may not be the case would be if an unforeseen large strategic site came forward which justified on site primary school provision. This seems most unlikely given the recent adoption of the CS and I do think the Council could helpfully evolve and finesse the list to provide some greater clarity and transparency on these points.

20. The Council has also recently consulted on a Draft Planning Obligations Supplementary Planning Document (SPD). This seeks to set out the residual role for S.106 planning agreements by defining the on-site and site specific infrastructure that would not be CIL funded. The Council is currently considering the responses to its public consultation.

Economic viability evidence – methodology, data sources and assumptions

21. The Council commissioned consultants to undertake a Viability Assessment (VA) to support its CIL proposals. This exercise was conducted in two distinct stages. The first stage was undertaken in 2012 and the resultant VA report was used to inform a Preliminary DCS. Using feedback from the public consultation on the Preliminary DCS, along with updated and

refreshed evidence, a second stage VA was produced in May 2014. It is this later report that comprises the substantive evidence base underpinning the Council's current CIL proposals.

22. The VA employs a residual valuation approach. In simple terms, this involves deducting the total costs of the 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 levels, ranging from £0 up to £350 psm. For commercial schemes a 'maximum' CIL is computed.

23. The testing of residential scheme viability included nine development 'typologies' which the Council assessed as representative of the portfolio of past, current and future actual developments in the district. The typologies ranged in size from a small low density 4 house development, up to a large high density 125 unit scheme comprising a mix of flats and houses. The VA also included bespoke testing of the identified 'strategic' sites. In my view, the range of sites tested is comprehensive and well grounded.

24. 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 25 real world schemes, supplemented by sales data from the 'second hand' market. This enabled distinct sub-markets to be identified. Average sales values in these sub-market areas varied from the lowest of £2,500 psm (the Somer Valley area) up to the highest of £4,800 psm (in Bath city centre). The Council considered that, in the light of recent improvements in property prices, its sales values assumptions were cautious. This view was generally supported by the housebuilding industry, although its representative did suggest that the assumed Somer Valley rate was marginally higher than it would have suggested (a figure of £2,400 psm was suggested).

25. The establishment of robust BLVs is clearly of profound importance in this type of viability modelling. Although transactional evidence was thin, BLVs were drawn from the most relevant and available Valuation Office Agency (VOA) data with reasonable adjustments made to define four BLVs. The Council defined the highest value, BLV1, as full 'residential land value' at £2.52 million per hectare, although the BLV would only be relevant in the highest value parts of the district. BLV2 was set at £1.68 million per hectare reflecting the lower values for residential land elsewhere in the district. BLV3 was set at £750,000 per hectare and would typically relate to secondary industrial / employment land. BLV4 was defined at £500,000 per hectare and would relate to 'community' or open storage land. For the strategic sites, lower greenfield land values, based upon research contained in the Department for Communities and Local Government (DCLG) study[1], were assumed.

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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).

26. Base build costs for residential schemes were drawn from Building Cost Information Service (BCIS) rates. A range of build costs, tailored to locations, was used. This reflects the fact that certain areas (notably Bath city centre) demand much higher build costs to satisfy heritage and design standards, such as the need to use Bath stone facing materials. The Council advised that the range of build costs had been discussed and agreed with stakeholders at a 'CIL workshop'. However, at the Hearing sessions, there was some challenge to the base build costs assumptions, with a view expressed that the rates should be increased in line with recent changes in the BCIS rates. In my view, the fact that build costs may have increased in recent times, is a matter that can be considered 'in the round' when assessing the modelling results. Clearly, it is impractical for charging authorities to synchronise and refresh all data inputs to a point just before the Hearing sessions. The Council made additional cost allowances for external works and Code for Sustainable Homes requirements which appeared reasonable (in fact the latter appeared to be over stated). Additional allowances were made for the costs associated with servicing greenfield 'strategic sites' (for example, providing new utilities infrastructure) which, in my view, were reasonable and in line with industry guidance.

27. 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, indeed fairly generous, given the local market characteristics. I have considered views that 'abnormal' costs should be specifically included (in addition to a 5% contingency allowance), particularly in certain areas where there are known brownfield related costs. However, I share the Council's view that it is inordinately difficult to quantify such costs as they are, by definition, abnormal and, in any event, such costs (or the risk of such costs being incurred) are likely to be reflected in brownfield land values. Again, this is a matter to be considered 'in the round' when reviewing the modelling results.

28. Affordable housing was modelled in line with the CS requirements in terms of proportion, tenure split and absence of grant subsidy.

29. Residual S.106 planning agreement costs were included at £1000 per unit which was based on an analysis of contributions from actual permissions. The analysis indicated that 'non CIL' elements for the last three years averaged £987 / unit. Some concerns were expressed suggesting that the Council's new SPD on planning obligations may result in higher contributions but I must apply greater weight to empirical data than to draft and still evolving SPD. For the strategic sites, where S.106 contributions are expected to be significantly higher (primarily due to site specific education requirements) a range of S.106 contribution levels were tested.

30. The VA also included bespoke modelling for specialist types of residential developments aimed at older people. The modelling assumptions used appeared to be reasonable and were endorsed by a representor acting for the principal UK developers in this sector. The testing applied a range of

different levels of 'communal floorspace' (gross to net floorspace ratios).

31. The commercial development modelling used similar assumptions and methodology. Notional schemes for offices, industrial and warehouse, retail (comparison and convenience), hotels and student accommodation developments were tested. 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 re-development schemes all appeared reasonable, including the assumed rents, yields, build costs, profit levels and residual S.106 planning agreement costs. There were some representor challenges to the hotel and student accommodation assumptions but, for simplicity, I deal with those later in this report. The commercial development modelling outputs were compared to three assumed Current Use Values (CUV) rather than BLVs and, again, these appeared reasonable.

Conclusions on background evidence

32. The CS provides a recent and robust development plan framework for sustainable growth in the district. The strategy has a strong growth focus on brownfield sites in existing urban areas, most notably in Bath, Keynsham and the Somer Valley, along with a limited number of urban extensions. 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.

33. The background economic viability evidence for both residential and commercial development that has been used is reasonable, robust, proportionate and appropriate. The 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

Non-strategic sites (£100 psm)

34. About three quarters of the outstanding CS planned new homes (that will fall under the CIL regime) will be non-strategic sites, primarily in the identified urban areas. They will comprise a mixture of sites allocated through the Placemaking Plan and a range of smaller 'windfall' sites (less than 10 units). The Council anticipates that most sites will be brownfield and that the focus will be on land that is lower in value and represented by the proxies of BLV3 and BLV4.

35. Focusing on the most relevant BLVs, the modelling results show relatively healthy viability across most locations and development types. There are some location / development type combinations that generate 'not viable' results but these are the exception, and appear to be unlikely to be major

contributors to meeting the CS planned housing requirements. The results also indicate two clear trends. First, small sites fare particularly well with the 4 and 7 unit house schemes achieving the highest tested CIL rate (£350 psm) in the majority of cases; this is important given the Council's reliance on the contribution of smaller 'windfall' sites. Second, the inclusion of flats in tested schemes has the effect of depressing viability in many locations due to the additional costs involved. However, in practice most new flats are expected in Bath where viability is strongest (particularly in the city centre).

36. The Council undertook a process of assessing and blending the most relevant modelling results to define a suggested maximum CIL rate for each sub-market area. Its assessed maximum rates varied from £120 psm up to £200 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, it appears to me that the Council has adopted a rather cautious approach in defining its 'maximum' CIL rates. For example, in the Bath city centre sub-market area, the Council assesses the 'maximum' CIL rate to be £150 psm, but a review of the actual modelling results shows the majority of development scenarios being comfortably above this level. This also applies in lower sales value areas such as the Somer Valley. Here the suggested 'maximum' is £130 psm, but 15 of the 18 most relevant results (on BLV3 and BLV4) are £200 psm and above and 11 actually hit the top of the tested range of £350 psm. This is an important point because there has been some criticism of the level of viability headroom (or 'buffer') that has been applied by the Council.

37. The Council proposes a single flat rate CIL charge on non- strategic sites of £100 psm. The viability modelling results demonstrate that this level can be readily sustained by most schemes in most locations with a degree of headroom (or 'buffer'). Given that the assessed CIL maxima in each sub-market comprised a range (£120 psm - £200 psm) the 'buffer' will be greater in some locations than others. However, as I noted above, I find the Council's approach to establishing 'maximum' rates to be cautious and, in many cases, the actual 'buffer' will be much greater.

38. The Council explained that it preferred the simplicity of a single CIL rate on the non-strategic sites rather than the complexity of defining zones based on sub-market areas. Although there is a considerable range of sales values in the district, the Council considers that its CS approach to affordable housing provides a significant moderating effect on development viability. Based on the evidence, I support that view and consider that the £100 psm CIL charge for non-strategic sites is soundly based and does not pose a threat to development viability.

Strategic sites (£50 psm)

39. The Council undertook more specific viability testing for the four former Green Belt sites, released for development by the CS. A fifth site at land adjoining MOD Ensleigh was also tested. The results are presented in a complex series of matrices which test the effect of the key variables of CIL rates, affordable housing, S.106 contribution levels and scheme density on

the RLV. A traffic light system is then employed to compare the RLV with the assumed range of greenfield land values.

40. Although the Council's approach is thorough, it does require a degree of interpretation to identify the most relevant results. Although it was straightforward to identify the most appropriate density and affordable housing level, the appropriate level of S.106 contributions was not readily discernible from the written evidence. However, through the examination Hearing sessions it became clear that the Council anticipates that for the strategic sites the main additional S.106 cost will relate to education requirements which would be circa £4,000 per unit. When combined with the 'normal' residual S.106 costs of £1,000, this would give a typical S.106 cost of circa £5,000 per unit. There was a degree of challenge to this assumption, most notably in respect of the Odd Down site, where the developer expects higher S.106 costs due to the complexity and sensitivity of the site.

41. The modelling demonstrated that the anticipated strategic developments could each support a £50 psm CIL charge and £5,000 per unit S.106 costs and remain viable i.e. the RLV fell either within or above the assumed greenfield value range. With regard to the Odd Down site, the modelling suggested that this would remain viable if the S.106 cost was increased to £10,000 per unit, which suggests there is a good margin of flexibility within which more detailed S.106 negotiations on site specifics can take place. The degree of headroom appears to be narrowest on the two Keynsham strategic sites, but even here the results suggest maximum theoretical CIL rates of £80 psm and £90 psm before the RLV falls below the assumed viable level.

42. Based on the evidence before me, I am satisfied that the £50 psm CIL charge for strategic sites would not threaten their viability.

Bath Western Riverside

43. The scheme known as 'Bath Western Riverside' (BWR) is a major regeneration project of profound significance. This circa 18 hectare brownfield site lies a short distance to the west of the city centre and includes extensive river frontage and two principal river bridge crossings. In 2010 outline planning permission was granted for a 'new residential quarter' that would include up to 2281 homes, up to 675 student bedrooms, shops, restaurants and new bridges, roads and infrastructure. The permission is subject to a detailed S.106 planning agreement which was informed by scheme viability evidence. The costs associated with decontaminating and regenerating this complex site were recognised, and a reduced 'base' level of affordable housing was set.

44. Since the outline permission was granted, reserved matters submissions have been approved on certain phases and the scheme is under construction. Almost 700 homes have now been built or are under construction. A similar number of homes are anticipated in the next five years.

45. The Council's CIL proposals and evidence did not specifically address the BWR site. There appeared no need to do so, given the circumstances of an extant permission having been implemented. Through the consultation stages, the BWR developer only made a general challenge to the Council's residential CIL rates, rather than scheme specific objections. However, at the examination Hearing sessions, the developer's representative explained that circumstances had changed which may result in a new planning application being submitted. As things stood, any new permission would fall under the CIL regime and the representative explained that there would be serious viability issues. The timing of this news at such a late stage, and unsupported by written evidence, was not ideal. Given the strategic significance of BWR, which is fully recognised by the Council, I encouraged the Council and the BWR developer to engage in discussions and provide a jointly agreed statement for my consideration.

46. A Statement of Common Ground was produced. In essence, this recognises that the site has significant viability issues, that the development is most effectively delivered through the bespoke S.106 planning agreement mechanism and, accordingly, requests that the site be identified as a specific charging zone and a £Nil charge set.

47. I have considered this request carefully and, whilst its timing and manner is unorthodox, I do agree to it. The suggested modifications are supported by the evidence before me and will ensure that the CIL regime does not create viability issues with the district's most significant housing and regeneration project. However, it is important that I record that my agreement is quite exceptional, and solely the consequence of quite unforeseen circumstances, combined with the scale and strategic importance of BWR.

Specialist, Extra Care and Retirement accommodation - viability appraisal findings and proposed CIL charges

48. The VA tested a 60 unit notional scheme which the Council explained would be a reasonable proxy for both Extra Care and retirement housing schemes. The results indicated that there was generally quite healthy viability for such schemes on BLV3 and BLV4. The VA concluded that *"…such developments are unlikely to generate significantly different results from those generated by other residential development."* The key issue here is that whilst such schemes have particular costs such as that 'communal' space provision and generally slower sales rates, this is offset by premium sales values. Based upon those evidential findings, the Council considered that such developments did not warrant a different treatment and the £100 / £50 psm CIL rates would apply.

49. Following submission of the DCS for examination, the Council has continued a dialogue with representatives from this sector and a Statement of Common Ground was produced. This, in effect, proposed a compromise which I was requested to consider. It centres on the importance of the gross / net ratio and proposes that schemes with communal non-saleable

floorspace in excess of 30% should be exempted from the charge.

50. The costs associated with such communal spaces are significant. This is demonstrated in the modelling results, which show that increasing communal space by 2.5% (from 27.5% to 30%) can reduce the 'maximum' CIL by £100 psm. Developers will strive to keep elements of non-saleable floorspace to a minimum but certain formats, notably those involving higher dependency / care will typically reach 35% communal space.

51. The evidence does confirm that whilst schemes with 30% non-saleable space can generally afford the CIL charges, those with higher elements of non-saleable space would be more challenged or rendered unviable. I am also satisfied that setting a 30% watershed is unlikely to create a perverse incentive to design schemes specifically to avoid the CIL charge, as any such 'saving' is likely to be outweighed by the value lost (in additional non-saleable space). Based on the evidence, I am prepared to accept the suggested exclusion wording and, given that this is a post submission matter, I have reflected this change in my formal recommendations.

Commercial CIL – viability appraisal evidence and proposed CIL charges

Employment development

52. 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. The '£Nil' charges for these development types set out in the DCS are supported by the evidence.

Retail development

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

54. The testing of retail 'in centre / high street' developments evidences the strength of the Bath city centre retail economy compared to other centres in the district. The Bath test results indicated that retail developments could support maximum CIL rates of between £280 - £440 psm (dependent on the selected CUV). By contrast, such developments in other centres in the district were not viable (even on the lowest CUV). The Council's proposal to impose a £150 psm CIL charge on 'in centre / high street' retail developments in Bath is achievable with significant headroom. The £Nil charge in other centres is supported by the evidence. In any event, significant new development of this type is not anticipated.

55. The testing of 'supermarkets, superstores and retail warehouses' was undertaken on a district wide basis and included large and small format types. The large format stores (1,000 square metres) showed healthy

viability with maximum CIL rates ranging from £474 - £617 psm. The testing of smaller format stores (279 square metres) demonstrated the criticality of operator covenant strength, with weaker covenants unable to achieve viability. However, modelling the lower investment yields of national retail operators on the same small unit generated a maximum CIL potential of £598 psm at the middle CUV.

56. Based on the evidence, the Council's proposal to impose a £150 psm CIL charge on 'supermarkets, superstores and retail warehouses' development types, appears to be well within the range that such developments could comfortably support. Indeed, there is a good viability buffer. The Council seeks to differentiate these development types not just by description but also by size, using the floor space threshold associated with Sunday trading laws (280 square metres). Whilst the evidence does not demonstrate with absolute precision that this floor space quantum represents a viability watershed, it is nonetheless a reasonably good proxy, particularly with regard to where low and high covenant strengths are likely to sit. Accordingly, I consider the proposed CIL rate and differentiation to be reasonable and supported by the evidence.

Hotel development

57. The VA testing indicated that the hotel development viability in Bath was strong, with maximum CIL rates in the range of £186 - £270 psm. However, elsewhere in the district hotel development was not viable. I have considered representations challenging some of the Council's assumptions and the definition of the hotel charging zone (Bath city) but I consider the Council's evidence and reasoning to be sufficiently robust to support its proposals. The £100 psm CIL charge would appear to allow substantial headroom and it should also be noted that most of the CS planned additional bed spaces are either already built or have extant planning permission. This suggests to me a confidence in this type of development and an ability to absorb the modest CIL charge proposed, based on the evidence.

Student accommodation development

58. The Council's CIL proposals for student accommodation schemes proved to be the source of some contention in terms of both the CIL level (£200 psm) and the basis of differentiation, which would exempt certain schemes, which operate 'sub-market' rents.

59. This is a complex field which requires some explanation. First, it is important to appreciate that Bath is a significant centre for higher education. Its two universities, The University of Bath and Bath Spa University, are significant and successful institutions which make a significant contribution to the city's cultural identity, employment base and general city profile. Second, there has been a growth in student numbers over the years with, until recently, little forward planning. Third, the growth in student numbers has not been matched by a growth in managed accommodation (on and off campus). Fourth, a lucrative market in private

student lettings has emerged, with some local negative consequences, including a growth in houses in multiple occupation and a reduction in 'normal' housing supply.

60. Such is the importance of these issues the CS includes specific policy direction. This seeks to promote and encourage new on campus accommodation, including 2,000 additional study bedrooms at the University of Bath's Claverton Down Campus. There is a recognition that on campus accommodation will not meet all needs and the CS seeks to guide 'off campus' schemes away from specific areas, including the Central Area. The Council has also produced an information paper on student numbers and accommodation requirements in the plan period which addresses the issues in some detail.

61. The VA identified two distinct real world development models for student accommodation. The first is the university led model which, typically, would be on campus and would operate with 'sub-market' rents (circa 80% of market rent levels) as part of the University's wider offer to its prospective and existing students. In essence, it is a form of 'affordable' or discounted student housing. The second model is a purely commercial scheme, operated by the private sector for profit with rents set at full 'market' levels. The Council's strategy favours the first model but recognises that the second model does play a role, but needs to be guided away from certain locations. To add to the complexity, there are also some hybrid schemes which are privately operated but with the University having nomination rights. However, the key distinction is based on rent levels.

62. Unsurprisingly, there was a significant difference in the viability test results between schemes employing 'market' rents and those charging 'sub-market' rents. The market rent schemes generated modelled maximum CIL rates of £447 psm. A later testing of a 'cluster' accommodation variant generated an even higher maximum CIL of £674 psm. However, the sub-market rent schemes were not commercially viable (the RLV was negative).

63. There were a number of challenges to the modelling assumptions but, by my analysis, the Council's key assumptions appeared to adopt a degree of caution. There were also concerns expressed about non-university higher education providers and requests for exclusions from the charges. I have considered these carefully but in my view the viability evidence is well grounded and its findings are clear. The proposed £200 psm CIL charge on the commercial variants would include a very substantial buffer for what are clear potentially lucrative developments fuelled to an extent by the student growth factors outlined above. The £Nil charge on 'sub-market' rent schemes is supported by the evidence. It is also worth noting here that the charitable status of universities is likely to result in CIL exemptions in respect of their developments in any event.

64. The Council has proposed (post submission) changes to the DCS differentiation of student accommodation types. This will ensure that the critical determinant on CIL liability is the level of rent. To qualify for the £Nil rate, schemes must be supported by a S.106 planning agreement, which

pegs student rents at agreed sub-market levels (not more than 80% of market rent levels). I consider that to be a much clearer and more precise approach than reference to 'on' and 'off' campus. Those refinements are reflected in my recommendations.

Overall Conclusions

65. The evidence demonstrates that, subject to some minor modifications (which are essentially refinements suggested by the Council) and to a modification to define a £Nil rated zone around the Bath Western Riverside site, 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. In setting the CIL charges, the Council has used appropriate and available evidence which has informed assumptions about land and development values and likely costs. The CIL proposals are anticipated to achieve an important income stream which will help to address a well evidenced infrastructure funding gap.

66. I conclude that, subject to my recommended modifications, the Bath and North East Somerset Council Draft Community Infrastructure Levy Charging Schedule, as modified by its Statement 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 Bath and North East Somerset 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.

These modifications should be read in conjunction with Examination Document SUB/1 'Revised Draft Charging Schedule – October 2014.'

<table>
<tr><td>Modification Number</td><td>Modification</td></tr>
<tr><td>EM1</td><td>Page 1 – Table

RESIDENTIAL
Delete 'Retired' and insert 'Retirement'
Add footnote number after 'Accommodation'
Insert footnote below table - 'Excludes Specialist, Extra Care and Retirement accommodation that provides non-saleable floorspace in excess of 30% of Gross Internal Area.'</td></tr>
<tr><td>EM2</td><td>Page 2 – Table

STUDENT ACCOMMODATION
Delete 'On Campus with submarket rents to be set in section 106 agreement.' And replace with 'Schemes with sub-market rents² to be set in Section 106 planning agreement.'
Add footnote ² below table – "Sub-market rent means student accommodation units which are to be let at a rent which is no more than 80% of the local market rent (including any service charges).
Delete 'Off campus' and replace with "Schemes with market rents.'</td></tr>
<tr><td>EM3</td><td>Page 1 and 2 Table and Maps

BATH WESTERN RIVERSIDE

Map – add a map to precisely define a zone around the Bath Western Riverside (BWR) site (based on the extant outline planning permission)

Table - for each development type add 'Bath Western Riverside' in the location column and add '£Nil' in the CIL charge column.</td></tr>
</table>