The Planning Inspectorate

Report to Castle Point Borough Council

by Mike Hayden BSc (Hons) Dip TP MRTPI

an Examiner appointed by the Council

Date 21 February 2023

Planning Act 2008 (as amended)

Section 212(2)

Report on the Examination of the Castle Point Borough Council Community Infrastructure Levy Draft Charging Schedule

Charging Schedule submitted for Examination on 1 March 2022

The Examination Hearing was held on 19 October 2022

File Ref: PINS/M1520/429/7

Contents

Abbreviations used in this report

BCIS	Building Cost Information Service
BLV	Benchmark Land Value
CIL	Community Infrastructure Levy
CPBLP	Castle Point Borough Local Plan 1998
DCS	Draft Charging Schedule
EUV	Existing Use Value
EUV+	Existing Use Value plus a premium to the landowner
GDV	Gross Development Value
GIA	Gross Internal Area
IDP	Infrastructure Delivery Plan
NCPLP	New Castle Point Local Plan 2018-2033
OMV	Open Market Value
PPG	Planning Practice Guidance
psm	per square metre
sqm	square metres
VS	Viability Study

Non-Technical Summary

This report concludes that, subject to modification, the Castle Point Borough Council Community Infrastructure Levy (CIL) Draft Charging Schedule provides an appropriate basis for the collection of the levy in the Borough.

Four modifications are needed to meet the statutory requirements, which can be summarised as follows:

- Set separate CIL rates for brownfield residential development on Canvey Island of £34 per square metre (psm) for residential housing and £27 psm for flats.
- Reduce the floorspace threshold at which the higher CIL rate of £200 psm for convenience retail development applies from 800 square metres (sqm) to 450 sqm.
- Amend the maps showing residential and retail charging zones to include Ordnance Survey grid reference numbers.
- Include a statement confirming the charging schedule has been issued, approved and published in accordance with the legal and procedural requirements.

Subject to these modifications, the Council has sufficient evidence to support the schedule and can show that the levy will be set at a level that will not put the overall development of the area at risk.

The modifications recommended in this report are based on matters discussed during the public hearing sessions and/or raised in written questions, and do not alter the basis of the Council’s overall approach.

Introduction

1. This report contains my assessment of the Castle Point Borough Council Community Infrastructure Levy (CIL) Draft Charging Schedule (DCS) in terms of Section 212 of the Planning Act 2008. 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.

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 across the Borough. The basis for the Examination, on which a hearing was held on 19 October 2022, is the submitted DCS of January 2022, which is effectively the same as the document published for public consultation between 3 November and 3 December 2021.

3. The Council proposes differential rates for residential development by geographical location in two zones and by type of housing, and differential rates for retail development by location and floorspace size, expressed in £s per square metre (psm) of floorspace, as follows:

Residential housing:	
Mainland (including Benfleet, Thundersley and Hadleigh)	£250 psm
Canvey Island	£120 psm
Residential flats:	
Mainland (including Benfleet, Thundersley and Hadleigh)	£90 psm
Canvey Island	£30 psm
Convenience retail:	
For the first 800 sqm gross internal area	£200 psm
For each square metre over 800 sqm gross internal area	£50 psm
Comparison retail outside of town centre boundaries	£200 psm

Convenience retail is defined as providing lower value goods purchased regularly to meet day to day needs such as food, newspapers, petrol, etc. Comparison retail is defined as providing higher value goods purchased less often, such as household items, electrical goods, clothes, shoes, etc.

All other development, including sheltered/retirement and extra care housing, would not be subject to a CIL charge.

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

Infrastructure planning evidence

4. Regulation 14(1) of the CIL Regulations 2010 (as amended) requires that, in setting CIL rates, a charging authority must aim to strike an ‘appropriate balance’ between the desirability of funding from CIL the cost of infrastructure needed to support the development of its area, and the potential effects of charging CIL on the economic viability of development across its area. The Planning Practice Guidance (PPG) goes on to explain that in meeting this requirement, charging authorities should be able to show how their proposed levy rates will contribute towards the implementation of their ‘relevant plan’ and support development across their area[1].

5. The submitted DCS and related infrastructure planning evidence were prepared alongside the New Castle Point Local Plan 2018-2033 (the NCPLP), as the ‘relevant plan’. However, the NCPLP was withdrawn by the Council in June 2022, after the commencement of the CIL Examination. Therefore, given the link between the ‘relevant plan’ and the ‘appropriate balance’ in the setting of CIL charges, I paused the Examination and invited the Council to review its CIL proposals and the supporting evidence base, in the light of any changes to the development and infrastructure being planned for in the Borough, following the withdrawal of the NCPLP.

6. The Council prepared updated evidence on infrastructure planning and viability[2], and consulted on it between July and September 2022. The updated evidence and the written representations in response to it, informed a revised set of Main Issues and Questions (MIQs) for the Examination, which formed the basis for the discussions at the Hearing.

7. The updated evidence explains that the ‘relevant plan’ on which the Council now relies for the purposes of infrastructure planning and setting a CIL charge, is the saved policies of the Castle Point Borough Local Plan (CPBLP), adopted in 1998. The PPG defines a ‘relevant plan’ as any ‘strategic policy’[3]. Whilst the housing and employment land requirements in the CPBLP are time expired and no longer relevant, it is clear that the saved policies of the CPBLP continue to perform a strategic function in directing housing, employment, retail and other forms of development to suitable sites and locations within the urban areas of the Borough. Therefore, in the absence of the NCPLP, it is reasonable for the Council to rely on the saved policies of the CPBLP as their ‘relevant plan’ for the purposes of infrastructure planning and setting CIL charges in Castle Point at this time.

8. The Council’s updated evidence quantifies the scope for future housing development, which could be delivered under the saved policies of the CPBLP. This is based on a schedule of sites within the urban areas of the Borough,

[1] PPG Paragraph: 010 Reference ID: 25-010-20190901
[2] Council documents CPBC-1-N, CPBC-1-O, CPBC-2 and CPBC-3
[3] PPG Paragraph: 012 Reference ID: 25-012-20190901

including: the remaining sites that are allocated for housing in the saved policies of the CPBLP; sites which were allocated in the NCPLP and are located within the urban area, on which applications could be determined under the policies of the CPBLP; Brownfield Land Register sites; and small sites identified as suitable for development in the Strategic Housing Land Availability Assessment that were too small to allocate in the NCPLP. In addition, an allowance has been made for further windfall housing, which was demonstrated in evidence to the NCPLP Examination.

9. The schedule was amended[4] following discussion at the Examination Hearing, to remove sites that already had planning permission and should not, therefore, be counted for the purposes of infrastructure planning. The amended schedule identifies scope for a further 1,314 dwellings in the Borough, which could be delivered under the saved policies of the CPBLP. I have noted the remaining discrepancies in the list of sites, as pointed out in representations, where alternative uses have been permitted or sites with planning permission have not been discounted. However, these account for a handful of small sites. Overall, the figure of 1,314 dwellings is a reasonable estimate of the quantum of further housing development which could come forward under the policies of the CPBLP, and for which infrastructure needs to be planned and funded.

10. In terms of the scope for economic development, the Council's updated evidence confirms that sites for employment and retail development allocated in the CPBLP have been largely built out or benefit from extant planning consents. But there are opportunities for redevelopment and intensification within the Borough's employment areas, town centres and out of centre retail parks, which could deliver additional retail or commercial floorspace under the saved policies of the CPBLP.

11. The Borough's infrastructure requirements and proposals were originally set out in the Castle Point Borough Infrastructure Delivery Plan (IDP)[5], which was prepared alongside the NCPLP. In the light of the withdrawal of the NCPLP, the Council updated the infrastructure evidence, initially in the form of an Addendum to the IDP[6], and again following discussion at the Examination Hearing, in order to recalculate the costs of infrastructure required to support development that could come forward under the saved policies of the CPBLP, and thereby any aggregate funding gap. The updated evidence was made available for interested parties to comment on and I have taken account of their responses in reaching my conclusions on it.

12. The revised infrastructure schedule[7], includes improvements to education and healthcare facilities, libraries, green infrastructure and open space, sports facilities, roads and transport schemes, and flood management schemes and defences. The evidence has been subject to consultation with statutory

[4] Council document CPBC-05-A
[5] Submission document SUB-02
[6] Council document CPBC-1-N
[7] Council document CPBC-05-B

providers. In particular, it now excludes contributions to primary and secondary education facilities, because the County Council, as the Local Education Authority, consider there is no demonstrable need for additional school places in the Borough to support the reduced level of housing growth under the CPBLP.

13. The total estimated cost of infrastructure in the revised schedule is £93.97 million, albeit some schemes are still to be costed. Of this, £11.6 million of infrastructure is necessary to support the development expected to come forward under the saved policies of the CPBLP. The difference between the two figures relates to the cost of several major flood defence and transport schemes, which are not specifically associated with the housing sites identified in the updated evidence. The Council's evidence suggests that S106 obligations and other sources of funding will deliver around £0.8 million towards the infrastructure required, leaving an aggregate funding gap of £10.8 million.

14. The Council estimates that development of 1,314 dwellings would generate approximately £7.6 million of CIL funding based on the rates in the submitted DCS. This would be sufficient to cover around 70% of the aggregate funding gap, based on the current infrastructure cost estimates.

15. In conclusion, the updated and revised infrastructure planning evidence is sufficient to confirm an aggregate infrastructure funding gap in Castle Point Borough. The evidence shows that the proposed CIL charges would make a significant contribution towards filling the likely funding gap. Therefore, notwithstanding the reduced amount of development likely to come forward following the withdrawal of the NCPLP and in advance of the adoption of a new local plan, the figures demonstrate the need for CIL to support the delivery of development under the saved policies of the CPBLP.

Economic viability evidence

16. The Council submitted a CIL Viability Study (VS), dated August 2021[8], in support of the DCS, which built on earlier viability work undertaken for the NCPLP[9]. The VS uses a residual valuation approach. It provides separate appraisals for residential, care home, hotel, retail, office, business and industrial development. Extra care and retirement dwellings for older persons were also assessed using the same methodology, with the results set out in an Addendum[10], published in May 2021 during the Examination of the NCPLP.

17. The VS was prepared in accordance with the PPG on Viability and guided by advice in the Harman Report[11] and the Royal Institution of Chartered Surveyors guidance note[12]. In preparing the VS, consultation was held with the development industry and landowners, as expected in the PPG[13].

[8] Submission document SUB-01
[9] Submission documents DV-005, DV-006 and DV-007
[10] Submission document EXM-040
[11] Viability Testing Local Plans, Local Housing Delivery Group chaired by Sir John Harman, June 2012
[12] RICS Guidance Note, Assessing viability in planning under the NPPF 2019 for England, March 2021
[13] Paragraph: 015 Reference ID: 25-015-20190901

18. During the Examination further viability evidence was provided by the Council at my request. This included: a full set of the residential and non-residential appraisals from which the viability results in the VS were derived[14]; the transactions data on which the assumptions for residential sales values were based[15]; further market evidence to support the Benchmark Land Values (BLVs) for greenfield land and brownfield land used in the residential and retail appraisals in the VS[16]; revised appraisals to sensitivity test the effects of alternative BLVs and rates of developer return on the viability of residential development on both brownfield and greenfield sites[17]; and an alternative appraisal to test the viability of a lower floorspace threshold for the higher CIL rate for convenience retail floorspace[17].

19. I consider the appropriateness of the suite of viability evidence below, under separate sub-headings for residential and non-residential appraisals.

Residential Appraisals

20. A total of 40 different generic residential development typologies were tested in the VS, ranging from two to 1,000 dwellings, including flats, houses and mixed schemes, on brownfield and greenfield sites, for both the Mainland and Canvey Island areas of the Borough. Apart from the larger greenfield sites, these are representative of the type and scale of residential development contained in the updated schedule of sites, which could be delivered under the saved policies of the CPBLP[17]. Site specific appraisals were also provided for a sample of five strategic greenfield allocations in the former NCPLP. Therefore, the ability of larger greenfield schemes to viably support a CIL charge has been tested through the VS, if such applications were to come forward.

21. Assumptions were made in the appraisals for the full range of factors affecting the costs and values of residential development in the Borough. Given the potential for fluctuations in the future residential market, sensitivity tests were also undertaken of the effects of an increase in build costs and fall in sales values. The appraisal inputs for gross to net ratios and site densities, residential mix, construction phasing, land purchase fees, Stamp Duty Land Tax, contingencies, finance costs and developer return, were based on site specific and stakeholder evidence and are consistent with industry standards and relevant guidance. However, a number of the input assumptions were disputed in representations, which I consider below.

22. **Sales Values** used in the VS to calculate scheme revenues were based on transactional evidence of new and second hand residential property sales in the Borough for the period 2016-2020, which were drawn from Land Registry (LR) data and indexed to March 2020 prices using the LR House Price Index. The evidence reveals clear geographic differentials in sales values across the Borough, with higher values on the Mainland and lower values on Canvey

---

[14] Council documents CPBC-1-I and CPBC-1-J
[15] Council document CPBC-1-K
[16] Council document CPBC-06
[17] Council document CPBC-05-A

Island, and between houses and flats on Canvey Island, which are reflected in the sales values assumed in the VS. Whilst there are also differences in residential values between wards within the Mainland and Canvey Island, which are highlighted in the heat maps in the VS[18], the values for houses and flats used in the VS are consistent with the average values in the transactional evidence for the Mainland and Canvey Island. This approach is consistent with guidance in the PPG on how development should be valued for the purposes of setting a levy, by using an area-based approach, involving a broad test of viability, for which average figures can be used[19].

23. The sales values used for Canvey Island were based on transactional data for second hand sales, with a 20% premium to reflect new build values. This was due to the limited number of new build sales transactions on Canvey Island within the study period. Again, this approach is consistent with the PPG, which requires the use of appropriate available data, but recognises that the available data is unlikely to be fully comprehensive[21].

24. **Affordable Housing Values** were assumed in the VS at 50% of open market value (OMV) for affordable rented dwellings and 67.5% of OMV for intermediate dwellings. These were based on data from sold schemes provided by developers as part of the stakeholder consultation, which evidenced transfer values for affordable rented units of between 30-65% of OMV, at an average of 48%, and for intermediate units of between 60-70% of OMV, averaging 65%. Given that the transfer values assumed in the appraisals were above the quoted averages, at my request the Council reappraised the effects of the lower average values on the full range of residential typologies[20]. The results showed a worsening of viability, particularly on brownfield sites within Canvey Island, albeit the vast majority of greenfield typologies would still be viable at the CIL rates proposed. I am satisfied that with the additional appraisals, the range of affordable housing values used provides appropriate evidence for the purposes of testing CIL viability.

25. **Build Costs** were drawn from the Building Cost Information Service (BCIS), which the PPG recognises as appropriate data[21], and rebased to Castle Point for the second quarter of 2020, broadly in line with the date used for sales values. The rates were adjusted for scheme size, with median BCIS figures used for sites of less than 50 dwellings and lower quartile BCIS for larger sites of 50 units or more, on which economies of scale are likely to realise lower unit costs. The rates also reflect the higher cost of building flats.

26. Some representors challenged the use of lower quartile BCIS build costs for larger schemes, citing higher labour and materials rates in Castle Point, the additional cost of building on Canvey Island due to flood risk and the impact of inflation. However, lower quartile BCIS based costs are commonly used for larger schemes in viability studies tested at CIL examinations and appeals, and

[18] Submission document SUB-01-A submitted in May 2022 to correct labelling errors on the heat maps in the VS
[19] PPG Paragraphs: 020 Reference ID: 25-020-20190901 and 011 Reference ID: 10-011-20180724
[20] Appendix 1 of the Council's Hearing Statement HS-01
[21] PPG Paragraph: 012 Reference ID:10-012-20180724

no objections were raised at the stakeholder workshop to their use in the VS. Further, the rates used in the VS were rebased to Castle Point, taking account of the higher than average costs on Canvey Island, and the appraisals for Canvey Island included an allowance of £120 psm for the additional cost of improving site foundations to protect against flooding. The VS also sensitivity tested the effects of a 5% increase in build costs. So, it is clear that the appraisals in the VS have factored in the effects of local variations in build costs. With regard to inflation, the Council's evidence is that the increase in construction costs over the previous 12 months has been more than offset by the rise in house prices during the same period.

27. Since the VS was prepared, the Building Regulations have been revised to include requirements for electric vehicle charging points and a 31% reduction in CO_2 emissions in residential development, which will increase build costs. However, the residential appraisals include a contingency allowance of 5%, which is at the upper end of the normal range. This, combined with sensitivity testing of a 5% increase in build costs and the CIL headroom shown in the viability results, provides sufficient flexibility to accommodate any increases in costs arising from recent changes to the Building Regulations and potential further costs associated with the Future Homes Standard due in 2025. Overall, I find that the allowances for residential build costs in the VS are appropriate.

28. An additional allowance of 10% of build costs was included for **External Works** to cover the site curtilage costs of garden spaces, incidental landscaping, estate roads and connections to utilities. In addition, a figure of £8,100 per garage was included for 3 and 4+ bed houses, with smaller units assumed to have parking spaces rather than garages. Some representations argued that the allowance for external costs should have been 15-20%. However, the figure of 10% was based on survey responses from developers and agents and a review of local viability assessments. Based on the evidence, therefore, I am satisfied that appropriate allowances were made for the cost of external works.

29. **Professional Fees** at 8% of total construction costs were included across all typologies, which is within the range of 8-10% identified in the Harman Report for straightforward sites. Whilst some representors make a case for professional fees to be 10% given the greater complexity of construction on Canvey Island sites, the figure of 8% assumed in the VS is supported by responses to the stakeholder questionnaire of developers. Whilst I recognise that professional fees can vary depending on the complexity of schemes, even if they were closer to 10% on some schemes, there is sufficient CIL headroom shown in the VS results to absorb the increased costs.

30. Separate allowances were made for site costs and S106 costs. With regard to **Site Costs**, allowances range from £6,000-£22,000 per unit for site opening up costs on greenfield sites ranging from 50 to 500 plus dwellings. The upper figure is consistent with the range of £17,000-£23,000 per plot identified in the Harman Report for strategic infrastructure and utility costs on larger scale schemes. For brownfield sites, allowances of £350,000 per hectare (ha) were made for the costs of demolition and remediation, drawn from guidance provided by Homes

England[22], which is a reliable source for the purposes of high level appraisals. In terms of the site specific appraisals in the VS, the figure of £10,989 per unit for site opening up costs for site HO13 in the NCPLP was challenged in representations. However, the Council maintains this was based on feedback from the site promoter and I have seen little evidence to support the figure of £25,000 per unit suggested as an alternative.

31. Allowances were made for **S106 Costs** in the residential appraisals ranging from £1,500 per unit for the smallest site typologies to £25,820 per unit for the largest. These were based on estimated financial contributions required to cover on and off-site costs, drawn from evidence in the IDP and the County Council's Guide to Contributions, and are generous in comparison with the range of historic S106 costs in the Borough of £1,200-£7,000 per unit. Based on the evidence, therefore, the viability impact of S106 and site infrastructure costs have been adequately tested.

32. **Benchmark Land Values (BLVs)**, against which the residual values generated in the development appraisals are assessed, form a key assumption in establishing the viability headroom for CIL. The VS adopts BLVs based on the Existing Use Value (EUV) of the land, plus a premium to the landowner (EUV+). It does so by applying the premium to the net developable part of the site, rather than the site as a whole, on the basis that this is the land of relevance to the developer. This application of EUV+ was contested in representations.

33. Whilst the PPG prescribes the use of EUV+ in establishing BLVs, it does not offer guidance on how much of the site the premium on EUV should be applied to. The VS references an appeal decision which supported the application of the premium to the developable area only[23], but that decision was based on the particular circumstances of the case, including the significant constraints on the non-developable area of the site.

34. In area-wide viability studies that, like the VS, test development typologies for which site specific constraints or circumstances are unknown, BLVs are usually based on EUV+, in which the premium is applied to the gross area of land required for the development. Indeed, this appears to be the case for many of the local plan and CIL viability studies prepared for districts and boroughs surrounding Castle Point, in which the residential BLVs used were significantly above those assumed in the Castle Point VS.

35. However, further information was provided by the Council after the Hearing, at my request, to explain the BLVs used in the VS, in comparison with those used in viability studies for surrounding areas[24]. The PPG states that evidence used to inform BLVs can include those from other viability assessments[25]. This further evidence reveals that in many of the comparison studies, the appraisals do not include an allowance for abnormal site preparation or clean-up costs, but factor

[22] Paragraph 4.49 and footnote 52 of the VS (SUB-01)
[23] Appeal Ref: APP/Q4245/W/19/3243720
[24] Council document CPBC-06, Questions 2a-c
[25] Paragraph: 016 Reference ID: 10-016-20190509

a margin for these unknown costs in higher BLVs. Whereas, the appraisals in the VS for Castle Point include separate allowances for site opening up costs on greenfield sites and demolition/remediation costs for brownfield sites. When this is taken into account, the differences between the BLVs per gross hectare in the VS and those for surrounding areas are justified. The Council also reran the residential appraisals in the VS to sensitivity test the effects of using BLVs based on a site premium applied to the gross development area of sites[26]. The results suggest that the application of the premium to the gross rather than the net development area of sites would have little effect on the overall viability outcome for most typologies and their headroom for CIL.

36. On the basis of the evidence provided, therefore, I am satisfied that the BLVs used in the VS provide a reliable basis for testing the viability of CIL.

Non-Residential Appraisals

37. The VS appraised a range of non-residential and commercial development types, including offices, industrial, retail, hotels and care homes, for different formats and locations[27]. With the exception of the convenience retail formats, which I discuss below, these are broadly representative of the types of non-residential schemes that may come forward in Castle Point under the saved policies of the CPBLP.

38. For convenience retail development, separate appraisals were undertaken for a small local convenience store with a gross internal area (GIA) of 280 sqm and for a supermarket of 1,500 sqm GIA. On the basis of these two appraisals, differential CIL rates have been proposed for convenience retail floorspace development, with a higher rate for the first 800 sqm GIA of floorspace. Whilst I understand the 800 sqm threshold reflects the smaller supermarket formats that are currently preferred by convenience retail operators, the VS did not test the viability of this format, but a larger supermarket and a small convenience store. Following discussion of this element of the VS at the Examination Hearing, the Council provided an additional appraisal for a store of 450 sqm GIA, which represents the upper limit of the small local convenience store format in Castle Point[28]. I am satisfied that these provide an appropriate basis for testing the viability of different CIL rates for convenience retail development.

39. Reasonable assumptions were included for the full range of factors affecting the costs and values of non-residential development in the Borough. The **Rents and Yields** used to calculate gross development values were based on evidence of property transactions in Castle Point and Essex for the period up to August 2020, drawn from recognised data sources[29]. Rent free periods were built in for typologies that can be subject to speculative development and where occupier incentives may be necessary. **Build Costs** were based on median BCIS data for Castle Point for the 2nd quarter of 2020, in line with the date used for development values. Allowances for external works and contingency were

---

[26] Council document CPBC-06, Table 2d1
[27] Table 4.21 in the Viability Study (SUB-01)
[28] Council document CPBC-06, Appendix 3
[29] Estates Gazette Interactive (EGi) and Rightmove

included at 15% and 4% of build costs, respectively. **Professional Fees** were assumed at 10% of total construction costs, on the basis that commercial schemes are more complicated than residential development.

40. **Land Purchase Fees** and **Sales Fees** were included at industry standard rates, **Developer Return** at 20% of development costs, and **Finance Costs** at 7% to reflect the greater risk of lending for non-residential development in Castle Point than for residential development. Allowances for **S106 Policy Costs** were not included, as none were identified as typical for non-residential development in the Borough, but the VS notes that CIL rates have been set to allow headroom for this unknown.

41. **BLVs** for the non-residential appraisals have been based on evidence of commercial property transactions, drawn from recognised on-line sources, including EGi and local agents. The supplementary evidence provided at my request following the Examination Hearing[30], demonstrates that the BLV used for supermarkets was above the average land transaction price paid by retailers, allowing for any additional unknown site preparation costs. The BLVs used for other non-residential typologies have been set in the same way. Accordingly, I am satisfied that the approach to BLVs for non-residential schemes is robust.

Conclusion

42. On the basis of the above analysis, I find that the methodology adopted in the VS, and in the revised appraisals submitted during the Examination, is consistent with the guidance on CIL and viability in the PPG, and that reasonable assumptions for development values, costs and land values have been used for both residential and non-residential development.

43. Overall, I conclude that the DCS is supported by detailed evidence of infrastructure needs and costs, which demonstrate the need for a CIL in Castle Point, and that the economic viability evidence, which has been used to inform the DCS and the Examination process, provides a robust, proportionate and appropriate basis for testing and setting CIL rates.

Are the charging rates informed by and consistent with the evidence?

Residential development rates

44. The DCS proposes differential CIL rates for residential development on the Mainland and Canvey Island, and for houses and flats within these two zones. The Regulations[31] allow charging authorities to apply differential rates, on a geographical basis and by types of development, to help ensure the viability of development is not put at risk, provided the differences in rates are justified by reference to the viability of development[32].

[30] Council document CPBP-06, Question 2e and Appendix 2
[31] Regulation 13 of the CIL Regulations 2010 (as amended)
[32] PPG Paragraph: 022 Reference ID: 25-022-20230104

45. The evidence on the variation in sales values between the Mainland and Canvey Island, and in the build costs for houses and flats, supports a differential approach. The boundaries between the two zones are clearly shown on the maps at the back of the DCS, and subject to the addition of OS grid references to accord with the Regulations, which is discussed below, the location of individual plots of land either side of the zonal boundaries can be determined.

46. In the **Mainland** zone, the appraisal results[33] show that all except two of the generic typologies and all three of the strategic sites tested (HO9, HO13 and HO20), achieve viability headrooms that are significantly above the proposed CIL rates of £250 psm for houses and £90 for flats, with margins of 38-80%. These represent comfortable to substantial buffers, which should be sufficient to absorb variations in site values, sales revenues and development costs, resulting from fluctuating market circumstances or unforeseen site conditions, in line with the expectations of the PPG[34]. This is supported by the sensitivity testing carried out for a 5% increase in build costs and a 5% fall in sales values[35], and separately for lower affordable housing transfer values[36], which show that even with these changes, the majority of residential typologies on the Mainland could viably support the proposed CIL charges with comfortable buffers.

47. The viability headroom for two houses and 50 flats on brownfield land on the Mainland is shown to be insufficient to support the proposed CIL charges. However, for the 50 unit scheme, the reduction in the requirement for affordable housing under saved Policy H7 of the CPBLP, following the withdrawal of the NCPLP, and under vacant building credit, would improve its overall viability. Moreover, the effect of the proposed CIL charges on the viability of these two typologies alone would not threaten the overall delivery of housing within the Mainland, since there are a wide range of other scheme types, which the evidence shows could viably deliver housing or flats with the CIL charges proposed. Accordingly, I find that the proposed charges for residential development on the Mainland are consistent with the evidence.

48. In the **Canvey Island** zone, the appraisal results for greenfield and brownfield typologies are very different. On **Greenfield Sites** most of the generic typologies demonstrate viability headrooms sufficient to support the proposed CIL rates of £120 psm for houses and £30 psm for flats, with margins of 70-80%[36]. The buffers for schemes of two houses and 50 flats on greenfield sites are comparatively smaller, at around 18% and 23% respectively, but they are sufficient to suggest that such schemes would still be viably able to support the proposed CIL rates, based on the development values and costs assumed in the VS. Whilst sensitivity testing[38] indicates that four out of nine greenfield residential typologies on Canvey Island could not support the proposed CIL charges if either a 5% increase in costs or 5% fall in sales values occurred, the other five scheme types would remain comfortably viable with buffers of 42-66% after CIL. Moreover, once the reduction

---

[33] Table 5.1 of the VS (SUB-01)
[34] Paragraph: 020 Reference ID: 25-020-20190901
[35] Table 5.2 of SUB-01
[36] Appendix 1 of the Council's Hearing Statement HS-01 as discussed in paragraph 26 of this report

in the requirement for affordable housing under saved Policy H7 of the CPBLP is taken into account, the viability of the other four typologies would improve, such that schemes for 14 and 30 flats on greenfield sites would be viably able to support a CIL charge of £30 psm, with a 5% increase in build costs. As such, I am satisfied that the proposed CIL charges for residential development on Canvey Island are supported by, and consistent with, the viability evidence for greenfield sites.

49. However, the appraisal results show that most of the residential typologies on **Brownfield Sites** on **Canvey Island** would not be viably able to support the proposed CIL rates. Only two of the seven brownfield typologies tested in the VS demonstrate any headroom for a CIL charge[37], based on the gross development values and cost assumptions in 2020. Of those, only the scheme for six houses shows sufficient headroom to support the proposed charge of £120 psm. However, the sensitivity testing for changes to market conditions in the VS[38] finds that even this brownfield typology would not be viably able to support the proposed CIL charge if there were a 5% fall in sales values or a combination of this and a 5% increase in costs. Even after taking into account the reduced affordable housing requirement under the CPBLP and applying vacant building credit, the Council's evidence[39] shows that residential schemes on brownfield sites in Canvey Island would not be viably able to support the proposed CIL rates in the DCS.

50. The updated infrastructure planning evidence provided by the Council shows that 32% of the housing growth that could be delivered under the CPBLP would be on brownfield sites on Canvey Island[40]. Seeking to charge the proposed CIL rates of £120 psm for houses and £30 psm for flats to schemes on brownfield sites on Canvey Island would, therefore, put at risk around one third of the projected future housing delivery under the CPBLP. This would not strike an 'appropriate balance' between funding the cost of infrastructure from CIL and the potential effects of charging CIL on the economic viability of development across its area. Therefore, the submitted DCS is not compliant with the Regulations in respect of the CIL rates proposed for residential development on Canvey Island.

51. This matter was discussed at the Hearing, following which, at my request, the Council undertook further work to identify an alternative rate or rates for CIL, which residential development on brownfield sites on Canvey Island could viably support. Whilst the PPG advises that in setting differential rates charging authorities should avoid undue complexity, it also states that differential rates should not have a disproportionate impact on particular sectors or forms of development[41]. In this case, therefore, a differential rate or rates for residential development on brownfield sites on Canvey Island would be justified and consistent with the PPG.

52. The further evidence prepared by the Council was subject to consultation and I have taken into account the representations made in response to it. This

[37] Table 5.1 of SUB-01
[38] Table 5.2 of SUB-01
[39] Tables 2 and 3 of Castle Point Borough Council Hearing Statement (HS-01)
[40] Table at paragraph 2.6 of CIL Topic Paper (Council document CPBP-02)
[41] Paragraph: 022 Reference ID: 25-022-20230104

suggests that by reducing the developer return below 20% of GDV, but within the range of 15-20% advised in the PPG as suitable for plan level viability testing, lower rates of CIL are shown to be viable for many of the brownfield typologies on Canvey Island[42]. Whilst the Council has suggested that a rate of £65 psm would be viable for brownfield residential housing on Canvey Island with a buffer of 33%, this would only be the case where a developer return of 15% is assumed[43]. Basing the rate on an assumption for developer return at the lowest end of the PPG range, could risk making brownfield residential development on Canvey Island unattractive to the market. The PPG advises that CIL rates should be reasonable, given the evidence, and not be set at the margins of viability[44]. However, assuming a developer return of 17%, which is towards the middle of the range and, therefore, more likely to reflect the risks of developing on brownfield sites, the evidence shows that CIL rates of £34 psm for housing and £27 psm for flats could be viably supported on brownfield sites on Canvey Island, with a buffer of 33%.

53. The two-house brownfield scheme on Canvey Island shows no viability headroom to support a CIL charge, even at a developer return of 15%. This is primarily due to the higher build costs and BLV assumed in the appraisals for smaller residential schemes. However, it is anticipated that in many cases schemes of this size would contain existing buildings and be subject to a significant reduction in CIL liability on any increase in floorspace. The Council also indicates that self-build schemes on such sites are common in Castle Point, which would be exempt from CIL entirely.

54. Based on the evidence which I have read and heard, therefore, I recommend as modification **EM1** that separate CIL rates should be set in the DCS for brownfield residential development on Canvey Island of £34 psm for housing and £27 psm for flats. This would ensure that the CIL rates are consistent with the evidence on viability and that the DCS complies with the CIL Regulations in striking the 'appropriate balance' between funding the costs of infrastructure and enabling residential development to come forward on brownfield sites in Canvey Island, on which the delivery of the housing supply in Castle Point depends.

Retail Rates

55. The DCS proposes differential rates for retail development according to location, type and scale. For **Convenience Retail Floorspace** it proposes a CIL rate of £200 psm for the first 800 sqm (GIA) of floorspace and a rate of £50 psm for any floorspace above this. The Regulations allow charging authorities to apply differential rates, provided the differences in rates are justified by reference to the viability of development. However, as discussed above, the appraisals for convenience retail schemes undertaken as part of the VS did not establish the viability of the higher rate at 800 sqm, but at 280 sqm.

---

[42] Table 3a3 of CPBC-06
[43] Table 3b1 of CPBC-06
[44] PPG Paragraph: 020 Reference ID: 25-020-20190901

56. This matter was discussed at the Examination Hearing, following which, at my request, the Council provided a further appraisal for a store of 450 sqm GIA[45]. This demonstrates a viability headroom of £312 psm, which is sufficient to support a CIL charge of £200 psm, with a buffer of 35%. The VS also shows that a supermarket with a floorspace of 1,500 sqm GIA would comfortably support the proposed lower CIL rate of £50 psm, with a buffer of around 50%.

57. The Council's evidence shows that 450 sqm represents the upper limit of the small local convenience store format in Castle Point, and that this format commands a higher market rent than larger supermarkets, due to a higher turnover psm of floorspace and the strength of the operators. Therefore, I am satisfied that 450 sqm is the appropriate threshold for the higher rate of CIL.

58. Accordingly, I recommend as modification **EM2** that the threshold for the higher CIL rate of £200 psm for convenience retail development be reduced to the first 450 sqm GIA of floorspace. This will ensure that the proposed CIL rates for convenience retail floorspace are consistent with, and justified by, the viability evidence, in accordance national policy.

59. For **Comparison Retail Floorspace** the DCS proposes a rate of £200 psm on sites outside of the town centre boundaries. The VS demonstrates that town centre retail floorspace cannot viably support a CIL charge, but retail warehouse development, which is cheaper to build and commands a higher rent, can achieve a viability headroom of £470 psm, sufficient to support the proposed CIL rate of £200 psm, with a buffer of 57%. Accordingly, the proposed differential rate for comparison retail floorspace is consistent with the viability evidence.

60. The Borough's town centre boundaries are clearly shown on the maps at the back of the DCS. Subject to the addition of OS grid references to accord with the Regulations, which is discussed below, the location of individual sites either side of the town centre boundaries can be determined.

All other uses

61. The Council's decision not to charge a levy on any other types of development is consistent with the evidence in the VS. The appraisal results for industrial, warehouse and office uses, hotels, food and drink uses, sheltered and extra care housing show they are not viably able to support a CIL charge.

Other Matters

62. The DCS includes a proposed Instalments Policy, which would allow for the payment of CIL to be made in stages across the lifetime of development to assist with development cashflow. The PPG regards the existence of an instalments policy as a material consideration in assessing the viability of the proposed levy[46]. Whilst the wording of the policy is not before me for Examination, it is clear that the number, amount and timing of payments proposed would assist the viability of the types of development tested in the VS.

---

[45] Council document CPBC-06, Appendix 3

[46] PPG Paragraph: 055 Reference ID 25-055-20140612

This would be particularly so on schemes, with a CIL liability of over £500,000, where the policy provides for agreement of a project specific payment schedule.

63. I note the representations requesting an exceptional circumstances relief (ECR) policy should be applied when putting the DCS in place, but the power for the Council to do so is discretionary, and it is not within the remit of this Examination to make recommendations on it. Whilst the existence of an ECR policy is relevant in so far as it can support the viability of a CIL charge, other than for residential development on brownfield sites on Canvey Island, which I have dealt with above, the viability appraisals demonstrate sufficient headroom for CIL on other residential and retail development typologies, for which a CIL charge is proposed. As such an ECR policy does not appear to be necessary to assist the delivery of development on viability grounds.

64. The Council amended the maps in the submitted DCS showing residential and retail charging zones, to add grid reference numbers to the Ordnance Survey bases, as required by Regulation 12(2)(c) of the CIL Regulations 2010. The amended maps were included in the updated DCS, dated July 2022, which formed part of the post-submission consultation, and no further comments were received on them. As these are changes to the DCS that have been made post submission, I have included them as a modification **(EM3)**.

65. The DCS does not contain a statement that it has been issued and published in accordance with the CIL Regulations and Part 11 of the Planning Act 2008 Regulation 12(3)(c) requires this to be included in the approved charging schedule, which I recommend as modification **EM4** to ensure the charging schedule is legally compliant. In addition, Regulations 12(3)(a) and (b) require the approved schedule to include the dates on which it is approved and will take effect.

Does the evidence demonstrate that the proposed charging rates would not put the overall development of the area at serious risk?

66. The Council's decision to set differential rates of CIL for residential and retail development is based on reasonable assumptions about development values and likely costs. However, the proposed rates of CIL for residential on brownfield land on Canvey Island are not viable and would put at risk the delivery of around a third of the housing development projected to come forward under the CBPLP. The floorspace threshold up to which the higher CIL rate for convenience retail development is proposed to be charged is also not justified by the evidence and could put at risk the development of further supermarkets in the Borough, which may be necessary to meet future needs.

67. Therefore, to ensure that the overall development of the area is not put at risk, separate lower CIL rates should be set for residential development on brownfield sites on Canvey Island, as recommended in **EM1**, and the floorspace threshold for the higher CIL rate for convenience retail development should be reduced, as recommended in **EM2**. Provided these changes are made, the evidence suggests that residential and retail development would remain viable across the Borough with the amended CIL charges applied.

Conclusion and Legal Requirements

68. In setting the CIL charging rate, the Council has had regard to detailed evidence on infrastructure planning and the economic viability of the development market in Castle Point Borough. The Council has sought to be realistic in terms of achieving a reasonable level of income to address an acknowledged gap in infrastructure funding, while ensuring that a range of development remains viable across the Borough. The recommended modifications will ensure that the DCS is consistent with national policy and guidance in respect of the viability of development and the ‘appropriate balance’.

69. The Council provided a statement to evidence that in preparing the DCS, it complied with the legal and procedural requirements in the 2008 Act and the 2010 CIL Regulations (as amended). The recommended modifications will ensure that it complies fully with the drafting requirements in the CIL Regulations. The DCS complies with the Act and the Regulations, including in respect of the statutory processes and public consultation, its consistency with the Castle Point Borough Local Plan, and the Infrastructure Delivery Plan, and that it is supported by an adequate financial appraisal.

70. Overall, I conclude that, subject to the modifications set out in Appendix A, the Castle Point Borough Community Infrastructure Levy Draft Charging Schedule satisfies the requirements of Section 212 of the 2008 Act and meets the criteria for viability in the 2010 Regulations (as amended). On this basis, I recommend that the Draft Charging Schedule be approved with these modifications.

Mike Hayden

Examiner

This report is accompanied by Appendix A containing Modifications which the Examiner specifies so that the Charging Schedule may be approved.

Appendix A

Schedule of Modifications

(Text to be deleted text is ~~struck through~~ and text to be added is in **bold)**

EM1 Modify the CIL rates in the DCS for residential housing and flats within Canvey Island as follows:

Development Type	CIL rate per sqm
Residential housing within Canvey Island**:** - **Greenfield sites** - **Brownfield sites**	 £120 **£34**
Residential flat within Canvey Island**:** - **Greenfield sites** - **Brownfield sites**	 £30 **£27**

EM2 Modify the higher CIL rate for convenience retail development as follows:

Development Type	CIL rate per sqm
Convenience[1] retail for the first ~~800~~ **450** sqm gross internal area	£200
Convenience[2] retail for each square metre over ~~800~~ **450** sqm gross internal area	£50

EM3 Modify the maps in the DCS showing residential and retail charging zones to include Ordnance Survey grid reference numbers, as shown in the DCS dated July 2022.

EM4 Include a statement in the DCS as follows:

‘**The charging schedule has been issued, approved and published in accordance with the legal and procedural requirements of Part 11 of the Planning Act 2008 and the CIL Regulations 2010 (as amended)**’.