The Planning Inspectorate

Report to South Lakeland District 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 SOUTH LAKELAND COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE

Charging Schedule submitted for examination on 3 December 2014

Examination hearing held 10 February 2015

File Ref: PINS/M0933/429/8

Non Technical Summary
This report concludes that subject to modifications, the South Lakeland Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area. The Council has sufficient evidence to support the schedule and can show that the levy is set at a level that will not put the overall development of the area at risk. The modifications relate to the definitions in the charging schedule and the OS map showing areas subject to differential rates. They are needed to meet the statutory requirements. They can be summarised as: • New definitions of sheltered/retirement and extra care housing; • Revised definition of supermarkets; • Revised definition of retail warehouses; • Clearer Ordnance Survey map showing the boundaries of the zones subject to differential rates. The specified modifications recommended in this report are based on matters discussed during the public hearing sessions and do not alter the basis of the Council's overall approach or the appropriate balance achieved.

Introduction

1. This report contains my assessment of the South Lakeland 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 (National Planning Practice Guidance Community Infrastructure Levy Guidance – June 2014).

2. When setting rates, the legislation requires that the charging authority must strike an appropriate balance between the desirability of funding infrastructure to support the development of the area and the potential effects on the economic viability of development across the area.[1]

3. The South Lakeland CIL DCS applies to the area of the District outside the Yorkshire Dales and Lake District National Parks and the term 'charging area' is therefore used in this report. The basis for the examination, on which hearing sessions were held on 10 February 2015 is the submitted schedule of November 2014 (ExCIL_S1)[2] which is effectively the same as the document published for public consultation in August 2014 (ExCIL_D1).

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[1] Regulation 14 of The Community Infrastructure Levy Regulations 2010 (as amended)

[2] All documents are referenced Ex CIL as set out in the List of Submitted Documents

4. The charges in £ per square metre (sqm) proposed by the Council for examination are as follows:

- Kendal and Ulverston Canal Head regeneration areas – all development types - £0
- Residential - £50
- Croftlands Strategic Housing Site, south Ulverston - £20
- Agricultural Workers Dwellings - £0
- Supermarkets and Retail Warehouses - £150
- Hotels - £0
- Sheltered/Retirement housing - £50
- Extra Care Housing - £0
- All Other Uses £0

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

Infrastructure planning evidence

5. The South Lakeland Core Strategy (CS) was adopted in 2010 followed by the Local Plan Land Allocations Development Plan Document (LA DPD) in December 2013. These documents set out the main elements of growth including housing and employment that will need to be supported by further infrastructure in the charging area. The LA DPD is supported by an Infrastructure Delivery Plan (IDP) which was updated in January 2014 to support the consultation on the Preliminary Draft Charging Schedule (PDCS) and again in August 2014 in support of the publication of the DCS. The projects contained in the IDP therefore represent an accurate, up to date assessment of a range of needs to support the main elements of growth in the development plan.

6. The costs of the key infrastructure schemes, along with confirmed sources of funding are set out in the Draft Infrastructure Project List (IPL). The total cost of the required infrastructure is around £55.6 million. Taking into account known available sources of funding such as the Local Growth Fund, the identified funding gap is £47 million.

7. The Council has prioritised the projects that will benefit from CIL funding and these are set out in the Regulation 123 List contained within the DCS. Representors have questioned the need for some projects and others have suggested additional infrastructure that might be funded. The list has been produced in consultation with stakeholders and includes schemes that are essential to the delivery of planned growth to 2025 and I have no evidence to indicate otherwise. In any case, it is not the role of the examination to re-open infrastructure planning issues that have already been considered through the development plan. The Council confirmed at the hearing that there will be an annual review of the IDP in consultation with communities and stakeholders. As part of that process, the implications for the Regulation 123 list will also be reviewed.

8. The revenue from CIL over the development plan period to 2025 is projected to be around £17.75 million. This is based on projected residential development which accounts for the majority of the District's growth. Given

the size of the funding gap that has been identified, the level of income likely to be raised by CIL would therefore make only a modest contribution towards filling the funding gap. Nonetheless, the figures demonstrate the need to introduce the CIL.

Economic viability evidence

9. The viability evidence is contained in three documents and these are referred to in this report as the 'viability assessments'. References to specific documents are abbreviated as follows:

LA VS - Land Allocations DPD Viability Study (April 2013) (Ex CIL_SUP004 & Ex CIL_SUP005);
CIL VS - CIL Viability Study (January 2014) (Ex CIL_P3);
CIL VS Update – CIL Viability Study Update (July 2014)(Ex CIL_S4).

10. CIL is to be used to support the growth envisaged in the Development Plan. The LA VS appraised sixteen sites considered to be representative of the type of sites that would be developed for housing during the plan period. However, in order to ensure that an 'appropriate balance' has been achieved in setting rates of CIL it is necessary to take a broader approach to viability, recognising that some development will take place on sites not allocated in the LA DPD and for different uses. Additional viability modelling has been done to reflect the effect that CIL could have on retail, hotel, retirement/sheltered and extra care housing development.

11. The approach in the CIL VS seeks to establish the 'additional profit' from development. In summary, this is calculated by subtracting all costs (including land purchase and developer profit) from the Gross Development Value (GDV) of the completed development. The surplus or residual amount is the amount out of which CIL could be paid whilst providing the landowner and developer with a competitive return. The additional profit has been calculated using a range of assumptions for returns to developers and landowners in response to comments made at the different stages of consultation.

12. The National Planning Practice Guidance (NPPG) states that it is appropriate to include a buffer or margin so that the levy rate is not set at the margins of viability and is able to support development when economic circumstances change. This can also provide some degree of safeguard in the event that GDV has been over-estimated or costs under-estimated and to allow for variations in costs and values between sites. The Council has set a rate for residential development that is 66% of the theoretical maximum and for retail 50%.

13. The viability assessments test the effect of four price change scenarios on additional profit to reflect different market conditions – minus 5 and 10% and plus 5 and 10%.

14. The DCS has been informed by discussions with stakeholders and consideration of the representations made on the PDCS in 2014. The principal area of disagreement with the approach in the viability assessments relates to the assumptions around land value. This has attracted a number of representations at all stages of consultation and further discussion about the

approach to threshold land values took place at the hearing session. The conclusions on this together with the robustness of the key inputs and assumptions made are considered below. However, in general terms the DCS is supported by appropriate available infrastructure planning and economic viability evidence.

Differential rates

15. Regulation 13[3] provides that differential rates may be set by use and geographical zones, however these must be supported by the evidence. The DCS sets differential rates by both use and geographical area.

16. Within residential uses, there are differential rates for extra care housing and agricultural workers dwellings. Within retail uses, town centre shops are not identified within the schedule and therefore fall within the definition of 'all other uses' and as such are subject to a zero rate. The viability evidence for these is assessed in the respective sections below.

17. Differential rates apply to the strategic housing site at Croftlands, South Ulverston, and Kendal and Ulverston Canal Head regeneration areas. These are shown on an OS map within the DCS and at the hearing the Council produced a larger scale map which shows their boundaries more clearly. In the interests of clarity this should be included within the document and is therefore recommended as a modification **(EM1)**.

Croftlands Strategic Housing Site, South Ulverston

18. For the purposes of the viability assessments, the three sites allocated to the south of Ulverston in the LA DPD have been appraised as one site which comprises a large urban extension of 750 houses. The differential rate of £20 sqm in the DCS is based on a number of factors. These include the lower residential values in this part of the charging area, significant infrastructure costs of around £1 million, adjustments to the phasing of development and a contingency allowance of 10% to allow for some uncertainty around infrastructure costs. These factors result in a lower residual value per net hectare (ha) compared with other greenfield sites. The viability assessments conclude that in order to provide a competitive return for the developer and landowner, the CIL rate should be set at £20 sqm. I consider that the assumptions for the Croftlands strategic housing site draw on appropriate available evidence, that a differential rate is justified by the evidence and the boundary of the area shown on the OS map as clarified **(EM1)** is appropriate.

Ulverston Canal Head Regeneration Area

19. The DCS sets a rate of £0 for all types of development at Ulverston Canal Head. The LA DPD identifies this as a regeneration opportunity site suitable for a mix of housing, heritage, leisure and tourism development. The site has significant infrastructure and land assembly constraints and the costs of

[3] Regulation 13 of The Community Infrastructure Regulations 2010 (as amended).

developing it based on a master plan produced in 2005[4] have been updated in line with the BCIS index. Although there is some uncertainty around the figures, the viability assessments show that the costs of developing the site (£66 million) outweigh the potential income (£39 million) by a considerable margin and that the site will only come forward with some form of subsidy. The Council considers that it would be inappropriate to levy CIL in this area.

20. The assumptions are inevitably broad brush given the complexities and uncertainties around developing a brownfield site of this size but I consider that they draw on the most up to date evidence available and that a differential rate is justified. The boundary of the Ulverston Canal Head regeneration area shown on the OS map in the DCS as clarified **(EM1)** is appropriate.

Kendal Canal Head Regeneration Area

21. The DCS sets a rate of £0 for all types of development at Kendal Canal Head. The development of the site for a mixture of residential and commercial uses is to be taken forward in an Area Action Plan (AAP) which reached preferred options stage in 2010[5]. Based on the viability assessment of a mixed used scheme produced by consultants in 2010[6] and allowing for developer profit at 20% of GDV, the costs of developing the site would outweigh the projected income by approximately £4 million.

22. The viability assessments for this site relate to a specific development proposal and are now somewhat dated. The amount and type of development that will take place at Kendal Canal Head is uncertain given that an AAP is still emerging and the complexities and uncertainties around redeveloping such a large mixed use area. In the absence of an adopted AAP, further viability assessments would have to be based on assumptions about the amount and type of development that could take place and I am not convinced that this would result in a more informed assessment of the viability of this site. In the circumstances, I consider that the rate of £0 has been informed by the most appropriate available evidence and that the boundary of the Kendal Canal Head regeneration area shown on the OS map in the DCS as clarified **(EM1)** is appropriate.

[4] Ulverston Canal Head and Canal Corridor Master Plan 2005 Ex CIL ES1b

[5] Kendal Canal Head Area Action Plan Revised Preferred Options Report September 2010 Ex CIL ES1e

[6] Kendal Canal Head – Development Appraisal of Gilkes Master Plan Version 5 Ove Arup and Partners Ltd August 2010 Ex CIL ES1f

Residential development – are the charging rates informed by and consistent with the appropriate and available viability evidence?

<u>Site samples</u>

23. The viability assessments are based on sixteen sites appraised for the LA VS. These include thirteen 'hypothetical' sites that are considered to be representative of the types and sizes of planned residential development that could come forward in the plan period which range in size from 0.2 to 8.33 ha. Three actual sites which have abnormal costs are also included. These include the strategic housing site at Croftlands, South Ulverston which covers 45 ha and has been assessed taking into account specific infrastructure costs.

24. CIL is based on providing infrastructure to support planned growth and in this context, the sites that have been appraised cover a representative sample.

<u>Gross Development Value</u>

25. The Gross Development Value (GDV) is dependent on the amount of housing that can be built on a site and on its value. The assessments assume different densities according to site characteristics and market conditions and these have been subject to consultation with stakeholders. The overall average is 31 dwellings per net developable hectare. This has not been challenged in the representations and as a broad assumption appears to be appropriate given that there are a mixture of town centre, greenfield and brownfield sites that could come forward for development.

26. Average sizes of 75 sqm for affordable and 116 sqm for open market housing have been assumed. These assumptions have been discussed with the development industry and appear reasonable. The size of open market units was increased from 100 sqm used in the LA VS to reflect the increased demand for family housing.

27. The assessments assume different sales values for each of the modelled sites based on the values used in the LA VS (April 2013). The average asking price of new build houses being marketed in the District ranged from £2000 to £3000 sqm. The VS Update assumes a 5% increase in house prices to reflect the upturn in the economy giving a range of £2100 to £3150 per sqm (with the exception of Croftlands, South Ulverston). Values have been informed by consultation with local builders and agents.

28. The VS Update shows average house prices in the main settlements as at May 2014. Alternative evidence from a representor suggests that the comparable average prices at October 2014 are lower, however the evidence does not include information about the percentage changes in prices over the preceding 12 months. Average prices can be skewed depending on the type and value of property that is on the market at a particular point in time. Overall I find the alternative evidence in relation to average house prices inconclusive. Furthermore, the open market residential values per sqm are not challenged.

29. In a high level study of this type some broad assumptions have to be made about sales values for new build property. House price data has been used to inform assumptions about market conditions. The assumptions for the value

of new build market housing vary according to site typology, have been discussed with the development industry and appear to be realistic.

30. Affordable housing is generally provided as affordable rent and low cost home ownership (LCHO). The values as at April 2013 are based on consultation with registered providers and the Council's maximum sale prices for LCHO which are reviewed annually. Consequently, the assumptions appear robust.

Threshold land value

31. The viability assessments are based on the approach to threshold land value used in the LA VS which drew on a number of sources including Valuation Office Agency (VOA) data from 2011. The methodology has been updated in the VS Update to show residual value per net developable hectare. The threshold land value assumed is Existing Use Value plus 20% and in the case of greenfield sites a further £400,000 per net developable hectare. The Council argues that for greenfield sites this allows an increase of over 16 times the value of the land without planning consent, thus providing a competitive return for the landowner.

32. The effect on viability of a range of threshold land values from £300,000 to £1,000,000 per net ha has been modelled. The VS Update concludes that all the greenfield sites required to deliver the LA DPD would generate a value in excess of £500,000 per ha. The sites that are not viable are the brownfield sites and Croftlands, South Ulverston which is subject to a differential rate.

33. Representors have commented that this 'standard' approach does not reflect the amount paid for land in the charging area. At the hearing session it was suggested that a figure of between £1 and £1.25 million per hectare would be a more realistic figure, although no evidence was provided to support this. The Council supplied additional information about land transactions for specific residential sites in their response to the Matters and Issues which was discussed at the hearing session. Only four post-dated 2011 and prices varied significantly from £213,000 to £1.67 million per hectare (gross). Although this is a useful 'reality check' based on local information, it demonstrates the wide fluctuations in land price based on the location of the site and the nature of the development.

34. It was generally agreed by the parties at the hearing that in the long term the cost of meeting CIL will come from land value. Landowners may have higher aspirations for the value of their sites but the effect of the policy costs set out in the CS and LA DPD will not yet be fully reflected in the limited transactional data that was discussed at the hearing. The viability assessments can only provide a broad brush picture of the variables affecting viability including land value and in this context the evidence on land costs is appropriate.

Build Costs

35. The viability assessments are based on the BCIS median costs for South Lakeland as at May 2014 which reflect increased Building Regulation and environmental standards. A representor considers that the build costs do not incorporate the cost of using local materials which are characteristic of the area. The Council confirmed at the hearing that BCIS costs for the area

reflect the use of stone and slate and in any case, the additional cost of slate over and above concrete roof tiles is marginal.

36. Building to Code for Sustainable Homes (CfSH) Level 4 is no longer mandatory, but an allowance of 1.5% on top of BCIS costs has been made to reflect increased building standards.

37. A representor commented that whilst CfSH Level 4 may no longer be mandatory, the Council may still seek standards above building regulations, particularly for major sites where Development Briefs are being progressed which require sustainability features which will amount to more than 1.5% of BCIS. The Council confirmed at the hearing that at this stage some of the requirements of the Development Briefs are aspirational and if necessary the Council will revisit the viability evidence for these sites at the planning application stage.

<u>Policy Costs</u>

38. The DCS sets out a planning obligations statement listing the items for which direct financial contributions will be sought through s106 obligations following the adoption of CIL. These include on site open space and landscaping, off site open space improvements which are not listed in the Regulation 123 list and primary school places outside Kendal and Ulverston. For the purposes of the viability assessments, the residual costs which exclude the cost of affordable housing are calculated at £2500 per dwelling, applied to both open market and affordable. The Council has a good record of securing s106 contributions for affordable housing but contributions for other policy requirements have historically been modest. However, I am satisfied that the policy requirements of the CS have been built into the viability assessments.

<u>Other costs</u>

39. The viability assessments make a contingency allowance of 2.5% of build costs for straightforward sites and 5% on brownfield sites. This has been challenged by a representor who considers it should be in the order of 5% of all development costs. At the hearing session, the Council accepted that using a figure of 5% would change the viability calculations but considered 2.5% to be reasonable given that CIL has not been set at the margins of viability and there is a sufficient viability 'cushion' to accommodate unexpected costs.

40. The Harman guidance[7] does not advocate an allowance for contingencies whereas the RICS guidance[8] does. A figure of 5% has been considered a reasonable assumption for contingencies at other CIL examinations. Whilst there may be scope for this to be reviewed in any future CIL, I am satisfied that there is a sufficient 'buffer' to accommodate unforeseen costs.

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[7] Viability Testing Local Plans Advice for planning practitioners, Local Housing Delivery Group Chaired by Sir John Harman June 2012

[8] Financial viability in planning RICS 1st edition (GN 94/2012)

Affordable housing

41. Revisions to the NPPG which change the thresholds at which s106 obligations can be used to secure affordable housing were published on 28th November 2014 after the submission of the DCS. The Council confirmed at the hearing that if the changes in the NPPG are applied to sites in the LA DPD that fall within the relevant thresholds there will be a positive effect on viability and it is not considered necessary or appropriate to re run the viability assessments or change the levy rates.

42. The viability assessments assume that affordable housing will be provided in full in accordance with CS Policy CS6.3. This requires that in Principal and Key Service Centres on sites of 9 or more dwellings and elsewhere on sites of 3 or more, 35% of dwellings must be affordable. A representor expressed concern that the approach to affordable housing is not clear in the viability assessments and not based on the CS requirement of 35%.

43. It was confirmed at the hearing that the assessments in the VS Update were adjusted to reflect the need for smaller one bedroom affordable units in the light of welfare reforms. The total floor area of the affordable units is therefore a smaller percentage of the overall developed floor area on a site for the purposes of calculating the GDV. There is potential for confusion with this approach but the overall CS requirement for 35% of the total number of units to be affordable has been maintained in the appraisals.

Differential rates

Extra Care Housing and sheltered/retirement housing

44. There are additional build costs arising from the provision of care facilities and additional circulation space in extra care housing. Initially, the viability assessments made no provision for affordable units in these schemes. The increased build costs and provision for affordable units makes extra care housing unviable.

45. The rate of £50 per sqm for sheltered/retirement housing is in line with the residential rate and has been reduced from £150 included in the PDCS.

46. The providers in this sector have not objected to the rates set out in the DCS and have indicated their support for the changes. The differential rate for extra care housing is justified by the viability evidence. However, no definition of extra care housing or sheltered/retirement housing is included in the DCS. Definitions were presented by the Council at the hearing and modifications **EM4** and **EM5** are recommended in the interests of clarity.

Agricultural workers dwellings

47. The open market value of an agricultural workers dwelling is reduced by the restrictions arising from the occupancy condition. The viability assessments assume a reduction of around 30% and conclude that this would not produce sufficient additional profit to support a CIL charge. I have no evidence to dispute the Council's approach in this regard and conclude that a differential rate of £0 is justified by the evidence.

<u>Conclusions on residential viability</u>

48. The Council considers that it has taken a cautious approach to the setting of CIL in recognition of its objectives to increase housing delivery and maintain its track record in delivering 35% affordable housing. It also recognises that there could be a marginal competitive disadvantage to the housing market in the charging area given that no neighbouring authorities are currently progressing CIL.

49. A representor at the hearing considered that the £50 in the CS rate will not in itself adversely affect viability, however in combination with other contributions sought through s106 obligations, some schemes could be at risk. Concerns have been expressed about some of the assumptions that have been made in the viability assessments and these could be raised again in the context of negotiations on specific schemes. The Council has responded indicating that viability will continue to be considered in relation to specific sites at the planning application stage. It is committed to an early review of CIL which will be included in a review of the Local Development Scheme in 2015.

50. The theoretical maximum CIL rate for residential development would be £75 per sq m. The rate of £50 is 66% of that figure, providing a significant margin to accommodate differences in values and costs for specific sites. In this context, the rate has been reduced from £60 to £50 in response to comments on the PDCS and to changing market conditions, in particular increased building costs. The viability of the Croftlands site at South Ulverston which represents a significant component of the housing to be delivered during the plan period has been specifically addressed.

51. One representor has suggested that there should be a differential rate for residential development in Kendal. The viability evidence shows variations between market areas and between sites in the same town. However, setting and operating differential rates at these scales would be complex and the viability evidence supports a consistent rate across the District with variations for strategic sites where viability is significantly reduced. In conclusion, the charging rates subject to modifications **EM1**, **EM4** and **EM5** are appropriately informed by and consistent with the available economic viability evidence.

Non residential uses including retail development – are the charging rates informed by and consistent with the appropriate and available viability evidence?

52. Non residential viability assessments were initially done as part of the LA VS for a range of different uses including industrial, offices, distribution, three types of retailing and hotels. They are based on the types and sizes of development likely to come forward in the short to medium term. For example, large offices (500 sqm), small offices (150 sqm), large industrial units (1,500 sqm), small industrial units (200 sqm) and distribution centres (5,000 sqm). Hotel development was modelled on the basis of a 60 bed hotel. The VS Update contains updated assessments for retailing and this is dealt with separately below.

53. Commercial land values have been based on a market survey and EGI data rather than using VOA Property Market Reports which the Council considers are not considered to be representative of the area. Similarly, a survey of commercial agents and relevant web sites was undertaken to establish rental values. This found that the limited amount of non-residential development taking place tends to be for specific end users rather than speculative development.

54. Generic assumptions about a range of costs have been made and built into the assessments. Build costs are based on BCIS data (May 2014) with an additional 15% for abnormal costs where sites are on previously developed land and 10% for infrastructure costs. Professional fees are set at 8% of build costs, marketing and sales at 3% and contingencies at 2.5% on straightforward sites and 5% for brownfield sites. Interest on finance has been factored in at 7% on the amount due over one year on half the total cost. A developer's margin of 20% on GDV has been included, though a 25% return has also been modelled in the appraisals in response to representations that 20% was too low. No assumption has been made for s106 contributions for non-residential development, however where infrastructure costs have been assessed for specific sites these have been incorporated into the assessments. These are appropriate factors to take into account and, in general terms, the assumptions made appear reasonable.

<u>The retail levy rates</u>

Supermarkets

55. Some of the cost assumptions built into the viability assessment for supermarkets have been criticised by a representor. They consider that land values should be more reflective of market evidence as residential tends to be an alternative use value for supermarket sites. The assumptions for professional fees and strategic promotion are considered to be too low and s106 and s278 contributions should be included in the viability assessments which for large retail developments are typically £0.5 million.

56. The overall approach to threshold land value is dealt with earlier in this report and evidence of land transactions was provided by the Council in response to the matters and issues. The assumption for professional fees is broadly in line with the assumption in other assessments and I consider it is reasonable.

57. A representor objects to the rate of £150 sqm for supermarket and considers that the definition of 'supermarket' in the DCS is ambiguous and not consistent with the definition used in the viability assessments which is based on a store size of 4000 sqm. As a result, the difference between supermarkets and other forms of convenience retailing is not clear and this will cause difficulties applying CIL consistently once adopted. An additional representor considers that the assumptions used for supermarkets in the viability assessments are not applicable to smaller discount supermarkets. They consider that these do not operate as a weekly shopping destination and their construction is not subject to the same economies of scale as larger supermarkets. A rate of £150 sqm will jeopardise development of smaller discount supermarkets on brownfield sites.

58. Store sizes of 4000 sqm and 1700 sqm have been modelled in the viability assessments and found to produce sufficient residual value to support a CIL charge, including on brownfield sites. The viability assessments also include appraisals of smaller town centre shops of 150 sqm which have been found to be unviable. The viability evidence therefore suggests that convenience retailing becomes unviable somewhere between 150 and 1700 sqm but it does not enable a specific threshold to be identified.

59. At the hearing session, the Council confirmed that the criterion used to assess whether a development is a supermarket and therefore liable for CIL would include the frequency of shopping trips and presence of car parks. I find the definition in the DCS unclear and it is likely to be challenged on a case by case basis. For example, it is not clear whether a smaller supermarket of 200 sqm or the discount operator's model of 1525 sqm would be liable for the levy. It is not the purpose of the viability evidence to reflect specific operators' store formats and the evidence does not support the use of specific thresholds to define supermarket development. However, at the hearing the Council accepted that a clearer definition was needed and presented a revised definition of supermarket. This includes reference to mode of travel and car parks which will provide greater clarity and factors to assess whether or not a proposed development is a supermarket that would be liable to pay the levy. It is recommended as modification **EM2**.

Retail Warehouses

60. The assumptions made for retail warehouses include a floorspace of 4000 sqm, rental value of £120 sqm and yield of 6.5% and have not been challenged. The viability assessments show sufficient residual value to support the same CIL charge as supermarkets. At the hearing, the Council accepted that the definition of 'retail warehouse' would be clearer if the reference to 'household' goods is replaced with 'comparison' and this is recommended in modification **EM3**.

Other Retail

61. The Council confirmed at the hearing that as they are not specifically identified in the DCS, town centre shops and other types of retailing such as farm shops would fall within the category of 'other uses' and as such would not be liable for CIL. The type of other retail development most likely to come forward during the plan period are shops in the town centres of Kendal and Ulverston. At the hearing, the Council confirmed that the viability assessments of town centre shops covered both convenience and comparison retailing as has been applied to supermarkets and retail warehouses. In response to questions at the hearing, the Council supplied further information to support the differentiation between town centre shops and other types of convenience and comparison retailing, in particular expanding on Table 6.1 of the VS Update.[9] This assumes that such developments will take place on redevelopment sites in the town centres of Kendal and Ulverston. The

[9] Retail – Additional Note 11.2.15 (Ex CIL_ES2)

conclusion is that there is insufficient additional profit for both convenience and comparison town centre shops to support a CIL charge.

<u>Conclusions on non residential viability</u>

62. The viability assessments indicate that offices, industrial units, distribution centres and hotels do not provide sufficient residual value to support a CIL charge.

63. I recognise that the viability assessments are sensitive to many of the key assumptions. The rental levels, yields and actual costs including land acquisition, professional fees and marketing will vary from one scheme to another and between different operators and may be different to the assumptions made by the Council. The maximum theoretical rate for supermarket and retail warehouse development would be £300 per sqm and therefore the rate of £150 provides a sufficient margin to accommodate variations in the assumptions that have been made in the viability assessments. In relation to the omission of s106 contributions, the Council has assumed that after CIL has been introduced, residual s106 costs for non residential development would be limited. The Regulation 123 list includes strategic road improvements and other infrastructure necessary to deliver planned development.

64. In the context of what is necessarily a broad brush approach, I consider that the rates for supermarkets and retail warehouses are based on appropriate evidence and strike an appropriate balance between helping to fund new infrastructure and its effect on the economic viability of such development. The approach to town centre shops is justified by the additional evidence and will not provide a selective advantage to any particular undertaking.

Other Matters

<u>Operation of CIL and s106 obligations</u>

65. The NPPG requires that the charging authority sets out at examination its proposed approach to the operation of s106 obligations following the adoption of CIL. Where a Regulation 123 list includes project specific infrastructure, contributions from planning obligations cannot be sought for those items. The Council has set out its approach to s106 and s278 agreements in Appendices 1 and 4 of the DCS.

66. A number of representors have suggested additional projects and infrastructure that should be added to the Regulation 123 list to be funded from CIL. Others have suggested additional items to be funded from s106 planning obligations. However it is for the Council to decide which items should be included. The Council confirmed at the hearing that there will be regular reviews of the IDP and Regulation 123 list.

67. Representors have suggested that some items should be funded entirely from CIL rather than s106 obligations and vice versa, however it is for the Council to decide which funding sources will be used to fund particular items of infrastructure. At the hearing session it was confirmed that s106 contributions towards primary school places would only be sought from

developments outside the catchment areas of the primary schools in Kendal and Ulverston and as such there would be no overlap between the Regulation 123 List and s106 obligations in relation to education.

68. Representors have raised queries about the instalments policy and suggested that it should also apply to non-residential development but this is a matter for the Council. The principle of introducing a ‘development tax’ has been challenged and it is also suggested that there should be relief from CIL in exceptional circumstances but again these are not matters for my consideration.

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

69. The Council’s decision to set the rates in the DCS is based on reasonable assumptions about development values and likely costs. The evidence suggests that the overall development of the area, as set out in the development plan, will not be put at risk if the proposed charging rates are applied. The Council is committed to an early review of CIL which is a prudent approach in the context of uncertainties about economic conditions and the need to keep assumptions about values and costs up to date.

70. The Council has tried 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 charging area. Overall, therefore, an appropriate balance has been achieved between the desirability of funding the costs of new infrastructure and the potential effect on the economic viability of development across the charging area.

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 South Lakeland Core Strategy (October 2010) and Infrastructure Delivery Plan and is supported by an adequate financial appraisal.

71. I conclude that subject to the modifications set out in Appendix A the South Lakeland Community Infrastructure Levy Charging Schedule 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.

Sarah Housden

Examiner

This report is accompanied by:

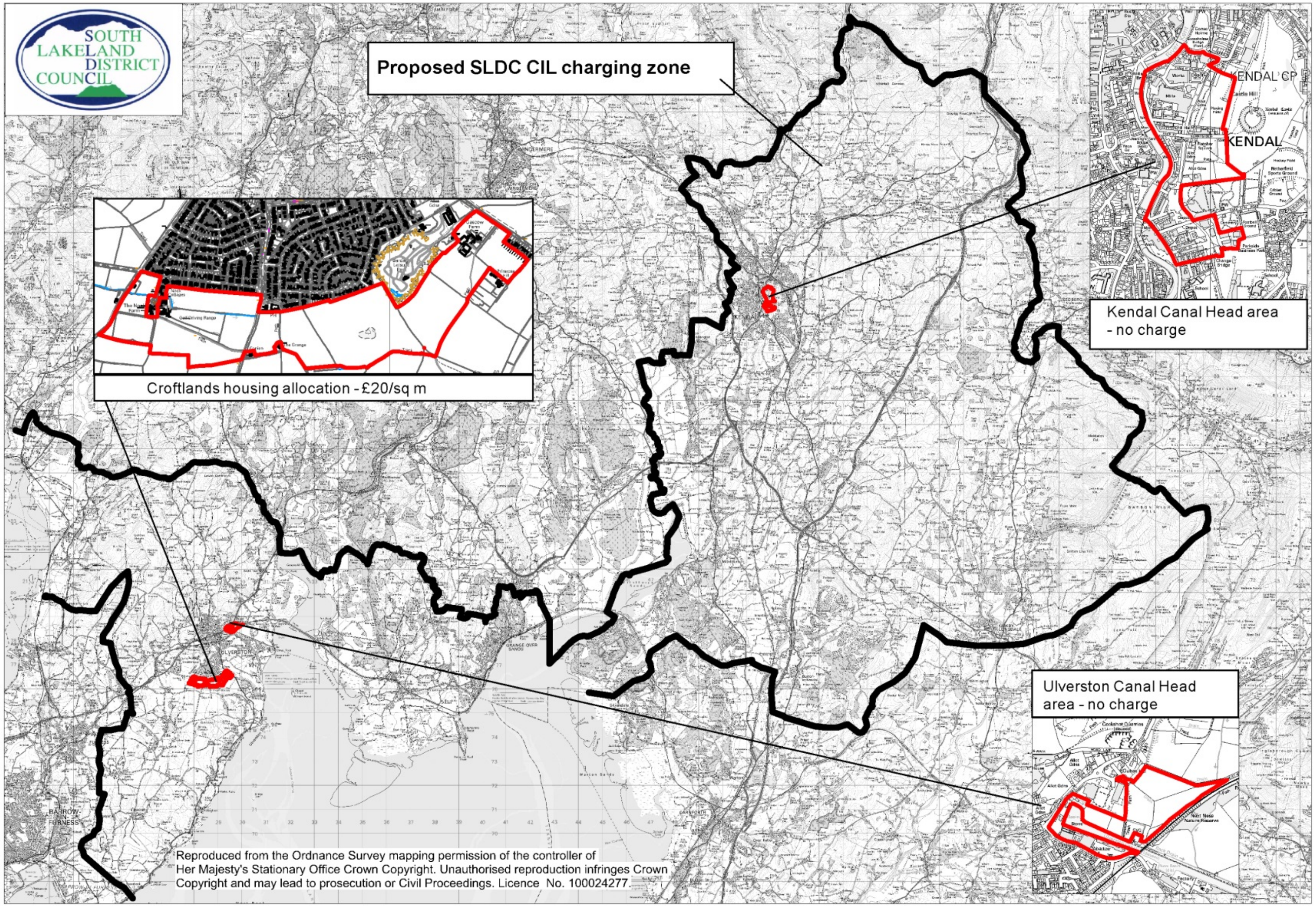
Appendix A (attached) – Modifications that the examiner specifies so that the Charging Schedule may be approved.

Appendix A

Modifications recommended by the examiner so that the charging schedule may be approved. Additions are shown in *italic*.

Examiner Modification (EM) Number	Reference	Modification
EM1	DCS p7 Proposed CIL Charging Zone map	Larger scale and clearer OS map as shown in Appendix B to show the boundaries of the zones subject to differential rates.
EM2	Paragraph 2.5 Draft Charging Schedule	Add additional text to 3rd bullet point: Supermarkets are shopping destinations in their own right, where weekly food shopping needs are met and which can also include non-food floorspace as part of the overall mix of the unit. *The majority of custom at supermarkets arrives by car, using the large adjacent car parks provided.*
EM3		Amend 4th bullet point: Retail warehouses are large stores specialising in the sale of ~~household~~ *comparison* goods (such as carpets, furniture and electrical goods), DIY items and other ranges of goods catering for mainly car-borne customers.
EM4		Add 5th bullet point: ***Sheltered/retirement housing*** *- is for older people and people requiring support with a reasonable degree of independence and no or limited care needs and falls within Use Class C3*.
EM5		Add 6th bullet point: ***Extra care housing*** *– residential accommodation and care to people in need of care and falls within Use Class C2.*

Appendix B


SOUTH LAKELAND DISTRICT COUNCIL
Proposed SLDC CIL charging zone
Croftlands housing allocation - £20/sq m
Kendal Canal Head area
- no charge
Ulverston Canal Head
area - no charge
KENDAL
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