



The Planning Inspectorate

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# **Report to Maidstone Borough Council**

**by David Spencer BA(Hons) DipTP MRTPI**

**an Examiner appointed by the Council**

**Date 31 July 2017**

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Planning Act 2008 (as amended)

Section 212(2)

## **Report on the Examination of the Maidstone Borough Council Community Infrastructure Levy Draft Charging Schedule**

The Charging Schedule was submitted for examination on 24 April 2017

The examination hearing was held on 14 June 2017

File Ref: PINS/U2235/429/9

## **Non-Technical Summary**

This report concludes that the Maidstone Community Infrastructure Levy Draft 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.

6 modifications are needed to meet the statutory requirements. These can be summarised as follows:

- Various minor clarifications on how the charge rates will be applied
- Replacement of the submitted CIL Maps at Appendix A of the Draft Charging Schedule with maps of an appropriate scale and precision showing National Grid references.
- Reference to an instalments policy.
- Reference to a review of CIL.

The specified modifications recommended in this report are based on matters discussed during the public hearing sessions. They do not significantly alter the basis of the Council's overall approach or the appropriate balance achieved.

## Introduction

1. This report contains my assessment of the Maidstone Community Infrastructure Levy (CIL) Draft Charging Schedule in terms of Section 212 of the Planning Act 2008. It considers whether the schedule is compliant in legal terms with the 2008 Act and 2010 Regulations (as amended) and whether it is reasonable, viable and consistent with national guidance in the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG).
2. To fulfil relevant legislative requirements the charging schedule should set 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 the hearing session was held on 14 June 2017 is the submitted schedule of 24 April 2017, which is effectively the same Draft Charging Schedule document published for public consultation on 5 August 2016. The Council has incorporated two changes to the Draft Charging Schedule as set out in the submitted Statement of Modifications. These have been consulted on in accordance with the Regulations and no responses were received. Accordingly, these modifications are incorporated into the Charging Schedule and I do not need to recommend any of the changes set out in the Statement of Modifications in my report.
3. The Council proposes CIL charges for residential development throughout the Borough. The proposed residential charges relate to three zones identified in the Draft Charging Schedule. The first zone correlates to the urban boundary identified in the submitted Maidstone Borough Local Plan (MBLP) where a CIL charge of £93 per square metre (psm) is proposed. A second zone applies to all rural parts of the Borough including a number of larger villages and rural service centres identified for growth where a CIL charge of £99psm is proposed. The third zone relates to the previously-developed strategic development site at Springfield, Maidstone (MBLP reference Site H1(11)). A CIL charge of £77psm is proposed in this zone.
4. The submitted schedule also includes proposed Borough-wide charges of £45psm for retirement and extra care accommodation and £150psm for convenience retail. A charge of £75psm for comparison retail is proposed outside the Town Centre boundary (as delineated in the MBLP). All other forms of CIL liable floorspace are rated at a proposed nil charge.

### **Issue 1: What certainty is provided by the 'Relevant Plan' and would adoption of the CIL schedule be premature in the absence of an adopted Local Plan?**

5. The purpose of CIL is to ensure that costs incurred in supporting the development of an area can be funded wholly or partly by owners or developers of land in a way which does not make development of the area economically unviable. It is for the "relevant evidence" to firstly demonstrate a need for infrastructure to support development of an area and, secondly, assess the potential effects on economic viability on development across an area. The starting point should be the infrastructure assessment that was undertaken as part of preparing the relevant plan. The PPG<sup>1</sup> identifies that

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<sup>1</sup> Paragraph 25-010-20140612

"...charging schedules should be consistent with, and support the implementation of, up-to-date relevant plans" (my emphasis). The PPG<sup>2</sup> also affirms that a relevant plan is the Local Plan and that where practical CIL charging schedules should be worked up and tested alongside the Local Plan (again, my emphasis).

6. The MBLP was submitted for examination in May 2016. It is a full Local Plan setting out strategic policies, specific sites and development management policies for the Borough for the period 2011 to 2031. It will replace policies from the Borough Local Plan of 2000. For the purposes of this CIL examination, the MBLP has reached a very advanced stage having been subject to examination hearings and consultation on proposed main modifications. I consider that the MBLP can be appropriately regarded as the relevant plan.
7. The MBLP seeks to focus growth across the wider Maidstone urban area with strategic development to both the North West and South East of the town. Objections to the latter of these two strategic locations and associated infrastructure as part of the MBLP process have also been reflected in submissions to this CIL examination. I will address the matter in terms of the degree of certainty the emerging MBLP provides, but it is not my role to consider matters which are firmly within the sphere of the MBLP examination.
8. In Maidstone the timetable for CIL has been aligned with the key stages of the emerging MBLP. Accordingly, both the CIL and MBLP draw on the same viability and infrastructure evidence. This approach is countenanced at paragraph 175 of the NPPF and elsewhere in the PPG. The chief concern before me from a number of parties is that the CIL examination pre-empts the conclusion of the MBLP examination process. It is additionally submitted that there remains uncertainty about what the development of the area (and associated infrastructure) may involve.
9. The MBLP examination hearings have taken place and the Inspector's Interim Findings from the examination (22 December 2016) are before me as is the schedule of proposed main modifications (March 2017). Following consideration by the Council's Strategic Planning, Sustainability & Transportation Committee consultation on the proposed main modifications concluded in May 2017. Accordingly, the proposed main modifications have not been prepared in a vacuum and follow careful deliberation.
10. The proposed modifications do not significantly affect the overall scale of growth, the spatial strategy or policy requirements on affordable housing. I also note that Policy ID1 on infrastructure delivery remains unmodified including its approach to the role of CIL in the Borough. Overall, I find there would be no meaningful effects arising from the proposed main modifications for the CIL or its relevant evidence base on infrastructure need/costs and development viability.
11. I note there are some concerns that the 2015 viability study does not reflect the latest proposed modified MBLP content. The Council has undertaken a re-appraisal as part of this CIL examination. This evidence demonstrates that the

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<sup>2</sup> Paragraph 25-011-20140612

higher quantum of growth of 692 units at Springfield, Maidstone (MBLP Site H1(11)) remains viable at the rate of £77psm. The evidence has also looked again at all relevant MBLP policy requirements. I am satisfied the Council has undertaken reasonable steps to test that the viability evidence still holds in light of the proposed main modifications.

12. The Council advises that it intends to adopt both the MBLP and CIL later this year. This would be in accordance with modified MBLP monitoring framework (reference MM59) which states that CIL would be implemented by Autumn 2017. Consequently, it is not proposed that CIL would precede the MBLP. This would be a prudent course of action given the CIL is intended to assist delivery of the infrastructure to support the growth proposals of the MBLP.
13. It has been drawn to my attention that a main modification (reference MM60) introduces a commitment to an early review of the Local Plan by April 2021. The Council confirmed to me at the hearing that it envisages reviewing CIL within a three year timeframe to coincide with the MBLP review and following monitoring of how this first CIL has been implemented. This approach would be consistent with the PPG advice at paragraph 25-043-20140612. I consider, however, that it would be prudent for the Charging Schedule to include a brief reference to a review and I therefore recommend it as modification **EM6**.
14. The MBLP being in its very final stages of examination does not present an obstacle to the progression of CIL in Maidstone Borough. I am satisfied that the CIL proposals reflect the most up-to-date policy framework defining the development of an area and will support its delivery. There has been a pragmatic gap between publication of the Draft Charging Schedule in July 2016 and the submission of its CIL for examination in April 2017 to enable reflection on the degree of certainty resulting from the MBLP examination. Further delays to examine CIL until post MBLP adoption would undesirably setback securing much needed income for Borough wide infrastructure.
15. I therefore conclude that the emerging MBLP, as the relevant plan, provides sufficient certainty to enable the CIL to be advanced so that it can be adopted at the same time as the MBLP. I also conclude that my examination of the proposed CIL rates would not inappropriately pre-judge the outcome of the MBLP examination.

**Issue 2: Is the charging schedule supported by background documents containing appropriate available evidence?**

*Infrastructure planning evidence*

16. The emerging MBLP and CIL are supported by the latest Infrastructure Delivery Plan (IDP) published in May 2016. The emerging housing requirement in the MBLP is now modified to 17,660 dwellings (net). The Council advised that some 12,000 of this total already benefit from planning permission or a resolution to grant permission. Accordingly, there are some 5,000 planned dwellings likely to liable under the proposed CIL. This balance is broadly distributed 50/50 within and outside the urban boundary as defined in the MBLP.
17. The Council has confirmed that the IDP is a 'live' document. Whilst there remain some projects within the IDP which are not yet fully costed I do not

consider this unreasonable when taking into account the time span of the Local Plan to 2031 and uncertainty over various funding sources. Maidstone is not unique in this regard. From everything I have read and heard it seems reasonable that the cost of infrastructure to support sustainable growth will in all likelihood increase when greater detail is known about specific infrastructure requirements, notably around transport infrastructure. As such the funding gap of £38.2million identified in the IDP should be regarded, realistically, as a minimum.

18. I have noted the various criticisms about some of the infrastructure projects in the IDP in terms of the available detail and issues of prematurity in terms of their linkage to proposals in the yet to be adopted MBLP. I am satisfied, however, that the projects in the IDP represent a legitimate and up to date assessment of the range of infrastructure required to support development in the area, including the Integrated Transport Strategy which has been examined as part of the MBLP process. Given the IDP is a 'live' document it is for the Council to add to or refine the list of projects as necessary and appropriate. I also see no reason why the review of parallel infrastructure planning activities in Kent would not be informed by the Council's developing IDP evidence to ensure enhanced consistency on the infrastructure projects and costs necessary to secure sustainable growth in the Borough.
19. I note the particular concern about strategic growth at South East Maidstone and attendant transport infrastructure solutions (notably the A274 Sutton Road bus corridor). From the evidence before me that matter would appear to have been dealt in considerable detail at the MBLP examination and in the Inspector's Interim findings (paragraphs 43-60). I appreciate from the correspondence before me that this remains an extant issue in terms of the responses to the proposed main modifications. Whilst it is not the role of the CIL examination to consider in detail particular infrastructure for particular locations, I am satisfied that the IDP evidence appropriately reflects the infrastructure necessary to deliver the development strategy as a whole. There is very little evidence before me to illustrate that an amended spatial strategy would remove the infrastructure funding gap which justifies introducing a CIL.
20. The Council has produced a draft Regulation 123 list setting out where planning obligations are to continue to be requested. I note that planning obligations would be scaled back to specific on-site infrastructure and that the Council has engaged with infrastructure providers on drafting this list. Whilst the list is not part of my examination I make the observation that it is relatively broad-brush with some scope for ambiguity. The Council informed me at the hearing that the Regulation 123 list and IDP would be reviewed on an annual basis. This would be a necessary course of action to ensure development continues to effectively and lawfully contribute to the costs of infrastructure in the area.
21. Overall, the Council forecasts that the expected costs of the required infrastructure to support growth would be some £100 million. A notable number of sites have planning permission or resolution to grant permission subject to planning obligations. The IDP also considers other funding sources including capital programmes, Local Growth Fund and New Homes Bonus but there remains a potential funding gap in excess of £38 million. The proposed

CIL rates in the Draft Charging Schedule would generate net receipts of around £19.8million. Whilst this would not wholly bridge the identified "minimum" funding gap, it nonetheless demonstrates a clear need to introduce CIL in the Borough.

22. Several representations have queried how CIL receipts would be prioritised or spent. That is not part of my examination and would be a matter for the Council to determine and then monitor. What is clear is that CIL will have an important role in funding infrastructure to support development in the area as a whole. In this regard I do not find any material inconsistency between the Regulation 123 list, the policies in the emerging MBLP (including the unmodified Policy ID1 on Infrastructure Delivery) and the intended CIL rates.

#### *Economic viability evidence*

23. Following the publication of the Council's Preliminary Draft Charging Schedule, a "Revised Plan and CIL Viability Study" was published in July 2015. The dual role of the study reflects government guidance. It is telling that there has been relatively little comment on the inputs into the viability modelling work. To my mind, this stems from early engagement with developers and landowner representatives, changes following consultation on the preliminary Draft Charging Schedule in 2014 and an increasing maturity on the key assumptions and values that inform CIL rates. The viability analysis applies the standard residual valuation approach for a number of hypothetical residential and commercial development scenarios likely to come forward in the future. I am satisfied, in over-arching terms, that the analysis accords with the relevant guidance in the PPG and the overall approach to assessing viability as set out in the 2012 Harman Review: "Viability Testing Local Plans".
24. Some concern has been expressed that the viability work is now two years old and refers back to data from 2013. That said, the viability work has been tested through the MBLP examination and has been open to comment and scrutiny during both the Draft Charging Schedule consultation in summer 2016 and as part of this examination. Through these processes there is very little evidence before me that the development markets in the Borough have changed appreciably since 2013, including any potential effects arising through stamp duty and buy-to-let changes or Brexit. In any event, the Council as part of the examination has revisited BCIS costs and various sales datasets up to and including early 2017. I am satisfied that any increase in costs have been at least matched by increases in sales values such that the viability work before me represents a robust basis on which to assess the effects of CIL.

#### *Residential modelling*

25. The viability modelling has looked at 21 typologies which are representative of those sites that remain to come forward through the MBLP. I find all of the residential viability assumptions to be generally reasonable including a reduction in benchmark land values. The modelling has applied affordable housing provision consistent with MBLP policy. In terms of costs for external works I am satisfied that the 10% figure in the viability study is reasonable in that it does not include site preparation ("opening up") costs which are accounted for separately. I am also satisfied that the 6% rate for financing costs is a reasonable assumption.

26. Additionally, the viability appraisal has applied a cautious headroom buffer of 50% to manage risk and provide certainty that site specific planning obligations can be afforded as well as allowing for other individual site specific circumstances/costs. It is a substantial buffer but there is little evidence advocating an alternative.

#### *Commercial modelling*

27. The Council has tested typologies for a wide range of commercial uses including industrial/warehousing, offices, retail, hotels and care homes. Whilst there is generally less data from local developments for analysis I find the Council's general approach to testing the viability of these uses, including national standards and data where applicable, has been appropriate.

#### *Conclusion*

28. The Draft Charging Schedule is supported by detailed evidence of wider infrastructure needs necessary to support sustainable growth. I consider that the viability evidence provided and the assumptions made within the modelling, together with site typologies tested, are proportionate, reasonable and robust. Consequently, I conclude that the charging schedule is supported by background documents containing appropriate available evidence.

### **Issue 3: Are the charging rates informed by and consistent with the evidence?**

#### *Residential development*

29. The proposed Urban Boundary zone includes the built-up urban area of Maidstone and peripheral residential allocations in the MBLP. Data on sales for this area clearly identifies a pattern of values which are consistently lower when compared to the rural hinterland. As detailed in the Council's viability study at Table 6.6 on page 50, the values of residential development in this area exceed its total costs such that, allowing for the 50% buffer, a CIL charge of £93psm would be viable for all residential development in this zone.
30. The residential zone outside of the MBLP urban boundary includes a number of key service centre settlements, villages and countryside including parts of the Kent Downs Area of Outstanding Natural Beauty (AONB). Whilst there is little evidence of a pattern of markedly different value zones here, sales values are, on average, notably higher than within the urban boundary. An element of caution must be applied that this data is not skewed by a number of high value second-hand rural properties. With this in mind, the viability work has applied a weighting which reflects that an appreciable quantum of planned rural growth in the MBLP would take place at the Lenham "broad location for growth" in the latter period of the Plan. This is reflected in the tested typologies where sales values are likely to reflect the volume of development.
31. In my view, whilst the outside urban boundary rate is arguably cautious for large parts of the rural areas there is insufficient clear-cut evidence to identify different and complex rural zones. The proposed rate of £99psm ensures that rural developments can sustain the 40% affordable housing requirement and that larger rural developments necessary for the MBLP strategy to succeed are not pushed to the margins of viability.

32. It has been submitted that the AONB area could sustain a higher CIL charge and the viability evidence would appear to broadly support this. I am aware that other authorities have adopted such an approach but here the AONB covers significantly less than half of the Borough where no appreciable development is earmarked in the emerging MBLP. I am not, therefore, persuaded that there is sufficient evidence to justify a separate (higher) charging rate for the AONB and to do so would add undue complexity.
33. The third zone applies specifically to Springfield, Maidstone (MBLP Site H1(11)). This is a large previously-developed site close to Maidstone town centre. The MBLP process has increased the potential capacity of this site and this has been re-appraised for its viability. The PPG advises that strategic sites are individually appraised and as such the separate testing for this site is appropriate. As a site with bespoke conditions in terms of both costs and values I conclude that the £77psm rate for the site would strike the appropriate balance as set out in Table 6.3 on page 45 of the viability assessment and as specifically re-tested in the Council's Hearing Statement – Appendix A to Main Issue 3.
34. The proposed urban and rural residential rates are different by around £6psm. This is a relatively small margin but it is accounted for the reasons set out in the evidence and discussed in this report. Nonetheless, I requested the Council to sensitivity check options to equalise the two rates and this evidence was presented in two notes issued shortly after the hearings (documents CILEX08 and CILEX08a).
35. I have considered this additional evidence in the context of the key test of striking an appropriate balance between funding for infrastructure and development viability (CIL Regulation 14). I am not persuaded that equalising the rates at the lower £93psm would be necessary and it would unacceptably compromise the CIL dividend for infrastructure by some £700,000. Nor am I persuaded that equalizing at a "mid-point" of £96psm, would be necessary given the projected neutral effect on CIL income.
36. That leaves the third option of equalising at the higher rate of £99psm. I note that this could be substantiated within the existing evidence base including the Council's analysis on the profile of remaining urban growth. It would assist in a small way in further bridging the funding gap. A higher £99psm rate in the urban zone would be predicated on reducing the headroom buffer to 47% as opposed to 50% in rural areas. In my view this would be drifting from the consulted-upon evidence base where buffers have been applied consistently and with negligible adverse comment. The proposed zones are not complex and are consistent with the MBLP. The £6psm differential is unusual in CIL terms, and has warranted particular scrutiny, but it nonetheless reflects tangible differences confirmed by the evidence base.
37. The residential modelling has included numerous typologies which include flatted developments, demonstrating that they are all viable, including the re-testing of the Springfield strategic site at an efficiency value of 85%. It would be necessary for clarity for the Draft Charging Schedule to confirm that the residential rates would also apply to flatted forms of development and I recommend modification **EM1** accordingly.

38. Overall, I am satisfied that these proposed residential rates in the submitted Draft Charging Schedule are informed by and consistent with the appropriate and available viability evidence.

*Accommodation for the elderly – Retirement and Extra Care Housing and Care Homes*

39. The viability evidence demonstrates that care home developments would have a residual site value less than the benchmark level and thus a CIL charge cannot be viably paid by such development.
40. Retirement and extra care housing has been appraised in accordance with costs and assumptions widely recognised by providers and consistent with guidance prepared by Three Dragons on behalf of the Retirement Housing Group. By virtue of providing independent, self-contained homes for sale, albeit with varying levels of access for support and in-home care, these homes are within Use Class C3 of the Town and Country Planning (Uses Classes) Order 1987 (as amended). The viability evidence has looked at various site typologies, and whilst transaction data may be limited, I am satisfied that the Borough wide figure of £45psm for this format of accommodation is demonstrably viable.
41. It was agreed within a Statement of Common Ground (examination document CILEX06) that a clarification be applied within the document to provide definition to the £45psm rate for retirement and extra care housing. I am satisfied that the CIL rates have been prepared having regard to distinctly different development costs and sales values between self-contained retirement and extra care housing as opposed to 'leased' accommodation in care, nursing or other homes which fall within Use Class C2 or C2a as defined by the Town and Country Planning (Uses Classes) Order 1987 (as amended). This modification is supported by the available viability evidence and I therefore recommend it at **EM2** in Appendix A.

Commercial Development

*Retail Development*

42. A number of scenarios for convenience retailing have been tested including small supermarket formats, standard supermarkets and small local convenience stores. The modelling shows that all convenience retail formats would have positive headroom for CIL, when applying a 50% buffer. The approach has averaged the figures for each format to derive a straightforward £150psm figure across the Borough as opposed to more intricate disaggregated rates. I accept this is broad-brush but it would be proportionate given the modest levels of additional convenience floorspace likely to come forward over the MBLP plan period to 2031. Overall, I am satisfied that the Council's approach would not put the viability of convenience retail formats at risk.
43. The MBLP identifies a modest (and unmodified) need for additional comparison (non-food) retail and seeks to focus this in town centre development opportunities within the MBLP town centre boundary. The viability evidence clearly shows that generally restrained town centre rental yields combined with higher land values and construction costs leave no margin for a levy on

town centre comparison retailing. Accordingly, the nil rate proposed is consistent with the evidence.

44. Out of town centre comparison retailing has been tested on a typology of a retail warehouse (retail park). Whilst the MBLP does not envisage this format comprising any notable amount of the development of the area, I nonetheless consider the testing to be reasonable in the event that unplanned out of town comparison retailing does, for whatever reason, come forward. Consequently, the imposition of a CIL of £75 psm outside of the town centre boundary would also be appropriate and consistent with the evidence.
45. The Draft Charging Schedule uses the terms "wholly or mainly" convenience or comparison. This requires definition to ensure that the CIL charges for retail development can be understood and applied. I therefore recommend the minor additional wording in **EM3** in Appendix A.

#### *Other Commercial development*

46. The viability testing of industrial, office, warehouse and hotel developments demonstrates that none of the development types would be able to support any form of CIL. Therefore, the proposed zero rating is appropriate.

#### Conclusion

47. The Draft Charging Schedule is supported by detailed evidence of infrastructure needs and by robust, proportionate and appropriate evidence on development viability. Accordingly, the proposed charging rates would be informed by and consistent with the evidence.

#### **Issue 4 – Does the evidence demonstrate that the proposed charge rates would not put the overall development of the area at serious risk?**

48. In setting the CIL charging rates the Council has had regard to detailed evidence on infrastructure planning and the economic viability evidence of the development market in the Borough. The charging schedule strikes a realistic and appropriate balance between achieving a reasonable level of income to address an evident gap in infrastructure funding, whilst ensuring that a range of development remains viable across the authority area.
49. The analysis of CIL as a proportion of Gross Development Value (GDV) is between 2.2% and 3.1% for all site examples tested. This provides further reassurance that the charge rates for residential would not put the overall implementation of the MBLP at risk.
50. Importantly, the levy rates have been set at a level which recognise the continued need for planning obligations for site specific infrastructure and where applicable affordable housing provision. I have noted the County Council's concerns that funding may diminish under CIL compared to planning obligations. The Borough Council has undertaken an analysis (2011-2016) which shows that CIL will yield approximately £4300 per dwelling (plus any on-site infrastructure contributions) compared to some £4,800 per dwelling under past Section 106 planning obligations. I have nothing before me which indicates that the S106 figure is inappropriate to any significant degree. I am also advised that the Regulation List 123 has involved the input of the County

Council and I note that a number of education and highways projects remain to be funded by planning obligations. The Council's analysis demonstrates that the proposed residential CIL rates are justified.

51. Overall, I find that the evidence underpinning the proposed rates demonstrates that there would be no serious risk to the viability of development in the area.

### **Other Matters**

52. A number of matters were raised in relation to the collection and distribution of CIL receipts, including dividends of CIL income to those parishes with or without adopted Neighbourhood Plans. These important matters are prescribed within the CIL Regulations and they are not for me to examine. The submitted Charging Schedule helpfully explains at Section 6 the duty to pass CIL to local councils and this information is accurately presented.
53. The maps in Appendix A do not meet Regulation 12(2)(c)(iii) of the 2010 CIL Regulations (as amended). The mapping whilst on an OS base and showing National Grid lines is at a very small scale and without National Grid references making it very difficult to determine with precision the boundaries for different zones. I appreciate the Council intends to produce an accompanying on-line version with the ability to zoom in for exactness but nonetheless it should not be assumed that all users of the schedule will have the facility to do. Accordingly, the mapping in the CIL schedule needs to be enhanced in order to be legally compliant. I note that boundary changes formed part of the Statement of Modifications and these have been consulted on. The enhanced mapping quality would not change or amend the boundaries between different zones. Therefore in recommending modification **EM4** I am satisfied that this change can be made before adoption without re-opening the right to make representations and to be heard.
54. An instalments policy is not part of the examination remit nor does it need to form part of the Charging Schedule. Nonetheless, the Council is proposing to introduce such a policy and a draft version formed part of the submitted documents. I consider it would provide necessary clarity if the Charging Schedule references the instalments policy in Section 5. I therefore recommend the minor additional text modification **EM5** at Appendix A.

### **Conclusion**

55. In setting the CIL charging rates proper regard has been given to detailed evidence on infrastructure planning and development viability. Subject to the modifications which I am recommending, the Council's approach is realistic in achieving a reasonable level of income to address a clear gap in infrastructure funding, whilst ensuring that development remains generally viable. The Council has indicated that it seeks to adopt the MBLP and the CIL at the same time. Subject to the MBLP remaining significantly unaltered that would be an appropriate course of action.

LEGAL REQUIREMENTS	
National Policy/ Guidance	The Charging Schedule complies with national policy / guidance.
2008 Act and 2010 Regulations (as amended).	The Charging Schedule complies with the Act and the Regulations, including the statutory processes, requirements for consultation and consistency with the emerging Local Plan and Infrastructure Delivery Plan. The Charging Schedule is supported by an adequate viability assessment.

56. I conclude that subject to the modifications set out in Appendix A the Maidstone Borough Council 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). I therefore recommend that the Charging Schedule be approved.

*David Spencer*

Examiner

This report is accompanied by Appendix A containing the 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.

Examiner Modification (EM) Number	Reference	Modification
EM1	Residential charges	<p>Insert new first sentence to paragraph 5.2:</p> <p>"Charges for residential development apply to all liable forms of residential development within Use Class C3 as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended), which are not retirement or extra care housing."</p>
EM2	Definition of Retirement and Extra Care charges	<p>Insert new text after paragraph 5.2</p> <p>"Charges for retirement and extra care housing will apply to relevant, liable development within Use Class C3 as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended). Relevant, liable development is:</p> <ul style="list-style-type: none"> <li>(a) Retirement housing, which is defined as proposals, within Use Class C3, for groups of dwellings that provide independent, self-contained homes, specifically for older people, usually with some element of communal facilities.</li> <li>(b) Extra care housing, which is defined as proposals, within Use Class C3, for dwellings that provide independent, self-contained homes, specifically for older people, with access to 24 hour care and support.</li> </ul> <p>Charges for retirement and extra care housing do not apply to proposals for care homes and nursing homes, or any other uses falling within Use Class C2 or C2a as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended)."</p>
EM3	Retail charges	<p>Insert new text after paragraph 5.3:</p> <p>"The application of charges for retail</p>

		development will have regard to the principal retail use – be that convenience or comparison – to determine the rate to be applied across all liable retail floorspace. The principal retail use is defined as that which occupies more than 50% of the liable retail floorspace, and is expressed in Table 3 as “wholly or mainly”.
EM4	Mapping	Replace submitted Appendix A maps with maps of a larger scale to show National Grid references.
EM5	Instalments Policy	After paragraph 5.6 insert new section header ‘Payment of CIL’ and new paragraph as follows:  “The Council has opted to prepare a CIL Instalments Policy in accordance with Regulation 69B of the 2010 CIL Regulations (as amended). Payment for CIL is due upon commencement of the development. It must be paid in full within the timescales and phased instalments as set out in Council’s Instalment Policy.”
EM6	Review of CIL	After paragraph 5.6 and EM5 insert new section header ‘Review’ and new paragraph as follows:  “The Council will ensure that the CIL rates remain appropriate over time. The CIL Charging Schedule will be reviewed where circumstances, including the review of the Maidstone Borough Local Plan, indicate that it would be necessary or of benefit to the Council to review the Schedule or where monitoring of CIL performance and/or local conditions indicates that development is being constrained by CIL rates.”