
Report to Surrey Heath Borough Council

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an Examiner appointed by the Council

Date: 25 March 2014

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

**REPORT ON THE EXAMINATION OF THE DRAFT SURREY HEATH
BOROUGH COUNCIL COMMUNITY INFRASTRUCTURE LEVY
CHARGING SCHEDULE**

Charging Schedule submitted for examination on 27 November 2013

Examination Hearings held on 19 February 2014

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Non Technical Summary

This report concludes that the Surrey Heath Borough Council Draft Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area.

The Council is able to demonstrate that it has sufficient evidence to support the schedule and can show that the levy rates would be set at levels that will not put the overall development of the area, as set out in its Core Strategy, at risk.

Introduction

1. This report contains my assessment of the Surrey Heath Borough Council Community Infrastructure Levy (CIL) Charging Schedule 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 (Community Infrastructure Levy Guidance – DCLG – February 2014).
2. To comply with the relevant legislation the local charging authority has to submit what it considers to be a charging schedule that sets an appropriate balance between helping to fund necessary new infrastructure and the potential effects on the economic viability of development across the district.
3. The basis for the examination, on which Hearing sessions were held on 19 February 2014, is the submitted Draft Charging Schedule (DCS), which was published for public consultation on two occasions in 2013. The first was between 22 July - 16 September and the second, following a modification to correct a typographical error, took place between 7 October – 4 November. The DCS was submitted for examination on 27 November 2013.
4. The Council's CIL proposals include charges for residential development and for specified types of commercial development.
5. The residential CIL proposals relate to three defined geographical charging zones within which different CIL rates would apply. The smallest zone is defined around the boundaries of the Princess Royal Barracks at Deepcut; here the proposed CIL charge for new residential development would be zero rated i.e. £0 per square metre (psm). The remainder of the borough would be split

into two charging zones: the “Western Charging Zone” would cover about a third of the borough, and is dominated by the Camberley town settlement. The “Eastern Charging Zone” covers the rest of the borough and includes a number of smaller settlements and extensive areas of land designated as Special Protection Area and Metropolitan Green Belt.

6. The special qualities and statutory protections of habitats on the heathlands that cover a significant part of the borough have major implications for development plan strategy (see paragraphs 8 -12) and this is reflected in the Council's CIL proposals. The CIL charges are differentiated not only geographically (Eastern / Western zones) but also by applying different CIL rates dependent on whether or not developments provide on site 'avoidance' mitigation through the provision of Suitable Accessible Natural Greenspace (SANG). In the Western Charging Zone the CIL charge would be £180 psm for developments not providing SANG on site, and £55 psm for developments providing SANG on site. In the Eastern Charging Zone, the respective charges would be £220 psm and £95 psm.
7. The proposed commercial CIL charges essentially relate to retail development types. The charges are differentiated in two ways. First, by development type whereby retail uses are differentiated in to 'retail warehousing', 'supermarkets / superstores' and 'all other retail (A1 – A5)'. The second differentiation is by geographical area: 'retail warehousing' and 'supermarkets / superstores' would be subject to a borough wide £200 psm CIL charge; 'all other retail (A1 – A5)' would be subject to a £0 psm charge in Camberley Town Centre, but would incur a £100 psm CIL charge throughout the rest of the borough. The DCS includes a further category of 'all other development' which is £0 rated in its borough wide charging proposals.

Main Issue 1 - Is the charging schedule supported by background documents containing appropriate available evidence?

The Development Plan Documents

8. The Surrey Heath Core Strategy and Development Management Policies (CSDMP) document was adopted in February 2012. It sets out the Council's strategy for sustainable growth in the period 2011 – 2028. The borough lies within an area of significant nature conservation interest and this, along with the associated statutory protections, has a profound effect upon its development strategy.
9. About 22% of the borough's area forms part of the wider Thames Basin Heaths Special Protection Area (SPA). The SPA is a statutory designation made in 2005, recognising the international importance of the habitat, most notably in terms of its role in supporting breeding populations of protected birds – Dartford Warbler, Nightjar and Woodlark. Given the SPA designation within the

borough, and the fact that all of the borough lies within its accepted 5 kilometre 'zone of influence', all new residential development is deemed likely to have a significant effect on the integrity of the protected habitat. The principal negative impacts arise from additional human activity (walking and dog walking) and predation by domestic cats. The policy approach that has evolved, and been found sound on examination, is based upon housing development exclusion in and around the SPA (within 400 metres) and development mitigation through SANG provision for development within 5 kilometres of the SPA. In essence, SANG is intended to divert additional human activity to less sensitive locations, to avoid habitat deterioration in the SPA.

10. The scale of housing proposed in the plan period is 3,240 (net) additional units, a figure informed by the availability of suitable SANG. The spatial allocation of this development follows sustainable development principles, with the majority (71%) being in the more urban western third of the borough, with the remainder in the east. The CSDMP has a stated emphasis on promoting previously developed land within existing settlement areas to deliver new housing. The two locations where the most significant housing delivery is expected are Camberley (860 units in the period to 2025) and the strategic allocation at the former Princess Royal Barracks in Deepcut (where circa 1200 units are planned). The overall affordable housing target is 35%, although the requirement is tiered dependent on development size, from 20% for smaller schemes (5 – 9 units) to 40% for schemes of 15 units or more.
11. At present the Council's housing land supply is still weak (2.8 years supply) but this is very much a product of the SPA designation and it is expected to improve as the CSDMP matures. A 'Sites Allocation' development plan document is currently under preparation, and will provide the more detailed definition of the housing sites that will deliver the spatial strategy.
12. The CSDMP approach to employment development is focused on existing settlements and employment areas, seeking to intensify use and regenerate areas of older and / or vacant stock. The plan identifies specific 'core employment areas' and Camberley Town Centre as the main focus for new commercial development. Camberley Town Centre Area Action Plan, which includes plans for major retail led regeneration, was subject to an Examination in Public in December 2013.

Infrastructure planning evidence

13. The Council's Infrastructure Delivery Plan (IDP) sets out an assessment of infrastructure needs required to support the growth set out in the CSDMP. It is a living document and, in its earlier version, formed part of the CSDMP evidence base. It identifies the borough's infrastructure needs in two five year periods: 2013 – 2018 and 2019 -2023, along with a ten year (2016-2026) infrastructure needs assessment of the strategic growth allocation at Princess

Royal Barracks, Deepcut. The IDP was supplemented, for the CIL examination, by a Technical Background Document (July 2013) which refreshed and refined some of the figures with the latest known information.

14. Setting aside the specific needs associated with the Deepcut strategic site, the IDP identifies that the borough's principal infrastructure needs relate to green infrastructure (SANG) and transport projects. For the 2013 – 2018 period the Council identifies a total funding gap which ranges from £9.26 - £18.8 million, the range arising from the uncertainty over transport bid funding streams. For the initial five year period, the unfunded critical SANG projects amount to £3.35 million. The IDP undertakes a similar exercise for the 2019 – 2023 period but with, understandably, less certainty, and the Council confirmed that it would be reviewing its CIL regime well before that period.
15. The IDP includes a specific chapter on the Princess Royal Barracks strategic site's infrastructure needs and identifies a comprehensive package including transport, schools, green infrastructure (including SANG), community facilities, utilities upgrades and health facilities.
16. The Council has used its IDP to distil a clear list of eight sets of infrastructure project types, which it has included in its Draft Regulation 123 list. Although they are not set out in any priority order, the Council made clear, at the Hearing, that funding SANG and critical transport projects would take precedence in the allocation of CIL funding. The Council has produced an Infrastructure Delivery Supplementary Planning Document (July 2013) which gives some guidance on the residual role for S.106 planning agreements once its CIL regime is in place.
17. In assessing its infrastructure funding gap, the Council has looked at a range of funding sources. Some types of infrastructure, where the burden often falls, at least partly, on developers, have been fully funded from other (non CIL) sources. Education is a notable example where, other than at the strategic site in Deepcut, there will be no developer funding requirements. Some criticism was levelled at the Council for not including anticipated New Homes Bonus receipts in its calculations, but I share the Council's view that this is part of a much more complex set of issues concerning local government finance, in an era of reducing resources, which has been factored into its medium term financial plan.
18. The Council estimates that in the first five-year infrastructure planning period (to 2018) its CIL proposals could generate circa £4.5 million of funds, although this would reduce to £3.82 million, once the Parish Councils' element was removed. Taking that lower figure, it is clear that CIL receipts would make a significant contribution to funding assessed infrastructure needs, amounting to over a third of the funding gap at the lower end of the range. Importantly, the anticipated CIL receipts would surpass the costs of funding the critical SANG, without which no new housing development can occur under the established policy regime.

Economic viability evidence

19. The Council's Viability Assessment (VA) tested a wide range of notional residential and commercial developments in the borough. It used a residual land valuation methodology. In essence, this involves taking the end value of a development and deducting a range of costs (build costs, land, overheads, fees, profit etc.). This is then compared with a benchmark, or threshold, land value, which was assumed to be existing use value plus a 20% premium to the landowner (to trigger the sale for development). If the residual value exceeds this threshold value the development is assumed to be viable and any 'excess' (above the threshold) has the potential to fund a CIL charge. In theory, the bigger the surplus the higher the CIL charge that can be sustained. Similarly, if the residual value does not achieve the threshold value the development is deemed not viable, and therefore unable to support a CIL charge.
20. Clearly, such modelling involves making a wide range of assumptions about appraisal inputs. For residential development scenarios, this includes making assumptions about factors such as land costs, build costs, fees, densities, housing mix, affordable housing content, contingencies, sales values, profit levels etc. For the commercial development types, similar assumptions were made but with assumed rents and yields being the key value determinant (rather than sales values).
21. I examined the assumptions and methodology used in the residential modelling and found them to be robust, reasonable and, for the most part, uncontested. Build costs were drawn from the Building Cost Information Service (BCIS) and adjusted to reflect the higher sustainability standards set out in the CSDMP. Tested schemes were CSDMP policy compliant in terms of open space provision and affordable housing, which rises in proportion, from smaller to larger sites. Profit levels were assumed at 20% Gross Development Value (GDV) which, in my view, is a healthy allowance given the local market characteristics. A notional £1000 per unit was included for residual site specific S.106 / S.278 costs along with contributions for Strategic Access Management and Monitoring, which cover the activities that support SANG provision.
22. In terms of the key viability variables of land values and sales revenues, the Council's evidence base was similarly robust. The Council commissioned the Valuation Office Agency (VOA) to provide a report on land values at different locations across the borough. These were based on transactional evidence supplemented by the VOA's local market intelligence. Sales values had been drawn from agreed prices (rather than asking prices) of 769 properties transacted on the resales market, supplemented by sales data from 114 new build properties. Whilst there was some criticism from the house building industry about the reliance on resales data, I find no flaw with the Council's approach – it has used a significant amount of appropriate available evidence, which is helpful in defining the tone of residential sales values across the borough.

23. A wide range of notional residential schemes were tested at different locations, ranging from small 3 unit schemes up to large 500 unit schemes. The housing mix was tailored accordingly and included the development of flats in certain modelling scenarios.
24. The commercial development modelling used similar assumptions and methodology. Notional schemes for employment uses (Use Classes B1, B2 and B8), commercial leisure, nursing / care home development, retail warehousing, supermarkets, comparison retail and a major retail led regeneration scheme were all tested. A range of yields was employed to provide a sensitivity analysis. I found the assumptions made and the modelling to be well grounded and appropriate. The only area of contention was whether it was realistic to apply a land value based on existing use value plus a 20% landowner premium for supermarket developments. A supermarket representative argued that, in practice, a landowner would expect a much higher premium, particularly from one of the larger operators. I return to this later (paragraph 50).

Conclusions on background evidence

25. The CSDMP was adopted in 2012 and sets out the Council's delicately balanced sustainable growth strategy. That strategy recognises the significant nature conservation interests in the borough and the need to mitigate the effects of all new housing development, through the provision of SANG, without which housing development would not be possible.
26. The Council's supporting infrastructure evidence is clear and well founded. It has identified 'critical' CSDMP infrastructure needs focusing on SANG and transport projects, which are reflected in its Draft Regulation 123 list. There is an identified infrastructure funding shortfall which the Council assesses to be at least £11.58 million for the period to 2018. The Council anticipates that its CIL proposals may generate £3.82 million in the period to 2018 which will make a significant contribution to the funding gap.
27. Together, the CSDMP and IDP evidence provide a solid foundation for the introduction of a CIL charging regime. The background economic viability evidence that has been used, for both residential and commercial development, is reasonable, robust, proportionate and appropriate. Overall, I conclude that the Council has used appropriate available background evidence.

Main Issue 2 - Are the Residential CIL charging zones and charging rates informed by and consistent with the evidence?

The Principle of Charging Zones

28. The extensive sales data was sifted and sorted by the Council to identify five 'value points' (VP 1- 5) which represent areas where there was a consistency of median sales values. The general trend was of lower sales values in the west (£3,000 psm at VP1) rising to higher sales values in the east (£4,000 psm at VP5). However, the value point areas were irregular in shape, and some localised areas bucked the west / east sales value trend e.g. part of Camberley (in the west) fell into VP 4.
29. The range of sales values does provide a solid basis for geographical differentiation of CIL charges. However, the Council's approach does not precisely mirror the value point analysis that it undertook. The Council's approach is more broad brush, differentiating between the western more urbanised third of the borough (where property values are, generally, lower) and the eastern, more rural, two thirds of the borough (where values are higher). There is nothing inherently wrong with that, and indeed to apply zones based strictly on the VPs could be very complicated and contrived, but it does raise some issues, which are discussed more fully below under the specific charging zones. However, it is first necessary to deal with the added differentiation, based on whether or not developments provide SANG.

SANG Differentiation

30. The Council's CIL proposal to apply two different rates dependent upon whether a development makes provision for SANG is well evidenced and, in my view, eminently sensible. The difference between the two rates is £125 psm in each zone and that simply reflects the assessed cost of SANG provision spread across the anticipated numbers of market housing. The approach ensures that all housing developments contribute fairly to SANG infrastructure provision. In practice, and in line with the Council's policy approach, only larger developments (100+ units) will provide on-site SANG.

The Princess Royal Barrack Residential CIL Charging Zone - £0 psm

31. A significant amount of the CSDMP's planned growth will be delivered through this one strategic site. A planning application has been submitted, considered and approved by the Council, subject to the legal formalities concerning the entering of a S.106 planning agreement, to deliver the required infrastructure. The Council's evidence suggests that the infrastructure burden on this site is considerably greater than on developments elsewhere in the borough that will be subject to its CIL regime. In my view, the Council's approach to define a £0 psm residential charging zone around this important strategic site is reasonable and supported by the evidence and the prevailing circumstances.

The Eastern Charging Zone -£220 psm (no SANG) / £95 psm (SANG)

32. Although only a limited amount of the new housing is planned in the eastern charging zone, the evidence demonstrates that development viability is very strong, no doubt a direct product of the attractive environment and the proximity to London. This zone is comprised of the three highest VPs – all of VP5 and most of VP4 and VP3.
33. The viability testing showed significant scope for CIL charging across all housing schemes. Setting aside flatted schemes and very large sites (500 units) which were unlikely products and scenarios, the theoretical maximum CIL rates ranged from £430 psm (a 3 unit scheme in VP3) up to £913 psm (a 10 unit scheme in VP5). Although the setting of the CIL rate at £220 psm does amount to a quite significant percentage of GDV on the tested schemes (7.1% at VP3, 6.6% at VP4 and 6.1% at VP5) the evidence indicates considerable viability headroom. Overall, the Council computes that its CIL rate for the eastern charging zone (VP3/4/5 combined) would be set at 40% of the theoretical maximum (i.e. there would be a 60% buffer).
34. Similar positive viability results were found with the testing of larger schemes (100 and 500 units), which were providing on site SANG. The range of theoretical maximum CIL of £260 psm (500 units in VP3) to £714 psm (100 units in VP5) is comfortably above the 'with SANG' CIL rate of £95 psm and leaves considerable headroom.
35. The evidence indicates that the Council's proposed CIL charges in this zone will not threaten the viability of residential development schemes.

The Western Charging Zone -£180 psm (no SANG) / £55 psm (SANG)

36. The Western Charging Zone, where the majority of new housing development is anticipated, is more complex because of the multiple VPs that make up the zone. All of the two lowest VPs (VP1 and VP2) lie within this zone, but there are also elements of VP3 and VP4 lying within the zone (in Camberley either side of the M3).
37. There is clearly no viability issue associated with the parts of this zone that fall under VP3 and VP4, as the results reflect those in the Eastern Charging Zone but with even greater headroom, due to the lower CIL charge (£180 / £55 psm as opposed to £220 / £95 psm).
38. Most of the tested schemes in VP2 also produced very healthy viability results, the exceptions being flatted schemes (10 and 50 units) and a large (500 unit) scheme which included a significant element of flats within the housing mix. Setting these (unlikely) scenarios aside, the theoretical maximum CIL across the other schemes ranged from £294 psm up to £437 psm. Averaged together the Council calculates that its £180 psm CIL charge would be set at 60% of the maximum for the combined VP2 schemes. Although the headroom is not

as great as in the eastern charging zone, it is still significant. The on-site SANG larger schemes in VP2 generated theoretical CIL rates well above the £55 psm CIL rates proposed (£127 psm for a 500 unit scheme, and £267 for a 100 unit scheme). Although the CIL would represent 6.3% of GDV in VP2 the evidence does demonstrate that this is affordable and that acceptable viability headroom would be maintained.

39. However, the lower sales values in VP1 do increase the pressure on development viability. The testing here demonstrated that some housing schemes would not achieve sufficient margins to pay the CIL charge. There appeared to be no issues with 3, 5 and 10 unit schemes which generated theoretical CIL rates of £268 psm, £277 psm and £268 psm respectively, all comfortably above the CIL charge of £180 psm. Larger schemes, however, struggled, reflecting the lower sales values, higher affordable housing and inclusion of flats in the housing mix. The results were £144 psm for a 15 unit scheme and £167 psm for a 50 unit scheme, each notably below the £180 psm proposed CIL rate. The testing of a 100 unit 'on site SANG' scheme in VP1 did produce a result (£117 psm) comfortably above the lower £55 psm proposed CIL rate although a larger 500 unit scheme was not viable (-£6 psm).
40. The mixed results from the VP1 testing led to closer examination of the extent to which scheme viability might be threatened by the proposed CIL charges. The Council has undertaken a detailed analysis based on known sites, drawn from its Strategic Housing Land Availability Assessment (SHLAA). It accepts that, in VP1, the viability of schemes totalling 33 units may be compromised.
41. Section 2:2 of the 2014 CIL Guidance states that "charging authorities should set a rate which does not threaten the ability to develop the sites and scale of development identified in the relevant Plan." The 33 units that may not come forward in VP1 would clearly not threaten the scale of CSDMP development as a whole, as they would constitute a very small proportion of the anticipated housing delivery over the plan period. However, there is certainly an argument that a Local Planning Authority, currently operating with less than three years housing land supply, should not put any housing schemes at risk through its CIL charges.
42. On balance, I consider that the argument is outweighed by the inescapable need to fund SANG, without which no housing development could happen, and setting CIL at a lower level could compromise that imperative. However, the Council did recognise, at the Hearing, the importance of very close monitoring of its CIL regime alongside its CSDMP monitoring, undertaking timely reviews and modifications wherever and whenever the gathered evidence signals the need. The Council clearly needs to improve its housing land supply and it needs to ensure that CIL plays an ongoing positive role in that process.

Other Residential CIL Matters

43. I did examine the case for treating specialist Class C3 retirement housing differently. However, evidence presented to me at the Hearing suggested very strong values and viability associated with this type of development. Accordingly, I see no case for differentiating such development from mainstream housing development based on the current available evidence in the borough.
44. I also listened to representor views that the CIL system ought be replaced by an evolved Council Tax system, but such radical legislative change is clearly outside the scope of my examination.

Main Issue 3 - Are the Commercial CIL charging zones and rates informed by and consistent with the evidence?

45. The Commercial CIL proposals relate primarily to retail development although I will deal first with 'All Other Development', which is included in the DCS at £0 psm. I will then explore the differentiated retail charges in turn.

All Other Development

46. The VA testing of a range of employment uses demonstrated clearly that, currently, such schemes are not viable. Similarly, residential care / nursing home development, and commercial leisure developments, were not viable. The VA evidence supports the £0 psm rate for 'all other development'.

Retail Warehousing – Borough Wide - £200 psm

47. The Council advised that there is little retail warehousing development envisaged and the borough is largely served by existing facilities beyond the administrative boundary. However, in viability terms any such development would, based on the testing, be very profitable. Taking the locally informed middle ground on rents and yields (£225 / 7%), a smaller retail warehouse (2000 sq metre) generated a £660 potential CIL and a larger (10,000 sq metre) retail warehouse generated a £482 psm potential CIL. Although it seems that these types of development will be rare (if at all) the evidence does indicate that the proposed £200 psm CIL charge falls comfortably within the wide viability margins.

Supermarkets – Borough Wide - £200 psm

48. The Council's VA evidence suggested that the development of very small convenience stores (up to 200 square metres) was not viable and it was likely that any demand at this end of the spectrum would be met through re-use of existing stock. However, once the scale was increased to cover the 'express' scale of outlet (circa 500 square metres) and larger formats (2,000 and

10,000 square metres) viability results were strong and positive. Potential CIL, in the same order (and using a conservative 5.25% yield), would be £463 psm, £268 psm and £627 psm.

49. These results are all comfortably above the proposed £200 psm CIL rate. However, there was criticism from the supermarket sector that land values assumptions were unduly low; that full costs of such development had not been factored in, and that the modelling results were highly sensitive to small changes on rents and yields.
50. In response to the land value criticism the Council drew attention to its testing of two notional (500 square metre and 2000 square metre) supermarkets in Camberley town centre, which employed a much higher VOA derived town centre land value. Both generated positive results well above the proposed CIL level (£272 psm and £288 psm respectively at a yield of 5.25%). I do note the view expressed that landowners may have higher expectations when supermarkets are interested in sites but I do not think the VOA derived data is unreasonable for CIL testing purposes. It must also be acknowledged that CIL charges will work through to influence underlying land values.
51. With regard to criticism about broader development costs, I do accept that some costs, such as those associated with S.106 planning agreements, may be higher than those modelled, but the Council has, in my view, applied conservative yield assumptions, allowed 12% for fees and included a 5% contingency. On top of that, the modelling suggests a good degree of headroom (even in the higher land cost model runs).

Other Retail (A1 – A5) – Zone A – Camberley Town Centre - £0 psm

52. The differentiation of 'other retail' in Camberley Town centre relates to the major regeneration proposals set out in the CSDMP (policy CP10). This envisages a retail led regeneration scheme with a wide range of comparison shopping. The testing of various permutations of primary / secondary floorspace and applying different rents and yields, demonstrated the viability challenge facing such a scheme. There is no potential to apply a CIL charge based on the current evidence.

Other Retail (A1 – A5) – Zone B – Rest of the Borough Zone - £100 psm

53. Outside of the town centre, the VA generated some interesting results for 'other retail' development. It demonstrated that district and local centres could support viable small scale development for comparison retailing. Whilst assumed yields were higher, the acquisition and site assembly costs were much lower (than in the town centre). Even at the highest yield tested (8%) the two notional developments (100 and 200 square metre shops) generated potential CIL rates of £138 and £231 psm respectively, each comfortably above the £100 psm rate proposed. Although the evidence supports the charge proposed, little such development is envisaged.

Overall Conclusions

54. The evidence demonstrates that the overall development of the area, as set out in the CSDMP, will not be put at risk if the proposed CIL charges are applied. In setting the CIL charges the Council has used appropriate and available evidence which has informed assumptions about land and development values and likely costs. The CIL proposals will achieve a reasonable level of income to help address a well evidenced infrastructure funding gap and, in particular, help deliver essential SANG which is a prerequisite of housing development in the borough.

LEGAL REQUIREMENTS	
National Policy/Guidance	The Charging Schedule complies with national policy/guidance.
2008 Planning Act and 2010 Regulations (as amended 2011)	The Charging Schedule complies with the Act and the Regulations, including in respect of the statutory processes and public consultation, consistency with the adopted Surrey Heath Core Strategy and Development Management Policies and is supported by an adequate financial appraisal.

55. I conclude that the Surrey Heath Borough Council Draft 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.

P.J. Staddon

Examiner