



**Intelligent Plans**  
and examinations

AN EXAMINATION UNDER SECTION 212  
OF THE PLANNING ACT 2008 (AS AMENDED)

**REPORT ON THE DRAFT EXETER CITY COUNCIL  
COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE**

Independent Examiner (appointed by the Council):

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Charging Schedule Submitted for Examination: **24 March 2023**

Date of Report: **3 August 2023**

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## **Main Findings - Executive Summary**

In this report I have concluded that the draft Exeter City Council Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area.

The Council has provided sufficient evidence that shows the proposed rates would not threaten delivery of the Local Plan.

## **Introduction**

1. I have been appointed by Exeter City Council, the charging authority, to examine the draft Exeter Community Infrastructure Levy (CIL) Charging Schedule. I am a chartered town planner and surveyor with more than 25 years' experience inspecting and examining Development Plans and CIL Charging Schedules as a former Government Planning Inspector.
2. This report contains my assessment of the Charging Schedule in terms of compliance with the requirements in Part 11 of the Planning Act 2008 as amended ('the Act') and the Community Infrastructure Regulations 2010 as amended ('the Regulations')<sup>1</sup>. Section 212(4) of the Act terms these collectively as the "drafting requirements". I have also had regard to the National Planning Policy Framework (NPPF) and the CIL section of the Planning Practice Guidance (PPG).<sup>2</sup>
3. To comply with the relevant legislation, the submitted Charging Schedule must strike what appears to the charging authority to be an appropriate balance between helping to fund necessary new infrastructure and the potential effects on the economic viability of development across the district. The PPG states<sup>3</sup> that the examiner should establish that:
  - the charging authority has complied with the legislative requirements set out in the Act and the Regulations;
  - the draft charging schedule is supported by background documents containing appropriate available evidence;
  - the charging authority has undertaken an appropriate level of consultation;
  - the proposed rate or rates are informed by, and consistent with, the evidence on viability across the charging authority's area; and

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<sup>1</sup> The Regulations have been updated through numerous statutory instruments since 2010, most notably through the Community Infrastructure Levy (Amendment) (England)(No. 2) Regulations 2019, which came into force on 1 September 2019.

<sup>2</sup> The CIL section of the PPG was substantially updated on 1 September 2019.

<sup>3</sup> See PPG Reference ID: 25-040-20190901.

- evidence has been provided that shows the proposed rate or rates would not undermine the deliverability of the plan (see NPPF paragraph 34).
4. The basis for the examination, on which a hearing session was held on 4 July 2023, is the Schedule submitted in March 2023, which is effectively the same as the draft Schedule published for public consultation in December 2022/January 2023.
  5. The City Council has been charging a CIL since 2013. Currently, CIL charges apply to residential development, purpose built student accommodation and retail outside the city centre. All other development has a zero charge. In the light of changing circumstances in the Exeter housing market, the Council is proposing revised/new charges for flatted development, build to rent (BtR), purpose built student accommodation (PBSA) and co-living schemes.
  6. There is a challenge to the types of development being considered at this time on the grounds that they have been driven by a desire to promote development that would provide a financial benefit to the Council. No convincing evidence to support this contention has been provided. On the other hand, a number of those making representations would like to see the CIL regime linked to planning policies – often with a view to discouraging PBSA in parts of the City. As the Council correctly point out, Government guidance is that CIL should not be used as a means to deliver policy objectives. A number of representations make the point that co-living schemes might not be used as intended and could instead be used as student accommodation. The point is also made by a number of representations that, once built and sold, there is nothing to stop flats being rented out by the owners. Whatever the merits of these points, they are matters for the Council to deal with through planning policies and their development management function.
  7. For flatted residential development the CIL rate proposed per square meter (per sq m) is zero, for BtR it is £50, for PBSA it is £150 and for co-living it is £50.
  8. Co-living is defined as purpose built managed rental accommodation comprising private living units with communal facilities, under professional management. Flatted development includes maisonettes and duplexes. The draft Charging Schedule includes a map showing the City boundary and the City Centre Boundary.

Has the charging authority complied with the legislative requirements set out in the Act and the Regulations, including undertaking an appropriate level of consultation?

9. The draft Charging Schedule (DCS) was consulted on from 14 December 2022 to 25 January 2023. Copies of the relevant documents were accessible via the Council's website and the planning department's engagement hub.

Paper copies could be viewed at the Civic Centre and at all public libraries in Exeter. Notification was sent to all statutory consultees, community builders and to contacts on the Council's planning policy consultation data base. A press release was issued and the consultation featured on the Exeter City Council homepage. Companies who had engaged informally with the viability work were notified.

10. Respondents numbered 77, providing a total of 600 responses. Devon County Council, South Somerset District Council and Natural England confirmed that they did not wish to comment.
11. The Charging Schedule complies with the Act and the Regulations, including in respect of the statutory processes and public consultation, consistency with the adopted Local Plan and the Infrastructure Delivery Plan, and is supported by an adequate financial appraisal. I also consider it compliant with the national policy and guidance contained in the NPPF and PPG respectively.

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

#### *Infrastructure planning evidence*

12. The Exeter Core Strategy was adopted in 2012, accompanied by an infrastructure delivery plan (IDP) dated August 2011. A revised IDP has been prepared which takes into account outstanding items of infrastructure and updates the expected infrastructure needs of the City, based on the adopted Core Strategy. The updated IDP identifies known funding sources and breaks the infrastructure into three groups – critical, essential and desirable. The overall infrastructure cost is estimated at £180 million and the funding gap is put at £93 million.
13. Exeter is currently preparing a Local Plan that is intended to replace the Core Strategy. The revised IDP does not include items that support the emerging Local Plan although it is logical to expect a degree of overlap between the remaining infrastructure needs arising from the Core Strategy and those arising from the new Exeter Plan. In the light of the information provided, it is clear that the infrastructure needs of the City are considerable and there is a significant funding gap. The proposed charge would make only a modest contribution towards filling the anticipated funding gap. The figures demonstrate the need to levy CIL.

#### *Economic viability evidence*

14. The Council commissioned Three Dragons to undertake the necessary viability work in relation to the four categories of development that are the subject of this review – flatted development, BtR, PBSA and co-living. These categories were identified on the basis of a review of planning applications, stakeholder consultations and the local experience of council officers.

15. A Viability Assessment (VA) dated March 2022 was produced by Three Dragons, supplemented by a Background Information (BI) document dated November 2022. The VA is based on a typology approach with all typologies tested on brownfield sites, as brownfield land is the most likely source of development land in the City. The smallest size flatted development (15 dwellings) was also assessed as a green field development given the possibility of some modest development sites being identified on garden and/or paddock land. For flatted development, five typologies ranging from 15 to 350 units were tested, for BtR three typologies ranging in size from 150 to 350, for PBSA three typologies ranging in size from 40 to 250 and for co-living three typologies ranging from 40 to 250 units. In terms of storey height, the testing involved a range from 3 to 10. All typologies involved a mix of units based on Nationally Described Space Standards and data from the land registry and/or planning applications. Exeter does not have examples of completed co-living schemes and the assumption made by Three Dragons is for 70% studios and 30% cluster flat rooms. In all relevant instances affordable housing provision and tenures followed council policy.
16. As regards market values in Exeter for flats, the VA is based on new build Land Registry data (2015 – 2021) matched to Energy Performance Certificates. Specialist older person accommodation has been excluded as values for that type of housing are atypical. The average market value for flats established by Three Dragons was not checked against advertised prices for new build flats because, at the time of the research, only luxury apartments were being advertised in Exeter.
17. Transfer values for social rent and shared ownership assumptions are provided in the VA. Social rents were assumed to be 60% of market rents and First Homes 70%.
18. For BtR schemes market rental data is used, adjusted for relevant considerations such as voids, operation/management and the provision of a sinking fund. A capitalisation rate of 5% is applied. Given that BtR is an immature market in Exeter, the assumed yield is conservative.
19. The PBSA values are based on room rates (2022-23) from eight schemes operating in the city. For co-living, the VA has relied on information from other areas and views from the stakeholder consultation exercises. A 10% uplift on PBSA rents has been applied and assumptions about occupancy levels and costs are made. A cautious approach to yield is taken with the 5.25% figure being based on the Exeter PBSA figure. Ideally the co-living assessment would be based on local evidence but, in the absence of such data, it is not unreasonable for the viability assessment to be based on evidence from other areas.
20. Following a conventional approach, the VA depends on the establishment of existing use land values plus a premium to assess viability and the likelihood of land coming forward for development. Data for Exeter from government land values estimates is used, complemented by values established in site specific s106 negotiations. For the green field typology, the assumption is that paddock land existing use values are the most appropriate given the

likely nature of development sites in Exeter. Benchmark values are put at 20% above existing site value for brownfield land and a 15x premium in the case of green field land. The resultant benchmark figures per hectare (per ha) are £750,000 for green field land and £1,188,000 for brownfield sites. The approach followed by Three Dragons follows standard practice for establishing benchmark values.

21. Build costs are based on data from the Build Cost Information Service (BCIS) with adjustments for the location. Actual tender prices for new residential builds over a 5-year period are used rebased to Q4 of 2021. For PBSA, the BCIS 5-year mean is used and for co-living evidence from elsewhere provides the basis for the assumed uplift of 8.751% over PBSA. There is a challenge to the construction costs used by Three Dragons for PBSA and co-living schemes on the grounds that the 2023 costs are higher. That may be a valid point, but the difference is not significant enough to invalidate the Three Dragons work, especially in the light of the viability buffers recommended by Three Dragons.
22. A comprehensive range of other development costs, including policy costs, are dealt with in the VA. These are based on a variety of sources which include national requirements/guidance, Three Dragons experience, the Council's experience including local site specific information and information from other examinations. As regards affordable housing for flatted development, the VA is based on the Council's First Homes Planning Policy Statement 2021 which deals with the overall affordable housing target and tenure requirements. For BtR, the VA uses national guidance requiring 20% of the units to be at a discounted rate to the market rate. PBSA does not include any affordable housing requirement.
23. Assumptions about the rate of sales and build cash flow are included. The developers' return is calculated on Gross Development Value (GDV) at 17.5% for market sales, 6% for affordable housing and 10% on BtR. For PBSA and co-living the return is calculated at 10% - a figure described as a standard Three Dragons assumption. These figures are broadly in line with conventional standards.
24. The draft Charging Schedule is supported by an evidence base that provides evidence relating to infrastructure needs/funding and the viability of development in Exeter. The material provided is proportionate given the nature of the types of development being considered and the Exeter property market.

Are the proposed rates informed by and consistent with the evidence on viability across the charging authority's area?

#### *Residential flatted development*

25. Five different flatted schemes are tested in the VA. These are small schemes involving 15 units, two medium size schemes (75 – 150 units) and a large scheme of 350 units. The VA shows Three Dragons assessment of the CIL

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headroom available for the different schemes. Three Dragons' calculations show that the two largest schemes have no viability headroom. The 75 unit scheme shows scope for a modest CIL charge. One of the small schemes shows marginal headroom and the other suggests scope for a small CIL charge.

26. Three BtR schemes are tested ranging in size from 150 units to two 350 unit schemes, one of which has a higher density with higher build costs due to the assumed height of the building. All the schemes have headroom for a CIL charge although the scope in the higher build cost scheme is much more limited than in the others.
27. Three PBSA typologies were tested. These were all on brownfield sites with sizes ranging from 40 to 250 units. Given the nature of student accommodation and the location of Exeter University in the City it is considered that the typologies chosen are logical and realistic. In all three instances, the evidence shows substantial headroom for a CIL charge.
28. For co-living schemes, three brownfield sites are tested with schemes ranging from 40 to 250 units. The assumption that co-living schemes are likely to be on brownfield sites is reasonable given the nature of such schemes. Headroom exists in all three cases with the greatest headroom available in the smallest 40 unit scheme and the least headroom in the 250 unit scheme.
29. In making recommendations for the CIL rates, Three Dragons have, among other considerations, had regard to the need for a viability buffer and the nature of the Exeter housing market. The need for a buffer is in accordance with national guidance although there is no nationally prescribed figure for a reasonable buffer.
30. For flatted development, the recommendation by Three Dragons and accepted by the Council is for a zero CIL rate. This is not surprising as two of the five typologies tested showed no scope for a CIL charge, one showed scope for a nominal £1 charge while the typology with the most headroom would not be viable with a CIL charge of more than £87.
31. The VA concludes that BtR would be able to support a CIL charge. The evidence produced by Three Dragons shows that lower density schemes have a headroom of over £300 but the headroom in the higher density high rise scheme is limited to £53. Three Dragons suggest a CIL rate of £50. The recommended rate would allow for a considerable buffer in the case of lower density schemes but almost no buffer for high density high rise schemes. In making their recommendation, Three Dragons note that the market for BtR in Exeter is immature and have taken into account the anticipated nature of BtR development in Exeter.
32. The three PBSA typologies all show headroom of more than £500 for a CIL charge. Unsurprisingly, the recommendation is for a relatively high charge of £150 per sqm.



33. According to Three Dragons, the three Co-Living schemes tested could all support a CIL charge. The scheme with the lowest headroom could support a maximum charge of £140 but this would be without a viability buffer. Taking into account the need for a buffer and the immature market for Co-Living in Exeter, the recommendation is set at a relatively low £50.

Has evidence been provided that shows the proposed rate or rates would not undermine the deliverability of the plan (see National Planning Policy Framework paragraph 34).

34. A number of representations challenge the proposals for flatted development on the grounds that the occupiers of flats generate a need for services and should therefore pay a CIL charge. The point is also made that it is inconsistent to charge a CIL on BtR but not on flatted development. As the Council points out, the charge is based on viability evidence and not on the infrastructure requirements arising from particular forms of development. The Council also points out that the viability assessment demonstrates that flatted development for sale and BtR have different viability characteristics. This difference, which superficially seems illogical, is justified by the evidence provided by Three Dragons. In particular, in Exeter there is a significant difference in the affordable housing policy requirements between the two forms of development. A developers' attitude to risk is also likely to vary between the two forms of development.

35. The buffer levels proposed by the Council are seen by some as too generous and that higher CIL rates should be imposed or, in the case of flatted development, that a charge should be applied. One of the roles of this examination is to consider whether the suggested buffer levels are adequate to avoid the danger of the CIL putting development at serious risk rather than whether the suggested buffer levels are too large.

36. In relation to flatted development, the Council points out that a cautious approach is justified because in Exeter the market for this form of development is immature. The Council's cautious approach is also reinforced by the variable viability headroom in flatted schemes that emerges from the work done by Three Dragons. On brownfield land for small flatted schemes there is negligible headroom, for a medium size scheme (75 units) the headroom is calculated at just under £90 whereas for large schemes (150 units) any CIL would substantially undermine the viability of the proposal. The variation in these figures suggests that for flatted development the Council would need to have a relatively complicated Charging Schedule for flatted development if it wished to charge CIL on some forms of flatted development.

37. Given the uncertainties regarding the flatted development market in Exeter and the desirability of keeping the Charging Schedule relatively uncomplicated, it is considered that the Council's cautious approach can be justified. The need for a cautious approach is reinforced by several factors. Firstly, there are currently significant uncertainties in the future direction of the property market. Secondly, the bank rate and consequently interest

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rates have been moving upward in recent times. Thirdly, inflation in the economy and supply side issues with raw materials point to increasing development costs. Sensitivity testing by Three Dragons shows that if the rate of finance moves up by two percentage points compared with the 6% figure in the viability assessment, only one of the flatted schemes would be headroom for CIL and that headroom would be limited to £38.

38. In relation to BtR schemes, two of the three typologies tested show substantial headroom and the proposed charge would represent a small percentage of the GDV of the proposal. For high rise high density BtR schemes there is a danger that the proposed charge would threaten the viability of development. However, high density high rise BtR is not characteristic of Exeter and it is not expected that this form of development will play a significant role in the way Exeter develops in the foreseeable future. There is no evidence that the proposed charge, that would represent less than 5% of GDV, would threaten the viability of the sort of BtR schemes that are anticipated in Exeter.
39. For PBSA schemes, the three tested typologies all show substantial scope for a CIL charge. The recommendation from Three Dragons that the existing 2022 charge be increased by over 150% was accepted by the Council. The proposed rate of £150/sqm would represent 4% of GDV and there is no evidence that the proposed rate would seriously threaten the provision of PBSA in Exeter.
40. As regards co-living, the lowest CIL headroom calculated by Three Dragons is £140. Bearing in mind the largely untried nature of co-living in Exeter, the proposed CIL charge of £50 allows for a substantial buffer. As with PBSA the charge would represent less than 5% of GDV.
41. In setting the CIL charging rate the Council has had regard to detailed evidence on infrastructure planning and the economic viability evidence of the development market in Exeter. 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 authority area.
42. I consider the viability assessment to be robust and conclude that the rates proposed would not threaten delivery of the Local Plan.

## Overall Conclusion

43. I conclude that the draft Exeter Community Infrastructure Levy Charging Schedule satisfies the drafting requirements and I therefore recommend that the draft Charging Schedule be approved.

*Keith Holland*

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