ITEM 13 **APPENDIX A**

The Planning Inspectorate

Report to the Council of the London Borough of Southwark

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an Examiner appointed by the Council

Date: 2 March 2015

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

REPORT ON THE EXAMINATION OF THE

SOUTHWARK COUNCIL

COMMUNITY INFRASTRUCTURE LEVY

REVISED DRAFT CHARGING SCHEDULE

DECEMBER 2013

Revised Draft Charging Schedule submitted for Examination on 22 April 2014

Examination Hearing conducted 29 and 30 July 2014

File Ref: PINS/A5840/429/8

Summary

This Report concludes that the Southwark Council Community Infrastructure Levy Revised Draft Charging Schedule December 2013 provides an appropriate basis for the collection of the levy in the London Borough. 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 planned development of the Borough at risk.

However, modifications are needed to meet the statutory requirements. These are as set out in a Statement of Modifications put forward by the Council and are summarised as follows:

- deletion of the separate category of 'destination' retail development and express exclusion of 'town centre car parking provision' from uses 'akin to retail',
- application of a nil rate for 'All Other Uses',
- definition of the Nomination Student Housing rate as an 'average' value, and
- partial realignment of the boundary between charging Zones 1 and 2.

The specified modifications recommended in this Report do not alter the basis of the Council's overall approach or the appropriate balance achieved.

Abbreviations

[]	*[document reference]*
AA	Action Area
AAP	Action Area Plan
BCIS	Building Costs Information Service
BMLV	Bench Mark Land Value
CIL	Community Infrastructure Levy
CS	Core Strategy
CSH	Code for Sustainable Homes
CUV	Current Use Value
EUV	Existing Use Value
GLA	Greater London Authority
IP	Infrastructure Plan
IRR	Internal Rate of Return
LDS	Local Development Scheme
m	metre(s)
NPPF	National Planning Policy Framework
OA	Opportunity Area
para	paragraph
PPG	Planning Practice Guidance
psm	per square metre
pw	per week
PRS	Private Rented Sector
RDCS	Revised Draft Charging Schedule
RICS	Royal Institution of Chartered Surveyors
RLV	Residual Land Value
SoM	Statement of Modifications
SPD	Supplementary Planning Document
sqm	square metre(s)
VS	Viability Study
VSU	Viability Study Update

Introduction

Legislation and Guidance

1. This Report contains my assessment of the Southwark Council Community Infrastructure Levy (CIL) Revised Draft Charging Schedule (RDCS) in terms of Section 212 of the Planning Act 2008 and the CIL Regulations 2010 as amended in 2011, 2012 and 2013. It considers whether the RDCS is compliant in legal terms and whether it is economically viable as well as reasonable, realistic and consistent with national guidance *[Planning Practice Guidance (PPG) - Community Infrastructure Levy – June 2014]*.

2. It is accepted by the Council and Representors that the further Amendment Regulations of 2014 do not apply because the RDCS was published for consultation before their commencement date of 24 February 2014. Therefore, the statutory requirement under Regulation 14 of 2014 that the Council 'must strike an appropriate balance' does not have effect but the original obligation of 2010 to 'aim to strike what appears to be an appropriate balance', between funding from CIL and its potential effects on development viability, must still be met.

3. It is noted that further Amendment Regulations are proposed to commence on 1 April 2015, introducing social housing relief from CIL where a dwelling is let at no more than 80% market rent by a private landlord. This change, if implemented as proposed, is unlikely to affect adversely the overall viability of any private rented sector (PRS) housing in Southwark. Further reference is made to PRS housing below.

4. The PPG CIL guidance replaced, with minor changes, the Government CIL Guidance of February 2014 which, in turn, had superseded the CIL Guidance of April 2013. It is generally accepted by the Council and Representors that, compared with previous versions of CIL guidance, the current PPG makes no substantial difference to the examination of the RDCS.

5. To comply with the relevant legislation, Southwark Council, as local charging authority, has to submit what it considers to be a charging schedule which sets an appropriate balance between helping to fund necessary new infrastructure and the potential effects on the economic viability of development across the Borough.

Submission, Examination Hearing and Interim Findings

6. The RDCS of December 2013 was published for public consultation between 14 January and 25 February 2014 *[Document CDCIL1]*. The RDCS replaced an earlier Draft Charging Schedule *[CDCIL2]* which was subject to public consultation in February to April 2013 *[CDCIL2]*. The RDCS was submitted for Examination on 22 April 2014 and a single Hearing was held on 29 and 30 July 2014.

7. The documentation submitted with the RDCS included a Viability Study (VS) *[CDE1]*, as well as the Original Representations on the RDCS *[CDCIL9]* and the responses to them by Southwark Council officers *[CDCIL5-I]*. The Council published certain further documentary evidence after the submission of the

RDCS but before the Hearing. This comprised, in particular, large scale zone boundary maps *[CDEIP5]*, a Background Evidence Paper revised in April 2014 *[CDCIL7]* and CIL Viability Further Sensitivity Testing revised in March 2014 *[CDE2]*. The Council gave a written explanation of these revisions together with responses to Initial Questions from the Inspector *[CDEIP2]* including a breakdown of CIL yield and infrastructure costs by Opportunity and Action Area *[CDEIP2 Addendum]*.

8. Immediately following the Hearing, the Council provided copies of further documents requested at the Hearing, namely, Greater London Authority (GLA) endorsement of the Elephant and Castle Supplementary Planning Document (SPD) *[CDEIP7]* and GLA comments on the RDCS *[CDEIP11]*. The Council submitted, at the same time, a further Build Costs Analysis *[CDEIP9]*, Hotel Transactions information *[CDEIP10]* and Proposed Minor Amendments to the RDCS *[CDEIP8]* but these were largely overtaken by subsequent additional work (detailed below).

9. The Council also published its revised Local Development Scheme (LDS) October 2014 to December 2019 which includes a commitment to review the CIL Schedule in 2018.

10. On 26 August 2014, after consideration of the discussion at the Hearing and all the written evidence then available, I forwarded Interim Findings to the Council *[CDE1P13]*. These concluded that, although the general approach of the Council to the viability testing of the RDCS was appropriate (as discussed below), the evidence put forward by the Council was insufficient to justify certain of the proposed draft charging rates; and also that, on the evidence of representors, there appeared to be no scope for a separate rate for PRS housing.

Statement of Modifications and Basis of Examination and Report

11. In response to my Interim Findings, the Council held a stakeholder consultation workshop on 8 October 2014 *[CDEIP20]*. One representor submitted a legal opinion on the scope for a separate PRS housing rate dated 31 October 2014 *[CDEIP27]*. The Council subsequently provided for public consultation, between 11 December 2014 and 13 January 2015, a Statement of Modifications (SoM) under Regulation 11(1) *[CDEIP24]*, to which was appended a Viability Study Update (VSU) and other supporting documentation *[CDEIP21-23]*. This further work included the Council response to the PRS legal opinion. Representations made upon the SoM and VSU, together with Council responses to them, were submitted for my consideration by 16 January 2015.

12. The basis for the Examination and this Report is therefore the submitted RDCS of December 2013 as modified by the Statement of Modifications of December 2014. The SoM makes one minor and four substantive changes to the RDCS, none of which attract substantial objection. I therefore endorse the SoM and, for clarity, set out those modifications in the Appendix to this Report.

13. The Examination was conducted with strict reference to the submitted RDCS and the related VS and VSU. However, where representations duly made to the RDCS rely upon previous representations to the Draft Charging Schedule,

these are also taken into account *[CDCIL5-H]*, together with all of the foregoing information.

14. This Report also takes into account that the Council has not served notice that it will offer exceptional circumstances relief from CIL and has indicated that it has no intention of doing so.

Public Consultation

15. It is claimed, on behalf of local organisations and individuals concerned to promote local developments, that the RDCS consultation process, conducted by way of the Council website and stakeholder workshops, failed to enable their participation. However, there is nothing to indicate that the Council failed to undertake full consultation in accordance with its Statement of Community Involvement as reported in its Statement of Consultation *[CDCIL5]*.

Proposed Charging Rates

16. Taking into account the SoM, the Council now proposes a series of some 13 individual charging rates, excluding nil rates, in five categories over three charging Zones.

17. Zone 1 comprises an area of the Thames South Bank in the north west corner of the Borough including the Bankside, Borough and London Bridge Opportunity Areas (OA). Zone 2 consists of most of the rest of the Borough to its southern boundary beyond Dulwich but excludes the central area between Camberwell and Peckham which comprises Zone 3. *(The SoM transfers from Zone 1 into Zone 2 a small area between Union Street and the railway viaduct west of London Bridge Station.)* Zone 2 includes the Elephant and Castle OA and the Canada Water OA and Action Area (AA). The Peckham and Nunhead AA is within Zone 2 and the Aylesbury AA is within Zone 3.

18. The Revised Draft charging rates, as modified, are tabulated with explanatory footnotes in the SoM *[CDEIP24 Table 1]*. Briefly:
    - Residential rates are £400 per square metre (psm) in Zone 1, £200 psm in Zone 2 and £50 psm in Zone 3 with £100 in all Zones for direct let student housing. Nomination student housing restricted to rent below £168 per week (pw) is nil-rated. *(The SoM qualifies the £168 threshold as an 'average' figure.)*
    - The commercial rate for office development is £70 psm in Zone 1 but nil in Zones 2 and 3.
    - The rates for hotel development are £250 psm in Zone 1 and £125 psm in Zones 2 and 3.
    - The rate for all retail development, and sui generis uses akin to retail, in all Zones is £125 psm. *(The SoM deletes a former rate of £250 psm for destination superstores, supermarkets, shopping centres and malls.)*
    - Town centre parking, public libraries, industrial, warehousing and education development and all other uses are nil-rated. *(The SoM reduces a former rate of £30 psm for 'All Other Uses' to zero.)*

Available Evidence

Infrastructure Planning Evidence and the Need for a CIL

Local Planning Policy

19. Southwark Council has achieved adopted Local Plan coverage of the Borough including by way of its Core Strategy (CS) 2011 *[CDL1]*, the Peckham and Nunhead Area Action Plan (AAP) 2012 (adopted November 2014), the Aylesbury AAP 2010 *[CDL7]* and the Revised Canada Water AAP 2013 *[CDL6]*. The CS makes provision for 24,450 additional dwellings in the Borough to 2026 to include 35% affordable housing from developments of 10 or more dwellings. Of the total provision, some 14,600 units (approximately 60%) are divided between the Bankside, Borough and London Bridge OA, the Elephant and Castle OA, the Canada Water AA, the Aylesbury AA and the Peckham and Nunhead AA.

20. The Council has in place the Elephant and Castle SPD 2012 guiding development and the provision of infrastructure in that OA. The Council also has in place the Southwark Infrastructure Plan (IP) December 2013 *[CDCIL6]* identifying the infrastructure needed to support planned development with information on scheme costs, funding and timing of their delivery. Crucial to the delivery of both market and affordable homes in the Borough is the completion of rail and road transport improvements at Elephant and Castle as the largest single infrastructure requirement. The estimated cost of this work is over £154 million of which some £36 million is anticipated to come from CIL revenues.

21. The recently examined Further Alterations to the London Plan (FALP) *[CDR2]* contemplate increased housing growth for the Borough with Canada Water and Old Kent Road nominated as potential OAs.

Funding Gap

22. CIL receipts are projected to amount to approximately £112 million, compared with a total funding gap of nearly £550 million. This is based on a wide range of infrastructure requirements identified in the foregoing Local Plan documents, including transport, open space, education, health, sport and leisure and emergency services. It is not disputed that these figures, drawn from adopted Local Plan documents and essentially unchallenged cost estimates, demonstrate the need for a CIL in Southwark. That is in addition to the London Mayoral CIL for Southwark of £35 psm, which is applicable to all new development in any event, apart from health and education developments.

23. Essentially the same range of infrastructure schemes identified in the IP are carried forward into the current Southwark CIL Draft Regulation 123 List of December 2013, setting out the projects capable of being funded by CIL *[CDCIL4]*.

24. Local concern is noted that no mention is made in the RDCS of the allocation of 25% CIL receipts to fund specific neighbourhood projects. However, that is

a matter of implementation of the RDCS, once approved, and beyond the scope of the Examination and this Report.

Viability Evidence

Viability Studies

25. The Council commissioned from specialist consultants (BNP Paribas) its CIL Viability Study (VS) of November 2013 *[CDE1]*, which was used to inform the consultation RDCS. The VS was supplemented by Further Sensitivity Testing *[CDE2]* commissioned from the same consultants after publication of the RDCS but before its submission for examination. The Council also commissioned from specialist consultants (Montagu Evans) Viability Analyses for Harmsworth Quays *[CDE3]* and Canada Water *[CDE4]* as well as a range of other area- and subject-specific viability assessments *[CDE5-9]*.

26. In response to my Interim Findings, the Council provided a Viability Study Update (VSU) by the same specialist consultants (BNP Paribas) *[CDEIP22]I.*

27. The VS and VSU were based on development appraisals using a standard residual land value (RLV) method for an overall total of 73 developments including 65 sample sites, two hypothetical scenarios and 6 PRS scenarios on 3 of the sample sites. Of these developments, the majority of some 81% related to the OAs and AAs, where most development is expected to occur. The sample sites are not directly aligned to actual developments or proposals but generally appear to relate to individual developments reasonably expected to take place under the adopted Local Plan. There is a realistic variety and combination of type and scale of residential, student residential, retail, office, hotel and industrial uses spread through the sample, all on brownfield sites reflecting the highly urban character of the Borough.

28. Aside from a question of whether up-front payments for land and their funding are properly included as development costs, the numerical calculations within the viability assessments themselves are unchallenged in the written representations. At the Hearing it was accepted that these land costs are, in practice, correctly included, with the existing use value deducted from the residual value.

29. Where the VS and VSU are questioned, dispute largely surrounds the suitability of the assessments and their results for setting rates for the majority of planned development in the OAs and AAs in the amounts and combinations of uses set down in the adopted and emerging elements of the Local Plan.

Viability Assessment Methodology

30. Before assessing the individual Revised Draft charging rates it is appropriate to consider, in broad terms, the methodology of viability and rate setting adopted by the Council and its consultants in the light of the National Planning Policy Framework (NPPF) and PPG and other established guidance on financial viability testing.

31. The NPPF (paras 162, 173-177) promotes the provision of the infrastructure necessary to support Local Plans and seeks to ensure their viability and deliverability, including a competitive return to willing developers and land owners.

32. In support of that central aim, the PPG on CIL (paras 009, 015, 018, 019) requires the Council, as charging authority, to show and explain, by way of a robust evidence base, how its proposed CIL rates will contribute towards the implementation of its Local Plan and support development across the Borough. This should be drawn from 'appropriate available evidence'.

33. Further current guidance is contained in the publications *Viability Testing Local Plans June 2012* by the Local Housing Delivery Group chaired by Sir John Harman (the Harman guidance) and in *Financial Viability in Planning 2012* by the Royal Institution of Charted Surveyors (RICS guidance).

34. The Harman guidance supports the use of RLV methodology over a market value approach. This matter has now been debated in many CIL schedule examinations, including that of the London Mayoral CIL Schedule, with the conclusion that the RLV approach is to be preferred and there is no convincing evidence that any different methodology should be used. This is because a market value approach risks building in assumptions of current policy rather than helping to inform the potential for future policy costs.

35. Importantly, however, the Harman guidance points out that, on large complex sites, there are intrinsic and essential additional costs of land assembly and planning promotion outside the activities on which developer returns are based. It further states that reference to market values can still provide a useful 'sense check' on the Benchmark Land Value (BMLV), input to the viability assessment model, at which a willing developer is likely to release land for development and that special consideration needs to be given to the manner in which BMLV is treated for larger scale sites promoted in the Local Plan.

36. The RICS guidance defines Site Value as equating to market value, assuming that the value has regard to development plan policies and other material planning considerations and, with respect to CIL viability testing, is adjusted as necessary to reflect emerging policy and CIL charges. The RICS guidance asserts that the singular use of current use value (CUV) plus a margin, or Existing Use Value (EUV) plus a premium as used in this case, does not reflect the market and that margins are arbitrarily applied. For this reason it supports the use of market value reflecting alternative use. This is consistent with the NPPF acknowledgement that willing sellers should receive competitive returns.

37. There is nothing essentially contradictory between these two sets of guidance. But where RLV is used to determine viability the results need to be sense checked against market evidence, especially where the delivery of the Local Plan is dependent upon the viability of large scale, strategic developments such as that planned for the OAs and AAs of Southwark. That is not to say that, as seems to be implied by some Representors, that projects planned within AAs and OAs should be separately defined as strategic development and given special treatment or charged lower rates for that reason alone. The

central consideration, applied across the entire Borough, is whether the appropriate balance has been struck in terms of the relevant legislation and guidance quoted above.

38. The Council VS and VSU are appropriately focussed on the RLV of development sampled mainly within the OAs and AAs of the Borough. Although these are not directly aligned to actual developments they appear to represent a reasonable range and distribution of type and scale of development both experienced and planned across the Borough.

39. The VS and VSU correctly take into account the adopted policy requirement for an average 35% affordable housing *[CDCIL1 Core Strategy Strategic Policy 6]* and Code for Sustainable Homes (CSH) Level 4 in residential development, an allowance for section 106 planning obligations supported by records of past receipts *[CDCIL7 Appendix 1]* and contributions to Crossrail, as well as the statutory £35 Mayoral CIL applicable to the majority of developments in the Borough.

40. The Zone boundaries are informed both by residential site values and 'heat mapping' of house prices and notably are essentially unchallenged, subject to limited modification to a section of the boundary between Zones 1 and 2 at Union Street, as set out in the SoM.

41. In the VSU, the results of the site appraisals were subject to a series of illustrative sensitivity analyses incorporating sales and capital values increased by 10% and 20% and costs increased and decreased by 10%. CIL rates are set pragmatically well below the average notional capacity of the tested sites to accommodate a CIL charge allowing for a reasonable 'buffer', usually over 40%. The area-specific viability analyses also adopt an RLV approach which is essentially consistent with that of the Borough wide VS and VSU and provide a degree of market testing, mainly for the Canada Water AA.

42. The VS and VSU disregard sites assessed as unviable with or without CIL being charged. This is shown to be appropriate in the light of further sensitivity testing indicating that, whereas some sites could be brought into viability by reducing their affordable housing contribution below the policy requirement, they would otherwise be unviable irrespective of CIL.

43. Assessments within the VS for sites in the OAs and AAs relate simply to component land uses within those areas without consideration of their necessary interrelationship in the implementation of the respective AAPs as a whole. Whilst it would be impractical to charge a 'mixed use' rate, many of the relatively large-scale developments in the OAs and AAs will include a combination of uses of varying viability where some degree of cross-subsidy will occur in practice. Within the VSU therefore, additional sites are assessed, and those considered in the VS revisited, in order to establish the viability of their projected uses in the combinations envisaged in the Local Plan.

44. However, much of the data input to the site assessments within the VS and VSU is still questioned. In particular, the VS and VSU are broadly criticised on grounds that the scale, nature and extended timescale of the developments planned for the OAs give rise to a high level of investment risk, justifying greater allowances, including for BMLV, building costs and developer profit,

than have been assumed, and a more cautious approach to the viability buffer allowed in setting the CIL rates.

Bench Mark Land Value

45. In particular, it was asserted that calculated BMLVs input to the VS appraisals were not reflective of recorded market transactions, quoted as up to four times greater in practice. It was noted that the Council relied for CUV on the 2010 rating list with an antecedent valuation date of 2008, being thus dated by 6 years, during which time land values have generally risen. Rateable value was generally taken by the Council as a proxy for sales value, including in compulsory purchase negotiations.

46. The VSU appropriately provides a measure of direct market comparison as a check on input BMLVs. Further market research of the Land Registry database and local transactions and properties on the market shows an uplift of some 40% in sales values since the data informing the VS was collected in 2012.

47. Local market rents and yields are carried forward in assessing the key EUV of the appraisal sites. For cleared sites the estimated alternative policy-compliant use value is taken. The added uplift premium ranges between 10% and 20%, depending upon factors of site condition and occupancy likely to influence demand for the land and owner incentive to sell.

48. Notwithstanding some continued objection, the assumptions leading to the BMLV input data appear realistic on the whole, and the VSU is consistent with the foregoing guidance in this respect.

Building Costs and Development Efficiency

49. The building cost input to the VS were also broadly criticised by stakeholders as being too low for the local market. The Council shows, by way of a build costs analysis *[CDEIP9]*, that the costs used were RICS Building Costs Information Service (BCIS) rates weighted for Southwark, including a 15% allowance for external (as distinct from abnormal) costs over the rates applicable when the VS of November 2013 was prepared. Similar build cost levels were input to the Elephant and Castle Section 106 Tariff Development Viability Study of December 2011 and appear realistic for that date.

50. The BCIS data was also criticised as being limited in scope and relating to relatively modest, low-rise developments, whilst the rates used did not appear to have been compared with actual prices, despite the likely effect of subsequent market inflation.

51. The VSU rebases the BCIS build costs to reflect local costs, inflated using the appropriate BCIS Index, and taking into account the variation in gross-net ratio efficiency according to building height and location *[CDEIP22 Appendix 5]*. The resultant values were cross-checked by comparison with viability assessments submitted to the Council in connection with actual planning applications between 2012 and 2014 *[CDEIP21]*.

52. As for abnormal costs, these are evidently not included in the 15% allowance over BCIS rates. The degree to which such costs are likely to be incurred is

always uncertain, especially on the invariably urban brownfield sites in Southwark where remediation may be required. However, some non-standard costs are known and can be taken into account within individual site assessments and the Council considers other exceptional costs to be sufficiently covered by an overall 5% contingency figure. Accepting that abnormal costs would be reflected in the value of the land for an individual scheme, the building costs input to the VSU appear reasonable in the broader context of Borough CIL rate setting for all development types and locations assessed.

Developer Profit

53. There is conflicting evidence as to the appropriate level of developer profit allowed in the VS and its manner of calculation. The Council maintains that the 20% profit on cost (6% for affordable housing) is conservative compared with its own experience of rates of 15% to 17.5%. Developers prefer to calculate profit for the large scale development planned for OAs and AAs on Internal Rate of Return (IRR) on grounds of higher risk resulting in higher percentages. However, the Council figures are supported by written evidence from public sector property specialists employed to undertake viability assessments for developments proposed in the Borough, whilst IRR results show wide variation. Overall the profit figure of 20% on-cost Borough wide is best supported by the information available.

Analysis of VS and VSU Results as the basis for setting Revised Draft Rates

54. The sample sites are broadly representative of development across the Borough, including the OAs and AAs, and the VSU increases the number of assessments within Zone 1, in particular, to provide a finer-grained analysis than the VS. Within individual categories of development, the capacity to accept CIL varies widely. However, when the maximum residential CIL rate of £400 psm is applied in Zone 1, for example, only three of the six sites tested would be viable but the remainder would be unviable without CIL in any event, requiring a shift in market conditions to come forward *[CDEIP22 Table 5.5.1]*. The lesser residential rate of £200 for Zone 2 is substantially justified on a similar basis with only two sites out of 18 unviable as a result of charging CIL *[CDEIP22 Table 5.9.1]*. Comparable results were obtained for the commercial rates.

Market Testing and Developments in Opportunity and Action Areas

55. Limited market testing was been undertaken by way of viability analyses of the Canada Water AAP *[CDE3-4]*. These used rateable value as a proxy for CUV and assumed a profit of 20% on cost rather than IRR. However, they realistically took into account the RDCS rates, together with specific construction costs, and addressed holistically the mix of development projected within the AAP. The Council admits that the viability of the AAP is shown as marginal and relies on predicted positive economic trends coupled with improved project cash flow due to the necessary phasing of development over time. Importantly however, the purpose of these analyses was not directly related to the RDCS but to the viability of the AAP.

56. The VSU still does not apply IRR and other input data to whole OAs and AAs as strategic sites. However, it does now robustly analyse the majority of the example sites that lie within them on the basis of the combination of uses envisaged. The VSU utilises updated input data on building costs and BMLV with profit levels supported by independent valuation consultants. The results of the VSU confirm the broad viability of schemes that would make up the total development of the OAs and AAs. The evidence thus supports the application of the draft RDCS rates across each charging zone as a whole, irrespective of whether the development would fall within or outside an OA or AA. In further support of this approach, the Local Plan only depends on two sites to produce more than 2,500 dwellings each, or 6% of total housing required, including the Heygate Estate, which already has planning permission.

57. Parallels may be drawn between the OAs and AAs of Southwark and equivalent strategic development areas of the London Boroughs of Tower Hamlets and Kensington and Chelsea, where recent CIL Schedule Examinations have resulted in recommendations for CIL rates of nil in those areas. The detailed evidence that led to those recommendations is not before me and this RDCS is examined on its own merits. However, the Reports in question appear to identify that both those Boroughs are proportionately more dependent than Southwark on individual strategic sites to bring forward their Local Plans. Direct comparison is not therefore appropriate.

Private Rented Sector

58. There is support in the representations for separate consideration of PRS housing on grounds that this is to be encouraged as an important element of housing supply to serve an increasing demand from those who are unable to afford private ownership but who do not qualify for affordable housing.

59. With reference to the submitted legal opinion and response by the Council *[CDEIP27; CDEIP28.10; CDEIP29]*, there is no policy limitation on the provision of PRS housing should a private developer choose to offer property for rent and no impediment to ensuring that form of tenure by way of legal planning obligation.

60. However, there is no adopted local policy requirement in Southwark for the provision of PRS housing. At the same time there is evidence from accredited sources of improved buoyancy in the property market, reducing to around 5% the likely discount available on bulk sale or purchase of PRS residential property, previously estimated at up to 30%. Viability testing by the Council of potential PRS schemes within the sample sites indicates viability with the RDCS rates imposed but assuming the current likely level of market discount. There is also evidence that residential developments will alternate between PRS and open market sale according to changing circumstances.

61. On the evidence now available therefore, there is no necessity for a separate CIL rate for PRS housing and, in the absence of any policy requirement for an element of private rented housing within planned development, no such modification of the RDCS is currently justified.

62. Even so, this area of the market justifies careful monitoring in the light of future economic trends. It would be appropriate for the Council to include a

review of this matter in the projected three-year review of the RDCS. This might include engagement with stakeholders and consideration of any possible mechanism for implementing differential rates, such as by way of a legal planning obligation, as well as any implication of the proposed CIL Amendment Regulations 2015 on social housing relief.

Student Housing Rates

63. There is local objection to the relatively modest level of the direct let student housing rate of £100 compared with higher rates charged in other London Boroughs. The Council points out that Southwark is the only London Borough with a policy requirement for an affordable contribution within student housing developments. This reduces their maximum capacity for CIL, as the VS demonstrates *[CDE1 Table 6.14.1]*. Direct comparison with rates elsewhere is therefore precluded and objection to the Southwark rate on this ground is unfounded.

64. Other questions related to nomination student housing are largely a matter of implementation of the RDCS in terms of whether the maximum rent of £168 per week should be regarded as an average, as now proposed in the SoM, and whether it would be capped or index-linked to RPI or CPI, the former being favoured by Representors without dissent by the Council.

65. There is ongoing discussion between the Council and one provider of student housing around a number of other detailed issues, including with respect to the minimum student occupancy of 41 weeks per year set down in draft SPD *[CDL10]*. However, the draft rate, based on an index-linked, maximum average rent of £168 per week is justified on the evidence for inclusion in the RDCS.

Hotel Rates

66. The VS and VSU base the two rates for hotel development (£250 psm in Zone 1 and £125 psm in Zones 2-3) on a number of sites with planning permission and widely varying values of maximum CIL. It is evident from recent, informed market commentary that the hotel market across London is buoyant. Values per room noted in the VSU are very much higher in the north of the Borough, including Zone 1, than in the south in a range of £80,000 to £300,000. These figures represent a substantial increase over those recorded at the time the VS was prepared and are broadly supported by transactional data *[CDEIP22 Table 5.49.1 and Appendix 8]*.

67. The main objection, from budget hotel operators, is that the rate of £125 for all except Zone 1 fails to recognise the further variation in values across Zones 2 and 3, with only sites relatively close to the boundary of Zone 1 having been assessed and none toward the southern edge of the Borough.

68. It is further claimed that the examples taken fail to reflect the room size standards set by various budget hotel companies of up to 24 sqm net or 34 sqm gross. However, the Council bases its assessments on actual planning permissions granted.

69. It is not practical to differentiate between types of budget or luxury hotel operation which can change within a permitted use. Moreover, in those examples assessed within Zones 2 and 3, the lower rate is well below the maximum CIL capacity of any type of hotel. Furthermore, there is further evidence of budget hotel promoters achieving lower building costs per room than those input to the VS appraisals.

70. The hotel rates appear overall to be sufficiently conservative to be justified on the evidence.

Retail Rates

71. The Council now proposes a minor modification to the RDCS to delete reference to car parking provision in sui generis uses akin to retail. This modification is carried forward in the SoM and is endorsed as uncontroversial.

72. Concern regarding the Revised Draft retail rates tested in the VS mainly concerned the higher rate of £250 psm for 'destination' retail developments. These were defined as comprising large shopping centres, malls and supermarkets, invariably providing car parking, high volume sales and high unit rents and values but often occupying brownfield sites, such as former industrial areas, with lower initial costs. Following my Interim Finding that the distinction between destination and other retail uses was not made out, the 'destination retail' category and the related CIL rate of £250 is deleted in the SoM and this modification is also endorsed.

73. By comparison, the lower rate of £125 psm for other retail development is not substantially challenged, save with respect to the claim that OAs and AAs, and Canada Water in particular, should be nil-rated overall, as considered above.

74. However, there is a proposition that retail development below 280 sqm should be nil-rated, citing other London CIL Schedules, in the interest of promoting local shopping provision. Treating the Southwark RDCS on merit however, the VS assesses a wide range of retail operations including some well below that size threshold. Any development below 100 sqm is not liable for CIL in any event, whilst there is potential that many developments would reuse existing floorspace, also not subject to CIL. On the available evidence, the case for a differential zero rate for retail development below 280 sqm is not made out.

'All Other Uses' Rate

75. There were objections from statutory infrastructure providers, specifically of sewage and water facilities and fire stations, that it is illogical and inappropriate for the 'All Other Uses' rate to be charged against such publicly funded development. There was also local objection in principle to the 'All Other Uses' rate being charged for community facilities such as public halls, youth clubs or child care facilities, especially given that the Mayoral CIL is already charged on all development. It was my Interim Finding that, despite exemptions applying to certain charitable organisations, the 'All Other Uses' rate was not substantiated. In the SoM it is reduced to nil and this modification, too, is endorsed.

Zone Boundaries

76. The definition of the boundaries between the three charging zones is supported by the VSU *[CDEIP22 Table 3.3.1]* and is largely unchallenged. Objections to the RDCS are mainly focussed on the rates charged within the zones.

77. There was, however, representation that the boundary between Zone 1 and Zone 2 along Union Street, between Blackfriars Road and Southwark Bridge Road, should be modified with respect to a narrow strip of development between the north side of the road and the face of the viaduct supporting the main railway line west of London Bridge. This led to an Interim Finding that this section of the boundary should be reconsidered, given the limited evidence of land values and the logic that this constrained strip of land, partly severed from the rest of Zone 1, should be subject to the lower charge of Zone 2. The boundary is duly modified in the SoM and this modification is endorsed.

Other Matters

78. Further representations seek relief from CIL for developments under 1,000 sqm. However there is no basis in evidence for such a distinction, given sites were assessed in a range of sizes including some well below that threshold shown to be viable with CIL imposed.

Overall Conclusions and Recommendation

79. The VSU is still broadly criticised as failing to address, point by point, the shortcomings identified in the VS, in the terms of my Interim Findings. It is fair to say that the additional evidence supplied by way of the VSU and its appendices is difficult to relate to the earlier VS due to inconsistencies of presentation. For example, instead of tabulating figures of RLV and CIL, the VSU simply categorises viability with or without CIL with only cross-reference to the appraisal results *[CDEIP22 Chapter 5 and Appendix 3]*. The tables are reduced in hard copy to the point of illegibility and are difficult to scan on-screen due to the need for re-enlargement. More important, the audit trail from appraisal to conclusion is discontinuous and hard to follow. The Council would be well advised, in its proposed review of the RDCS within three years, to set a clear brief to ensure sufficient sampling at the outset, clearly presented results and well-reasoned conclusions.

80. In further general support of the RDCS the Council also points out that many of the projected residential sites in OAs are already approved and that CIL never amounts to more than 3.75% of development project cost in Zone 1, 5.33% in Zone 2 and 1.31% in Zone 3. Furthermore, in practice a proportion of existing floorspace is reused within redevelopment and exempt from CIL, improving overall project viability.

81. Despite the foregoing criticisms, I am satisfied that the VSU in practice addresses the shortcomings identified in my Interim Findings and that the charging rates of the RDCS, modified in accordance with the SoM, are now robustly supported by appropriate available evidence as required.

82. 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 Council has been realistic in terms of achieving a reasonable level of income to address an acknowledged gap in infrastructure funding, while ensuring that a range of development remains viable across the Borough as a whole.

83. However, whilst the LDS already requires the RDCS to be reviewed within three years, the Council should closely monitor the effects of the CIL charge, especially upon the viability and progress of planned strategic development in the OAs and AAs as well as PRS housing development, and undertake an earlier review if a need for this becomes evident.

LEGAL REQUIREMENTS	
National Planning Policy Framework and Planning Practice Guidance	Revised Draft Charging Schedule, modified as recommended, complies with national policy and guidance.
2008 Planning Act and 2010 Regulations (as amended 2011, 2012 and 2013)	The Revised Draft Charging Schedule, modified as recommended, complies with the Act and the Regulations in respect of the statutory processes, public consultation, consistency with the adopted Local Plan and Infrastructure Delivery Plan and is supported by an adequate financial appraisal.

84. I conclude that, subject to the modifications set out in the Statement of Modifications and, for the avoidance of doubt, endorsed and repeated in the Appendix to this Report, the Southwark Council Community Infrastructure Levy Revised Draft Charging Schedule December 2013 satisfies the requirements of Section 212 of the 2008 Act and meets the criteria for viability in the 2010 Regulations (as amended 2011, 2012 and 2013).

85. I therefore RECOMMEND that the Draft Charging Schedule be approved.

B J Sims

Examiner

Appendix

Modifications proposed by the Council in the Statement of Modifications and Endorsed by the Examiner.

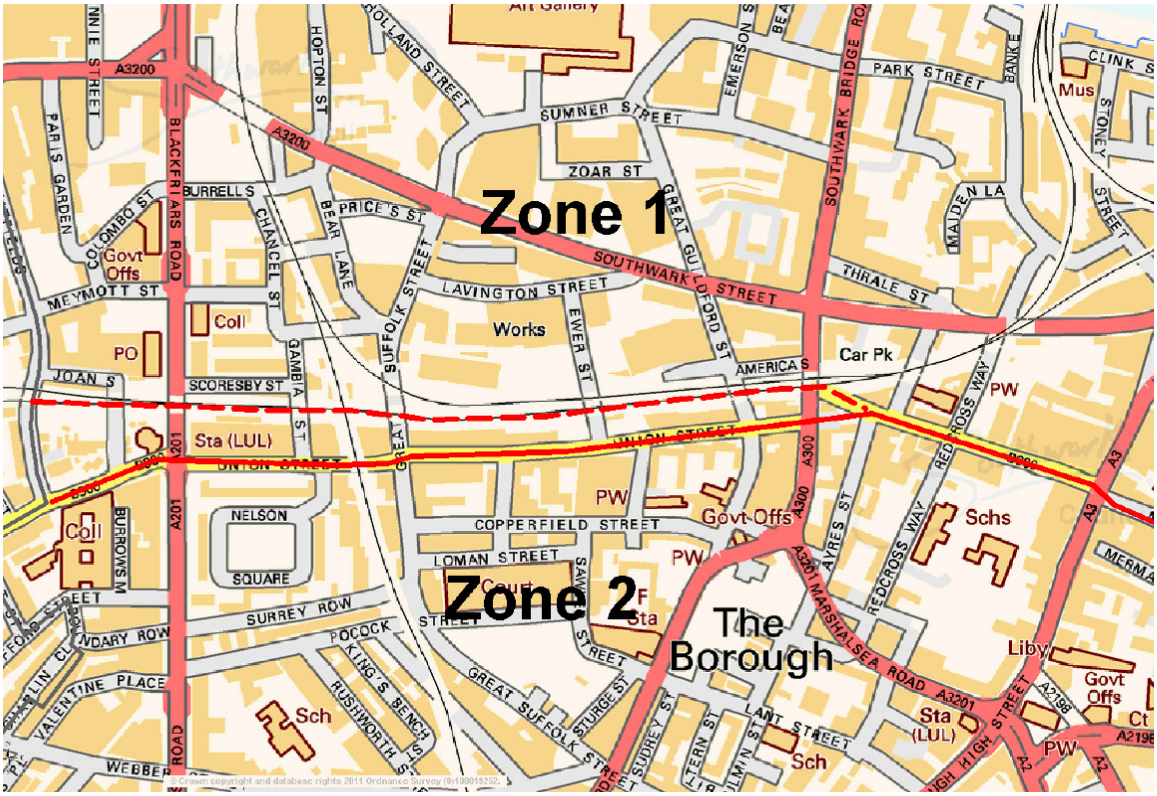
Modifications to the Revised Draft Charging Schedule are shown in Table 1 below.
Modifications to the charging zones are shown in Figure 1 below.

Table 1: Proposed modifications to the Revised Draft Charging Schedule

Development type	Zone ✳	CIL Rate £ per sq.m.
Office	Zone 1	£70
	Zones 2-3	£0
Hotel	Zone 1	£250
	Zones 2-3	£125
Residential	Zones 1	£400
	Zone 2	£200
	Zone 3	£50
Student housing – Direct let ✳✳	Zones 1-3	£100
Student housing – Nomination ✳✳✳	Zones 1-3	£0
~~**Destination superstores / supermarkets / shopping centres / malls ✳✳✳✳**~~	~~Zones 1-3~~	~~£250~~
All ~~other~~ retail (A1 – A5 & Sui Generis uses akin to retail) ✳✳✳✳✳	Zones 1-3	£125
Town centre car parking ✳✳✳✳✳✳	Zones 1-3	£0
Industrial and warehousing	Zones 1-3	£0
Public libraries	Zones 1-3	£0
Health	Zones 1-3	£0
Education	Zones 1-3	£0
All other uses	Zones 1-3	~~£30~~ **£0**

✳These zones are shown in the CIL Zones Map 2013 below.
✳✳ Direct let student housing schemes – market rent levels
✳✳✳ Nomination student housing schemes – rental levels set below **an average of** £168 per week and secured through a section 106 planning obligation
~~✳✳✳✳ Destination superstores/supermarkets for weekly food shopping needs, which can include non-food floor space as part of the overall mix of the unit.~~
~~Shopping centres/shopping malls are shopping destinations which comprise one or more buildings providing a range of services including shops, cafes and restaurants, connected by pedestrian walkways, excluding town centre car parking provision.~~
✳✳✳✳✳ Sui generis akin to retail includes petrol filling stations; shops selling and/or displaying motor vehicles; retail warehouse clubs~~, excluding town centre car parking provision.~~
✳✳✳✳✳✳ Town centre car parking which is made available to all visitors to the town centre

Figure 1: Proposed modifications to the charging zone boundaries



Key

Boundary between CIL zones 1 and 2 proposed in RDCS, December 2013

Modification to boundary between CIL zones 1 and 2 proposed in Statement of Modifications, December 2014