



The Planning Inspectorate

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# **Report to Gloucester City, Cheltenham Borough and Tewkesbury Borough Councils**

**by Elizabeth C Ord LLB(Hons) LLM MA DipTUS**

**an Examiner appointed by the Councils**

**Date: 31 July 2018**

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PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

## **REPORT ON THE EXAMINATION OF THE DRAFT GLOUCESTER, CHELTENHAM and TEWKESBURY COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULES**

Charging Schedule submitted for examination on 28 July 2016

Examination hearings held between 15 May 2018 and 17 May 2018

File Ref: PINS/B1605/429/1

## Non Technical Summary

This report concludes that, subject to modifications, the Gloucester, Cheltenham and Tewkesbury Community Infrastructure Levy charging schedules provide an appropriate basis for the collection of the levy in the three Council areas, as set out in the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy, adopted in 2017.

The modifications to the schedules that are needed to meet the statutory requirements are summarised as follows:

- Adding another category of residential development, namely 450 dwellings and over; charged at £35 per square metre in Cheltenham and Tewkesbury and nil rated in Gloucester;
- Restricting the 11 plus dwelling category to between 11 and 449 dwellings;
- Reducing the out of centre retail rate from £100 per square metre to nil;
- Adding West Cheltenham to the Tewkesbury charging schedule.

Subject to these modifications, the Councils have sufficient evidence to support the schedules and can show that the levies are set at a level that will not put the overall development of the areas at risk.

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

## Introduction

1. This report contains my assessment of the Community Infrastructure Levy (CIL) Charging Schedules for Gloucester City Council, Cheltenham Borough Council and Tewkesbury Borough Council as required by Section 212 of the Planning Act 2008. It considers whether the schedules are compliant in legal terms and whether they are economically viable as well as reasonable, realistic and consistent with national guidance.
2. The three Councils have a Joint Core Strategy (JCS) which includes strategic allocations (SAs), other strategic matters, and development management policies. The JCS was adopted by Gloucester City Council on 27 November 2017, by Cheltenham Borough Council on 11 December 2017 and by Tewkesbury Borough Council on 5 December 2018. Following on from the JCS, each Council is aiming to have its own district level plan, which will include non-strategic allocations.
3. The Councils worked jointly to prepare the draft CIL charging schedules, (DCSs) which were published for consultation between 13 May 2016 and 24 June 2016. These schedules were amended by way of Statements of

Modifications (SoMs) in order to align the DCSs with the emerging modified JCS. Additional Ordnance Survey maps were appended to the schedules to reflect the changes. Consultation on the SoMs was held from 28 July 2017 to 29 August 2017 and then extended to 5 September 2017. It is the submitted DCSs as amended by the SoMs which form the basis of my examination and to which I refer in this report as the "modified DCSs".

4. In response to my Matters, Issues and Questions and points raised in the hearing sessions, the Councils put forward further modifications to the "modified DCSs", which are set out in CILEXAM006. These modifications have not been formally consulted upon and consequently do not form part of the "modified DCSs". Nonetheless, I have taken them into account in writing my report.
5. To comply with the relevant legislation the local charging authorities must set CIL rates in a charging schedule which strike an appropriate balance. This is determined by considering, on the one hand, the desirability of CIL funding for infrastructure required to support the development of their areas and, on the other hand, the potential effects of the CIL on the economic viability of development across their areas.
6. In the modified DCSs the Councils propose residential CIL rates differentiated by scale and geographical location. The CIL, which is expressed as £s per square metre (psm), would be as follows:

#### Gloucester

- 10 dwellings and under £0 psm
- 11 dwellings and over £45 psm
- Winnycroft strategic site £0 psm

#### Cheltenham

- 10 dwellings and under £148 psm
- 11 dwellings and over £200 psm
- Northwest Cheltenham strategic site £35 psm
- West Cheltenham strategic site £35 psm

#### Tewkesbury

- 10 dwellings and under £104 psm
- 11 dwellings and over £200 psm
- Innsworth strategic site £35 psm
- South Churchdown strategic site £35 psm
- Brockworth strategic site £35 psm

- Northwest Cheltenham strategic site £35 psm
  - Twigworth strategic site £35 psm
7. Only the Cheltenham modified DCS proposes a CIL for older persons sheltered retirement and extra-care homes, which would be as follows:
- Retirement homes £200 psm
  - Extra Care homes £100 psm
8. For retail development the CIL in the modified DCSs is zoned so that retail development outside the city/town centres of Gloucester, Cheltenham and Tewkesbury is proposed at £100 psm and development within the town centres is nil rated. No other CIL charges are proposed and, therefore, all other non-residential uses are nil rated.
9. Other material published alongside the modified DCSs, such as the proposed Regulation 123 lists and instalments policy does not come within the scope of my examination. Although the draft Regulation 123 lists are a component of the submitted evidence, it is for the Councils to consider the representations made in relation to these matters, and the approach to be taken to exemptions relief. I note the Councils' suggested amendments to the Regulation 123 lists in CILEXAM006, which aim to clarify the relationship between CIL and Section 106/Section 278 contributions and avoid any perception of "double dipping".

**Are the charging schedules supported by background documents containing appropriate available evidence?**

***Infrastructure planning evidence***

10. The Gloucester, Cheltenham and Tewkesbury JCS sets out the main elements of growth that needs to be supported by infrastructure provision in the period to 2031. Further detail is provided in the Infrastructure Delivery Plan (IDP) of August 2014 [INF001], updated by the IDP Addendum of December 2017 [CILEXAM003] and the various IDPs for the Strategic Allocations, which take account of the JCS DS7 transport modelling mitigation schemes. Statements of Common Ground and Position Statements obtained for the SAs provide additional information on infrastructure requirements within the next five years to enable these sites to go forward.
11. The key categories of infrastructure to which the Councils propose to direct CIL revenue are transport, education, community and culture, flood risk management, healthcare, and green infrastructure. The 2017 IDP Addendum indicates that some transport infrastructure funding has been secured from Highways England and the Local Growth Fund and that other monies will be sought from ad-hoc government funding opportunities. Nonetheless, that leaves a significant funding gap.
12. The 2014 IDP estimated a total infrastructure cost within the JCS area of £813.6 million and a funding gap in excess of £741 million. However, the estimated funding gap has changed as applications for SAs have come forward

and bids for external funding have been successful. For instance the transport DS7 mitigation, estimated at around £500 million at the time of issuing DS7, may reduce by as much as half due to external funding.

13. The *Infrastructure Funding Gap Analysis* of September 2016 [INF004] draws together and refines the IDP information to determine key requirements. It explains that initial benchmark-based assessments and delivery routes in the 2014 IDP are in large part not critical to delivery of the Plan, at least in the short term. After consultation with key service providers, confirmed priorities have evolved, resulting in a critical estimated funding gap, which is significantly less than the overall gap for all projects (critical, essential and desirable) set out in the 2014 IDP.
14. An analysis was done in 2016 and 2017 on the critical infrastructure related to SAs, based on feedback from developers, infrastructure prioritisation, funding options assessment and management of routes and implementation risks. For the first five years from when each SA comes forward, the funding gap for their critical infrastructure is estimated at approximately £73 million, excluding the "missing link" highway project, which is no longer considered critical in the delivery of the JCS.
15. The estimated strategic road infrastructure costs for the JCS area are £251,500,000, and there is no known funding for this; for Gloucester City Council, estimated infrastructure costs are £94,284,885 and known funding amounts to £31,391,429, leaving a gap of £62,893,456; for Cheltenham Borough Council costs are £150,499,669 and funding is £41,000,000, leaving a gap of £109,499,669; for Tewkesbury costs are £176,446,071 with funding of £80,500,000, leaving a gap of £95,946,071. Consequently, the overall costs are estimated at £672,730,625 and the known funding is £152,891,429, leaving a total funding gap of £519, 839,196, which includes the £73 million stated above.
16. Based on the information before me, the following CIL receipts are anticipated, taking account of relevant reductions for affordable housing (which is not liable for CIL), 5% of receipts allocated for administration, and an average 20% of CIL receipts passed on to Parish and Town Councils.
  - Gloucester City Council                    £4,706,910,
  - Cheltenham Borough Council    £21,499,003
  - Tewkesbury Borough Council    £14,266,344
17. The SAs currently without planning permission are estimated to contribute just over £9 million to these figures.
18. Although the expected CIL receipts are modest in comparison to the overall sizeable funding gap, they would nonetheless make an appreciable contribution towards infrastructure. I am satisfied that the figures are based on sound sources of evidence and that the introduction of a CIL regime is justified.

### ***Economic viability evidence***

19. The Councils commissioned a series of viability studies to support both the emerging JCS and the emerging DCSs. The most recent of these reports is the *Plan viability, Community Infrastructure Levy and affordable housing study*, of January 2016 [VIA009], which was supplemented by two reports for additional strategic sites [VIA007 & VIA008]. However, further updates to some of the assumptions underpinning these reports have been provided in the *GCT CIL MIQs Responses – Viability*, of December 2017 [CILEXAM002(a)], as has the note on *Residential Viability Assessment of Strategically Large Sites in the JCS Area* [CILEXAM007(b)]. For ease of reference, I refer to all of this body of evidence as the Viability Assessment (VA).
20. The VA follows a structured methodology, based on the Local Housing Delivery Group's 2012 report *Viability Testing Local Plans*, also known as "the Harman Report". This involves subtracting the costs of development (including profit and s106 costs but excluding land purchase) from the gross development value (GDV) to obtain a residual value for a site. A benchmark/threshold land value (the price at which a typical willing landowner would sell) is then subtracted from the residual value to determine whether there is any surplus remaining. If so, this "headroom" is the maximum amount theoretically available to pay CIL.

#### *Residential*

21. Testing for sales values was based on a large sample of 1,253 new build transactions to provide high level assurances that the assumptions upon which the proposed CIL levels are based would not undermine the delivery of the JCS targets, particularly with regard to affordable and general housing provision. Using the Councils' most recent Strategic Housing Land Availability Assessments, generic "typology" sites were created, which are hypothetical sites that reasonably represent the types and sizes of development that are likely to come forward in the JCS area over the Plan period.
22. For residential properties, eleven or twelve typologies were modelled for each of the three authority areas, including brownfield and greenfield sites ranging from 2 dwellings to 400 dwellings, and consisting of houses, flats and mixed developments. Modelling for larger generic sites was generally based on assumptions similar to those used for SAs (ranging from about 500 dwellings to over 4,000 dwellings) with some proportionate adjustments.
23. Assumptions were made on the amount of net developable area for each typology as residential land values are based on the net area that can be built upon. Similarly, density, type and size of unit were modelled as this informs estimates of revenue based on saleable floor space. Taken as a whole, I consider that the assessments are representative of the types of development that are likely to come forward in the JCS area.
24. GDV for residential development was derived from a range of sources. New build sales prices for the period between January 2015 and August 2017 were analysed from Land Registry data and websites such as RightMove. Direct research with developers and agents operating in the area was also undertaken. By analysing price differentials by postcode, eight value zones were established, (three in Gloucester, three in Cheltenham and two in Tewkesbury), each with its own sales value (psm) for houses and flats.

25. Viability thresholds were calculated by determining planning led benchmark land values, which reflect policy requirements, potential planning obligations and, where applicable, CIL. The approach took the existing use value (EUV) plus an uplift, based on evidence of sites on the market to provide an informed guide to existing values. This is in accordance with the advice in the PPG (as revised in July 2018), which explicitly supports the use of EUVs plus a premium as the basis for benchmark land values. A review of viability appraisals in support of planning applications, published data on land values and discussions with JCS authorities' officers and the local development industry was also undertaken to provide comparative evidence.
26. A range of benchmark land values have been used, adjusted according to location. For greenfield typologies, the benchmark land value was taken as the average agricultural price for the South West plus a premium. According to Government published advice, £21,000 per hectare was used, uplifted between 10 and 20 times depending on location and an analysis of land transactions. For brownfield land, transaction data from the District Valuer Service and COSTAR (a commercial property database) was used to obtain likely reuse values and an industry standard premium of about 25% was applied.
27. Although there is a margin of uncertainty in the assumptions used, the benchmark land values are consistent with the approach in the PPG and provide adequate high level approximations of what may be considered to be a reasonable return to a willing landowner.
28. The VA assumes that the JCS policy target for affordable housing will be met. For SAs, other than Winnycroft, for which the VA indicates no contribution for affordable housing could be supported, this amounts to a minimum requirement of 35%. Non-strategic sites of 11 dwellings or more or with a maximum combined floorspace greater than 1,000sqm have a minimum requirement of 20% in Gloucester and a minimum 40% requirement in Cheltenham and Tewkesbury. No affordable housing contribution is sought on sites with 10 dwellings or less.
29. Following the Rent Review in July 2016, transfer values are based on what is typically offered by three local Registered Providers. For affordable rented properties, values have been estimated at 55% of market housing, social rent at 45% of market housing and for intermediate properties, a figure of 65% has been used. The mix of affordable rented, social rent and intermediate properties tested varied with each local authority and whether in respect of a strategic allocation or otherwise. This seems reasonable.
30. Build costs are based on 2016 quarter three data from the Build Cost Information Service (BCIS), published by the Royal Institution of Chartered Surveyors, and rebased to JCS area prices using BCIS defined adjustments. Higher costs are estimated for small to medium sized developers who are unlikely to be able to achieve economies of scale, as is more common for volume and regional house builders. This is a reasonable approach that reflects appropriate industry costs and aligns well with the time period for updated sales values (January 2015 to August 2017).

31. Assumptions for opening up costs such as utilities, land preparation, sustainable drainage systems and spine roads, are scaled in progressive tiers according to the number of dwellings on site. This appropriately reflects proportionate growth in infrastructure costs which increase with the size of development.
32. For brownfield sites an allowance of £200K per hectare has been made for abnormal costs such as remediation and demolition. For any additional abnormal costs that might arise, it would be expected that they be taken off the benchmark land value as they would reflect a sub-standard site for delivering housing, which would reduce the sale price of the land accordingly.
33. With respect to section 106 infrastructure costs, it is assumed for the majority of generic sites that infrastructure requirements are likely to be met off site through CIL. Therefore, section 106/278 infrastructure costs would be significantly scaled back and in many cases would not apply. Where site specific obligations are required, the evidence suggests that generally there will be sufficient headroom to fund these costs at past average levels.
34. An average developer profit of 20% of GDV was assumed for all open market units, which is a commonly used figure in high level viability assessments of this nature. A reduced level of 6% was assumed for affordable homes to reflect the lower risk to the developer, and is in accordance with Homes England's recommendations.
35. Assumptions for other costs appear to reflect industry standards such as externals (eg garden space around dwellings and car parking and those elements that make up the gross internal area, including circulation space within apartment blocks) at 10% of build costs, professional fees at 10% of build costs plus externals, and a contingency at 4% of build costs plus externals.
36. Similarly land purchase costs relating to surveyors fees (1% of land value), legal fees (0.75% of land value) and development finance (6.5% of land value), and sales fees on open market housing (3% of GDV) all seem reasonable and in conformance with industry norms. Stamp duty land tax assumptions reflect the changes brought about in legislation from April 2016.
37. Bespoke assessments were undertaken for each of the SAs within the JCS. The threshold land values were based on professional judgement and the research that informed the generic site typology testing. Sales value analysis followed that for generic typologies except that a premium of 7.5% was applied to reflect the investment made in creating new places, and place making evidence which supported this uplift.
38. Estimates for SA opening up costs were derived from experience and site promoter consultation. The various levels assumed fall within the suggested range set out in the Harman Guidance, which puts strategic infrastructure costs typically at between £17,000 and £23,000 for larger scale schemes. Section 106/278 costs are assumed at £15,000 per dwelling based on discussions with the promoters of two SAs, consultation with the JCS authorities and experience elsewhere. This appears to fall at the upper end of obligation agreements already reached and hence makes reasonable provision.

*Older persons housing*

39. The VA tested four areas for sheltered retirement and extra-care properties, namely the three urban areas of Gloucester, Cheltenham and Tewkesbury, and the rural area of Tewkesbury. Some assumptions are the same as for residential, although there are also differences in several key assumptions.
40. Many of the assumptions used were informed by the Retirement Housing Group (RHG) guidance. The RHG consists of developers and housing managers who provide strategic advice on best practice for policy decisions affecting the retirement housing sector and it is appropriate that their guidance be taken into account.
41. In setting threshold land values, there were only a few examples of land acquisitions that the VA could draw upon. Nonetheless, taking the information available, as for residential above, the existing use value plus a premium was appropriately established. It was assumed that older persons housing would be located within or close to the town centre and would be a brownfield alternative use site. Therefore, the threshold land value was based on an employment use plus at least 25% uplift for securing an alternative use. Land values tested in Gloucester were around £750,000 per hectare rising in Cheltenham to about £1,500,000 per hectare.
42. In accordance with RHG guidance, sales values for 1 bed and 2 bed sheltered properties were respectively taken at 75% and 100% of a 3 bed semi-detached dwelling. As a sense check, the resulting psm price was compared to retirement properties on the market and found to be comparable. Although there were no retirement properties on the open market in the JCS area at the time of compiling the VA, examples elsewhere with similar values were relied upon in accordance with RHG guidance. To calculate sales values for extra-care properties, again based on RHG guidance, a 25% uplift was applied to sheltered property values. Sizes and densities were established by analysing a number of existing schemes.
43. Costs were taken from BCIS data but reflect the "Gloucestershire wide" figure for 1-2 storey flats uplifted by 9% for sheltered retirement and 13% for extra-care. This takes account of an additional allowance made for demolition and remediation associated with brownfield land of £200K per net hectare within the town centre and £100K per net hectare elsewhere. Other assumptions reflect local market conditions or follow industry standards.

*Commercial*

44. Whilst non-residential development was also tested, apart from retail development outside the city/town centres, CIL was generally found to render development unviable. Consequently, apart from out of town centre retail, the modified DCSs set a nil rate for these other types of development.
45. I was not satisfied with the robustness of the evidence for out of centre retail and, at the hearing sessions, the Councils therefore agreed that the proposed CIL charge for out of centre retail should be withdrawn in order to obtain more

supporting evidence and review retail CIL rates. This would be done in conjunction with the JCS retail review currently underway. I find this to be a pragmatic and sensible step to take and, consequently, I consider the evidence for non-residential CIL rates no further.

### **Conclusion**

46. The modified DCSs are underpinned by a comprehensive IDP. The VA is logical and overall, subject to my specific findings below, the methodology and assumptions used are reasonable. On this basis, the evidence which informed the modified DCSs is robust, proportionate and appropriate.

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

#### **Residential rates**

47. Some criticism was made of the value zones that were derived from house prices analysed by postcode. However, these value zones show that each local authority area itself provides an appropriate CIL charging zone since, in broad terms, the values differ significantly between each authority area. Although there is some information indicating differing land values within the identified value zones, these are not so marked as to justify amending the boundaries or introducing any further complexity to the schedules through additional CIL zones. This is in accordance with the Planning Practice Guidance (PPG) which advises that undue complexity should be avoided when setting differential rates.
48. Concerns were raised over any CIL charge that might be imposed on the MOD site at Ashchurch, which was initially proposed as a SA in the JCS and then withdrawn because of delivery issues. There are suggestions that at least part of the site might come forward during the Plan period and viability evidence indicates that this large brownfield site would be unviable with CIL at the generic sites rate for 11 dwellings and over. However, the Ashchurch area of the JCS is currently being reviewed and there are other brownfield and greenfield sites that are also under consideration in that area. Consequently, it would be premature to select parts of the MOD site now for special treatment when viability and CIL rates for the wider area will be revisited as part of the review.
49. In accordance with the PPG, the Councils have not set CIL rates at the margin of viability but have allowed for a buffer to respond to changing markets and to avoid the need for frequent updating. This provides a safeguard in the event that GDVs have been over-estimated or costs (including abnormal costs) underestimated, and to allow for variations in costs and values between sites. The Councils have assumed that the charges should be no more than two thirds of the overage/headroom, leaving a buffer of at least one third. However, for many generic typologies and strategic sites, the buffer is significantly larger, allowing for greater variation in the cost and value assumptions without compromising viability, and providing greater scope to absorb abnormal costs, should these arise.
50. The evidence for the SAs demonstrates that in Cheltenham and Tewkesbury a CIL rate of £35 psm as proposed is viable, although in Gloucester, charging CIL would not be so, and therefore £0 psm is appropriate for the Winnycroft SA. For generic typologies, the VA indicates differences in headroom according to site

size, with larger sites of 11 plus units having more headroom than smaller typologies. Therefore, the differential rates proposed for typologies of 11 dwellings or over, and for 10 dwellings or under, are justified.

51. However, large generic sites of a strategic size, namely those of 450 dwellings and over, are likely to be subject to significant site infrastructure costs, similar to those for SAs. Consequently, the test results for these larger generic sites indicate that they would not viably support the higher generic CIL rate. However, they would support a SA rate of CIL.
52. Therefore, the modified DCS should be amended to reflect a charging rate for sites of 450 dwellings or over of £35 psm in Cheltenham and Tewkesbury and £0 psm in Gloucester. Consequently, the 11 dwellings and over rate should be restricted to developments of between 11 and 449 dwellings. I therefore recommend **Modification 1**, which sets out these changes.
53. It was argued by developers that the infrastructure costs for some SAs have been underestimated to the extent that a contribution towards CIL would not be viable. However, that is not borne out by the evidence. In any event, the sizable buffer applied should generally absorb any variations.
54. Concerns were expressed over changes made to the DS7 transport infrastructure mitigation package, which feeds into the SA opening up costs and section 106 obligations. However, during the JCS examination it was made clear that DS7 was only one potential package of overall mitigation measures, which could change. Infrastructure provision is an iterative process and is expected to evolve. From the submitted evidence, I am satisfied that appropriate account has been taken of potential transport costs when setting the CIL rates.

### ***Older persons' housing rates***

55. Assuming a buffer of a third of the headroom, the testing indicates that only sheltered retirement and extra-care properties in Cheltenham would be viable. Older persons' housing in Gloucester and Tewkesbury have therefore appropriately been nil rated.
56. Within Cheltenham, the headrooms for sheltered retirement and extra-care properties are enough to withstand the proposed CIL charges of £200 psm and £100 psm respectively. They should also be broadly sufficient to absorb variations in the assumptions used.

### ***Commercial rates***

57. The nil rate proposed for all commercial uses apart from out of town centre retail is supported by the submitted evidence. Furthermore, as indicated above, the out of town centre retail rate in the modified DCS has been appropriately withdrawn by the Councils pending an immediate review. Consequently, I recommend **Modification 2**, which reduces the rate for out of town retail development from £100 psm to £0 psm.

### ***Conclusion***

58. Overall, subject to the modifications indicated, the proposed CIL rates are informed by and consistent with the evidence.

**Does the evidence demonstrate that the proposed charging rates would not put the overall development of the area at serious risk?**

59. The Councils' proposals to set CIL rates on the basis described above for dwellings and older persons housing are based on reasonable assumptions about development values and likely costs. The evidence suggests that most residential and older persons development will broadly remain viable across the JCS area if the proposed charges are applied.
60. The exceptions to this are larger generic typologies of at least 450 dwellings, which are more akin to SAs. To preserve viability, the evidence suggests that these larger sites should be charged the CIL rate for SAs of £35 psm for Cheltenham and Tewkesbury and £0 psm for Gloucester, rather than the higher generic typology rates.
61. Furthermore, there is insufficient evidence to demonstrate a commercial CIL rate of £100 psm for out of town centre retail. Consequently, so as not to adversely impact on viability, pending an immediate retail review, out of centre retail development should be nil rated.
62. As noted above, the rate of £35 psm for the West Cheltenham SA is viable. This is a cross boundary site with a part in Tewkesbury Borough Council's area as well as Cheltenham Borough Council's area. I have noted that the SoM for Tewkesbury does not refer to the West Cheltenham SA in its text as regards amendments for Table 1.2, although an Ordnance Survey map is appended to the SoM for this SA. This is clearly an unintended omission and I therefore recommend **Modification 3** to rectify this.
63. Subject to these identified modifications, the evidence demonstrates that broadly the proposed CIL rates provide sufficient flexibility to allow for variations in costs and values without adversely affecting viability or putting the overall development of the area at serious risk.

**Overall Conclusion**

64. In setting the CIL charging rate the Councils have had regard to detailed evidence on infrastructure planning and economic viability for the development markets in Gloucester, Cheltenham and Tewkesbury. The Councils have reviewed this evidence where necessary to ensure that there will be no serious risk to the viability of development. Subject to the modifications that I recommend, I find the Councils' approach 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 JCS area.

<b>LEGAL REQUIREMENTS</b>
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National Policy/Guidance	Subject to the recommended modifications, the "modified DCSs" comply with national policy/guidance.
2008 Planning Act and 2010 Regulations (as amended)	Subject to the recommended modifications, the "modified DCSs" comply with the 2008 Act and the 2010 Regulations, including in respect of the statutory processes, public consultation and consistency with the adopted JCS and IDP, and are supported by adequate financial appraisals.

65. I conclude that subject to the modifications set out in Appendix A the "modified DCSs" for Gloucester, Cheltenham and Tewkesbury satisfy the requirements of Section 212 of the 2008 Act and meet the criteria for viability in the 2010 Regulations (as amended). On this basis, I therefore recommend that the "modified DCSs" be approved.

*Elizabeth C Ord*

Examiner

This report is accompanied by:

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

## **Appendix A**

### **Modifications specified by the examiner so that the "modified DCSs" may be approved.**

*These modifications apply to the Draft Charging Schedules [SUB001, SUB002, SUB003] as modified by the Statements of Modifications [SOM001, SOM002, SOM003]. The explanatory text in the schedules should be amended to reflect these modifications.*

#### **Modification 1**

In Table 1.2 *Residential CIL Rates*, under "Generic Sites" make the following amendments:

- add another category: "450 dwellings and over";
- for Cheltenham and Tewkesbury insert a CIL rate of £35 psm for this category;
- for Gloucester insert a CIL rate of £0 psm for this category;
- change "11 dwellings and over" to "between 11 and 449 dwellings"

#### **Modification 2**

In Table 1.3 for Gloucester and Tewkesbury and Table 1.4 for Cheltenham, *Non-Residential CIL Rates*, make the following amendments:

- For "Retail development outside town centre" change the rate from £100 psm to £0 psm.

#### **Modification 3**

In Table 1.2 for Tewkesbury, *Residential CIL Rates*, add another row:

- "B1 West Cheltenham" and insert a rate of £35 psm for this SA.