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Dear Ms Feeney

**WAVENEY COMMUNITY INFRASTRUCTURE LEVY (CIL) EXAMINATION
RESPONSE TO CONSULTATION ON THE NEW CIL GUIDANCE DECEMBER 2012**

Thank you for your letter dated 27th December 2012 with respect to the Examiner's consultation on the revised statutory CIL Guidance and its implications for the Waveney Draft Charging Schedule. The Council's response is as follows and has been structured around the key changes to the guidance.

New requirement to show and explain how the proposed CIL rates contribute towards the implementation of, and not threaten delivery of the development plan for the area. (Para. 8 and Para.21)

The Background Document (Document B1) provides the rationale behind introducing a CIL in Waveney and summarises the evidence which supports the Draft Charging Schedule. To summarise, the proposed rates of CIL will help meet the costs of the infrastructure required to ensure development planned in the Council's Local Development Framework (Documents B6 to B9) is delivered sustainably and in accordance with strategic policies. Failure to introduce a CIL could undermine infrastructure delivery which will mean either development not coming forward or development not coming forward sustainably. Critically, the rates have been set at a level that will not threaten the delivery of the plans. This is justified in the CIL Viability Study (Document B3) and additional viability evidence in Document B4.

New requirement to set out a draft list of projects or types of infrastructure that are to be funded in whole or in part by the levy (draft Regulation 123 list). New requirement to set out known site-specific matters where section 106 contributions may continue to be sought. (Para. 15 and Para 86).

Table 1.1 on page 3 of the Background Document (Document B1) provides a useful summary of the Council's future approach to the use of Section 106 and CIL funds. The table and the supporting text make it clear that Section 106 will not be used in the majority of circumstances in the future. Both the Background Document and the Infrastructure Study (Document B2) were published as part of the consultation on the Draft Charging Schedule in October / November 2012 and therefore gave people a good idea of what our Regulation 123 list might look like following adoption. However, it is considered that this table and text in the Background Document do not go far enough to meet the new requirements of the revised guidance. Essentially, the revised guidance requires a Charging Authority to set out a draft Regulation 123 list. Table 1.1 of the Background Document is not sufficiently detailed or robustly written to serve as a Draft Regulation 123 list.

To address this issue, Appendix 1 to this letter provides a Draft Regulation 123 list which is entirely based on Table 1.1 of the Background Document and the evidence contained within the Infrastructure Study (Document B2). As stated above, these documents have both been subject to prior consultation.

Additionally the assumptions made in the viability study are wholly consistent with the detail in Table 1.1 and as such the Draft Regulation 123 list.

Following the introduction of CIL the main site specific use of Section 106 planning obligations for infrastructure provision will be in relation to the strategic sites within the Lake Lothing and Outer Harbour Area Action Plan area (Document B9). The residential development sites that will require Section 106 planning obligations are in a proposed zero rated zone (Zone 1) due to viability issues associated with on-site infrastructure, flood risk mitigation and remediation. The sites allocated for other uses in this area are allocated for uses which also have a zero rate due to viability issues. These sites may require site-specific Section 106 planning obligations for infrastructure not on the Draft Regulation 123 list.

The main residential development site in this area is the Sustainable Urban Neighbourhood and Kirkley Waterfront site (Policy SSP3). Section 106 planning obligations will be required on this site to provide a contribution towards the on-site primary school, an on-site pedestrian and cycle bridge and on-site open space these are detailed in a draft Development Brief that has recently been subject to consultation. It is unlikely that the site will be able to contribute to the full cost of these pieces of infrastructure due to viability issues. Additionally, the pedestrian bridge will benefit and mitigate the impact of all development in Lowestoft. Once a Section 106 planning obligation has been secured for the major parcels of land within the site expected to come forward in the lifetime of this Charging Schedule, these pieces of on-site infrastructure will likely be moved on to the Regulation 123 list. This change to the Regulation 123 list would have no negative impact on development viability across the District.

The Oswalds Boatyard site (Policy SSP7) is not expected to come forward in the lifetime of this Charging Schedule and is currently within Zone1 in the Draft Charging Schedule. If the site does come forward during the lifetime of this Charging Schedule, a Section 106 planning obligation may be needed (dependant on viability) for site specific traffic mitigation, provision of a site for a library and community facilities and flood risk mitigation.

A number of sites allocated in the Site Specific Allocations DPD (Document B8) have on-site requirements for allotments that will need to be secured through Section 106 planning obligations. Provision of allotments is required on sites at Monckton Avenue, Lowestoft (Policy LOW9), Dairy Hill, Halesworth (Policy HAL3) and Cucumber Lane, Beccles (BEC3).

New requirement to provide information on the amounts raised in recent years through section 106 agreements and the extent to which affordable housing and other targets have been met. (Para.22)

This information is not presently available in any of the submitted documents. The table below shows the amount of money raised in the last five years through section 106 agreements.

Year	Open Space Contributions	Affordable Housing Commuted Sums	Education Contributions	Library Contributions	Other	Total
2007/2008	£169,489	£150,000	£0	£0	£0	£319,489
2008/2009	£234,695	£178,000	£128,000	£15,000	£60,000 on sustainable transport £5,000 for waste infrastructure £40,000 for community facilities.	£660,695
2009/2010	£170,889	£120,000	£0	£0	£0	£290,889
2010/2011	£128,601	£249,000	£0	£0	£9000 (Traffic	£386,601

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					Regulation Order)	
2011/2012	£119,041	£245,000	£59,000	£6,300	£0	£429,341

In terms of the extent to which the targets such as affordable housing have been met, the main target the Council has is the target for affordable housing. This was established by Policy DM18 of the Development Management Policies Development Plan Document (Document B7) which was adopted in January 2011.

The following table shows an analysis of all the sites granted planning permission since the adoption of the Development Management Policies that qualify for provision of affordable housing (i.e. sites of 5 or more dwellings).

Application No.	Address	Town / Village	Number of Homes Proposed	Affordable Housing Target	Affordable Housing Secured	Target Met?	Reason why target was not met
DC/12/0911/FUL	Garage Block Sir John Leman Road Beccles Suffolk	Beccles	8	1	8	Y	
DC/11/1431/FUL	Redevelopment Of Site Between High Street And White Horse Street Lowestoft Suffolk NR32 1JX	(N) Lowestoft	23	8	23	Y	
DC/11/0264/FUL	Plots 1-11 Rodber Way Gunton Lowestoft	(N) Lowestoft	11	2	2	Y	
DC/11/0524/FUL	19-21 Clapham Road South Lowestoft NR32 1PG	(N) Lowestoft	8	1	1	Y	
DC/11/0595/FUL	263 Yarmouth Road Lowestoft NR32 4AA	(N) Lowestoft	8	1	1	Y	
DC/11/1095/FUL	Former Fire Station Normanston Drive Lowestoft NR32 2QA	(N) Lowestoft	32	11	11	Y	
DC/10/1028/FUL	Applewood Chapel Road Carlton Colville NR33 8BL	Carlton Colville	18	6	0	N	Land was purchased at height of market in 2007. Fall in values from 2007 meant that it was no longer viable for the developer to provide any affordable housing
DC/10/1505/FUL	Former Northumbria Water Site St Margarets Road Lowestoft NR32 4HT	(N) Lowestoft	29	10	29	Y	

As can be seen from the above table, since the introduction of Policy DM18 most sites that are liable to provide affordable housing have provided affordable housing in accordance with the requirements.

The Council also has standardised contribution requirements for open space. These are set out in the Open Space Provision Supplementary Planning Document (SPD) (Document B10 to be added to the Examination Library). The Open Space SPD requires all new dwellings on sites less than 20 to contribute a maximum of £956 per dwelling towards open space dependant on density. Sites of 20 and above are expected to make onsite provision. These open space contributions are normally always achieved. For example, £119,040 of open space contributions were secured in 2011/12. 125 new dwellings were permitted in this period so these permissions should have secured £119,500 (assuming they all had to pay the £956 rate).

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The Council has no other specific targets on planning obligations set out in policy. Other obligations are required based on the specific need that the development creates.

New guidance stating that Charging Authorities should avoid setting the charge right up to the margins of viability and to ensure that the rates proposed will not threaten the delivery of the plan as a whole at the time of charge setting and throughout the economic cycle. (Para. 30)

The rates proposed in the Draft Charging Schedule have been set at a level sufficiently below the maximum viable level. For residential development, the rates are 25% below the maximum rates that would ensure viability across all site types and benchmarks.

The CIL Viability Study (Document B3) shows that supermarkets, superstores and retail warehouses could accommodate a CIL rate of up to £200 per sqm. The rate proposed at £130 per square metre is 35% lower than this.

Clarification that major strategic sites can be treated as separate geographical zones. (Para.34)

This change supports the designation of Zone 1 (which includes the Sustainable Urban Neighbourhood and Kirkley Waterfront site) as a zero rated residential zone in the Charging Schedule.

Clarification that the definition of 'use' for the purposes of differentiation of rates is not tied to the Use Classes Order. (Para.35)

This change supports the principle that the Council can set a separate rate for different types of uses that fall within the same use class (e.g. A1 retail) providing there is evidence of differing viability which the Council believes it has.

New requirements for early collaboration with the County Council. (Para.48)

The Council has worked collaboratively with Suffolk County Council throughout the preparation of the Draft Charging Schedule.

The Council and the County Council have a long history in working collaboratively on matters relating to Section 106 infrastructure and plan making in general. The County Council had a significant involvement in the preparation of key Development Plan Documents such as the Core Strategy and the Lake Lothing and Outer Harbour Area Action Plan. The Council has also worked with the County Council and other District Councils in Suffolk to produce a Developer's Guide on the use of Section 106 in the County in 2011 (adopted as guidance in 2012). This guide helped form the basis of some of the assumptions made in the Infrastructure Study.

The Council had a number of meetings and correspondence with representatives of Suffolk County Council whilst drafting the Infrastructure Study back in Spring 2011. As such the Infrastructure Study reflected the needs for County Council provided infrastructure at the time of publication. The engagement continued through the production of the Preliminary Draft Charging Schedule and the Draft Charging Schedule.

More recently the Council has engaged with the County Council through the newly formed Suffolk CIL Officer Group (SCIOLOG) which is tasked with finding common methods of implementing and operating CIL across the County.

The Council will continue to work with the County Council over the coming year in setting up protocols and procedures for the spending of CIL funds.

New requirements for early engagement with developers. (Para.49)

The Council has sought to engage with developers on CIL right from the introduction of the CIL Regulations.

The Council holds a regular Developer Forum meeting, where developers and agents active in the local area attend to discuss arising planning matters. Since the Government confirmed its retention of CIL in November 2010 it has been a regular agenda item on the Council's Developer Forum.

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Members of the Developer Forum were consulted on the draft of the Infrastructure Study (Document B2) in Spring 2011. They were also invited to attend a workshop looking at the assumptions for the Viability Study (Document B3) in Autumn 2011. A number of local developers attended the workshop and provided helpful input into the assumptions made in the study. The Forum were also invited to make comments on a draft of the Viability Study and the draft was subject to a discussion at a Developer Forum meeting in February 2012. The Developer's Forum were also specifically invited to make comments on the Preliminary Draft Charging Schedule and the Draft Charging Schedule.

New guidance suggesting that Charging Authorities should consult for at least six weeks on the Preliminary Draft Charging Schedule. (Para.50)

The Council consulted on the Preliminary Draft Charging Schedule for a 6 week period from the 30th March 2012 through to the 11th May 2012.

New requirement to set out at examination how section 106 policies will be varied (Para.87)

The Open Space Provision Supplementary Planning Document (SPD) (Document B10 to be added to the Examination Library) sets out on page 3 that Section 106 planning obligations for financial contributions to off-site open space provision will no longer be sought after the introduction of CIL.

The Council is not proposing to vary Policy DM18 of the Development Management Policies on affordable housing provision.

The Council has no other specific targets on planning obligations set out in policy although Policy CS04 of the Core Strategy (Document B6) sets out the likely types of infrastructure developers may have to contribute to. Although written before the enabling legislation for CIL was published, Policy CS04 anticipates the introduction of CIL and how it could be used. Once CIL is introduced obligations will only be sought for infrastructure that is not on the Regulation 123 list.

New requirement for authorities to set out at examination the proposed approach to the future use of any pooled section 106 contributions (Para.89)

Following the introduction of CIL, the Council will no longer pool contributions secured through Section 106 planning obligations for the provision of infrastructure. The exception to this rule will be in the case of the Sustainable Urban Neighbourhood and Kirkley Waterfront site (Policy SSP3 of the Lake Lothing and Outer Harbour Area Action Plan, Document B9). This site is currently in a number of ownerships and it is likely that separate planning applications will come forward for the respective parts of the site. As such the Council will likely pool contributions from up to five planning obligations from the different parts of the site for the provision of the on-site primary school, the pedestrian and cycle bridge and the on-site open space.

Yours sincerely,



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Appendix 1 – Draft Regulation 123 List

Regulation 123 of the Community Infrastructure Levy Regulations 2010 restricts the use of planning obligations for infrastructure that will be funded in whole or in part by the Community Infrastructure Levy, to ensure no duplication between the two types of developer contributions. A CIL charging authority is expected to publish a list of infrastructure that will benefit from CIL on its website.

The list below sets out those infrastructure projects/types that Waveney District Council intends will be, or may be, wholly or partly funded by CIL. In accordance with Regulation 123, developer contributions to the projects/types of infrastructure listed will not be sought through planning obligations.

The Council will review this list at least once a year, as part of its monitoring of CIL collection and spend.

NB: The inclusion of infrastructure types in this list does not signify a commitment from the Council to fund all the projects or types of infrastructure listed, or the entirety of any one project through CIL.

The order in the table does not imply any order of preference for spend.

Infrastructure that may be funded by CIL
Pedestrian and cycle infrastructure (with the exception of the Pedestrian and Cycle Bridge over Lake Lothing in the Sustainable Urban Neighbourhood and Kirkley Waterfront site)
Strategic highway improvements
Provision of off-site open space (including improvements to existing open spaces) (with the exception of the open space proposed on the Sustainable Urban Neighbourhood and Kirkley Waterfront site)
Maintenance of open space (with the exception of that which is included in the Sustainable Urban Neighbourhood and Kirkley Waterfront site)
Provision of additional pre-school places at existing establishments
Provision of primary school places at the following existing schools: <ul style="list-style-type: none">• Oulton Broad Primary School• Woods Loke CP School• Gunton CP School• Poplars CP School• Northfield St Nicholas Primary School• St Margaret's CP School• Roman Hill Primary School• Carlton Colville Primary School• Pakefield Primary School• Elm Tree CP School• Fen Park CP School• Meadow CP School• Dell Primary School• Grove Primary School• St Mary's RCP School• Whitton Green CP School

- Crowfoot CP School
- Ravensmere Infant School
- St Benet's Catholic Primary School
- The Albert Pye CP School
- Bungay Primary School
- St Edmund's Catholic Primary School, Bungay
- Edgar Sewter CP School
- Holton St Peter CP School
- Reydon Primary School
- Kessingland CEVCP School
- Blundeston CEVCP School
- Corton CEVCP School
- Somerleyton Primary School
- Ilketshall St Lawrence School

Provision of secondary, sixth-form and further education places.

Provision of leisure and community facilities.

Provision of new libraries and improvements to existing libraries (with the exception of the library proposed on the Oswald's Boatyard site)

Provision of health facilities

Provision of police infrastructure

Provision of cultural infrastructure (including museums, archives and heritage)

Provision of waste infrastructure

Coastal defence works