

# WAVENEY DISTRICT COMMUNITY INFRASTRUCTURE LEVY DRAFT CHARGING SCHEDULE EXAMINATION

## BRIEFING NOTES (6 February 2013)

### 1. Examiner

The Examiner is Mike Moore BA(Hons) MRTPI CMILT MCIHT, Planning Examiner.

### 2. Programme Officer

The Programme Officer (PO) is Annette Feeney. She acts as an **impartial** officer of the Examination, under the Examiner's direction, and not as an employee of the Council.

Details of **how to contact her** are set out at the end of these notes. Her principal functions are:

- to **liaise** with all parties to ensure the smooth running of the examination.
- to ensure that all the **documents** received before the examination are recorded and distributed.
- to maintain the examination **library, including the Examination Document list.**
- to **assist the Examiner** with all procedural and administrative matters.

She will **advise** on any queries and all practical and procedural points should be addressed to her. She will pass them on to the Examiner for a reply, if necessary, but carries his authority to act in accordance with the Regulations.

### 3. Hearing

The hearing will take place at **10.30** on **22 March 2013** at **Waveney Council Offices.**

### 4. Scope of the Examination and Examiner's Role

This is to consider whether the Community Infrastructure Levy (CIL) Schedule meets the requirements of the Planning Act 2008 (as amended) and associated Regulations in respect of **legal compliance and viability.** The examination will focus on viability. The Council should rely on evidence collected whilst preparing the schedule to demonstrate that it is viable. **Those seeking changes have to demonstrate why that is not the case.**

The process of examining a CIL Schedule is different from other documents under the Local Plan system. The **focus is on the schedule** rather than the objections. The Examiner considers the viability of the schedule, having regard to the evidence available and representations submitted, rather than just objections made. The **process of an**

**examination hearing** is akin to a structured debate with round table/informal hearing sessions addressing particular topics.

Following the closure of the hearing session, the Examiner will prepare a **Report to the Council** with conclusions as to whether the Schedule complies with the drafting requirements and whether modifications are necessary to remedy any non-compliance.

The Council is not expected to put forward any more substantive changes to the schedule. If, exceptionally, fundamental changes are proposed, the Council must fully explain and justify the reasons for the changes, with supporting evidence. They should also indicate the implications in terms of the viability of the schedule and ensure that they have been subject to the same process of financial appraisal, publicity and opportunity to make representations as the submitted version.

## **5. Procedural Questions for the Council**

At the start of the hearing the Council will be asked formally to confirm that that the Schedule has been prepared in accordance with:-

- the statutory procedures
- the Council's Local Plan and Infrastructure Delivery Plan
- the consultation requirements set out in the Community Infrastructure Levy Regulations April 2010 (as amended)

and

- whether it is supported by a financial appraisal
- whether there any fundamental procedural shortcomings

To assist with this the Council should produce a brief note setting out its response to each of these points.

## **6. Procedure prior to the opening of the hearing**

The Examination hearing will be progressed in an **effective and efficient** manner, with a tight rein on the discussions and time taken. As part of that process the amount of written material should be limited to that necessary for the Examiner to come to informed conclusions on the issues.

Those who have made representations on the Schedule within the relevant time period ["representors"] should have already decided whether their views have been adequately expressed in **written form** or whether they wish to also present them **orally** at a hearing session. Both methods will carry the same weight and the Examiner will have equal regard to views put orally or in writing.

The Examiner has identified a draft list of main issues and questions which will form the basis for the Examination. Only a few respondents have asked to make oral representations and therefore have a right to be heard at the hearing. As a result many of the questions will be considered on the basis of written submissions (including those already made) and will not be debated at the hearing. However, further written statements can

be submitted on any of the issues identified by the Examiner in so far as they are relevant to the original representations. They should follow the same format and timetable as for hearing statements (see below).

Attendance at the hearing will only be useful and helpful to the Examiner if participants can engage in a debate. Anyone participating at the hearing session may submit a **statement of their position, focussed upon the issues** identified in the programme for that session in so far as relevant to the original representations, but this is not compulsory. If a representor wants to make a **further written submission** supporting their position, it must be **focussed** on the issues identified and submitted within the deadline set or it risks being returned. Representors must confirm attendance by **5pm 21 February** so that arrangements can be finalised or it will be assumed that they are relying on written representations.

**From the Council a written statement should be submitted to the PO on each issue to be discussed at the hearing**, setting out why it considers the Schedule to be viable in that respect and why the changes sought by other parties would not be acceptable. As with other parties the Council may also submit statements on the matters that are not being discussed at the hearing. These would be most useful to the Examiner in cases where the Council is responding directly to points made in the representations already submitted by other parties.

**From representors, an electronic or paper copy of any further statements for the hearings must be sent to the PO.**

**The deadline for further written statements from both the Council and representors is 5pm Thursday 7 March.**

The Council has prepared a list of Examination Documents available on the Evidence Base part of the website or from the PO. Accordingly, respondents should not attach extracts of these documents to statements as they are already Examination Documents and the Examiner will be familiar with them. A reference to the name or reference number of the document and the relevant paragraph/page number will be sufficient.

The Examiner emphasises the need for **succinct submissions**, avoiding unnecessary detail and repetition. There is no need for quotes from the Schedule or other sources of policy guidance. It is vital that the fundamental elements of cases are set out clearly but it is the quality of the reasoning that carries weight, not the length of the statement.

**Essentially, the Examiner needs to know the following** from those submitting further written statements:

- What particular part of the schedule is unviable/unrealistic/unreasonable?
- Which test(s) does it fail?
- Why does it fail?
- How could the schedule be made viable/realistic/reasonable?
- What is the precise change/wording sought?

All further statements should be no longer than **3,000 words per issue**. Any submissions that are of excessive length and/or containing irrelevant or repetitious material will be returned.

**All** statements and appendices should be **clearly marked** at the top right hand corner with the appropriate issue number. Those from the Council should be prefixed WDC; representors should show their name at the top of the first page. Any supporting material – **Appendices** to Statements – should be limited to that which is essential and not contain extracts from any publication that is already before the Examination or nationally available such as Government guidance or policy. Where Appendices are used the statement should indicate which parts are particularly pertinent and are relied on to support the case made.

## **7. New CIL Guidance**

In December 2012 the Government issued new CIL Guidance. Amongst other things, this requires that at examination a draft list of projects or types of infrastructure that are to be funded in whole or part by CIL should be set out and that other information should be provided on the relationship between planning obligations (s106 agreements or undertakings) and CIL. The Council has set out its response to these requirements in a letter of 28 January 2013

[www.waveney.gov.uk/site/scripts/download\\_info.php?fileID=3224](http://www.waveney.gov.uk/site/scripts/download_info.php?fileID=3224)

The Examiner is seeking any written comments on the content of the Council's letter in terms of these new requirements by **5pm 7 March**. It is open to any individual to request that they would wish to have their views on any new issues heard in front of the Examiner (at his discretion) and this should be indicated in your response. Please note that the Examiner will have equal regard both to views put forward in writing or orally at a hearing.

## **8. Site Visits**

The Examiner will visit relevant parts of the area, unaccompanied, if necessary.

## **9. Close of the Examination**

Once all the information necessary to come to reasoned conclusions and decisions on the issues has been received by the Examiner, he will write his Report. The Examination itself **remains open** until this is submitted to the Council. However once the hearing session part of the examination is completed the Examiner can receive **no further information** from any party, unless it is a matter on which he specifically requests it. Any unsolicited items sent in will be returned.

## **10. Submission of the Report to the Council**

The Examiner will announce the likely date his Report should be submitted to the Council at the end of the hearing session. This date will be published on the Examination website.

### **11. Examination Programme**

The purpose of the issues listed is **to focus attention** where the Examiner is seeking a fuller understanding of the comments and respective positions. The programme for the hearing will be available closer to the date of the event. If you feel that a programme **change** should be made, please inform the PO without delay, but with reasons, and the Examiner will consider it.

Annette Feeney  
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