

## Natural England's response to Woking CIL Preliminary Draft Charging Schedule

Twizell, Heather (NE) [REDACTED]  
Sent: 02 April 2013 14:11  
To: Planning Policy  
Attachments: 78687 - Woking CIL.pdf (62 KB) ; Natural England Consultati~1.pdf (220 KB)

Please find attached Natural England's response to the above consultation along with a form should you wish to provide any feedback on our service:

<<78687 - Woking CIL.pdf>>      <<Natural England Consultation Feedback Form.pdf>>

Many Thanks

Heather

Heather Twizell

Lead Adviser

Land Use Operations  
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[www.naturalengland.org.uk](http://www.naturalengland.org.uk)

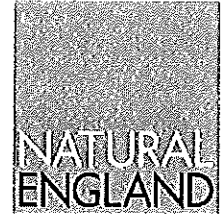
**We are here to secure a healthy natural environment for people to enjoy, where wildlife is protected and England's traditional landscapes are safeguarded for future generations.**

In an effort to reduce Natural England's carbon footprint, I will, wherever possible, avoid travelling to meetings and attend via audio, video or web conferencing.

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Date: 02 April 2013  
Our ref: 78687  
Your ref: CIL Charging Schedule



Mr E Amoako  
Planning Policy  
Woking Borough Council

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**BY EMAIL ONLY**

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Dear Mr Amoako

### **Community Infrastructure Levy (CIL) - Preliminary Draft Charging Schedule**

Thank you for your e-mail of 14 February 2013, consulting Natural England on the above documentation.

Natural England is pleased to see that Woking Borough Council are putting Thames Basin Heaths Special Protection Area (SPA) mitigation at the forefront of their thinking when it comes to this document. Natural England is committed to working with the Thames Basin Heaths Local Planning Authorities to secure positive outcomes for the SPA. We want to help resolve this issue for each of the authorities.

We have no particular comments to make on the detail of this document.

We would however like to draw your attention to the letter Natural England sent to all of the Local Planning Authorities that are affected by the Thames Basin Heaths SPA on 31 October 2012. Within this letter we made our position on securing the long term security of SPA mitigation through CIL very clear. This consultation response should be read in conjunction with that letter.

If Woking Borough Council can agree a secure legal mechanism for delivering these avoidance and mitigation measures, as they do currently, then Natural England is more than willing to support Woking at the upcoming Examination In Public of this document. Natural England is aware through discussions with Council policy officers that this is your intention and we will continue to work with you towards an acceptable approach.

If for any reason such an approach cannot be agreed, then Natural England is likely to take forward the measures listed in section 5 of that note, as repeated below.

#### **5. No Secure Approach**

*It is Natural England's view that failure to provide a secure mechanism by which avoidance and mitigation measures will be delivered once the CIL charging schedule has been implemented, would be a failure to comply properly with the purpose of the Habitats and Wild Birds Directives. This would be a breach of both national and European law. Such a breach could lead not only to a successful judicial review challenge being brought against the relevant local authority, but also to a breach of European law obligations which could ultimately lead to the European Commission taking infraction proceedings against the UK Government.*

*This would be on the grounds of the Government's failure to ensure that European law was properly implemented in the UK. Should infraction proceedings commence and a fine be imposed on the UK*

*Government as a result of these infraction proceedings, then under section 48 of the Localism Act 2011, the Government has the power to require public authorities to make payments, determined by the Government, in respect of that EU financial sanction.*

*In addition, there would be a number of options open to Natural England or any other objector if it was felt that sufficient certainty to secure compliance with the Habitats Regulations was not provided;*

- 1) Appearance at the examination of the CIL Charging Schedule.*
- 2) Representations made against the soundness of the next Local Plan Document, which leads to a net increase of dwellings, with appearance at examination. For example, Natural England has made representations on this matter to the Bracknell Forest Council Site Allocations DPD. Without a secure approach to CIL, then Natural England is of the opinion that there would be a likely significant effect in combination with a local authority's housing allocations.*
- 3) Objection to any planning application which came forward during the period without a secure mechanism for securing CIL and seeking call in of the application by the Secretary of State where necessary.*

The comments we have made in this response are based on the information provided by you, and for the avoidance of doubt does not affect our obligation to advise on, and potentially object to any specific development proposal which may subsequently arise from this or later versions of the plan or programme which is the subject of this consultation, and which may have adverse effects on the environment.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries relating to the specific advice in this letter only please contact Heather Twizell on 0300 060 1711 or [heather.twizell@naturalengland.org.uk](mailto:heather.twizell@naturalengland.org.uk). For any new consultations, or to provide further information on this consultation please send your correspondences to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

Yours sincerely

**Heather Twizell**  
**Lead Adviser**  
**Land Use Operations**



## Improving the overall quality of our service

The overall quality of our service throughout your consultation process:

- 2) *In relation to your particular consultation, do you have any suggestions, ideas or feedback on how we can improve our service to you? If you have responded 'dissatisfied' or 'very dissatisfied' for question 1, please provide further information on why this is the case.*

If you would like to be contacted about this consultation please tick this box  and add your direct e-mail address here:

Thank you for taking the time to let us have your views.

Rob Cooke, Director for Land Use.

## Using and sharing your information

The data controller is Natural England, Foundry House, 3 Millsands, Riverside Exchange, Sheffield S3 8NH

Your information will be stored and processed in accordance with the Data Protection Act 1998. This Act gives you, as an individual, the right to know what data we hold on you, how we use it, with whom we share it and for it to be accurate.

Any information you provide will only be used by Natural England for the purposes of service standard monitoring.

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