

**WOKING BOROUGH COUNCIL
COMMUNITY INFRASTRUCTURE LEVY SCHEDULE EXAMINATION**

EXAMINATION HEARINGS BRIEFING NOTE

1. EXAMINER

- 1.1. The Examiner is Ms Sara Morgan LLB (Hons) MA Solicitor (Non-practising).

2. PROGRAMME OFFICER

- 2.1. The Programme Officer [PO] is Mr Chris Banks. For the purposes of the examination he acts as an impartial officer of the Examination, under the Examiner's direction, and not as an employee of the Council. His contact details are:

Mr Chris Banks
Banks Solutions
21 Glendale Close
Horsham
West Sussex
RH12 4GR

Tel: 01403 253148
E-mail: bankssolutionsuk@gmail.com

- 2.2. His 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 hearings are recorded and distributed.
- to maintain the Examination **Document list**.
- to **assist the Examiner** with all procedural and administrative matters.

- 2.3. He will advise on any programming queries and all practical and procedural points should be addressed to him. He will pass them on to the Examiner for a reply, if necessary, but carries her authority to act in accordance with the regulations.

3. HEARING

- 3.1. The hearing will take place at 1000 on Wednesday 11 June 2014 in Committee Room 1b, Civic Offices, Gloucester Square, Woking GU21 6YL.

4. SCOPE OF THE EXAMINATION AND EXAMINER'S ROLE

- 4.1. This is to consider whether the Community Infrastructure Levy [CIL] Charging Schedule meets the requirements of the Planning

Act 2008 and the associated regulations, in respect of legal compliance and viability.

- 4.2. The examination will focus on the following questions:
- Is the Schedule supported by appropriate evidence?
 - Are the proposed rates informed by and consistent with the realistic evidence on economic viability across the Council's area?
 - Will the rates put the overall development in the Council's area at risk?
- 4.3. 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.**
- 4.4. The process of examining a CIL Schedule is similar to other development plans. 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 examination hearings is akin to a structured debate, with "round table"/"informal hearing" sessions addressing particular topics, rather than the traditional form of public inquiry.
- 4.5. After the hearing sessions, the Examiner will prepare a Report to the Council with conclusions and decisions as to the action it needs to take with regard to the viability of the schedule. This report is not fully binding on the Council but it should amend the document accordingly, moving swiftly to formal adoption.
- 4.6. The Council has prepared a list of examination documents which are available on the Examination Website (<http://www.woking2027.info/infrastructure/cilexamination>), in the Examination Library or from the Programme Officer. **The Examiner's preliminary questions to the Council, and the Council's responses, can be found on the Examination Website.**
- 4.7. In terms of published documents DCLG's CIL 2010 Regulations (as amended 2011) and 2012 Regulations, CIL – An Overview and CIL Guidance April 2013 (as the Council's Charging Schedule was published before 24 February 2014) should help interested parties with further understanding. Representors should seek advice from the Council or the PO if still not clear.
- 4.8. 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

- 5.1. At the start of the Examination the Council will be asked formally:

Can the Council confirm that the Schedule has been prepared in accordance with:-

- the statutory procedures?
- the Council's Core Strategy and Infrastructure Delivery Plan?
- the consultation requirements set out in the Regulations?

Is it supported by a viability appraisal(s)?

Are there any fundamental procedural shortcomings?

6. PROCEDURE PRIOR TO THE OPENING OF THE HEARINGS

- 6.1. The Examination Hearings will be progressed in an effective and efficient manner, with a tight rein on the discussions and time taken. The amount of written material should be limited to that necessary for the Examiner to come to informed conclusions on the issues.
- 6.2. 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 also to 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.
- 6.3. Attendance at a hearing session will only be useful and helpful to the Examiner if participants can engage in a debate. Anyone participating in a hearing session **may** if they wish prepare a statement of their position, focussed upon the issues in the programme for the session, but this is not compulsory. The statement should be submitted to the PO by **midday, Wednesday 28 May** (1 electronic and 3 hard copies).
- 6.4. Participants must confirm attendance at the hearings at the same time so arrangements can be finalised, or reliance on written submissions will be assumed.**
- 6.5. The Council may then respond to any further representations with its own further written statement on each issue, 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, by no later than **midday Wednesday 4 June**.

- 6.6. A list of **Examination Documents** (ED) is available on the website, in the Examination Library or from the PO. These include the draft charging schedule, background papers and other documents that parties may wish to refer to.
- 6.7. Accordingly, participants should not attach extracts of these documents to statements as they are already Examination Documents and the Examiner will be familiar with them.
- 6.8. The Examiner also 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. Nonetheless, it is vital that the fundamental elements of cases are set out clearly; **it is the quality of the reasoning that carries weight**.
- 6.9. **Essentially, the Examiner needs to know the following from those submitting further statements:**
 - **What particular part of the schedule is unviable or unrealistic or unreasonable?**
 - **Which test[s] does it fail?**
 - **Why does it fail?**
 - **How could the schedule be made viable or realistic or reasonable?**
 - **What is the precise change/wording sought?**
- 6.10. 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 may be returned.
- 6.11. No additional statements or documents [including letters and press cuttings] will be accepted at the Examination Hearings.
- 6.12. **All** statements and appendices should be **clearly marked** at the top right hand corner with the name of the representor.

7. THE EXAMINATION ARRANGEMENTS

- 7.1. The examination will be run on a rolling programme on 11 June. Each identified issue will be discussed in turn, with breaks as appropriate on the day. The hearing is open to the public and the press to observe.
- 7.2. The session will take the form of a Round Table/Informal Hearing discussion led by the Examiner, with all parties present. There will normally be no formal presentation of evidence or cross-examination. Any advocates/legal representatives will take

part as a normal participant/member of a team, rather than in a traditional advocate's role.

- 7.3. The discussion will focus on the issues in the programme and any additional points arising from the written submissions.

8. CLOSE OF THE EXAMINATION

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

9. EXAMINATION PROGRAMME

- 9.1. The purpose of the issues listed for each session is to focus attention where the Examiner is seeking a fuller understanding of the comments and respective positions. If you think that a programme or issue change should be made, please inform the PO without delay, but with reasons, and the Examiner will consider it.

10. CLOSING REMARKS

- 10.1. The Examiner urges everyone to:

- Ensure that the timescales and deadlines are adhered to.
- Be aware of the Examination Documents, the supporting evidence and any other relevant material produced by the Council.
- Keep looking at the website and/or in contact with the PO.

- 10.2. The Examiner looks forward to meeting everyone in June.

Sara Morgan
Examiner
May 2014