

WARWICK DISTRICT COUNCIL COMMUNITY INFRASTRUCTURE LEVY [CIL] CHARGING SCHEDULE EXAMINATION

EXAMINER'S INITIAL NOTE TO WARWICK DISTRICT COUNCIL

Introduction

1. As you are aware, I have been appointed to examine the Warwick District Council CIL Charging Schedule. I am still going through the documents, but there a number of matters that I wish to raise at an early stage. For the avoidance of doubt, I will issue my main list of examination issues and questions in due course.

Website & Publicity

2. It is a requirement of the CIL Regulations¹ that 'as soon as practicable' after submitting the draft charging schedule for examination, the charging authority makes relevant documents available, publishes documents on its website and gives notice to relevant persons that the draft schedule has been submitted. Can the Council confirm that these actions have been carried out?

Modifications

3. I note that the draft schedule includes two modifications that have not been subject to further consultation. In order to avoid prejudice to interested parties, I consider that a formal consultation should be undertaken so that the relevant document² can be considered to be a 'statement of modifications' as defined by Regulation 11(1). I should also add that viability evidence should be provided to justify the proposal to extend the nil charging rate to 'all other uses': this is not apparent from the evidence base that has been submitted to date.

Initial Comments on Draft Charging Schedule

4. As already noted, I shall prepare my main list of issues and questions in due course. However, I request the Council's comments on two early concerns that I have about the way that the schedule approaches some of the stated types of development. These relate to (1) 'residential' and 'strategic residential' development types and (2) the 'retail – prime Leamington' development type.
5. You will be aware that differential rates may be set, among other matters, 'for different zones in which development would be situated' and 'by reference to different intended uses of

¹ Regulation 19(3).

² Document 3.

development'³ (my italics). Irrespective of the particular justification for the differential rates concerned, which is a matter to be considered in the examination, it seems to me that there is a danger that the approach that the Council has used does not accord with the approach required by the Regulations.

6. While it is in principle acceptable to seek to apply differential charging rates to strategic sites (subject of course to appropriate justification in viability terms), this is usually done by identifying the site (or sites) as a separate charging zone (or zones). It is not at all clear to me that 'residential' and 'strategic residential' can be defined as distinct 'uses' in the sense of the Regulations. Indeed, the evidence submitted appears to distinguish between the two 'types of development' in terms of their location (i.e. areas defined as strategic sites) rather than the actual 'uses' that are proposed for them (which I assume both relate to class C3 dwellinghouses, although this is not immediately clear). I request that the Council considers this point and suggests ways in which any concerns in this regard might be overcome.
7. A similar concern applies to the 'retail – prime Leamington' development type, which the draft schedule applies across zones B and D. The evidence base suggests that this actually refers only to 'prime retail areas in Leamington (Central Parade and Royal Priors)⁴'. If this is the case, then it is unclear why application of the relevant charge is being sought across two zones. Indeed, it is also unclear (1) whether this charge would be applied to retail developments in areas of zones B and D outside the prime area of Leamington and (2) if not, how a distinction would be drawn between 'retail – prime Leamington' and other retail uses in zones B and D other than in terms of their geographical location⁵.
8. Put simply, in both of these cases, it seems to me that the Council has sought to define 'uses' with reference to geographical areas, rather than by defining specific zones, and that there is insufficient clarity about which developments would or would not be covered by the suggested charges. Without prejudice to my final report, I am concerned that there may be conflict with the Regulations in these regards.
9. As an aside, given that the purpose of defining zones in the Regulations is to apply differential rates, it is unclear why two zones (B and D) are being proposed in which identical charging rates are being proposed.

³ Regulation 13(1).

⁴ Viability Study Update (November 2016), para 6.37.

⁵ It is noted that the 2016 Viability Study Update recommends a nil rate on retail developments (excluding convenience based supermarkets etc) outside the Leamington Spa prime retail area.

Funding Gap

10. Identification of the scale of the infrastructure funding gap is an important part of the evidence base for a CIL examination⁶. It is assumed that the submitted Infrastructure Delivery Plan (IDP) is the Council's main evidence in this regard. However, the relevant figures are not easily derived from the IDP schedule and, moreover, the estimate of CIL funding set out that document (which appears to be £53,958,000) differs from that set out in the draft Regulation 123 list (£57,890,000). Can this point be clarified and can a clear statement about the identified funding gap be provided?

Local Plan

11. Clearly, this CIL examination is taking place in the context of the ongoing Local Plan examination. It would be useful if the Council could clarify the position that the latter examination has reached. In formal terms, it will be necessary for me to take a view on whether the emerging Plan provides a sufficiently stable basis for the scale, distribution and type of development that is likely to come forward. For example, do any zone boundaries relate to Local Plan proposals that could be subject to change prior to adoption? However, this is a matter that I will address in my main questions. In the meantime it would be useful if the submission Local Plan, policies map and schedule of main modifications could be forwarded to me and added to the CIL examination library (electronic versions will be sufficient).

Representations

12. The full text of the representation by The Planning Bureau for McCarthy & Stone (ref. 70351) does not appear to be included in the documents that you have sent. Please can I have this?

Conclusion

13. The Council's comments on these matters are requested. In the meantime, I shall continue with my preparation and will aim to issue a Guidance Note and my Examiner's Issues and Questions shortly. If you have any questions regarding the above, then please contact me via the Programme Officer.
14. This note, along with the Council's response, should be placed on the examination website when this is available.

Michael J Hetherington
Examiner
5 May 2017

⁶ See for example PPG ref. ID: 25-016-20140612.