
Leicester Community Infrastructure Levy Draft Charging Schedule Examination

Examiner's Main Issues, Questions and Guidance

Introduction

1. In accordance with section 212 of the Planning Act 2008 (as amended) and associated regulations¹, Leicester City Council has appointed an independent person ("the Examiner") to carry out an Examination of the Leicester Community Infrastructure Levy Draft Charging Schedule.
2. This Note sets out the main issues and questions that the Examination will focus on, and provides guidance about how the Examination will be conducted, what is required of the Council, and how anyone who wishes to participate further can be involved.

The Examiner and his Role

3. The appointed Examiner is William Fieldhouse BA (Hons) MA MRTPI.
4. The Examiner will consider whether:
 - the Council has complied with all legal and procedural requirements in preparing the draft charging schedule;
 - the draft charging schedule is supported by appropriate available evidence, including about the actual and expected costs of infrastructure and the economic viability of development across the area;
 - the proposed charging rates are informed by, and consistent with, the evidence;
 - the evidence shows that the proposed rates would not put at risk the overall development of the area as proposed in the statutory development plan².
5. In considering those matters, the Examiner will have regard to the relevant legislation and guidance³, and also all of the representations made about the draft charging schedule during the consultation period in February and March 2015. It is not, however, the role of the Examiner to respond to all of the points made in those representations. Furthermore, it is not the role of the Examiner to challenge or recommend changes to documents associated with the draft charging schedule such as the Council's list of infrastructure projects that CIL

¹ Community Infrastructure Levy Regulations 2010, amended in 2011, 2012, 2013, 2014 and 2015 ("the CIL Regulations").

² Leicester City Core Strategy 2014.

³ The Planning Act 2008 (as amended), the CIL Regulations (as amended), and Planning Practice Guidance ID-25.

may be used to help fund or guidance on the implementation of the levy including the instalments policy.

6. At the end of the Examination the Examiner will produce a report that will set out his findings and recommendations. There are three possible outcomes: that the charging schedule be approved; that it be approved subject to modifications; or that it be rejected (in which case it could not be adopted by the Council).
7. If the Examiner recommends modifications, the Council would only be able to adopt the charging schedule if it does so with modifications that are sufficient and necessary to remedy the non-compliance identified by the Examiner (although those modifications need not be those recommended by the Examiner).
8. The Examiner will aim to work with the Council, and everyone else involved in the Examination, in a positive, proactive and pragmatic manner in order to expedite the process.

The Programme Officer and his Role

9. Ranesh Chavda is the Programme Officer for the Examination. He is acting as an independent officer under the direction of the Examiner, and is responsible for recording and circulating all material, maintaining the Examination library and website, and organising any hearing sessions. He will act as a channel of communication between the Examiner and all parties, including the Council. Any queries about the Examination should be raised with the Programme Officer who will provide guidance and advice, having liaised with the Examiner or the Council if necessary.
10. The Programme Officer will ensure that up to date and comprehensive information about the Examination, and copies of all documents, can be found at the following website:
11. <http://www.leicester.gov.uk/your-council/policies-plans-and-strategies/planning-and-development/community-infrastructure-levy>
12. If anyone wishes to view paper copies of any of the documents they should contact the Programme Officer. Anyone who has a disability that could affect his or her involvement in the Examination, including at any hearing sessions, should contact the Programme Officer as soon as possible for assistance.
13. Contact details for the Programme Office are as follows:

Mr Ranesh Chavda
Tel: 0116 454 2791
Email: ranesh.chavda@leicester.gov.uk

The Examiner's Main Issues and Questions

14. Based on his reading of all of the documents submitted by the Council, the representations made, and the relevant legislation and guidance, the Examiner has identified the main issues and a series of questions that he will consider further during the Examination (see Appendix A).
15. The Council is requested to provide a written statement that responds to all of the issues and questions. Any other representor may also submit a written response to the issues and questions that relate to the content of their representations. However, there is no obligation to do so; the Examiner will take account of the written representations already made.
16. Any further written statements should be submitted by **midday on 10th July 2015** in accordance with the advice set out in Appendix B.

Examination Hearing

17. A hearing session is due to be held at **Leicester Town Hall, Town Hall Square, Leicester, LE1 6GB on 19th August 2015**.
18. Three respondents to the public consultation exercise carried out earlier this year stated that they wish to be heard by the Examiner. No other representor has a right to be heard. However, if any other party does now wish to participate on this day they should contact the Programme Office as soon as possible, and no later than **midday on 26th June 2015**. The Examiner will consider any such request, having regard to whether participation would assist the Examination, and whether any other party's interests would be prejudiced.

Site Visits

19. The Examiner may make unaccompanied site visits during the course of the Examination.

Close of the Examination

20. The Examination will remain open until the Examiner's report has been submitted to the Council. However, no further representations or evidence will be accepted after the deadline of **midday on 10th July 2015** unless this has been specifically requested by the Examiner.

And Finally

21. The Examiner urges all interested parties to:
 - Make sure they understand this note.
 - Adhere to the timetable.
 - Be aware of the relevant documents in the Examination library.
 - Focus on the Examiner's main issues and questions.
 - Be explicit about any modifications considered necessary.
 - Provide evidence to justify any modifications considered necessary.
 - Keep looking at the Examination website and be in contact with the Programme Officer.

Main Issues for Consideration by the Examiner

The Examiner's main issues are whether:

- the Council has complied with all legal and procedural requirements in preparing the draft charging schedule;
- the draft charging schedule is supported by appropriate available evidence, including about the actual and expected costs of infrastructure and the economic viability of development across the area;
- the proposed charging rates are informed by, and consistent with, the evidence; and
- the evidence shows that the proposed charging rates would not put at risk the overall development of the area as proposed in the core strategy.

Questions for the Examination

Legal and Procedural

1. Have the procedural requirements of the Planning Act 2008 (as amended) and the Community Infrastructure Regulations 2010 (as amended) been complied with during the preparation of the draft charging schedule?

General Approach

2. Has appropriate available evidence been used?
3. Should the introduction of CIL be delayed in order to coordinate it with the forthcoming local plan which will replace the Leicester City Core Strategy (2014)?

Viability Evidence

4. Was the Leicester, Leicestershire and Rutland Viability Study (January 2013) carried out in accordance with an appropriate methodology?
5. Was it appropriate to update certain data in the viability study in 2014, whilst leaving other inputs to the model unchanged?
6. Are the proposed charging rates informed by, and consistent with, the viability evidence?

Infrastructure Evidence

7. Does the Infrastructure Project List accurately estimate the infrastructure likely to be required to deliver the core strategy?

8. Has the total cost of infrastructure required to support the development of the area been appropriately estimated based on evidence?
9. Have all actual and expected funding sources, including financial contributions through planning obligations, for the required infrastructure been appropriately estimated?
10. Does the draft Regulation 123 list clearly set out what will be funded by CIL and provide a clear basis to ensure that there should be no double counting with financial contributions from planning obligations, such that it helps to provide evidence of a funding gap?
11. Does the evidence demonstrate that a funding gap exists?

Appropriate Balance?

12. Has an appropriate balance been struck between the desirability of using CIL to contribute towards closing the funding gap and the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across the area, such that there will be an overall positive economic effect?

Residential Charging Rates

13. The core strategy states that 54% of the 25,600 new dwellings in the City over the period 2006 to 2026 will take place in the Strategic Regeneration Area; 21% on sustainable urban locations at Ashton Green and Hamilton; and the remaining 25% elsewhere in the City. Which of the 16 residential development typologies modelled in the Viability Study and Update are likely to take place in each of these three locations?
14. What is the justification for excluding the Ashton Green zone from the CIL chargeable area?
15. Is the boundary of the zero rate area, which is based on the core strategy Strategic Regeneration Area, justified by the viability evidence?
16. What is the justification for charging a zero rate for all forms of residential development in the strategic regeneration area?
17. Is there evidence to indicate that differential rates should be applied to other parts of the City to reflect variations in house prices as suggested by B Line Housing?
18. Having regard to the answer to question 13 above, and the indicative proportion of unconsented dwellings expected in each of the residential development typologies set out in Table 3.7 of the Viability Study Update, how much CIL income is likely to be generated by each of the residential development typologies?
19. What percentage of the maximum potential rate ("additional profit") identified in the Viability Study, amended if appropriate to take account of the Viability

Update, would the proposed charge of £25 represent for each of the 16 residential development typologies?

20. Approximately what percentages of total residential development cost and development value would the proposed residential rate represent for each of the residential development typologies?
21. What evidence is there to support the assumption that the Existing Use Value of "greenfield 1" and "medium greenfield" residential development typologies should be based on (a) agricultural use (£25,000 per hectare) or (b) paddock use (£50,000 per hectare)?
22. What evidence is there to support the build cost assumptions used in the Viability Study Update, or to support alternative build cost assumptions?
23. What evidence is there to support the assumption used in the Viability Study Update that planning obligations will be likely to result in an average cost of £500 per dwelling, or to support alternative planning obligation assumptions?
24. What evidence is there to support the assumptions about the value of residential development used in the Viability Study, or to support alternative assumptions?
25. What evidence is there to support any other alternative assumptions about the costs and value of residential development?
26. If the alternative assumptions about build costs, planning obligations and development value set out in Savills' representation were deemed to be appropriate, does the Council agree with the outcome of the alternative viability appraisals relating to "greenfield 1" sites?
27. Further to question 26 above, what would be the implications for the viability of the other residential development typologies?
28. If you consider that the proposed residential charging rate would put at risk the overall development of the area, what specific modification are you seeking and what appropriate available evidence is there to support it?

Student Accommodation

29. What is the definition of "student accommodation" as intended by the Draft Charging Schedule?
30. Is "student accommodation" a "use" that can be distinguished from other forms of residential development?
31. Is it the intention that "student accommodation" development taking place in the strategic regeneration area would be subject to a charge of £100 or zero?
32. Approximately what quantity of student accommodation development is likely to take place in the period to 2026 by (a) universities and (b) the private sector?

33. What percentage of the maximum potential rate ("additional profit") identified in the Viability Study, amended if appropriate to take account of the Viability Update, does the proposed rate of £100 represent for student accommodation?
34. Approximately what percentage of total development cost and development value would the proposed rate of £100 represent for student accommodation?
35. Does the Viability Study make appropriate assumptions for student accommodation development, carried out by both universities and the private sector, about:
 - a) Land costs.
 - b) Development costs.
 - c) Developer profits.
 - d) Development value.
36. If you consider that the proposed charging rate for student accommodation would put at risk the overall development of the area, what specific modification are you seeking and what appropriate available evidence is there to support it?

Distribution and Retail Charging Rates

37. What percentage of the maximum potential rates ("additional profit") identified in the Viability Study, amended if appropriate to take account of the Viability Update, do the proposed rates for distribution uses, supermarkets and retail warehouses represent?
38. Approximately what percentages of total development cost and development value would the proposed rates for distribution uses, supermarkets and retail warehouses represent?
39. Does the Viability Study make appropriate assumptions for distribution uses, supermarkets and retail warehouses about:
 - a) Land costs.
 - b) Development costs.
 - c) Developer profits.
 - d) Development value.
40. If you consider that the proposed charging rates for distribution uses, supermarkets or retail warehouses would put at risk the overall development of the area as proposed in the core strategy, what specific modification are you seeking and what appropriate available evidence is there to support it?

The Proposed Zero Rate for All Other Development

41. Is a zero rate for all other types of development justified by the evidence?

Police Infrastructure

42. Are any changes to the draft charging schedule required to address issues raised in the representations made by Leicestershire Police?

Written Statements

- A. Written statements must be succinct and answer the questions asked by the Examiner. They should not repeat at length material that has already been submitted; the most relevant points can be summarised when they relate to the questions, and cross-references to other submitted or published material provided.
- B. Supporting material in the form of appendices to statements should be limited to that which is essential and should not contain extracts from any publication that is already before the Examination – a paragraph or page reference will suffice. Any appendices should have a contents page and be paginated throughout. Anyone submitting appendices should indicate in their statement which parts they are relying upon.
- C. In answering the Examiner's questions, it should be made clear if it is considered that the draft charging schedule fails to comply with the legislation and guidance, and if so how, specifically, it should be modified. In particular, the focus should be on the effect of the proposed rates on the economic viability of development across the area. Evidence should be provided to justify any modifications being suggested.
- D. The Council should provide a written statement that addresses all of the main issues and questions with reference to specific parts of the relevant background documents. Representors' statements should only answer those questions that relate to the content of the original representation.
- E. Statements should be on A4 paper, printed on both sides. Statements should be headed with the representor's name and be clearly marked, at the top right hand corner, with the appropriate representor reference. Please contact the Programme Officer if you do not know your number.
- F. The deadline for the Programme Officer to receive paper copies of statements is midday on 10th July 2015 (it will not be acceptable to submit electronic copies only by that date with paper copies following later). Late submissions and additional material are unlikely to be accepted since this can cause disruption and result in unfairness, and might result in delay to the Examination. All accepted statements will be published on the Examination website and, in the event that a hearing is held, emailed to other participants.