

Examination of the Brentwood Community Infrastructure Levy (CIL) Charging Schedule

Matters, Issues and Questions

Matthew Birkinshaw BA(Hons) Msc MRTPI

Examiner

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Introduction and Main Issues

Prior to the forthcoming hearing session, responses are invited from participants on the following Matters, Issues and Questions ('MIQs'). The MIQs are based on the following main issues for the examination:

- Whether or not the charging authority has complied with the procedural requirements of the Planning Act 2008 and The Community Infrastructure Levy Regulations (as amended);
- Whether or not the Charging Schedule is supported by appropriate available evidence on infrastructure planning and economic viability;
- Whether or not the proposed rates are informed by, and consistent with, the evidence available; and
- Whether or not the available evidence demonstrates that the proposed rates would put at risk the delivery of development in the area.

Further information about the examination, the hearing session and format of written statements is provided in the accompanying Guidance Note, which should be read alongside the MIQs.

Matter 1 – Procedural Requirements*Issue 1 – Compliance with the Regulations*

- Q1. Has the Council complied with the requirements of the CIL Regulations (as amended) prior to submission of the schedule for examination?
- Q2. What are the reasons for producing the Statement of Modifications (dated February 2023)?
- Q3. Did the Council comply with the requirements of the CIL Regulations (as amended) insofar as the Statement of Modifications is concerned, having particular regard to Regulation 19?

Matter 2 – Appropriate, Available Evidence

Issue 1 – Infrastructure Planning Evidence

The Planning Practice Guidance ('the PPG') advises that charging authorities must identify the total cost of infrastructure they wish to fund wholly or partly through the levy. In doing so, they must consider what additional infrastructure is needed in their area to support development, and what other sources of funding are available, based on appropriate evidence.

Information on the charging authority area's infrastructure needs should be drawn from the infrastructure assessment that was undertaken when preparing the relevant plan (in this case the Local Plan) and their CIL charging schedules. This is because the plan identifies the scale and type of infrastructure needed to deliver the area's local development and growth needs.

From December 2020, local authorities must publish an infrastructure funding statement, and information should be drawn from this. The infrastructure funding statement should identify infrastructure needs, the total cost of this infrastructure, anticipated funding from developer contributions, and the choices the authority has made about how these contributions will be used..

...Charging authorities should focus on providing evidence of an aggregate funding gap that demonstrates the need to put the levy in place. Any significant funding gap should be considered sufficient evidence of the desirability of CIL funding, where other funding sources are not confirmed. (Paragraph: 017 Reference ID: 25-017-20190901).

- Q1. Has the Council prepared an Infrastructure Funding Statement to support the proposed levy? If not, what are the reasons for this?
- Q2. Has the Council adequately identified infrastructure needs, the total costs of the infrastructure, the anticipated funding from developer contributions and set out the choices about how these contributions will be used? Are the infrastructure needs sufficiently up to date?
- Q3. What is the current funding gap, what is this based on and where is it set out?
- Q4. When taking the above into account, has appropriate evidence been provided to demonstrate a need for the levy?
- Q5. Is it clear to developers, decision-makers and local communities what infrastructure will be funded by the draft charging schedule and what would be secured through planning obligations?

Issue 2 – Viability Evidence

- Q1. What is the justification for using a site capacity of 825 units at Officers Meadow (Strategic Site R03)?
- Q2. Does the appraisal methodology in the CIL Viability Assessment Update (August 2022) adequately reflect the costs of finance?
- Q3. Has the Viability Assessment Update accurately considered the costs for strategic sites R01-R03? How have these costs been factored into account?

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- Q4. The Viability Assessment Update sets out costs in Tables 7.1 and 7.2. Paragraph 7.30 states that the figures are based on October 2018 costs which have been indexed to July 2022. Is this approach accurate, justified and robust?
- Q5. What level of developer profit has the Viability Assessment Update used? Is it consistent with guidance in the PPG? (Paragraph: 018 Reference ID: 10-018-20190509)
- Q6. How does the Viability Assessment Update take into account different sales values across Brentwood? Are there any specific areas (and not just sites) where the levy would have a greater impact on viability?
- Q7. How has Local Plan Policy MG06 been taken into account in determining viability, which requires an immediate update of the Plan? Is this relevant for the purposes of examining the draft charging schedule?
- Q8. How has Local Plan Policy BE01 been taken into account in determining viability, which states that, wherever possible, major development will be required to provide a minimum of 10% of predicted energy needs from renewables? Is the assessment based on appropriate and sufficiently up-to-date evidence in this regard?
- Q9. Does the modelling in the Viability Assessment Update broadly test the viability of sites likely to come forward over the plan-period? If not, what should the Viability evidence have considered?
- Q10. What are the reasons for the thresholds used for modelling employment uses? Are they based on appropriate available evidence and do they adequately reflect the type of development coming forward?
- Q11. How have 'logistics' uses been defined and are the costs and values associated with logistics uses based on appropriate local evidence? In particular, how was the value of £2,800 per square metre generated for this sector?
- Q12. How have the relevant buyers' costs been taken into account in the Viability Assessment Update? Are they accurate?

Matter 3 – Are the rates informed by, and consistent with, the evidence available?

Issue 1 – New Residential Development

- Q1. Is the levy rate of £250 per square metre for new residential development in 'all other areas' justified by appropriate available evidence, having regard to the PPG and local infrastructure needs arising from the adopted development plan for the area?
- Q2. Based on the information provided, what impact will the proposed levy have on the rate of housing delivery in Brentwood?
- Q3. The PPG advises that it is appropriate to ensure that a 'buffer' or margin is included, so that the levy rate is able to support development when economic circumstances adjust. In all cases, the charging authority should be able to explain its approach clearly (Paragraph: 020 Reference ID: 25-020-20190901). How has this been reflected in the proposed rates in the charging schedule, having particular regard to previously developed land?

Issue 2 – Strategic Residential-led and Mixed-Use Allocations

- Q1. What is the justification for the different levy rates for strategic sites R01 – R03? In particular, how did the Council determine the site-specific levy rates for R02 and R03 and why are they not nil rated in the same way as the Dunton Hills Garden Village?
- Q2. How would non-residential uses be considered as part of the Dunton Hills Garden Village? For example, would retail and industrial uses be liable for CIL?
- Q3. Are the strategic site rates based on appropriate available evidence?

Issue 3 – Older People's Housing

- Q1. Is the charging schedule sufficiently clear what constitutes older people's housing?
- Q2. Is the levy rate of £220 per square metre for older person's accommodation justified by appropriate available evidence?

Issue 4 – Industrial and Distribution and Logistics

- Q1. What is the justification for introducing a nil rate for the Brentwood Enterprise Park, but not other non-residential sites?
- Q2. Why does the charging schedule differentiate between greenfield and brownfield sites for general industrial uses, but not distribution and logistics?
- Q3. What is the justification for excluding space associated with car parking and landscaping? Do the same reasons apply to other types of development, such as large retail or retail warehouse schemes?
- Q4. Are the levy rates of £80 and £140 per square metre for industrial (on greenfield sites) and distribution and logistics uses justified by appropriate available evidence?

Issue 5 – Retail

- Q1. Are the levy rates for retail development justified by appropriate available evidence?
- Q2. Is it sufficiently clear which types of retail development will fall into the different charging categories?
- Q3. What is the justification for including a levy for retail development on Brentwood High Street, but not other forms of development in this location? Why are the circumstances relating to retail development different?

Issue 6 – Instalments Policy

- Q1. Is the proposed instalments policy justified and effective?

Matter 4 – Delivery of Development

Issue 1 – Conclusion

- Q1. Based on the evidence available, would the proposed charging rates put at risk the delivery of development in the area? If so, where and how?