

Shepway District Council – Community Infrastructure Levy Examination

PD001-1

BRIEFING NOTE

Version 1: Issued 21 October 2015

The Purpose of this Note

1. The purpose of this briefing note is to set out the steps that will be taken to examine the Shepway District Council Community Infrastructure Levy (CIL) Draft Charging Schedule and to provide information about the examination process.

The Examiner

2. The Examiner is Rynd Smith LLB, MA (Town & Regional Planning), MRTPI, FRSA. He is a Chartered Town Planner and a Planning Inspector, appointed by but independent of the Council.

The Examination

3. The Examination is to consider whether the Shepway District Council Community Infrastructure Levy (CIL) Draft Charging Schedule (submission version) June 2015 (the submitted schedule) meets the requirements of the Planning Act 2008 as amended and the relevant CIL Regulations as amended, in respect of legal compliance and viability.

The Programme Officer

4. The Programme Officer (PO) is Isabelle Hills. She acts as an impartial officer of the Examination, under the Examiner's direction, and not as an employee of the Council.
5. Her summary contacts are included in the footer of all documents issued by or on behalf of the Examiner. Her full contact details are set out in Annex A to this note.
6. Her role is:
 - to liaise with all parties to ensure the smooth running of the examination;
 - to ensure that all of the documents relevant to the examination are recorded and distributed;
 - to maintain the examination document list and library; and
 - to assist the Examiner with all procedural and administrative matters.
7. She will advise on any programming queries and all practical and procedural questions about the examination should be addressed to her. She will reply directly or pass them on to the Examiner for a reply if necessary. She carries his authority to act in accordance with the CIL Regulations.

The Examination Library

8. The examination library includes a list of all documents referred to in the examination. It currently includes the CIL Regulations, government guidance, the submitted schedule, all submitted supporting evidence, representations and examination correspondence. It will be updated to include any additional evidence and other documents produced as the examination progresses. It can be accessed from here:

<https://www.folkestone-hythe.gov.uk/planning/community-infrastructure-levy>

9. Please contact the PO with any questions about access to the library.

Examiner: Rynd Smith LLB MA MRTPI FRSA

Programme Officer: Isabelle Hills T: 01303 853216 E: programme.officer@folkestone-hythe.gov.uk

Web: <https://www.folkestone-hythe.gov.uk/planning/community-infrastructure-levy>

How will the Examination Operate?

10. The process of examining a CIL Charging Schedule is similar to that for the examination of a Local Plan. The Examiner will consider the submitted schedule, having regard to the available evidence and the representations submitted in line with the requirements of regulation 17 of the CIL Regulations 2010 (as amended), between 9 February and 23 March 2015.
11. Regulation 21 of the CIL regulations provides for examinations to include public hearings in certain circumstances. Persons who make representations under regulation 17 and who request to be heard have a right to be heard. However, in this instance and following an audit of representations and correspondence between the Council and all representors and correspondence between the PO and all representors, the Examiner is satisfied that there are no outstanding requests to be heard. It follows that the examination will use a written representations procedure and that **no hearings will be held**.
12. The examination will focus on viability and the Examiner is not limited to the consideration of objections that have been made. He may ask written questions of his own. The Council should rely on evidence collected in relation to the adopted Shepway Core Strategy Local Plan (September 2013), saved Local Plan policies and/or evidence gathered whilst preparing the submitted schedule to demonstrate that it is viable. Those seeking changes to the submitted schedule have to demonstrate why it is not viable. This is a process that is largely conducted in writing using existing evidence – however, further written statements may be submitted (see paragraphs from 16 below) by the Council and by persons who made representations in line with the requirements of regulation 17.
13. After considering the submitted CIL Schedule, all submitted supporting documents, the representations that have been made under regulation 17, further written representations and responses to his questions, the Examiner will prepare a report to the Council with conclusions and recommendations as to the action (if any) it needs to take with regard to the viability of the schedule. The report may recommend that the schedule should be adopted without modifications, adopted with specified modifications or rejected, for reasons that it will set out. The report is not fully binding on the Council. If modifications are recommended, it may either amend the schedule as recommended, moving to formal adoption, or if it does not wish to do so, it may prepare a revised schedule and submit this to a further examination.
14. The CIL Regulations and DCLG's online National Planning Policy Framework and Planning Practice Guidance (which contain material on CIL) can be found in the examination library. These will help representors. There is also other advice available on the DCLG, PINS, and Council/ Examination websites. If unclear, representors should seek advice from the Council or the PO.
15. The Council does not currently propose any substantive changes to the submitted schedule. If any such changes were to be proposed, the Council would have to fully explain and justify the reasons for the changes, with supporting evidence. They would have to indicate the implications in terms of the viability of the schedule and ensure that these have been subject to the same process of financial appraisal, publicity and opportunity to make representations as the submitted version. If the Council decides to make any such changes during the examination, the PO will provide you with an update to this briefing note, addressing the procedural consequences of the changes.

Questions, Further Written Representations and Evidence

16. The Examiner will identify **written questions** on matters in respect of which he requires further information in order to examine the submitted CIL Schedule. He will set these out in a **Matters, Issues and Questions Paper** that will be published in the examination library by **Friday 30 October 2015**. The Examiner will put questions to Shepway Council and may also put them to any representor. Responses to the Examiner's questions should be submitted by **Friday 27 November 2015 Deadline 1** – 16:00 hard copy, 23:55 electronically.
17. In addition to providing responses to the Examiner's written questions, the Council must and representors may if they wish prepare **written representations** of their position, relating the issues identified in the Matters and Issues and Questions paper to the submission documents or their original representation. Each statement should address one issue for examination and be limited to 3000 words, excluding appendices. Statements should be submitted by **Friday 27 November 2015 Deadline 1** – 16:00 hard copy, 23:55 electronically.
18. The Examiner will need to know the following from those representors submitting written representations:
 - What particular part of the schedule is unviable/unrealistic/unreasonable?
 - Which test(s) does it fail?
 - Why does it fail?
 - How could the schedule be made viable/realistic/reasonable?
 - What is the precise change/wording sought?
19. Persons to whom a written question or questions are addressed by the Examiner are requested to provide an answer or answers. Persons to whom a written question is not specifically addressed by the Examiner may nevertheless respond if it is relevant to their case to do so, but are not required to respond. Persons who wish to rely solely on their existing written representation made under regulation 17 do not need to provide additional written representation at this stage if they do not wish to do so.
20. **The Council** may respond to any written representations provided in response to paragraph 17 above with its own **further written response** on each issue, setting out why it considers the submitted Schedule to be viable in that respect and why any changes sought would not be acceptable, by no later than **Wednesday 16 December 2015: Deadline 2** – 16:00 hard copy, 23:55 electronically. Alternatively the Council may indicate that it intends to make modifications to the submitted Schedule, by the same deadline. The word limit in paragraph 17 above applies to any such responses.
21. All responses to questions and all written representations are strongly preferred to be submitted in an electronic format - in Word or as an unlocked .pdf. Any documents submitted after the relevant deadline or breaching the word limits may be returned.
22. Once submitted, all responses to questions and all written representations will become Examination Documents and will be published in the examination library.
23. The Examiner emphasises the need for succinct submissions, avoiding unnecessary detail and repetition. There is no need for quotes from the submitted schedule, statute, regulations or sources of policy guidance – a simple reference to enable the Examiner to find them will suffice. Documents in the Examination Library can be referred to using their unique identification number and a page or paragraph number (eg [ED001-1 para 23] refers to this

guidance). It is vital that the fundamental elements of cases are set out clearly but it is the quality of the reasoning that carries weight, not the scale of the documents or the number of appendices.

24. It is not necessary to attach extracts from any documents already in the Examination Library to submissions as these are already Examination Documents and the Examiner will be familiar with them, as he will be with all relevant statute, regulations, policy and guidance publications.
25. Any supporting material that needs to be attached because it is not already an Examination Document can form an Appendix. Appendices to submissions should be limited to material that is essential and should not contain extracts from any publication that is already an Examination Document. Any Appendices should have a contents page and be paginated throughout and hard copies should be tagged at the side. Appendices should indicate which parts are particularly pertinent and are relied on to support the case made. Where technical evidence is submitted in Appendices it must be kept brief, with a non-technical summary attached. Documents of excessive length and/or which cannot be circulated electronically may be returned.
26. No photographs should be submitted. Any large plans or diagrams in hard copy documents should be folded to A4 size and listed as Appendices.
27. The Examiner may refuse to accept and may return any additional statements or documents (including letters and press cuttings) that are not requested or referred to in this note or the Matters, Issues and Questions Paper.

Site Inspections

28. The Examiner has already visited relevant parts of the district on an unaccompanied basis, using public highways and other public rights of way to provide necessary access. He may make further visits to the district if these are necessary to understand issues in submissions.
29. The Examiner has not identified a need to visit any private land for which the consent of a landowner would be required. If a visit to any such land becomes necessary, separate arrangements would be made through the Programme Officer.

Close of the Examination

30. Once all the information necessary to come to reasoned conclusions and decisions on the issues has been gathered by the Examiner, he will write his Report. The Examination itself remains open until this is submitted to the Council. However, once the written procedure outline in this note is complete (currently anticipated to be **Wednesday 16 December 2015: Deadline 2**), the Examiner can receive no further information from any party, unless it relates to a matter on which he specifically and separately requests an additional submission to be made. Any unsolicited items of correspondence may be returned.

Submission of the Report

31. The report should be submitted to the Council during March 2016.

Changes to the Examination Programme

32. If you think that a change should be made to this paper or to the Matters, Issues and Questions Paper, please inform the PO without delay and with reasons, and the Examiner will consider your request. Do not wait for the relevant deadline(s) for responses to expire.

Closing Remarks

33. The Examiner urges everyone to:
- Make the best use of the remaining time before Deadline 1 to ensure that matters in contention are refined and limited only to matters that cannot be resolved.
 - Ensure that examination 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 remain in close contact with the PO in case the examination procedure needs to be changed.
34. The Examiner trusts that the procedure outlined in this note is clear and looks forward to receiving and considering your written submissions.

Rynd Smith

CIL Examiner

**ANNEX A:
THE PROGRAMME OFFICER**

Isabelle Hills
Shepway CIL Examination Programme Officer

Contact details:

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Folkestone, Kent CT20 2QY
Phone: 01303 853216
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Office Hours:

Mondays: 09-00 – 17-00
Tuesdays: Out of Office
Wednesdays – Fridays: 09-00 – 17-00