From Terrence Kemmann-Lane JP DipTP FRTPI MCMI, Examiner
Folkestone & Hythe District Council Community Infrastructure Levy Draft Charging Schedule
c/o Penny O'Shea Consulting

30 January 2023

Dear Mr Hammond

Further Examiner's Questions (EQ2)

Further to your responses to my question EQ1, for which thanks, I have supplementary matters to raise.

These questions relate to elements of the amended MDCS that you supplied with your answer to EQ1, firstly that deal with charges for residential development.

1. Whilst it appears that, so far as I am aware, there has been no practical confusion over what in the present schedule has simply been referred to as 'Residential development', I would like your reaction to supplementing this description by adding "(Use Class C3 Dwellinghouses)". This would mean that, in the further amended version of the schedule that accompanied your answers to my EQ1, there would be no need for, highlighted in yellow under Notes, the statement "These rates apply to senior living (age restricted) but where there is no significant element of on-site care" (because senior living is a C3 use).

   The proposal to include C3 within a residential development definition appears to resolve the issue. Therefore, we would be satisfied with this.

2. I am puzzled by the second note, highlighted in yellow, which states: "If a scheme is age restricted (55 years and above) with no associated care, there would be a premium of 10% on top of the qualifying CIL rate on the basis of CIL viability evidence". I am unsure what this is intended to mean. At face value, it appears to mean the rates would be increased by 10% if the development is for senior living (55 years and above).

   The below response was generated by Gerald Eve in response to EQ1:

   > *"We concluded that through sensitivity and an applied 20% buffer, the C3 Senior Living typology would still generate excess surplus, portraying scope to potentially increase a potential CIL premium further. However, we did not recommend a substantial increase to CIL rates, due to the potential implications to developer appetite and the impact on delivery. Instead we were of the view that the updated residential CIL rates should apply to C3 Senior Living, in line with the respective zones.*
   >
   > *We suggested that should the Council wish to apply a higher rate to the C3 Senior Living accommodation, further work is undertaken to confirm the exact definition and legal drafting to remove any uncertainty and ensure clarity for developers/ operators."*

   <u>*Planned allocation and delivery of C3 (age restricted) accommodation*</u>

   On further review of the evidence base, it would appear that the predominant future delivery of C3 (age restricted) accommodation will be on those strategic sites that are proposed to be made exempt from CIL, namely:

- Policy SS6 - The North Downs Garden settlement (Otterpool Park) (4% of total provision, equivalent to 400 units across the entire allocation for 10,000 dwellings) – subject to an outline planning application that is currently out to consultation. The Housing Strategy (Appendix 4.14) analyses the potential for c.10,000 homes but ensures that the first 8,500 of these are also sustainable as a standalone settlement if the additional homes are not constructed.
- Policy CSD9 – Sellindge (30 units) – approved Reserved Matters

Taken together the two strategic sites will deliver up to 430 C3 (age restricted) units over a 25-30 year period. When considered in the context of the needs of an ageing population, it is considered that provision planned for at Otterpool Park and Sellindge will make a material contribution to meeting corresponding demand.

Past history of C3 (age restricted) accommodation delivery across the district

There is no prior history of C3 (age restricted) accommodation being delivered anywhere across the district.

Accordingly, the discussion around whether an enhanced C3 rate could be applied in respect of age restricted housing is somewhat unnecessary in the sense that CIL receipts will not be collected from those strategic sites that will deliver C3 (age restricted) units to the market; and therefore on review and in response to the examiner's comments, we consider it is not beneficial to apply a separate rate or apply a premium to senior living.

3. If this is the intention then, a) I consider that this would need to have a separate rate for 'Senior Living' under the residential class, and b) would it not require additional formal consultation?

   It is hoped the above narrative serves to demonstrate the specific circumstances that apply to the district, namely that:

   - There is no established market for C3 (age restricted) accommodation anywhere in the district, and
   - Future (planned for) provision of C3 (age restricted) accommodation shall be provided at those strategic sites that are to be made exempt from CIL.

   In practical terms it is legitimate to question what scale of C3 (age restricted) accommodation might realistically come forward as future windfall development, taking account of the locational advantages that will be offered by Otterpool Park in particular, where residents will benefit from convenient access to everyday services and facilities, as well as other advantages to the High-Speed rail network for sustainable movement. Likewise, the clustering of C3 (age restricted) accommodation at Otterpool Park will also act as an attractor to future occupiers. It is difficult to foresee, therefore, where other C3 (age restricted) developments might come forward in other urban centres given the historic dearth of market investment in C3 (age restricted) accommodation. Therefore, on review and in response to the examiner's comments, we consider it is not beneficial or appropriate to apply a separate rate or apply a premium to senior living.

4. In addition, this does not sit well with paragraph 14.13 (and an earlier reference) in Gerald Eve's Levy Review which states:

"*However, we anticipate that the application of an exclusive premium for Senior Living, as part of Residential C3 use, would be challenging to implement. The concept would require legal consideration and further research into the supply/demand implications and alignment with the Council's vision*".

5. In any event, I am not clear about why senior living would be challenging, since I have seen a number of charging schedules that include a rate for senior living, and for extra care (C2), come to that.

   The Council has sought to explain the district-specific characteristics that apply in terms of past trends of C3 (age restricted) accommodation being delivered by the market (no activity), alongside planned for provision at the strategic sites that are to be made exempt from CIL. If an elevated rate were to be applied for C3 (age restricted) accommodation then this would only capture windfall development, of which very little or no such provision is anticipated.

6. Still on the amended MDCS, on page 7, under Table 1, there is a first Note which says, "*The stated rates apply from 1st January 2023 and are subject to annual revision on 1st January*". This troubles me because under the heading 'Background' at paragraph 1.3, in yellow highlight, is "… *will be implemented from XX*", so that there is a lack of consistency. I appreciate that the rates are not proposed to be changed from the 2022 rates, but presumably there would be an uplift due to inflation that will automatically come into effect on 1 January 2023, and the new rates cannot be brought in before the adoption of the Schedule. I am also not sure about whether the mention of annual revision at this point in the Schedule is appropriate.

   The district council publishes the applicable CIL rates to be applied from the 1st January each year. The below extracts detail the rates applied in 2022 and 2023 respectively.

CIL charging schedule Year 6 – 1st January – 31st December 2022		
Residential Uses	Price per square metre	Zone area(s)
Zone A	£0	Lydd, some parts of Folkestone
Zone B	£58.86	Romney Marsh (excluding Dungeness & Lydd), Hawkinge, some parts of Folkestone
Zone C	£117.73	Hythe, some parts of Folkestone
Zone D	£147.16	North Downs area, some parts of Folkestone
Retail & related developments (A1-A5 uses)	Price per square metre	Floorspace/ type of use proposed
Folkestone Town Centre (see map 3)	£0	Convenience and comparison retail & other development akin to retail
Rest of District	£117.73	Supermarkets, superstores and retail warehousing & other large scale development akin to retail (net retail space of **over 280 sqm**) and
	£0	Other development akin to retail (net retail selling space of **up to 280 sqm**)
Strategic & key development sites	Price per square metre	Policy area
Core Strategy Policy SS6	£0	Folkestone Harbour & foreshore
Core Strategy Policy SS7	£0	Shorncliffe Garrison
Core Strategy Policy CSD8	£0	Core Development Area New Romney Masterplan
Core Strategy Policy CSD9	£0	Strategic redevelopment Sellindge

CIL charging schedule Year 7 – 1st January – 31st December 2023		
Residential Uses	Price per square metre	Zone area(s)
Zone A	£0	Lydd, some parts of Folkestone
Zone B	£62.94	Romney Marsh (excluding Dungeness & Lydd), Hawkinge, some parts of Folkestone
Zone C	£125.88	Hythe, some parts of Folkestone
Zone D	£157.35	North Downs area, some parts of Folkestone
Retail & related developments (A1-A5 uses)	Price per square metre	Floorspace/ type of use proposed
Folkestone Town Centre (see map 3)	£0	Convenience and comparison retail & other development akin to retail
Rest of District	£125.88	Supermarkets, superstores and retail warehousing & other large scale development akin to retail (net retail space of **over 280 sqm**) and
	£0	Other development akin to retail (net retail selling space of **up to 280 sqm**)
Strategic & key development sites	Price per square metre	Policy area
Core Strategy Policy SS6	£0	Folkestone Harbour & foreshore
Core Strategy Policy SS7	£0	Shorncliffe Garrison
Core Strategy Policy CSD8	£0	Core Development Area New Romney Masterplan
Core Strategy Policy CSD9	£0	Strategic redevelopment Sellindge

The rates presented on page 7 under Table 1 references the rates that apply from 1st January 2023 by virtue of an inflationary uplift. Accounting for the inflationary uplift is the only change from the 2022 rates. The only corresponding change to be brought in following adoption of the revised CIL Charging Schedule would relate to the exemption of additional strategic sites.

7. This also raises the question of whether you intend to adopt the new Charging Schedule at the 2022 rates as shown on the MDCS, without the uplift from inflation, or whether it will take account of the inflation figures from last November.

   The 2023 rates, as presented within Table 1 of the submitted CIL Charging Schedule, take account of inflationary figures from November 2022 to be applied from 1st January 2023.

I would appreciate your comments on these matters within the next 10 working days ie by Friday 10 February 2023.

Terrence Kemmann-Lane