

LONDON BOROUGH OF BARNET COMMUNITY INFRASTRUCTURE LEVY SCHEDULE EXAMINATION

BRIEFING NOTES

1 EXAMINER

The Examiner is Jameson Bridgwater PGDipTP MRTPI.

2 PROGRAMME OFFICER

The Programme Officer [PO] is Ian Kemp. For the purposes of the examination he acts as an **impartial** officer of the Examination, under the Examiner's direction, and not as an employee of the Council.

Details of **how to contact him** up to and during the examination hearings are set out at the end of these notes. His principal functions are to:

- **liaise** with all parties to ensure the smooth running of the examination.
- ensure that all the **documents** received before the hearings are recorded and distributed.
- maintain the Examination **Document list**.
- **assist the Examiner** with all procedural and administrative matters.

He will **advise** on any programming queries and all practical and procedural points should be addressed to him. He will pass them on to the Examiner for a reply, if necessary, but carries his authority to act in accordance with the regulations

3 HEARINGS (Virtually via Teams)

The hearing will commence at 1000 on **Thursday 25 November 2021. The hearing will be carried out virtually using Teams.** At this stage it is anticipated that a single day will be sufficient. Participants will be able to take part in a Test Event shortly before the hearing, this will provide participants with an opportunity to familiarise themselves with the software although attendance will not be compulsory if participants are already confident that they are able to access and utilise the technology associated with the event. The Programme Officer will contact participants in due course to provide the details of the Test Event. The hearing will also be live streamed and a link to the event will be available on the Examination Website.

4 SCOPE OF THE EXAMINATION AND EXAMINER'S ROLE

This is to consider whether the Community Infrastructure Levy [CIL] Charging Schedule meets the requirements of the Planning Act 2008 and the relevant CIL Regulations, as amended, in respect of **legal compliance and viability**.

The examination will focus on viability. The Council should rely on evidence collected whilst preparing the schedule to demonstrate that it is viable. **Those seeking changes must demonstrate why that is not the case.**

The process of examining a CIL Schedule is similar to development plans. The Examiner considers the viability of the Schedule, having regard to the evidence available and representations submitted, rather than just objections made. The **process of Examination** Hearings is akin to a structured debate, with "Round Table"/ "Informal Hearing" sessions addressing particular topics, rather than the traditional form of public inquiry.

After the hearing sessions, the Examiner will prepare a **Report to the Council** with conclusions and decisions as to the action it needs to take with regard to the viability of the Schedule. This report is not fully binding on the Council, but it should amend the document accordingly, moving swiftly to formal adoption.

In terms of published documents DLUHC's CIL 2010 Regulations (as amended), and the online Planning Practice Guidance should help interested parties with further understanding but there is also other advice available on the DLUHC, PINs, and Council/Examination websites. Representors should seek advice from the Council or the PO if the scope of the Examination is not clear.

The Council is not expected to put forward any more substantive changes to the schedule. If, exceptionally, fundamental changes are proposed, the Council must fully explain and justify the reasons for the changes, with supporting evidence. They should also indicate the implications in terms of the viability of the Schedule and ensure that they have been subject to the same process of financial appraisal, publicity and opportunity to make representations as the submitted version.

5 PROCEDURAL QUESTIONS FOR THE COUNCIL

At the start of the Examination the Council will be asked formally:

Can the Council confirm that the Schedule has been prepared in accordance with:-

- The statutory procedures?
- The Council's Core Strategy and Infrastructure Delivery Plan?
- The consultation requirements set out in the Regulations?
- Is it supported by a viability appraisal(s)?
- Are there any fundamental procedural shortcomings?

6 PROCEDURE PRIOR TO THE OPENING OF THE HEARINGS

The Examination Hearings will be progressed in an **effective and efficient** manner, with a tight rein on the discussions and time taken. As part of that process the amount of written material should be limited to that submitted in response to the Council's consultations for the Examiner to come to informed conclusions on the issues. A **short, focussed**, hearing should lead, in turn, to a short, focussed, report.

Those who have made representations on the Schedule within the relevant time period ["representors"] should have already decided whether their views have been adequately expressed in **written form** or whether they wish to also present them

orally at a hearing session. Both methods will carry the same weight and the Examiner will have equal regard to views put orally or in writing.

Attendance at a hearing session will only be useful and helpful to the Examiner if participants can engage in a debate. Anyone participating in a hearing session must confirm attendance at the hearings by informing the PO no later than **1700 on Thursday 11 November 2021**. Arrangements for the hearing will be finalised after this time. Please indicate specifically which hearing matter/which part of your representations you wish to discuss.

The Examiner considers that there is no requirement for **further written submissions** and that the information already submitted as part of the Council's consultation process along with the oral representations will enable all areas to be fully examined. However, should parties wish to submit a further written representation this should be concise (no more than 3000 words including appendices) and be submitted via email to the PO by **1700 on Thursday 11 November 2021**.

Essentially, the Examiner needs to know the following from those making oral 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?

7 THE EXAMINATION ARRANGEMENTS AND PROCEDURE

The draft programme indicates that the hearing is likely to take one day only.

Given the virtual nature of the event the day will be arranged into 90-minute sessions. Short breaks will be taken between the sessions, with around 45 minutes for lunch, with an aim to finish no later than 1730. Mobile phones need to be switched to silent when the Examination is in session [they may be used during breaks].

It is likely that the proposed CIL charges relating to Residential including C2, C3 and C4 use classes and sui generis HMOs and other sui generis residential uses will be held over the first two sessions with the remaining issues identified in the programme being covered in the third/fourth sessions. All sessions are open to the public and the press to observe virtually through the livestream. A link to which will be placed on the Examination website:

<https://www.barnet.gov.uk/planning-and-building/planning/community-infrastructure-levy/cil-charging-schedule-review>

The sessions will take the form of **Round Table/Informal Hearing Sessions**, where several parties are present. This approach will provide an informal setting

for dealing with issues, by way of a discussion led by the Examiner. There will normally be **no formal presentation** of evidence or cross-examination.

Those attending may bring professional advocates, but there is usually only space at the hearing for one representative of each group, organisation or company [apart from the Council], though there is no objection to the representative changing if notified to the Examiner and others present at the time.

Advocates/legal representatives take part as a normal participant/member of a team, rather than in a traditional advocate's role, as no cross examination or opening/closing statements will normally be permitted.

The discussion will focus **on the issues in the programme** and any additional points arising from the written submissions in response to the Council's final consultation.

Those present will be asked to introduce themselves. The Examiner may then make a **brief statement** as to his understanding of the issues under discussion and then **invite participants** to make their contribution in response to the points raised starting usually, but not exclusively, with the Council.

The hearing will then progress with the Examiner drawing those present into the discussion in such a way as to enable him to gain the information necessary to come to a decision on the relevant matters. There should be opportunities within the discussion to ask questions of the other parties, with the Examiner's approval, and all involved may join in the discussion, when invited to do so.

8 SITE VISITS

The Examiner will visit relevant parts of the area, unaccompanied, if necessary.

9 CLOSE OF THE EXAMINATION

Once all the information necessary to come to reasoned conclusions and decisions on the issues has been gathered by the Examiner, he will write the Report. The Examination itself **remains open** until this is submitted to the Council. However, once the hearing sessions part of the Examination is completed the Examiner can receive **no further information** from any party, unless it is a matter on which he specifically requests. Any unsolicited items sent in will be returned.

10 SUBMISSION OF THE REPORT TO THE COUNCIL

It is the Examiner's aim to submit the report to the Council during January/February 2022.

11 EXAMINATION PROGRAMME

The purpose of the issues listed for each session is **to focus attention** where the Examiner is seeking a fuller understanding of the comments and respective positions. If you think that a programme or issue **change** should be made, please inform the PO without delay, but with reasons, and the Examiner will consider it.

12 CLOSING REMARKS

The Examiner urges everyone to:

- Make the best use of the remaining time before the start of the hearing sessions to prepare for fully participating in the virtual 'round table discussions'.
- Ensure that the timescales and deadlines are adhered to; otherwise examination attendance may have to be rearranged or curtailed at best.
- Be aware of the Examination Documents, the supporting evidence and any other relevant material produced by the Council.
- Keep looking at the website and/or in contact with the PO.

The Examiner looks forward to meeting everyone in November 2021.

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