

Chris Banks
Banks Solutions
64 Lavinia Way, East Preston
West Sussex
BN16 1EF
United Kingdom

14 Regent's Wharf
All Saints Street
London N1 9RL

020 7837 4477
london@nlplanning.com

nlplanning.com

Date 1 June 2015
Our ref 13901/NT/ABe/9049379v2
Your ref

Dear Mr Banks,

Chichester District Council: Community Infrastructure Levy Charging Schedule Examination: Examiner's Main Issues and Questions

Further to the Examiner's letter (19 April 2015) we set out below, on behalf of our client, Commercial Estates Group as well as the Westhampnett / North East Chichester Strategic site landowners (D C Heaver and Eurequity Limited) responses to the Examiner's Main Issues and Questions ahead of the Chichester Community Infrastructure Levy (CIL) Charging Schedule Examination.

Commercial Estates Group and the landowners (CEG) are promoting the delivery of the North East Chichester / Westhampnett strategic development site and have submitted an outline planning application for part of this development site.

CEG has taken an active role in the emerging CIL Charging Schedule to date, submitting comments to both the Preliminary Draft Charging Schedule and the Draft Charging Schedule. In particular these comments have focused on concerns surrounding the proposed £120sq/m² residential rate and the application of this to strategic sites like Westhampnett. CEG's responses have emphasised the need to ensure ongoing viability for strategic sites in Chichester.

CEG therefore welcomes the opportunity to provide further comment to the Main Issues and Questions. To assist the Examiner, we append to this letter additional comments and evidence which we consider pertinent to the Examination. We comment on Q 2,3,12 and 14.

CEG also would be pleased to take part in the hearing itself and at this stage it is intended that Nick Thompson, Senior Director at Nathaniel Lichfield & Partners will attend the residential hearing sessions on 9 June to assist the Examiner. Subject to the Council's response prior to the Examination attendance may not be required but we will keep this under review.

If you need any further information in the meantime please do not hesitate to contact Nick Thompson or myself.



Nathaniel Lichfield
& Partners

Planning. Design. Economics.

Yours sincerely

A handwritten signature in blue ink that reads 'Alison Bembenek'.

Alison Bembenek
Senior Planner

Cc

Jon Allen
DC Heaver
Jon White
Luke Challenger

Commercial Estate Group

Brookbanks
Nexus Planning



Chichester CIL DCS

Appendix 1 – Additional Comments by NLP on behalf of CEG/ as well as the Westhampnett / North East Chichester Strategic site landowners (D C Heaver and Eurequity Limited)

General Issues

Reg 123 and S106 Contributions

12. Does the draft Reg 123 list at Annex B to the Draft Charging Schedule provide sufficient clarity on future infrastructure to be funded by CIL or secured through S106/ S278 agreements to avoid ‘double dipping’?

No.

The Examiner is right to raise the question of whether the draft 123 list is sufficiently clear as to where funding will come from.

The draft 123 list and draft Planning Obligations & Affordable Housing Supplementary Planning Document are open to ambiguity and the risk of ‘double dipping’ does exist. An example of this is in relation to transport infrastructure where the draft 123 list states that,

“Infrastructure Projects to be funded at least in part by the CIL

Transport: Improvements to the local road network other than site specific mitigation requirements”

Whilst the draft SPD states in Paragraph 4.47 that planning obligations are likely to be sought for:

“Works required to secure safe access and egress from the development site to the adjoining highway network or to mitigate the direct impact of the development on the off-site road network.”

Reading these in isolation, contributions to the Westhampnett roundabout i.e. a site specific mitigation requirement/ to mitigate a direct impact from the Westhampnett development would be sought under S106.

Yet the Council’s clarification to the Examiner in response to his Preliminary Matters and Questions (in response to Question 13 – document reference CDC-CIL-ED-1-13) lists ‘Westhampnett Road Junctions’ under CIL, assigning a cost of £2,100,000 to this infrastructure item.

On this basis the Council intends that contributions to Westhampnett roundabout will be funded by CIL rather than S106 monies.

As such the Council’s drafting is currently unclear and could lead to ‘double dipping’. Guidance in the PPG is clear, if the Council intends to fund Westhampnett Road Junctions via CIL, then as charging authority they “should not seek any planning obligations in relation to that infrastructure” (PPG, Para. 098, Reference ID: 25-098-20140612).

To provide the needed clarity on this the Council’s draft 123 list should be amended to add the known transport infrastructure items listed in their response to Question 13 (document reference CDC-CIL-ED-1-13) should be listed in full.



The draft 123 list would read as follows (our amendments **in bold**):

*Transport: Improvements to the local road network other than site specific mitigation requirements, **including:***

Smarter choices

A259 Bus lane

Real Time Public Information screensetc

Bus/rail interchange improvements

Portfield cycle route

Summersdale cycle route

Oving cycle route

Chichester-Selsey cycle route

Selsey-Witterings cycle route

Gap filling to complete Cycle network

Variable Message Signing (VMS)

Northgate Gyratory

Southgate Gyratory

Westhampnett Road junctions

A286 / B2201 Selsey Tram roundabout

B2145 / B2166 junction improvement

Air Quality Action Plan measures

Bus service enhancements

Hunston Road cycle scheme

Oving cycle route

Not yet identified.

Overall, this does not challenge nor change the R123 list; it will just make the scope/Council's intentions clear.

CEG has concerns with the Council's current approach to the A27 Chichester Bypass junction improvements S106/278 contributions which need to be clarified. We discuss this further in response to Question 2 below.

Strategic Development Locations

2. Are the appraisals of the strategic development locations (SDLs) at Shopwyke, Tangmere, West of Chichester and Westhampnett/ North East Chichester in the Viability Study appropriate, in particular in respect of their assumptions for:



a Residual S106 costs?

The Council assumes in its appraisal a 'residual S106' cost of £8,000 per dwelling for strategic development locations. This cost is critical to understanding post-introduction of CIL viability of schemes. CEG is therefore concerned that it remains unclear what 'residual 106 costs' would be and so it cannot be clear, at this time, whether 'residual S106 costs' would result in a viable scheme.

As outlined above in response to MIQ Question 12 there is currently insufficient clarity in the list of items in the draft 123 list and draft planning obligations SPD to provide certainty that transport infrastructure items will be funded via CIL and not S106 monies. The amendments we suggest above in relation to the draft 123 list would address this point. Without the amendment there is the risk that CEG fund transport infrastructure items via CIL, but could still be sought under S106 – making 'residual 106 costs' unknown and potentially creating a scheme that is unviable (as well as 'double dipping').

In addition to this, CEG is also concerned in relation to the approach of apportionment of the 'A27 Chichester Bypass junction improvements' costs. This infrastructure item has a relatively significant cost associated with it (£12.8 million, or £11.7 million taking into account the Shopwyke contribution). Understanding how this cost will be apportioned is fundamental to understanding overall viability, yet the Council's clarification table (document ref: CDC-CIL-ED-1-13) states that the Council is currently "*undertaking work to establish contributions methodology*". In the absence of this, the effect on scheme viability remains unclear.

If the Council takes the approach of apportioning this cost across all housing developments in Chichester (for example using Local Plan figures - in this regard we note that the Inspector's report published in May 2015 includes the range of 6078 – 7282 houses over the period 2014-2029) this would provide a clear cost per unit to understand 'residual S106' costs and to understand the impact on viability.

The Council need to clarify their 'contributions methodology', otherwise strategic sites like Westhampnett cannot be assured that the 'residual S106 costs' result in a viable scheme.

Regulation 122 of the CIL Regulations (as amended) requires planning obligations to be:

- a) necessary to make the development acceptable in planning terms:*
- b) directly related to the development; and*
- c) fairly and reasonable related in scale and kind to the development.*

The apportionment of the A27 bypass must have regard to this legislation and be scaled appropriately.

The Council could resolve this uncertainty by confirming that:

- 1 apportionment will apply along the lines set out above; and
- 2 this is the only appropriate approach given R122 requirements.

3. In the light of the answers to question 2, does the available evidence demonstrate that the SDLs would be viably able to support the proposed charge of £120psm and, given the importance of the SDLs to meeting the district's future housing requirements, whether or not the proposed charge would put at risk the overall development of the area?



In view of remaining concerns outlined above. CEG remains concerned that there is insufficient clarity to demonstrate that the SDLs would be viably able to support the proposed charge of £120psm. Given the importance of the SDLs to meeting the district's future housing requirements, certainty is required so as not to put at risk the overall development of the area.

We hope within this note we provide the Council and Examiner with a positive way forward for addressing CEG's concerns.

Instalments Policy

14. In the light of the CIL Regulations and the proposed revisions to the Chichester CIL Payments by Instalments Policy in the Regulation 19(1) Statement (CIL-03), does the evidence show whether or not the proposed revised policy would put at risk the viability of large development schemes, the delivery of which would be phased over a longer period of time?

CEG previously welcomed the use of an instalment policy that would assist in spreading the cost of the CIL charge so reducing the burden on developers, particularly at the early stages of the development, but encouraged the Council to do more to help developers.

CEG therefore welcomes the amended instalment policy which it considers to be a helpful approach, recognising the expensive upfront costs for developers, particularly so on strategic sites as noted above, where the initial costs that arise before house building can start are so high.