

Independent Examination of Solihull Council COMMUNITY INFRASTRUCTURE LEVY DRAFT CHARGING SCHEDULE

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Dear Miss Jones,

Solihull CIL Draft Charging Schedule Examination

As you know, I have been appointed as the examiner for the above, which was submitted on 27 June 2014, and have now taken a first look at the various documents. As a result, I am writing to advise that, in my judgement, due to the outstanding legal issues relating to the Council's Local Plan (LP) and specifically the judge's decision that Policy P5, dealing with the overall new housing requirement for the plan period, must be remitted for further consideration, it is not yet possible for me to progress the examination to the stage of arranging hearings to consider the issues arising from representations and any other questions that I may have.

Until a full, as distinct from partial, and up to date plan is in place it is not possible or practical for the necessary viability testing of the Council's evidence supporting the proposed CIL rates to be carried out as an essential part of my examination. This is so as I must consider whether the rates put forward would put at risk the delivery of the scale and general locations of development in the LP, including in respect of the necessary associated infrastructure.

Given that a CIL examination cannot reopen the issue of soundness in relation to infrastructure provision and therefore cannot separately consider what additional infrastructure might (or might not) be necessary to deliver any increased level of new housing, the CIL examination can only realistically be completed once there is a full and up to date plan in place. It must therefore follow rather than precede the final resolution of the policy P5 and related issues in the LP context.

As I understand it, the Council is currently seeking leave to appeal the judge's decision of 15 May 2014. If that is allowed and the subsequent appeal succeeds it would, of course, be possible for the CIL examination to proceed to hearings as soon as possible. If not, and those parts of the LP that are subject to the judgement have to be remitted for further consideration, in whatever form, then it will be necessary for the CIL hearings to await the adoption of the new/revised version of the LP before taking place; at the earliest, the hearings could not commence until the LP examination had been completed. This is so that the testing process can be suitably and satisfactorily conducted in the context of a complete, as distinct from partial LP, including the overall number of new homes and the associated infrastructure necessary for delivery over the plan period.

I note from the Council's Background Paper (SD008) (June 2014) that the Council has received legal advice, which has not been made available to me, indicating that, notwithstanding the above, the CIL schedule may still be submitted and I see no reason at this stage for it to be withdrawn, unless the Council wishes to do so in the light of the expected delay. However, I consider that the examination must be suspended pending the final outcome of the LP legal process referred to above, as an independent CIL examination simply cannot be conducted satisfactorily to meet the tests that I have been appointed to apply in all the present circumstances.

Therefore, I shall not be able to take any further action in respect of the CIL examination process until such time as the Council is able to advise, via the Programme Officer, that there has been a significant change in circumstances, such as the success of their appeal. If and when a significant change occurs the process can resume and I will consider the matter afresh.

As a matter of courtesy, I invite you to confirm in writing your acceptance for this course of action. A copy of this letter and the reply will then be placed on the examination website as soon as possible and the Programme Officer will also send electronic copies to all those who have made representations on the draft schedule.

Yours faithfully,

N A Payne, Examiner