



## **Caerphilly County Borough Council and Merthyr Tydfil County Borough Council**

### **Draft Community Infrastructure Levy (CIL) Joint Examination**

### **Hearing Session Statement – Procedural matters (Planning Act 2008 – Section 211-212 Declaration)**

### **Examination January 2014**

**Caerphilly County Borough Council Submission:**

Examination Statement reference :

ES1

Submission date :

January 2014

## **Hearing Session Statement – Procedural matters**

### **(Planning Act 2008 – Section 211-212 Declaration)**

#### **1 Introduction**

- 1.1 This Hearing Statement has been prepared to illustrate to the CIL Examiner (Mr Philip Staddon) how Caerphilly County Borough Council has complied with the appropriate statutory requirements and has used appropriate available evidence to inform the preparation of its Community Infrastructure Levy (CIL) Draft Charging Schedule.
- 1.2 In accordance with Section 212 of the Planning Act 2008, the draft charging schedule submitted to the Examiner must be accompanied by a declaration (approved under subsection (5) or (6) of the Planning Act 2008) that:
  - a) the Charging Authority has complied with the requirements of Part 11 of the Planning Act and the Community Infrastructure Levy Regulations 2010 as amended by the CIL Amendment Regulations 2011, 2012 and 2013 (including the requirements to have regard to the matters listed in section 211(2) and (4) of the Planning Act 2008);
  - b) the Charging Authority has used appropriate available evidence to inform the Draft Charging Schedule;
  - c) any other matters prescribed by the CIL Regulations 2010 as amended have been dealt with
- 1.3 A copy of the *Draft Charging Schedule: Planning Act 2008 – Section 211 and 212 Declaration* (**Reference CCD.3**), together with a copy of the Council Report (**Reference CCD.4**), which was to be considered by Caerphilly County Borough Council at their meeting on the 19 November 2013, was submitted to the CIL Examiner.

#### **2 Formal Consideration by Council**

- 2.1 In accordance with Section 212 of the Planning Act 2008, the charging authority i.e. Caerphilly County Borough Council must approve the declaration at a meeting of the authority and by a majority of votes of members present.
- 2.2 *The Draft Charging Schedule: Planning Act 2008 – Section 211 and 212 Declaration* was considered at a Full Meeting of the Council on the 19<sup>th</sup> November 2013 (refer to Appendix 1), where it was unanimously agreed by a show of hands.
- 2.3 As part of this declaration the Council gave an undertaking to provide a more detailed Examination Statement demonstrating how the Council has complied with the appropriate Legislation and Regulations. This is provided at Appendix 2 of this Examination Statement.

## **Community Infrastructure Levy – Draft Charging Schedule:**

### **Planning Act 2008 – Section 211 and 212 Declaration**

#### **1 Introduction**

1.1 In accordance with Section 212 of the Planning Act 2008, this declaration confirms that Caerphilly County Borough Council has complied with the appropriate statutory requirements and has used appropriate available evidence to inform the preparation of its Community Infrastructure Levy (CIL) Draft Charging Schedule.

#### **2 Declaration**

2.1 Caerphilly County Borough Council declares that:

- a) the Charging Authority has complied with the requirements of Part 11 of the Planning Act and the Community Infrastructure Levy Regulations 2010 as amended by the CIL Amendment Regulations 2011, 2012 and 2013 (including the requirements to have regard to the matters listed in section 211(2) and (4) of the Planning Act 2008);
- b) the Charging Authority has used appropriate available evidence to inform the Draft Charging Schedule;
- c) any other matters prescribed by the CIL Regulations 2010 as amended have been dealt with.

2.2 This declaration was reported to a Full Meeting of Caerphilly County Borough Council that was held on the 19 November 2013.

2.3 The Council will provide a detailed Examination Statement demonstrating how the Council has complied with the appropriate Legislation and Regulations.

#### **3 Available Appropriate Evidence**

##### **Development Plan**

3.1 The Caerphilly County Borough Local Development Plan was adopted by Council on 23<sup>rd</sup> November 2010 and covers the period up to 2021. On the 8 October 2013, the Council resolved to move to the first review of the plan, however this CIL is designed to support the up to date adopted development plan. The CIL will be revised in due course in tandem with the LDP.

##### *Infrastructure Assessments*

3.4 Through the preparation and Examination of the Council's development plan a thorough understanding of infrastructure needs has been established and independently

tested. This information has been brought together and updated through the preparation of the CIL Charging Schedule. The Infrastructure Assessment Report (June 2012) sets out the infrastructure required to support the delivery of the Adopted LDP, the costs of the identified infrastructure and the funding gap.

### *Viability Assessment*

3.5 The Council has undertaken detailed viability analysis undertaken by Council Officers and the District Valuer Services. These assessments have examined the impact of a range of CIL rates on the types of development expected to come forward in the Council's area in the period up to 2021. The viability assessments have used up-to-date market information and established viability methodologies using industry standard sources of information such as the Valuation Office Agency, Land Registry and Building Cost Information Service (BCIS) and as such are considered robust evidence.

Signed:

Dated:20 November 2013

A handwritten signature in black ink that reads "Pauline Elliott". The signature is written in a cursive style with a large, prominent 'P' and 'E'.

**Pauline Elliott, Head of Regeneration & Planning  
Caerphilly County Borough Council**

Reg	Para	Sub1	Sub2	Requirement	Complied	Exam Doc		
<b>Compliance with CIL Regulations</b>								
<b>12</b>	<b>Format and content of charging schedules</b>							
12	2	A draft charging schedule submitted for examination in accordance with section 212 of PA 2008 must contain					Draft Charging Schedule	
		A	the name of the charging authority		Yes (Cover)			
		B	the rates (set at pounds per square metre) at which CIL is to be chargeable in the authority's area		Yes (Tables 1 and 2)			
		C	where a charging authority sets differential rates in accordance with regulation 13(1)(a), a map which			Yes		
			I	identifies the location and boundaries of the zones		Yes (Appendix A)		
			II	is reproduced from, or based on, an Ordnance Survey map,		Yes (Appendix A)		
			III	shows National Grid lines and reference numbers, and		No (Appendix A) Amended versions with grid lines sent 20/11/13		
		IV	includes an explanation of any symbol or notation which it uses;		Yes (Appendix A)			
		D	an explanation of how the chargeable amount will be calculated			Yes (Paragraph 1.4)		
		3	A charging schedule approved by a charging authority must, in addition to the contents mentioned in paragraph (2), contain			Requirement for Implemented Schedule		
A	the date on which the charging schedule was approved		Requirement for Implemented Schedule					
B	the date on which the charging schedule takes effect		Requirement for Implemented Schedule					

Reg	Para	Sub1	Sub2	Requirement	Complied	Exam Doc
		C		a statement that it has been issued, approved and published in accordance with these Regulations and Part 11 of PA 2008	Requirement for Implemented Schedule. Report to Council 19.11.2013	
<b>15</b>	<b>Consultation on a preliminary draft charging schedule</b>					
15	1	A charging authority which proposes to issue or revise a charging schedule must prepare a preliminary draft charging schedule for consultation.			Yes (Published October 2012)	Draft Charging Schedule
	2	The charging authority must				
		A	send a copy of the preliminary draft to each of the consultation bodies; and		Yes (Consultation letters and documents sent 17 October 2012)	Consultation letters
		B	invite each of those bodies to make representations on the preliminary draft.		Yes (Set out in consultation letters)	
	4	For a charging authority in Wales, the consultation bodies are				
		A	each of the following whose area is in or adjoins the charging authority's area			
			I	a local planning authority within the meaning of section 78 of PCPA 2004	Yes (Consulted Cardiff City Council, RCT CBC, Merthyr CBC, Blaenau Gwent CBC, Torfaen CBC, Newport CBC and BBNP as part of consultation)	Consultation letters
			II	a local planning authority within the meaning of section 37 of PCPA 2004	No Requirement (English authorities)	
		B	any other person exercising the functions of a local planning authority (within the meaning of TCPA 1990) for an area within, or which adjoins, the charging authority's area; and		None	
		C	the Welsh Ministers		Yes (Consulted Welsh Government as part of consultation)	Consultation letters
	5	The charging authority must also invite representations on the preliminary draft from				

Reg	Para	Sub1	Sub2	Requirement	Complied	Exam Doc
		A		persons who are resident or carrying on business in its area; and	Yes (consultation contacts for business and voluntary sector sought prior to consultation period. Contact consulted as part of the consultation exercise. Developer and business workshops organised as part of the consultation process, but business workshop did not go ahead due to low take up.	
		B		such of the following as the charging authority consider appropriate		
			I	voluntary bodies some or all of whose activities benefit the charging authority's area, and		
			II	bodies which represent the interests of persons carrying on business in the charging authority's area		
	6	The charging authority must make such arrangements as it considers appropriate for inviting representations under paragraph (5).			Consultation letters and notices set out representation process, inviting comments.	Consultation letters and Notices
	7	The charging authority must take into account any representations made to it under this regulation before it publishes a draft of the charging schedule for examination in accordance with section 212 of PA 2008			Yes (details set out in Preliminary Draft Charging Schedule – Report of Consultation)	Preliminary Draft Charging Schedule – Report of Consultation
<b>16</b>	<b>Publication of a draft charging schedule</b>					
16	1	Before submitting a draft charging schedule for examination in accordance with section 212 of PA 2008, the charging authority must				

Reg	Para	Sub1	Sub2	Requirement	Complied	Exam Doc
		A		make a copy of the draft charging schedule, the relevant evidence and a statement of the representations procedure available for inspection—	Yes (Published and consulted on 20 March 2013)	Consultation letters and Notices
	I		at its principal office, and			
	II		at such other places within its area as it considers appropriate;			
		B		publish on its website	Yes (Set up to coincide with the consultation start on 20 March 2013)	
	I		the draft charging schedule			
	II		the relevant evidence (to the extent that it is practicable to do so),			
	III		a statement of the representations procedure, and			
			IV	a statement of the fact that the draft charging schedule and relevant evidence are available for inspection and of the places at which they can be inspected;		
		C		send to each of the consultation bodies	Yes (Sent on 20 March 2013)	Consultation letters
	I		a copy of the draft charging schedule, and			
	II		a statement of the representations procedure; and			
		D		give by local advertisement notice which sets out	Yes (Notices included in Caerphilly Campaign and Western Mail)	Press notices
	I		a statement of the representations procedure, and			
	II		a statement of the fact that the draft charging schedule and relevant evidence are available for inspection and of the places at which they can be inspected			



Reg	Para	Sub1	Sub2	Requirement	Complied	Exam Doc
	2	In this regulation “statement of the representations procedure” means a statement specifying				
		A	the period within which representations about the draft charging schedule must be made in accordance with regulation 17(2)(a);		Yes (Set out in consultation letters and Notices)	Consultation letters and Notices
		B	the address to which, and the name of the person (if any) to whom, representations about the draft charging schedule must be made in accordance with regulation 17(2)(b)			
		C	that representations may be made in writing or by way of electronic communications		Yes (Set out in consultation letters and Notices)	Consultation letters and Notices
		D	that persons making representations may request the right to be heard by the examiner; and			
		E	that representations may be accompanied by a request to be notified at a specified address of any of the following			
		I	that the draft charging schedule has been submitted to the examiner in accordance with section 212 of PA 2008			
		II	the publication of the recommendations of the examiner and the reasons for those recommendations, and			
		III	the approval of the charging schedule by the charging authority			
<b>17</b>	<b>Representations relating to a draft charging schedule</b>					
17	1	Any person may make representations about a draft charging schedule which a charging authority proposes to submit to the examiner			Provision set out in Consultation letters and Notices	Consultation letters and Notices

Reg	Para	Sub1	Sub2	Requirement	Complied	Exam Doc
	2	Any such representations must be				
		A	made within the period which the charging authority specifies for the purposes of this paragraph; and		Yes (submitted Representations)	Submitted representations
		B	sent to the address, and if the charging authority think it appropriate to specify a person, the person, which the charging authority specifies for the purposes of this paragraph			
	3	The period which the charging authority specifies for the purposes of paragraph (2) must be a period of not less than four weeks starting on the day on which notice given pursuant to regulation 16(1)(d) is first published			6 Week Consultation period	Consultation letters and Notices
	4	A person who has made representations about a draft charging schedule may withdraw those representations at any time by giving notice in writing to the charging authority			Ongoing provision for Representor	
<b>19</b>	<b>Submission of documents and information to the examiner</b>					
19	1	The charging authority must submit the following to the examiner				
		A	the draft charging schedule		Yes	Submitted Document
		B	a statement setting out		Yes	Draft Charging Schedule Report of Consultation
		I	if representations were made in accordance with regulation 17, the number of representations made and a summary of the main issues raised by the representations, OR			
		II	that no such representations were made;			
		C	copies of any representations made in accordance with regulation 17		Yes	Submitted Documents

Reg	Para	Sub1	Sub2	Requirement	Complied	Exam Doc
		D		where the charging authority modified the draft charging schedule after it was published in accordance with regulation 16, a statement of modifications; and	No modifications made.	
		E		copies of the relevant evidence	Yes	Viability Report, supplemented by Preliminary Charging Schedule documentation
	2	Of the documents and statements mentioned in paragraph (1)			Yes	Submitted Documents
		A		a copy of each must be sent in paper form; and		
		B		a copy of those mentioned in paragraph (1)(a), (b) and (d) and, to the extent that it is practicable to do so, of those mentioned in paragraph (1)(c) and (e), must be sent electronically.		
	3	As soon as practicable after a charging authority submits a draft charging schedule to the examiner it must				
		A		make available at the places where the documents mentioned in regulation 16(1)(a) were made available, a copy of the draft charging schedule and of each of the documents mentioned in paragraph (1)	Yes	

Reg	Para	Sub1	Sub2	Requirement	Complied	Exam Doc
		B		publish on its website	Yes. Dedicated Examination Web Site Established. Documents available at deposit locations.	
			I	the draft charging schedule and the documents mentioned in paragraph (1)(a), (b) and (d),		
			II	any of the documents mentioned in paragraph (1)(c) and (e) which it is practicable to so publish, and		
			III	a statement of the fact that a copy of the draft charging schedule and of each of the documents mentioned in paragraph (1) are available for inspection and of the places at which they can be inspected; and		
		C		give notice to those persons who requested to be notified of the submission of the draft charging schedule to the examiner that the draft has been so submitted.	No Requests Received, however all respondents notified by letter or e mail 8 November 2013	
	4			Where the charging authority modified the draft charging schedule after it was published in accordance with regulation 16, the charging authority must	No Modifications made	
		A		send a copy of the statement of modifications to each of the consultation bodies invited to make representations under regulation 15; and		
		B		publish the statement of modifications on its website		
	5			The charging authority must comply with paragraph (4) before submitting to the examiner the documents mentioned in paragraph (1)."	No Modifications made	
<b>20</b>	<b>Consideration of representations by examiner</b>					
	The examiner must consider any representations made in accordance with regulation 17 before complying with section 212(7) of PA 2008.				Inspector Requirement	

Reg	Para	Sub1	Sub2	Requirement	Complied	Exam Doc	
<b>21</b>	<b>CIL examination: right to be heard</b>						
	1	A person who makes representations about a draft charging schedule in accordance with regulation 17 must (if the person so requests) be heard by the examiner.			Representor provision		
	2	A request under paragraph (1) must be submitted to the charging authority in writing before the end of the period the charging authority specifies for the purposes of regulation 17(2).			Representor requirement	3 received but authority requested clarification from representors on 20 November.	
	3	Where a charging authority modifies a draft charging schedule after it is published in accordance with regulation 16, any person may request to be heard by the examiner in relation to those modifications.			No Modifications made		
	4	The right to be heard under paragraph (3) applies only in relation to the modifications made to the draft charging schedule as set out in the statement of modifications.			Representor requirement		
	5	A request under paragraph (3) must—					
		A	be submitted to the charging authority in writing before the end of the period of four weeks beginning with the day on which the draft charging schedule is submitted to the examiner in accordance with regulation 19(1); and			Representor requirement	
		B	include details of the modifications (by reference to the statement of modifications) on which the person wishes to be heard.			Representor requirement	
	6	The charging authority must submit a copy of each request it receives under paragraph (3) to the examiner as soon as practicable after the end of the period mentioned in paragraph (5)(a).			None received		

Reg	Para	Sub1	Sub2	Requirement	Complied	Exam Doc
	7			A person who has made a request to be heard under paragraph (3) may withdraw that request at any time before the opening of the examination by giving notice in writing to the charging authority.	Representor provision	
	8			Where a person has submitted a request to be heard by the examiner, the charging authority must—		
		A		publish the matters mentioned in paragraph (9) on its website;	Press Notice / Web Site	
		B		notify the following of those matters—		
			i	any person who has made a representation in accordance with regulation 17, and not withdrawn that representation, of those matters,	By 17 December	
			ii	any person who has made a request to be heard under paragraph (3); and	By 17 December	
		C		give notice by local advertisement of those matters.	Press Notice (Notices included in Caerphilly Campaign and Western Mail)	11 /12 December 2013
	9			The matters referred to in paragraph (8) are—	Press Notice / Web Site	
		A		the time and place at which the examination is to be held; and	Press Notice / Web Site	
		B		the name of the examiner.	Press Notice / Web site	
	10			Subject to paragraph (11), the charging authority must comply with the requirements set out in paragraph (8) at least four weeks before the opening of the examination.	Press Notice issued 11 /12 December 2013	
	11			Where a person has made a request to be heard by the examiner under paragraph (3), the charging authority must comply with the requirements in paragraph (8) at least two weeks before the opening of the examination.	No Modifications made	
	12			Without prejudice to section 212(9) of PA 2008—		

Reg	Para	Sub1	Sub2	Requirement	Complied	Exam Doc	
		A		it is for the examiner to decide how the hearing is to be conducted;	Hearing Session		
		B		the examiner may, in particular, decide the amount of time to be allowed at an examination for the hearing of representations;	14/15 January 2014		
		C		the examiner may refuse to allow representations to be made at the hearing if the examiner considers that the representations are irrelevant, frivolous, vexatious or repetitious.	Inspector Requirement		
22	Joint Examinations						
	1	The examiner's recommendations and reasons for those recommendations must be submitted in writing to the charging authority.			Inspector Requirement		
	2	The charging authority must comply with section 212(8) of PA 2008 (publication of recommendations and reasons) as soon as practicable after the day on which it receives the recommendations and reasons.			Future Requirement		
	3	When the charging authority complies with section 212(8) of PA 2008 it must—			Future Requirement		
		A		make the recommendations and reasons available for inspection at the places at which the documents mentioned in regulation 16(1)(a) were made available;	Future Requirement		
		B		publish the recommendations and reasons on its website; and	Future Requirement		
		C		give notice to those persons who requested to be notified of the publication of the examiner's recommendations and reasons that they have been so published.	Future Requirement		
23	Publication of the examiner's recommendations						

Reg	Para	Sub1	Sub2	Requirement	Complied	Exam Doc
				Post Examination Requirements	Future Requirement	
<b>Planning Act 2008</b>						
21	Charging schedule: examination					
2	1	Before approving a charging schedule a charging authority must appoint a person ("the examiner") to examine a draft.			Requested PINS 31 October 2013  Philip Staddon BSc Dip MBA MRTPI Appointed	
	2	The charging authority must appoint someone who, in the opinion of the authority				
	A	is independent of the charging authority, and				
	B	has appropriate qualifications and experience.				
	3	The charging authority may, with the agreement of the examiner, appoint persons to assist the examiner			Examination provision. Programme Officer appointed.	
	4	The draft submitted to the examiner must be accompanied by a declaration (approved under subsection (5) or (6))—			Draft submitted to PINS. Declaration formally approved by Council 19 November 2013. Approved Declaration submitted to PINS 20 November 2013.	The Section 211/212 Declaration
	A	that the charging authority has complied with the requirements of this Part and CIL regulations (including the requirements to have regard to the matters listed in section 211(2) and (4)),		Declaration includes this.		
	B	that the charging authority has used appropriate available evidence to inform the draft charging schedule, and		Declaration includes this.		
	C	dealing with any other matter prescribed by CIL regulations		Declaration includes this.		
	5	A charging authority (other than the Mayor of London) must approve the declaration			Unanimously Approved at Full Council Meeting 19 November	Committee Report and



Reg	Para	Sub1	Sub2	Requirement	Complied	Exam Doc
		A		at a meeting of the authority, and	2013	Minute
		B		by a majority of votes of members present.		
	6			The Mayor of London must approve the declaration personally.	No Requirement	
	7			The examiner must consider the matters listed in subsection (4) and	Examiner Duty	Examiner's Report
		A		recommend that the draft charging schedule be approved, rejected or approved with specified modifications, and		
		B		give reasons for the recommendations		
	8			The charging authority must publish the recommendations and reasons	Future Requirement	
	9			CIL regulations must require a charging authority to allow anyone who makes representations about a draft charging schedule to be heard by the examiner; and the regulations may make provision about timing and procedure	No Requirement (Requirement for CIL Regulations)	
	10			CIL regulations may make provision for examiners to reconsider their decisions with a view to correcting errors (before or after the approval of a charging schedule).	No Requirement	
	11			The charging authority may withdraw a draft	No Requirement	