

## ROYAL BOROUGH OF KENSINGTON AND CHELSEA

### Community Infrastructure Levy Examination

**Examiner:** Philip Staddon BSc, Dip, MBA, MRTPI

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Mr. Jonathan Bore  
Executive Director Planning and Borough Development  
Royal Borough of Kensington and Chelsea  
Kensington Town Hall  
Hornton Street  
London W8 7NX

29 July 2014

Dear Mr. Bore,

#### **Royal Borough of Kensington and Chelsea - Community Infrastructure Levy Independent Examination**

I refer to your letter of 21 July 2014 and to the substantial additional material appended to it. Your letter, along with your earlier letter of 2 July, creates some difficulties for my examination. I will explain those difficulties and set out a suggested way forward to conclude this difficult and complex examination.

You will recall that I set out the manner in which I intended to conduct the examination through my Examiner's Note and the associated Agenda (both dated 9 June 2014). In the Examiner's Note, at paragraph 3.8, I stated "*After the Hearing, I will not be accepting further evidence unless I have specifically requested it. I will then prepare and submit my report based upon my examination of the evidence.*" As you know, I did request further information in the form of a short clarification report to explain how the CIL rates had been derived from a seemingly massive array of appraisals and sensitivity tests, as this could not be discerned from the submitted evidence.

As a courtesy, I advised Ms Shearing of the summary conclusions of my examination and asked whether the Council wished me to submit my report or whether the Council wished to exercise the right to withdraw. Your letter of 2 July did not opt for either of the two options but alleged 'failings in procedures' and sought to introduce fresh evidence (after the close of the examination hearing). I responded to you by letter dated 7 July 2014, addressing each of your points and, having reflected on the matter, offered a further option of examination suspension coupled with the pursuit of formal modifications (to address my identified concerns) for your consideration. Your latest response (dated 21 July 2014) is now seeking to present further new evidence (after the close of the examination Hearing).

The difficulties for my examination are threefold:

- The Council is seeking to introduce substantial new evidence after the close of the examination Hearing.
- The new evidence, particularly on the central issue of affordable housing, appears to be seeking to justify an approach that is different to that stated in the Council's substantive CIL examination evidence.
- None of this new evidence has been placed in the public domain and been open to inspection and scrutiny.

As you will be aware, although I am under no obligation to consider any of this additional evidence, my letter of 7 July sought to be flexible and pragmatic and offered a further option for the Council to resolve the difficulties I have found with its CIL proposals. As I understand your latest response (your letter of 21 July), the Council does not wish to pursue the options suggested to date and is now seeking a 'continuing examination' in order that the Council's further evidence and clarifications can be formally considered.

Given your allegations of failings and unfairness (which I do not accept) I am prepared to provide the facility that you seek and now offer an extended examination to explore the new evidence and clarifications the Council wishes to put forward. However, this is quite exceptional and it would not be appropriate to continue this process by correspondence. If this option is to be pursued it will be by means of additional public hearing sessions, structured around a 'main issues and questions' agenda, that I will set out. The focus of the further sessions will be on the specific issues relating to i) affordable housing and ii) strategic sites. I would envisage the following sequence of stages (with suggested timings in brackets):

1. Council confirms acceptance of the extended examination and further Hearing sessions as outlined above (by 6 August 2014).
2. Examiner identifies 'main issues and questions' agenda for the extended examination (by 15 August 2014). Agenda to be published and representors advised.
3. Hearing date set and advertised (6 weeks' notice).
4. Council to prepare / submit / publish written evidence in response to the identified 'main issues and questions' agenda (3 weeks before Hearing).
5. Hearing held.

No guarantees can be given that holding such sessions would address the concerns I have identified but, if this option is pursued, I shall approach the process with an independent open mind. Having held the additional Hearing sessions I will then consider my conclusions and advise the Council of my findings.

The Council should now confirm to me, by 6 August 2014, its agreement to my proposals for the extended examination. It will be necessary to update the examination website as soon as possible, including publication of our exchanges of correspondence.

I look forward to hearing from you.

Yours sincerely,

*P.J. Staddon* - Examiner