



**Royal Borough of Kingston upon Thames
Community Infrastructure Levy
Legal Compliance Documentation and Pas Examination Checklist
Questions 1-10 'What the examiner needs to establish'
June 2015**

Introduction

1. This statement identifies the legislation and regulations relating to the production of a Community Infrastructure Levy (CIL) Draft Charging Schedule and demonstrates how Royal Borough of Kingston upon Thames has complied with them.
2. Legislation relating to CIL is set out in Part 11 of the Planning Act 2008 as amended by the Localism Act 2011. The provisions relating to the examination of a CIL Draft Charging Schedule are set out at Section 212 of the Planning Act 2008.
3. The Planning Act 2008 makes provision for the production of CIL Regulations. These are:
 - The Community Infrastructure Levy Regulations 2010
 - The Community Infrastructure Levy (Amendment) Regulations 2011
 - The Community Infrastructure Levy (Amendment) Regulations 2012
 - The Community Infrastructure Levy (Amendment) Regulations 2013
 - The Community Infrastructure Levy (Amendment) Regulations 2014
4. The Royal Borough of Kingston upon Thames has prepared its CIL Draft Charging Schedule in accordance with the Planning Act 2008 (as amended by the Localism Act 2011), the Community Infrastructure Levy Regulations 2010

(as amended) and statutory guidance, which is an online resource included as part of Planning Practice Guidance on the Government’s planning portal website.

5. Where documents within this statement are followed by a reference number, they form part of the submission documents and supporting documents for the Royal Borough’s Draft Charging Schedule submission, and can be viewed and downloaded on our website: www.kingston.gov.uk.

Declaration required under the Planning Act 2008

The Royal Borough of Kingston upon Thames hereby declares that:

- a) As the charging authority, it has complied with the requirements of Part 11 of the Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (as amended);
- b) As the charging authority, it has used appropriate available evidence to inform the draft charging schedule; and
- c) That any other matters prescribed by the CIL Regulations 2010 (as amended) have been dealt with

Table 1: Legislative Requirements

Legislative requirement	How the requirement has been met
Planning Act 2008 (as amended by the Localism Act 2011)	
Section 206	The Royal Borough of Kingston upon Thames (RBK), for the purpose of section 206, is the charging authority for its administrative area.
Section 211	In accordance with section 211 (1), (2) and (3) of the Planning Act 2008, RBK have complied with the CIL regulations and in the setting of the CIL rates has taken account of the actual and expected costs of infrastructure, matters of economic viability and other expected sources of funding for infrastructure.
Section 211 (7A)	In accordance with section 211 (7), (211 (7A) as amended by the Localism Act 2011), RBK has used appropriate and available evidence to prepare its CIL draft charging schedule. This includes a detailed assessment of infrastructure need and funding gap (SD12) as well as an assessment of proposed CIL rates on the economic viability of development (SD10)
Section 212 (1) and (2)	In accordance with section 212 (1) and (2) of the Planning Act 2008, RBK has appointed an independent examiner through the planning inspectorate.

	<p>The services of a programme officer have also been procured to assist the examiner.</p> <p>All persons who have submitted representations to the consultation on the draft CIL Charging Schedule stating that they would like to be heard by the examiner will be given the opportunity subject to the agreement of the examiner.</p>
Section 212 (4)	In accordance with section 212 (4) (as amended by the Localism Act 2011) RBK considers that the drafting requirements, as demonstrated by this statement, have been met in full. RBK has used appropriate available evidence to inform its draft charging schedule.
CIL regulations 2010 (as amended)	
Regulation 12	The RBK CIL Draft Charging Schedule contains the information required by the Regulations, namely (a) the name of the charging authority; (b) the rates (in pounds per square metre) at which CIL is to be chargeable in the authority's area; (c) an Ordnance Survey based map which identifies the location and boundaries of the charging zones, with notations including national grid lines and reference numbers and; (d) an explanation of how the chargeable amount will be calculated.
Regulation 13	In accordance with regulation 13, the draft charging schedule proposes setting differential rates based upon intended use and setting differential rates by location. The rates are set out in the CIL Draft Charging Schedule and are supported by the evidence set out in the viability study.
Regulation 14	Regulation 14 (1) Please see question 7 which sets out, in detail, how the RBK has struck an appropriate balance between the desirability of funding infrastructure through a CIL and the potential effects of imposing a CIL on their area. When setting the CIL rates in the charging schedule RBK has satisfied Regulation 14 (2) in regard to actual and expected administrative expenses in connection with CIL when setting the proposed CIL rates and; Regulation 14 (3) in regard to the CIL rates set by the Mayor (see question 6 for further detail).
Regulation 15	RBK have complied with Regulation 15 and consulted on a Preliminary Draft Charging Schedule (SD1). See Question 10 for further detail.
Regulation 16	RBK have taken every measure to ensure the consultation has been open and advertised accordingly in so doing RBK has addressed the items raised by Regulation 16. See Question 10 for further detail.
Regulation 17	RBK published its Draft Charging Schedule (SD2) for consultation over an eight week period from 10 th January 2014 until 7 th March 2014 in accordance with Regulation

	17 and Regulation 16(1)(d) of the Community Infrastructure Levy Regulations (as amended) 2010. All those who made representations on the Draft Charging Schedule consultation will be informed of each subsequent stage in the Examination and adoption process, including the Submission, publication of the Examiner's report and approval of the Charging Schedule by the Charging Authority. See Question 10 for further detail.
Regulation 19	The documents submitted to the examiner are listed on our web page along with other relevant supporting documents. In accordance with Regulation 19(3) physical copies of the documents will be made available at the main libraries within the borough and at the council offices.
Regulation 21	Those respondents who requested to be heard at the CIL examination are identified in the PDCS and the DCS and minor modifications consultation statements which provide the representations and a summary of main issues raised. The time and place of the Examination and the name of the Examiner will be published on the Council's website at least four weeks before the opening of the Examination. An advert will be placed in the local press publicising the time and place of the Examination and the name of the Examiner.

1. Has the charging authority complied with the requirements set out in Part 11 of the Planning Act 2008 (as amended by the Localism Act) and the CIL Regulations? (para.2.2)

Yes. The Royal Borough of Kingston upon Thames CIL has been developed and prepared in accordance with the requirements set out in Part 11 of the Planning Act 2008 and the CIL Regulations. See Table 1 for more detail.

2. Is the charging authorities draft charging schedule supported by background documents containing appropriate available evidence? (para 2.2 & 2.2.5.5)

Yes The Royal Borough of Kingston upon Thames CIL Draft Charging Schedule is supported by a number of evidence documents. The table below lists the evidence has informed the Draft Charging Schedule submission, the documents are available at our website at: www.kingston.gov.uk.

Table 2: Submission Documents

CIL Submission Documents (Dates published)
SD1 Preliminary CIL Draft Charging Schedule as Consulted (March 2013)
SD2 CIL Draft Charging Schedule as Consulted (January 2014)
SD3 CIL Draft Charging Schedule with minor modifications as Consulted (May 2015)
SD4 CIL Draft Charging Schedule with Track Changes (June 2015)
SD5 Final CIL Draft Charging Schedule Submission Version (June 2015)
SD6 Consultation Statement PDCS (January 2014)
SD7 Consultation Statement DCS (June 2015)
SD8 Consultation Statement Minor modifications (June 2015)
SD9 Statement of Minor Modifications (May 2015)
SD10 CIL Viability Report Final (August 2014)
SD11 Statement of Legal Compliance including Q1-10 of PAS guidance (June 2015)
SD12 Draft Regulation 123 List and Infrastructure Funding Gap Assessment (January 2014)
SD13 Summary of S106 monies raised over recent years (June 2015)
SD14 Draft Planning Obligations SPD Track Changes (June 2015)
SD15 Equalities Impact Assessment (June 2015)
SD16 CIL Instalments Policy (June 2015)
SD17 CIL Submission Document (June 2015)

3. Has the charging authority provided evidence of an infrastructure aggregate funding gap that demonstrates the need to levy CIL? (para. 2.2.2.1)

Yes. The Council has included an infrastructure funding gap assessment; this has informed the CIL draft charging schedule and the Regulation 123 List.

4. Is the proposed rate or rates informed by, and consistent with, the evidence on economic viability across the charging authority's area? (para.2.2 & 2.2.2.4)

Yes. The Council commissioned a detailed CIL viability report (**SD10**) to inform the rates proposed in the Royal Borough of Kingston upon Thames Draft Charging Schedule. The rates detailed as being appropriate and viable by the Viability report with the exception of residential rates¹ are identical to those included in the Draft Charging Schedule submitted for examination.

5. Are the rates so complex, or based on strategic sites, where in addition to the area based broad test of viability some further site sampling of viability is required (para 2.2.2.4), and has this sampling been undertaken?

¹ Residential rates fall well within the maximum appropriate and viable rates as indicated on page 4 of the CIL Viability Report.

The Council has implemented a zoned approach when setting the CIL rates. Viability evidence shows that it is appropriate to set a different levy charge across four distinct zones within the borough. The council has not identified strategic sites when setting the levy.

6. Has the charging authority provided evidence that shows and explains that the proposed rate (or rates) would not threaten delivery of the relevant Plan as a whole (para.2.2 & 2.2.5.5) and have they explained how their proposed levy rate/s will contribute to the implementation of their plan and support development across their area? (para 2.2.2.3)

Yes. The CIL Viability Report (**SD10**) demonstrates that the policy requirements set out by the Council's Core Strategy are deliverable alongside the proposed CIL Charging Schedule. The CIL Viability Report has utilised assumptions that reflect local market and planning policy circumstances in determining the CIL rates. The Council is confident that it has built in suitable headroom to its CIL rates to allow for any minor increase in policy requirements through the Council's emerging plans, or as result to changes to national requirements.

7. Has the charging authority (CA) provided evidence that it has struck an appropriate balance between desirability of funding infrastructure through a CIL and the potential effects of imposing a CIL on their area (Summary of Reg. 14 (1) para 2.2)

Yes. The Infrastructure Funding Gap Assessment and Regulation 123 List (**SD12**) provides evidence, supported by the Infrastructure Delivery Plan (2011), that there is a considerable quantity of strategic infrastructure that could be funded by CIL in Royal Borough of Kingston upon Thames charging area estimated over the plan period 2012-2027, amounting to £55,509,000 (excluding any unknown gaps).

8. Does the authority have an up to date local (development) plan? And is the CIL consistent with it and the supporting infrastructure evidence? (para 2.2.1)

Yes. The Royal Borough of Kingston upon Thames Core Strategy was adopted in 2012. The CIL is consistent with the supporting infrastructure evidence included in the Core Strategy.

9. Has the charging authority provided a draft Regulation 123 list, set out known site-specific matters where S106 contributions will be sought, and provided evidence to show how much they have raised through S106 agreements in recent years?

Yes. The Council's Draft Regulation 123 list has been provided. The council as part of the Draft Planning Obligations SPD (**SD14**) has set out the matters

where affordable housing and site-specific Section 106 contributions will continue to be sought. Evidence has also been supplied to detail the recent performance of S106 and affordable housing.

10. Has the charging authority complied with the consultation and administration requirements set out in the Regulations?

Yes. The Council has complied with all consultation and administration requirements set out in the Regulations. Details of the consultations undertaken can be found in the CIL Consultation Statements prepared for the PDCS, DCS and the Minor Modifications Stages of the consultation process (see submission documents list).