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BY EMAIL ONLY

02 June 2017

Dear Louise

**Re: Examination of the Maidstone Community Infrastructure Levy (CIL)
Charging Schedule - Examiner's Main Issues and Questions**

Thank you for your email dated 10 May 2017 notifying Kent County Council (KCC) of the Main Issues and Questions which will provide the basis for the Maidstone Community Infrastructure Levy (CIL) Examination Hearing Session.

The Examiner should already be in receipt of my letter dated 16 September 2016 to Maidstone Borough Council which set out the **significant concerns** of the County Council regarding the approach taken by the Borough Council to introduce a CIL.

I note that the Main Issues and Questions subsequently identified by the Examiner reflect some of the concerns previously expressed by this Authority and it welcomes the opportunity to respond to those relevant to its previous representations.

Q2. Is it appropriate to prepare a draft charging schedule in the context of the emerging Local Plan for the Borough?

No.

As Local Highway Authority, the County Council has consistently strongly objected to the emerging Maidstone Borough Local Plan due to the unacceptably severe impact of planned housing growth on the A229 and A274 corridors in south and south east Maidstone.

These objections have been presented throughout the Local Plan Examination and remain unresolved in the continuing absence of a strategic transport mitigation package. Highways and transportation are key considerations that will be addressed

in the Local Plan Inspector's Final Report and its publication is anticipated shortly. The Final Report may necessitate revisions to the Draft Charging Schedule and its supporting evidence base which will also need to be given due consideration by the CIL Examiner and representors.

It therefore remains the view of the County Council that the submission of the Draft Charging Schedule for Examination is wholly premature.

Q3. Do the Inspector's Interim Findings [SUB004] and the proposed main modifications [SUB005] provide sufficient certainty on the Local Plan's strategy for growth, related infrastructure requirements and costs and overall policy requirements?

No.

The Local Plan Inspector's Interim Findings can only be regarded as *interim* and the Inspector usefully draws attention to their scope (pg. 1):

"These are interim findings only. Final and fuller conclusions on the matters and issues referred to below will be set out in the Final Report at the end of the Examination process."

The Interim Findings also indicate that the Local Plan should include a policy commitment to a review with a target adoption date by April 2021. This acknowledges the uncertainties that exist over the scale of growth and supporting infrastructure in the period 2021 to 2031.

The County Council has consistently maintained the view that an early review is justified to allow the development of the case for a Leeds-Langley Relief Road - tested alongside other transport alternatives - to be completed. The review should inform decision making on suitable site allocations and transport interventions. Until the findings of the review are known there is not sufficient certainty on the development and infrastructure strategy post 2021.

The Borough Council's proposed main modifications included a policy commitment to a plan review (Policy LPR1) but did not include firm assurances that areas of work referred to above will materially influence the post 2021 strategy. The County Council has already raised concerns on this matter in its response to the recent consultation¹.

Q8. Does the Infrastructure Delivery Plan – May 2016 [SUB006] accurately estimate the infrastructure likely to be required to support the development of the Borough as proposed in the emerging Local Plan?

No.

¹ Letter dated 19 May 2017 to Maidstone Borough Council.

The Infrastructure Delivery Plan is not in alignment with the resolution made by the Maidstone Joint Transportation Board on 13 July 2016 regarding the principles of an Integrated Transport Strategy covering the period to 2022.

The Infrastructure Delivery Plan cannot provide an accurate estimate of the infrastructure required over the whole plan period as this is to be determined through a review of the Local Plan by 2021.

Q.9 Have infrastructure needs/costs markedly changed in light of (a) the ongoing Local Plan examination process [noting the Local Plan Inspector's interim finding [SUB004] to retain the SE Maidstone proposals] and (b) any updated evidence (Local Transport Plan; strategic review of waste management infrastructure)?

The main modifications arising from the Inspector's Interim Findings include the provision of a bus lane on Sutton Road as a form of mitigation. This inclusion is entirely at odds with the expressed views of the County Council and the decision made by Elected Members of the Borough Council to exclude such a scheme from its Integrated Transport Strategy.

There is currently no evidence available to demonstrate that a bus lane can be delivered within land forming part of the publicly maintainable highway. In view of the constrained nature of parts of the route, it is likely that additional areas of land may be required. These costs, when considered alongside the complementary measures necessary to support such a scheme, are likely to be substantive.

The bus lane scheme will also result in worsening delays for other road users due to the reduced road capacity, thereby increasing the need for additional mitigation to tackle worsening levels of congestion. This additional mitigation is yet to be identified.

Q.11 What is "strategic open space"? Would this encompass green infrastructure identified in the Kent & Medway Growth & Infrastructure Framework? Is the figure of a £46.83million funding gap for green infrastructure in the Maidstone area recognised?

The £46.83 million figure is not immediately recognised by the County Council. KCC would welcome clarity on its origin, particularly as the Kent and Medway Growth and Infrastructure Framework is currently being updated for 2017, with the expectation that a draft is completed by August and the final version published by the end of 2017.

Q.12 Are the costs of transport infrastructure, particularly in Maidstone reasonably established? Does the Integrated Transport Strategy for Maidstone provide the appropriate foundation for identifying transport infrastructure necessary to support growth?

No.

The strategic forms of mitigation necessary to support the planned distribution of growth are yet to be identified. It is unlikely that robust cost estimates will be available until the work necessary to support the Local Plan review in 2021 is well advanced.

The Integrated Transport Strategy has not been endorsed by the Maidstone Joint Transportation Board which is the established mechanism through which Elected Members of both the County Council and Borough Council identify how the future transport infrastructure needs of the Maidstone Borough should be met. As a result it does not have the necessary approval of the County Council as Local Highway Authority and objections were made to its publication as part of the Local Plan Regulation 19 consultation².

KCC remains strongly concerned by the piecemeal approach to mitigation taken by the Borough Council. This has completely disregarded the findings of the jointly commissioned VISUM traffic modelling work which clearly evidenced the severe impacts that will arise on parts of the highway network unless strategic forms of mitigation are provided.

Q.18 On average what level of contributions have been secured towards new infrastructure from Section 106 Agreements associated with new residential development? How does this relate to the expected future CIL receipts?

The County Council notes the publication of the Submission Document *Community Infrastructure Levy Background Paper* [SUB 008] and in particular Section 4 ('Analysis of section 106 agreements and affordable housing delivery').

Table 3 provides a summary of the total number of dwellings granted planning consent between 2011 and 2016, alongside the level of contributions secured via associated Section 106 Agreements. This equated to an average contribution per dwelling of £4,790 - based on the calculations of the Borough Council. The paper seeks to compare this figure with a figure per dwelling based on the projected income from a CIL (circa £4,300 per dwelling - based on the calculations of the Borough Council) and reaches a conclusion at paragraph 4.3: "*This is comfortably within the historic section 106 figures*".

However, this analysis is fundamentally flawed because it seeks to compare *historical* planning consents (and their associated Section 106 Agreements) alongside a *forward looking* projection of receipts from a CIL.

A number of the planning consents relied upon by the Borough Council in its analyses were granted in very different material circumstances when compared to the present day. This is particularly applicable to the consents in the earlier part of the 2011-2016 period assessed in Table 3. The change in circumstances includes the planning policy framework (namely the Local Plan) but also the level of infrastructure required to mitigate the impact of new development. For example, in the case of the latter, the identified need for increased Secondary Education provision did not arise until recent years and therefore would not have been

² Letter dated 18 March 2016 to Maidstone Borough Council.

uniformly requested in the County Council's response to planning applications throughout the entire 2011-2016 period. Ultimately, the £4,790 figure relied upon by the Borough Council is highly likely to downplay what could reasonably be secured via Section 106 Agreements in the future. A robust justification for the introduction of a CIL in the Maidstone Borough remains absent.

Therefore despite the County Council identifying this as a pertinent issue in September 2016³, the Borough Council has failed to provide any conclusive analysis to the Examiner which compares future CIL receipts with what could reasonably be anticipated to be secured via future Section 106 Agreements. The County Council reiterates its position that the level of CIL receipts generated by a development under the rates proposed in the Draft Charging Schedule will be significantly lower than a contribution made by the same proposal under Section 106; this may put at risk contributions which are necessary to provide communities with the infrastructure they need, such as schools and social care

If you require further information or clarification on any matter in this response then please do not hesitate to contact me.

Yours sincerely



Barbara Cooper

Corporate Director – Growth, Environment and Transport

³ See pg. 3 of my letter dated 16 September 2016.