

The Babergh District Council and Mid Suffolk District Council Community Infrastructure Levy Draft Charging Schedules Examination

Examination Inspector:

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Examiner's Guidance, Main Issues and Questions

Introduction

The Babergh District Council and Mid Suffolk District Council Community Infrastructure Levy (CIL) Draft Charging Schedules were both submitted for examination on 7 September 2026 (C01 and C02 respectively) (the Draft Charging Schedules). I have been appointed to carry out their independent examination.

Given the extent of shared evidence and the timing of preparation, I will examine both Draft Charging Schedules jointly, including through a joint hearing. However, I will produce consistent but separate reports for each Council.

To inform the hearing and my reports, I invite responses to the main issues and questions (MIQs) which I have set out below from those who have already made representations in accordance with Regulation 17. The MIQs arise from my initial assessment of the submission documents and the representations received in

response to the Councils' consultations undertaken between 28 May 2025 and 9 July 2025. I may raise further or supplementary questions as the examination progresses, including in light of any written responses received before the hearing.

I have arranged for a joint hearing session to take place virtually using Microsoft Teams on **9 December 2026**, with details concerning virtual hearing participation provided in the Appendix. I expect that only one hearing day will be required at this, however, 10 December 2026 will be held in reserve. Participants should make themselves available to attend on both days if required.

Only the Councils and any person who made a representation in response to the Councils' consultations on their draft charging schedules between 28 May 2025 and 9 July 2025 are invited to submit a focused written response to the MIQs by **30 November 2026**.

For the purpose of making hearing arrangements, those entitled to be heard should confirm with the Programme Officer by **2 November 2026** whether they still intend to participate.

L Fleming

INSPECTOR

Examiner's Guidance

Scope of the examination

My role is to consider whether each Draft Charging Schedule meets the requirements of Part 11 of the Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (as amended), including whether it is legally compliant and supported by appropriate evidence on infrastructure requirements and economic viability.

The Councils must demonstrate that their Draft Charging Schedules strike an appropriate balance between helping to fund necessary infrastructure and the potential effects of imposing CIL on the economic viability of development across each district. Those seeking a change should explain why the relevant Draft Charging Schedules do not achieve that balance and provide proportionate evidence in support of their position.

The examinations will focus on the Draft Charging Schedules as a whole, rather than on resolving individual objections. I will take account of the submitted evidence, representations, written responses to the MIQs and the discussion at the hearing.

The hearing

The hearing will take the form of an Inspector-led structured discussion based on the MIQs and/or an agenda, if necessary. It will not be conducted as a public inquiry and there will be no formal presentation of cases or cross-examination. I will have read the submitted representations and written responses in advance. Participants should therefore avoid repeating their written case and should respond concisely to the matters I raise.

Written and oral representations will be given equal consideration. Participation in the hearing is intended to assist my understanding of the evidence and does not give oral submissions greater weight than written submissions.

Written responses

Written responses to these MIQs should be concise, focused and relevant to the respondent's original representation. They should:

- identify clearly each question being answered;
- identify the respondent and, where applicable, the person or organisation represented;
- cross-reference the relevant original representation;
- refer precisely to supporting examination documents by document reference, page and paragraph or table number;
- avoid reproducing lengthy extracts from documents already before the examinations; and
- avoid repeating points already fully expressed in the original representation.

Written responses must not be used to introduce unrelated objections or to reopen the Regulation 17 consultation. Where new or updated evidence is relied upon, the

response should explain why it is necessary, how it differs from the submitted evidence and what bearing it has on the relevant question.

The Councils should respond jointly where the evidence and position are common. They should also identify clearly any material difference between the two districts or Draft Charging Schedules. Their response should address each MIQ primarily by concise cross-reference to the submitted evidence. Updated calculations or schedules should be provided only where necessary to address a material change or evidential gap.

Late and additional material

Other than in exceptional circumstances, late responses will not be accepted. No further written evidence should be submitted after the deadline or at or following the hearing unless I specifically request it. Any additional material requested must be sent to the Programme Officer and will be published in the examination library, with an appropriate opportunity for other parties to respond where necessary to ensure procedural fairness.

Programme Officer and examination documents

The Programme Officer acts independently of the Councils under my direction for the purposes of the examinations. All procedural correspondence, written responses and queries about the hearing should be sent to her. Participants must not contact me directly.

Examination documents, including written responses and any additional material accepted or requested during the examinations, will be placed in the examination libraries on the examination websites.

After the hearing

The examinations will remain open until I submit my reports to the Councils. Once I am satisfied that I have the information necessary to reach reasoned conclusions, I will prepare a separate report on each Draft Charging Schedule. Following the hearing, I will not accept further information unless I specifically request it.

EXAMINER'S MAIN ISSUES AND QUESTIONS

Main Issue 1 – Whether the Draft Charging Schedules have been prepared and submitted in accordance with the procedural requirements of the CIL Regulations.

NOTE: Consultation on the Draft Charging Schedules (C01 and C02) took place between 28 May 2025 and 9 July 2025. The same schedules were submitted for examination on 7 September 2026, along with the consultation responses, approximately 14 months later. No modifications have been consulted on or proposed by the Councils.

- Q1. There was a period of approximately 14 months between the close of consultation on C01 and C02 and their submission for examination. During that period, were there any material changes to the evidence or development plan position and, if so, what implications, if any, do they have for the examination?
- Q2. Have the Councils complied with the requirements of regulations 16, 17 and 19 of the CIL Regulations (as amended)? In response, the Councils should identify precisely where compliance is documented, including publication of the Draft Charging Schedules and supporting evidence, notification of the consultation bodies, the arrangements and period for making representations, availability of the documents for inspection, and the documents submitted for examination.
- Q3. How were the representations received (CR01 to CR10) in response to consultation on the Draft Charging Schedules considered before they were submitted for examination? Is it clear why the Councils considered that no changes were necessary in response to each representation that sought a change?
- Q4. Do the Draft Charging Schedules satisfy all applicable drafting requirements, including regulation 12(3)? Are all charging categories, geographical zones and relevant terms defined with sufficient clarity and precision?

Main Issue 2 – Whether the Draft Charging Schedules are supported by appropriate available infrastructure planning evidence.

NOTE: The Babergh and Mid Suffolk Joint Local Plan Part 1 Development Plan Document was adopted in November 2023 and covers the period 2018–2037. The decision to submit the Draft Charging Schedules for examination at this time is a matter for the Councils. However, it is necessary to establish what development is expected to come forward under the current adopted development plan and whether the infrastructure requirements, costs, available funding and aggregate infrastructure

funding gap relied upon remain sufficiently current and robust to support the Draft Charging Schedules (C01 and C02).

- Q1. For the avoidance of doubt, what constitutes the adopted development plan for each district, including any saved policies and allocations which have not been built out?
- Q2. With reference to the adopted development plan and the submitted infrastructure evidence, what are the principal categories and broad scale of development expected to come forward over the remainder of the plan period, and what infrastructure is required to support that development? In responding, the Councils should:
- a. identify the principal infrastructure which remains to be delivered, its estimated cost and anticipated timing;
 - b. identify the actual and expected funding available from existing CIL receipts, government funding, section 106 contributions, section 278 agreements and other public or private sources;
 - c. state the resulting aggregate infrastructure funding gap and the contribution that CIL is expected to make towards it; and
 - d. explain how that evidence informed the proposed charging rates.

The response may cross-refer to existing published trajectories, infrastructure delivery plans and funding statements. Any update should be limited to material changes since the submitted evidence was prepared.

NOTE: The Infrastructure Funding Statements for 2024/25 appear to identify approximately £16.5 million in Babergh (C09, p. 58) and £41.5 million in Mid Suffolk (C10, p. 62) as unallocated CIL funding available for infrastructure projects as at 31 March 2025.

- Q3. The latest submitted Annual Infrastructure Funding Statements are for 2024/25 (C09 and C10). What material changes are shown by the more recent figures provided in C03, compared with C09 and C10, and what, if any, are the implications for the infrastructure funding evidence or the proposed charging rates?
- Q4. What engagement took place with Suffolk County Council and other relevant infrastructure providers, and how did it inform the principal infrastructure requirements, costs, available funding and aggregate infrastructure funding gap? In particular, how have the identified costs of education infrastructure, including primary schools and early years provision, and highways improvements been taken into account, and how were Suffolk County Council's representations on C01 and C02 considered?

Main Issue 3 – Whether the Draft Charging Schedules (C01 and C02) are supported by robust, proportionate and up-to-date viability evidence, prepared consistently with national guidance.

NOTE: The Councils' viability evidence comprises the CIL Viability & Affordable Housing Commuted Sum Calculation Study, prepared by Urbà and dated 11 November 2024 (C04). The study updates and builds upon the viability studies prepared in 2019 and 2020.

- Q1. Has C04 been prepared in accordance with the Viability Planning Practice Guidance (viability PPG) and the Community Infrastructure Levy section of the Planning Practice Guidance (CIL PPG) (national guidance)? What engagement was undertaken with developers, landowners, infrastructure providers and other stakeholders; what evidence was received; and how did that evidence influence the development typologies tested, assumptions and conclusions?
- Q2. Are the appraisal assumptions applied consistently across the development typologies, locations and the two districts? In particular, why are different greenfield benchmark land values used in scenarios with different section 106 allowances; is that approach consistent with national guidance? Are the benchmark land values, build costs and developer-return assumptions supported by proportionate and sufficiently local evidence, and are they consistent with national guidance?
- Q3. How were the development typologies selected, and are they representative of the types, sizes, locations and characteristics of development expected to come forward in each district over the remainder of the plan period?
- Q4. What approach was taken to assessing the viability of any strategic sites expected to come forward over the remainder of the plan period? Are the typologies and appraisal assumptions sufficiently representative of the scale, density, phasing, delivery rates, abnormal and external costs, infrastructure requirements, affordable housing and other policy requirements likely to apply to large sites delivered over multiple phases?
- Q5. Are the development timescales relied upon in C04 informed by up to date evidence which reflects how development has been delivered locally?
- Q6. How have abnormal and external development costs been appropriately taken into account? What evidence supports the £110,000 per acre abnormal-cost allowance for brownfield land, the absence of an equivalent general allowance for greenfield development and the uniform external-works allowance of 15% of build costs?

- Q7. Is C04 sufficiently up to date and has adequate sensitivity testing been undertaken to demonstrate that it provides a robust basis for the proposed rates at examination? In responding, the Councils should explain:
- a. what account has been taken of material changes since C04 was prepared, including changes in development values, build and finance costs, affordable housing and infrastructure costs, other policy requirements, the Building Safety Levy and requirements relating to the energy efficiency of new buildings;
 - b. whether the assumed lead-in periods, build-out rates, sales rates and delivery periods remain appropriate;
 - c. what sensitivity testing has been undertaken to assess the effect, individually and cumulatively, of reasonable changes to the principal appraisal assumptions and policy costs identified in response to the preceding questions; and
 - d. whether that evidence demonstrates that the viability conclusions remain robust when account is taken of affordable housing, section 106 obligations, CIL and other relevant policy and infrastructure requirements.

Main Issue 4 – Whether the proposed rates, differential charging zones and development categories are justified by the infrastructure and viability evidence and strike an appropriate balance under regulation 14.

NOTE: Each district is divided into a Higher Value Zone and a Lower Value Zone. The Lower Value Zones include Sudbury in Babergh and Stowmarket in Mid Suffolk and their immediate surroundings; the remainder of each district falls within the Higher Value Zone. The same rates are proposed for the corresponding zones in each district as follows:

- a. *Higher Value Zone residential development (Use Class C3), excluding all flats, age-restricted elderly accommodation and extra care accommodation: £215 per square metre.*
- b. *Lower Value Zone residential development (Use Class C3), excluding all flats, age-restricted elderly accommodation and extra care accommodation: £20 per square metre.*
- c. *All flats falling within Use Class C3: £0 per square metre.*
- d. *Age-restricted elderly accommodation in the Higher Value Zone (falling within Use Class C3 or as amended): £80 per square metre.*
- e. *Age-restricted elderly accommodation in the Lower Value Zone (falling within Use Class C3 or as amended): £0 per square metre.*
- f. *Extra care accommodation in the Higher Value Zone (falling within Use Class C2 or as amended): £250 per square metre.*
- g. *Extra care accommodation in the Lower Value Zone (falling within Use Class C2 or as amended): £125 per square metre.*

- h. *Comparison retail: £0 per square metre.*
- i. *Convenience retail: £0 per square metre.*
- j. *Offices: £0 per square metre.*
- k. *Industrial/warehouse development: £0 per square metre.*
- l. *All other uses: £0 per square metre.*

- Q1. With reference to specific paragraphs and the residential appraisal results in C04, how does the evidence demonstrate that the proposed residential rates of £215 per square metre in the Higher Value Zone and £20 per square metre in the Lower Value Zone would maintain an appropriate viability buffer and would not put the delivery of development at serious risk? In particular, how were those rates selected from the range of viable rates identified by the appraisal results?
- Q2. Why is it appropriate to apply the same rates in the corresponding zones in both districts, and what evidence demonstrates that differences in values, costs, land markets and planned development do not justify separate rates?
- Q3. With reference to the relevant paragraphs, sales-value evidence and charging-zone maps in C04, how were the boundaries between the Higher and Lower Value Zones defined, and how does the evidence demonstrate that the approach is robust and fit for purpose? In particular:
- a. what methodology and evidence were used to determine the location of each boundary, including the treatment of variation and overlap in sales values;
 - b. are the boundaries shown with sufficient precision to enable the applicable rate to be identified unambiguously; and
 - c. where a development site boundary crosses both zones, how would the applicable CIL rate or rates be determined and applied?

NOTE: The adopted Babergh and Mid Suffolk charging schedules identify specific Strategic Sites charged at £0 per square metre. The Draft Charging Schedules do not include a separate strategic-site category.

- Q4. In that context, is the approach to strategic sites in the Draft Charging Schedules robust and justified by the evidence? In particular:
- a. which strategic sites identified in the adopted charging schedules have not yet been fully implemented, and what development remains to be delivered on them;
 - b. how would the rates and categories in the Draft Charging Schedules apply to any development remaining on those sites, including where an existing permission lapses, is not implemented or is replaced by a materially different proposal; and

- c. does the viability evidence adequately test the application of those rates, having regard to the scale, phasing, infrastructure, abnormal costs, affordable housing and other requirements affecting strategic sites?
- Q5. Does the viability evidence adequately support a single nil rate for all flats, having regard to the range of flat typologies likely to come forward, including differences in size, values and development costs? How have the Councils taken account of Suffolk County Council's evidence concerning the infrastructure implications of flats, particularly those with two or more bedrooms?
- Q6. Are the proposed rates and charging category for extra care accommodation justified by the evidence? In responding, the Councils should address the distinction between Use Class C2 and C3 accommodation; differences between extra care, age-restricted housing, care homes and other specialist provision; the representativeness of the typology and value evidence; the viability and affordability of provision aimed at lower- to middle-affluence households; and the wider implications for health, social care and housing supply.
- Q7. Is it clear how residential children's homes falling within Use Class C2 would be treated under the Draft Charging Schedules? What assessment has been made of the effect of any CIL liability on their delivery, and how have Suffolk County Council's concerns and the Government's statement on planning for accommodation for looked-after children been taken into account?
- Q8. With reference to the relevant appraisal results in C04, how does the evidence demonstrate that the proposed £0 per square metre rates for convenience retail and the other non-residential categories are justified? In particular, what evidence supports the reduction in the convenience-retail rate from £100 per square metre in the adopted charging schedules to £0 per square metre in the Draft Charging Schedules?
- Q9. Is the treatment of domestic extensions, annexes and garages under the Draft Charging Schedules clear and consistent with the CIL Regulations, including the relationship between chargeability and any available exemption?

NOTE: Each Council currently has an instalments policy in place. The Councils have also submitted proposed replacement instalments policies dated March 2025 for Babergh District Council (C05) and Mid Suffolk District Council (C06). The adoption and detailed terms of an instalments policy are matters for each Council rather than for determination through these examinations. However, C05 and C06 may be relevant insofar as the viability evidence assumes, or the Councils' justification for the proposed rates relies upon, CIL being paid by instalments rather than under the existing policies or the default payment arrangements.

- Q10. What assumptions does C04 make about the timing of CIL payments, and do its viability conclusions rely materially on the proposed instalments policies in

C05 and C06? Would the conclusions remain robust if the existing instalments policies or the default payment arrangements applied instead?

- Q11. Taking the proposed rates together, does the evidence demonstrate that the Draft Charging Schedules would not put the overall development of either district, or delivery of the adopted development plan, at serious risk?

Main Issue 5 – Whether modifications are necessary to ensure compliance with the CIL Regulations.

NOTE: Each Council consulted on its Draft Charging Schedule and considered the representations received. The Councils subsequently decided to submit the Draft Charging Schedules for examination without changes, in the same form as consulted upon. Neither Council has proposed any modifications during the examination.

- Q1. Are any modifications to C01 or C02 required? What exactly should those modifications be, and why are they considered necessary?

Appendix – Detailed Guidance for Virtual Hearing Participants

Joining the Virtual Hearing as a Participant and Participating

I will assume that participants are familiar with Microsoft Teams. You will be responsible for making sure your IT kit is functional and that you have everything in place and working to enable you to join the hearing via Microsoft Teams. The PO will email participants with an invitation to join the virtual hearing session. Participants should join their session using the electronic link in their invitation.

At the start of the hearing session I will take appearances in the usual way. I will lead the hearing, and ask specific questions. If you wish to respond to a question, please use the 'raise hand' facility in Microsoft Teams to indicate your desire to speak.

I will give everyone who has raised their hand an opportunity to have their say. Although all participants may be able to see each other, only one participant may speak at a time. I will ask that all participants remain on mute until invited to speak. When you are invited to speak, unmute your microphone and state your name and, if applicable, your organisation if it is your first time speaking during the session.

Please keep your response brief and focused on the question posed. I may ask questions about your oral or written submissions. All responses should be directed to me.

I will ask the Councils for their comments on the main points raised and will terminate the discussion on any topic when I have enough information. I will end the session and ask all participants to exit the meeting. The online meeting will be terminated by the PO.

If you are in a room with other members of your team, please ensure that only the microphone of the person speaking is on at any one time to prevent feedback or other disturbance.

If you are unable to join, or lose connection during the hearing, try again to join using the link provided in your invitation. The hearing may continue in your absence. Transferring from Wi-Fi to mobile data or creating a Wi-Fi hotspot using a mobile phone are alternative contingencies that you may wish to consider. Please let the PO know if you are unable to join the event or cannot re-establish a connection so that she can make me aware.

Conduct, documents, evidence and presentation

The CIL examination is a formal event. All participants, their views and evidence are treated with fairness and consideration, and participants do not interrupt each other. I expect all participants to treat others with dignity and respect, even where you may not share the same views.

To make the best use of the hearing time and avoid disruption, the virtual hearing will start promptly at **1000 on 9 December 2026**. The following day will be held in reserve should it not be possible to complete the hearing in one day. You will receive

an invitation from the PO. You must join the hearing on Microsoft Teams at least 10 minutes before the start of the hearing, no later than **0950**. The PO is responsible for admitting participants into the hearing session; you must wait to be admitted. You will be held in a waiting lobby until you are admitted into the hearing by the PO. Attempting to join the hearing after the time indicated on the programme will not be acceptable, and you may not be admitted.

Do not forward your invitation to another participant, as that is likely to affect the running of the event. When confirming or requesting participation, representors should advise the PO of the name and contact email address of their representative so that an invitation to the hearing can be provided. The PO will maintain a list of those expected to attend and will not allow access to anyone who has not notified the PO of their intention to participate.

You should have made appropriate arrangements to ensure that your working environment is quiet, and that the hearing (and your ability to concentrate on it) is not disrupted by external noise and unnecessary distractions.

Please ensure that your camera is positioned to provide a clear, front-on view of your face and avoid sitting where you are silhouetted in front of a window or light.

Please also make sure that you attend the hearing from start to finish. Leaving midway through a session or repeatedly coming and going is disruptive and may mean that you miss the opportunity to speak, hear other people's contributions or listen to Inspector announcements.

When adjournments are announced, please make a careful note of the resumption time and be back at your screen before that time. If you need to leave early for any reason, please inform the PO as soon as possible.

The chat facility in Microsoft Teams must not be used under any circumstances. It does not form part of the formal hearing procedure. Any attempt to post anything will not be considered. You should consider whether you are likely to need to confer with another person, such as an agent or legal representative, during the event. If so, agree before the event how you intend to achieve this outside the Microsoft Teams meeting, e.g., by SMS, email or WhatsApp.

The examination website contains all the relevant examination documents. These are available to us, all other participants, stakeholders and the public. The hearing will not use the document-sharing facility available on Microsoft Teams. You should not hold any document in front of your camera.

New documents should only be submitted during the hearings at my invitation. This is to ensure fairness to all participants. If I request a new document from any party, for example, a statement of common ground, it should be emailed directly to the PO so that she can pass it to me and post it on the examination website.

Privacy

The hearing will be conducted in line with both Councils' data protection policies and processes. You can turn your camera off if you do not want your image to be viewed. Do not forget to mute yourself once you have finished speaking.

You must ensure that no one else appears on your camera unless it has been otherwise agreed, and you should clear your background of personal information. If you prefer, Microsoft Teams allows you to blur your background, but please do not use any of the other backgrounds that are available on Microsoft Teams. You must also not share any personal information during the hearing, either yours or anyone else's.