

Introduction

On or about the 7 September 2015, Rye Town Council ("the Council") received a document from Mr. Chris Coverdale, a resident of the town. That document was headed "Questions for Rye Town Council re; the Community Infrastructure Levy" and it posed 8 questions under four distinct headings. A copy of the document is attached to this document for ease of reference.

The Chair of the Council and Mayor of Rye, Cllr. Bernadine Fiddimore, on the advice of the Town Clerk took the decision not to answer the questions posed by Mr. Coverdale at a meeting of the Council on the evening of 7 September due to the lack of time to give the questions full consideration. Instead, Mr. Coverdale *accepted* the opportunity for his questions to be treated in accordance with the Council's Complaints Procedure, with the offer that they go straight to stage 3 of the Procedure.

Stage 3 of the Complaints Procedure reads as follows:

"The complaint will be considered by a Complaints Panel comprising of the Mayor, Deputy Mayor and Chairman of Policy, Resources & General Purposes who, after obtaining any additional information necessary, will recommend a response to the full Council.

If, after being informed of the outcome of this stage, the complainant remains dissatisfied, the complainant will be advised how they can pursue the complaint in other ways."

Procedural Matter

The Deputy Mayor is also the Chairman of the Policy Committee. Given the desirability of having 3 members of the Council on the Complaints Panel, the deputy Chairman of Policy, Cllr. Michael Boyd, was appointed as the third member of the Panel. This was considered to be reasonable in all the circumstances.

Background

Section 206 of the Planning Act 2008 (The Act) confers the power to charge the Community Infrastructure Levy on certain bodies known as charging authorities. The charging authority's responsibilities, if they decide to levy the Community Infrastructure Levy, will be to:

- prepare and publish a document known as the "charging schedule" which will set out the rates of Community Infrastructure Levy which will apply in the authority's area. This will involve consultation and independent examination;
- apply the levy revenue it receives to funding the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area, and;
- report to the local community on the amount of levy revenue collected, spent and retained each year.

The charging authority in the Rother District area is Rother District Council ("RDC").

RDC has gone through the consultation process for its charging schedule and the report of the independent examiner has now been published with a finding that:

“... subject to modifications, the Rother District Council Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the district. The Council has sufficient evidence to support the schedule and can show that the levy is set at a level that will not put the overall development of the area at risk.”

Findings of the Complaints Panel

Complaint 1

The Council did take the decision to support in principle the introduction of the CIL within the RDC area. Parish Councils, in the same way as other local authorities, are not required to give reasons for their decisions, they simply require in the overwhelming majority of proposals, a majority of councillors present at a quorate meeting to vote in favour of any given proposal for that proposal to be passed. This is what happened on this occasion.

The Panel considered the Community Infrastructure Levy (Amendment Regulations) 2013, more specifically the provision to help communities to accommodate the impact of new development and to strengthen the role and financial autonomy of neighbourhoods. The result of which, is that fifteen per cent of Community Infrastructure Levy revenue received by the charging authority will now be passed directly to those Parish and Town Councils where development has taken place. This should encourage local people to support development by providing direct financial incentives to be spent on local priorities.

The Panel next considered if this would provide any particular benefit to those who do not own their own homes and concluded that it would not and nor should it, given that all residents have the right to be treated equally.

Finally, the Panel determined that this question did not amount to a complaint per se but trusts that its deliberations and conclusions have provided an answer to the question nonetheless.

Complaint 2

The Panel considered the extent to which the legislation requires the Council to consult local residents about the proposed introduction of CIL. Section 211(1) of the Planning Act 2008 imposes a duty on a charging authority to set out its proposed levy rate(s) in a charging schedule. The charging schedule needs to be subject to public consultation and independent examination. As already noted by the Panel, the independent examiners report into RDC's charging schedule has already been published (1 September 2015), following the requisite public consultation.

The Panel determined that the requirements for consultation and independent examination relate only to the charging authority, in this case RDC: there is no such requirement for the Council in this case. In any event, and for the avoidance of doubt, the Panel noted that the Councils decisions regarding CIL have taken place at Planning and Townscape Committee meeting and meetings of the full Council: all of which have published agendas, are open to the public and involve an element of public participation.

For the reasons set out above, the Panel determined that this complaint is not upheld.

Complaint 3

The Panel reminded themselves of their determination in relation to *Complaint 1* and restates their finding as to the Council not giving reasons for decisions also applies in this case.

Next the Panel again noted ~~that~~ the independent examiner's findings following public consultation. Particular attention was paid to paragraph 23 of the report which concluded that the total infrastructure cost was £255.547m and the funding gap at present is £49.787m.

The Panel noted that, again Mr. Coverdale, concentrates on the duties imposed on the charging authority, which as previously stated is not this Council.

However, the Panel, particularly in light of the independent examiner's findings, cannot concur with Mr. Coverdale's assertion that ^a funding gap does not exist.

Finally, the Panel determined that this question did not amount to a complaint per se but trusts that its deliberations and conclusions have provided an answer to the question nonetheless.

Complaint 4

The Panel considered that while requests had been made for Mr. Coverdale to meet the Council over the past year, the Council was justified in not meeting with him to discuss these precise concerns for the following reasons:

- As already identified, these concerns/complaints should be aimed at the charging authority;
- Mr. Coverdale has in the past availed himself of his right to attend Council meetings and ask questions, which is generally regarded as the "usual" way to raise matters publically with the Council;
- It would neither have been practical or reasonable in all of the circumstances to arrange a meeting between Mr. Coverdale and up to 16 members of the Council; and
- Mr. Coverdale's right to be heard is further served by his ability to contact any one, or all members of the Council individually.

For the reasons set out above, the Panel determined that this complaint is not upheld.