

LOCALISM ACT 2011

EXPLANATORY NOTES

COMMENTARY

Part 6: Planning

Chapter 2: Community Infrastructure Levy

Section 114: Community Infrastructure Levy: approval of charging schedules

254. This section makes amendments to Part 11 of the Planning Act 2008 concerning the Community Infrastructure Levy. The Community Infrastructure Levy may be charged by “charging authorities” (normally the local planning authority) in accordance with a charging schedule. A charging authority must, before approving a charging schedule, submit a draft to an independent examiner and was required to implement any recommendations made by the examiner. The draft charging schedule was required to be accompanied by a declaration that the charging authority has complied with all the relevant requirements in drafting the charging schedule.
255. The effect of this section is to change the relationship between the charging authority and the examiner. The charging authority will no longer be required to submit a declaration to the examiner with the draft charging schedule. The examiner will now consider whether the charging authority has complied with the relevant requirements within Part 11 of the Planning Act 2008 and the Community Infrastructure Levy Regulations, which will now be referred to as “drafting requirements”. Any recommended modifications to the draft charging schedule made by the examiner will no longer be binding on the charging authority.
256. One of these drafting requirements is that the charging authority must have used appropriate available evidence to inform the charging schedule. The section enables the Secretary of State to make regulations that set out how this test is to be applied.
257. Where the examiner considers that the charging authority has not complied with the drafting requirements and that no modifications are capable of securing compliance, the examiner must recommend that the draft charging schedule should be rejected and a charging authority will continue to be bound by this recommendation. Otherwise, the section requires the examiner to recommend approval and the charging authority will have discretion over how they respond to any recommended modifications.
258. If the examiner has identified a failure to comply with the drafting requirements, the charging authority may only approve the charging schedule after they have had regard to the examiner’s recommendations and reasons and have made such modifications as are necessary to secure compliance. But these modifications need not be the same as those recommended by the examiner. In such a case, the section requires the charging authority to draft a report saying how they have amended the draft charging schedule so as to comply with the drafting requirements. The section enables the Secretary of State to make regulations about the form or content of such a report.