

Examiners response to post-submission query of his CIL report

I have looked carefully at the points that you make in your email of 17 January, sent via the Programme Officer, in relation to my recommendation about removing 'community, sport and leisure facilities' from the all other uses charge.

Looking at the evolution of the text, the word 'predominantly' appears to have been incorporated into examination documents by Sport England in its post-hearing response dated 21 December. It is also evident that Ms Aston adapted the text from Southend-on-Sea CIL Charging Schedule, and that in the text 'predominately' helps define 'publicly funded', and not 'not for profit organisation'.

It is also clear from my report paragraph 66 that my reasons for recommending the modification were concerns about not for profit organisations and not those that are publicly funded. Therefore the word 'predominately' is a spurious importation into the text that neither I or OPDC spotted as being an intrusion that altered the intended meaning.

The word 'predominantly', was not used in the submitted Modified Draft Charging Schedule in relation to 'publicly funded', and I did not intend its inclusion as part of my recommended modification. **I therefore recommend** that the part of the table for £Nil uses should begin, as you have highlighted in yellow in your email, "*Development by a publicly funded or 'not for profit organisation' *(definition below) comprising:*".

I consider that the inclusion of the word 'predominately' was effectively a typo – a word inadvertently incorporated in the text in error. If this is accepted, the change could be made on the basis that it *'does not alter the substance of the examiner's recommendations or reasons'*.

Alternatively, the change could be made on the basis that it *'must be corrected to make the recommendation consistent with the reasons given for those recommendations'*.

I would finally remark that, had this point been picked up at the 'fact check' stage, I would certainly have accepted it and my submitted report would have dealt with the modification in the way that I now recommend.

Whichever of the justifications for the change at this stage, I consider that it would meet the provisions of CIL Regulation 24 and PPG Paragraph: 041
Reference ID: 25-041-20190901.

Terrence Kemmann-Lane

Examiner