

Appendix R: Approaches to accounting for the Crossrail SPG in setting CIL rates

1. Background

- 1.1 The London Borough Tower Hamlets CIL Examination hearings were held between 28th May and 30th May 2014. At the hearings the Examiner requested further information regarding other London Boroughs' approaches to the Crossrail Section 106 'top-up' payment.
- 1.2 Tower Hamlets Council, the Greater London Authority and Transport for London have prepared this note, which briefly explains the relevant charges and outlines approaches taken by the relevant London Boroughs. Tower Hamlets Council's approach to this issue is addressed in the Council's response to the questions from the Examiner, issued prior to the hearings (see ED5.7ⁱ, paragraph 11.6 – 11.11; ED 5.1ⁱⁱ; ED 5.2ⁱⁱⁱ).

2. Crossrail Section 106 Contributions and Mayoral CIL

- 2.1 Crossrail Section 106 contributions are sought by the Mayor on applications for office, hotel and retail uses in three different contribution areas^{iv} defined in the *Use of planning obligations in the funding of Crossrail, and the Mayoral Community Infrastructure Levy Supplementary Planning Guidance, 2013* (Crossrail SPG). Central London charges (£61-£140), apply to parts of Tower Hamlets, the City of London, Islington, Hackney, Southwark, Camden and Kensington & Chelsea. The Isle of Dogs charges (£84 - £190 per sq.m) applies to part of Tower Hamlets. The 'rest of London' charges (£0 - £31 per sq.m) apply to an approximate 1 kilometre radius outwards around some of the proposed Crossrail stations along the route.
- 2.2 Mayoral CIL applies to all CIL-liable uses apart from health and education across all of London. In locations where Crossrail Section 106 applies, the Mayor treats his Crossrail CIL payment as a credit towards any payment sought under the Crossrail Section 106 policy. The Crossrail CIL payments are £50 per sq.m in City, Westminster, Islington, Camden and Kensington & Chelsea; and £35 per sq.m in Tower Hamlets, Hackney and Southwark. The practical effect of this is that in Central London and Isle of Dogs Contributions Areas only the top-up above the CIL paid is payable as a Crossrail Section 106 contribution. In most of the 'rest of London' area identified the Crossrail Section 106 contributions indicative charges are significantly reduced and in many cases completely cancelled out by the Mayoral CIL, so no or a low Crossrail top-up is payable.

3. Approach Taken by Other Relevant London Boroughs

- 3.1 The Central London charges apply to parts of Tower Hamlets along with Islington, City of London, Westminster, Hackney, Southwark, Camden and Kensington & Chelsea. Only Tower Hamlets is impacted by the Crossrail Section 106 charge for Isles of Dogs Contributions Area. The approaches taken by other relevant central London Boroughs are summarised below.

- 3.2 Figure 1 details the Borough CIL rates set by Central London boroughs in respect of the relevant land uses caught by the Crossrail SPG (April 2013).
- 3.3 **The City of London** adopted their CIL Charging Schedule on 1st May 2014. The charging rate for office, hotel and retail uses is £75 per sq.m across the City.
- 3.4 The London Mayoral CIL and the Crossrail SPG chargeable rates are factored into the financial modelling according to paragraph 3.29, Viability Study, Gerald Eve March 2013. This is also noted in paragraph 6 of the Examiner's Report published in January 2014^v.
- 3.5 **The London Borough of Islington's** CIL Charging Schedule^{vi} will come into effect on 1st September 2014. The adopted charging rates for office, retail and hotels are set out in Figure 1.
- 3.6 London borough of Islington accounted for the Mayor of London's CIL and the Crossrail Section 106 in setting its CIL rates. In doing so, Islington Council stated that they do not expect to apply the full indicative Crossrail Section 106 for hotel and retail development in the CAZ. The reasons are summarised below (see page 26 & 27 of the Draft Charging Schedule – Statement of Consultation, 2013)^{vii}:
- A relatively small proportion of new retail and office floorspace are expected in the CAZ in Islington.
 - The Crossrail SPG (April 2013) allows deduction on the previous floorspace of the classes of use covered by the policy - Where a development is proposed on an existing office site (which is often the case) that has been in use, the much higher charge for offices means that hotel/retail charge would be reduced to zero or to a level that is lower than the Mayoral CIL, unless there is a very significant uplift in floorspace.
 - The nature of proposed development – mainly mixed-use and often residential led in the CAZ. As the Crossrail planning obligations charge does not apply to residential uses, where the residential uses account for a significant proportion of new floorspace, the Mayoral CIL will often be higher than the Crossrail Section 106 contribution, and so the Crossrail Section 106 will not apply.
 - If the charges were to apply for these uses, it would be at a relatively low level after the Mayor's CIL has been deducted.
- 3.7 The Examiner's Report published in February 2014^{viii} notes that specific allowance has been made for Crossrail Section 106 contributions. It also addresses the additional concern raised by the Mayor of London in relation to the effects of the proposed hotel and retail charging rates on the potential for contributions to continue to be secured for Crossrail through Section 106 planning obligations. The Examiner concludes (in paragraph 44) that:
- “... They have not sought to challenge the detailed methodology or assumptions of the viability studies referred to above. As already noted, allowance for Crossrail Section 106 contributions has been*

made in these studies. I have therefore seen no substantive evidence that the relevant contributions would, in practice, be threatened."

- 3.8 **London Borough of Southwark's** CIL examination hearing sessions will take place on 29th July 2014. The proposed charging rates for commercial uses are set out in Figure 1.
- 3.9 Paragraph 4.33 of the CIL Viability Study (November 2013)^{ix} is relevant and states: "... our appraisals include Mayoral CIL and any potential Crossrail top up charge that is liable as a cost that could be sought by the Mayor, so the outputs of this study identified are the maximum viable levels of Borough CIL on developments".
- 3.10 **London Borough of Hackney** consulted on its Draft Charging Schedule from 15th January to 26th February 2014. The proposed charging rates for offices, hotel and retail are set out in Figure 1.
- 3.11 The associated viability study (December 2013)^x states that they have incorporated the full amounts of Crossrail Section 106 charge into the proposed charging rates. Nevertheless, paragraph 6.25 of the study notes that, "*Although the CIL regulations do not require the Council to have regard to the Crossrail Section 106 when setting its CIL rates, it is likely that the Mayor will raise an objection if he perceives that Borough CIL might impact on his ability to negotiate with developers.*"
- 3.12 The Draft Charging Schedule (January 2014) states that "*The Mayor has been negotiating with qualifying developments in regards to Crossrail s106 payments since December 2008. In Hackney the focus for the Crossrail s106 payments is the Central Activities Zone (CAZ) (which includes the majority of the area identified as the City Fringe in this Charging Schedule). Developments constructing more than 500sqm of office retail or hotel, or a combination thereof, in the CAZ are liable to pay per square metre (sqm)*".
"*In the CAZ the Crossrail s106 still applies; in order to determine the full Crossrail contribution both the s106 and CIL amounts are calculated, then if the s106 payment is greater than the CIL payment the developer is required to pay the difference between the two*".
"*The need to take into account the Mayor's Crossrail Section 106 charges for commercial uses (office, retail and hotel) within the CAZ. This has resulted in a reduction in the office rates overall and a lowering of the buffers for retail in the City Fringe and hotels across the borough, as the impact of the Crossrail s106 has been made more explicit in the Economic Viability Assessment in response to comments made by the Greater London Authority (GLA) on the PDCS*".
- 3.13 **London Borough of Camden** is currently consulting on their Draft Charging Schedule between 19th July and 31st July 2014. The proposed charging rates for offices, hotel and retail are set out in Figure 1.
- 3.14 Para 2.37 of the associated Viability Study (June 2014)^{xi} prepared by Gerald Eve, states that the Council "*have also applied Crossrail CIL and SPG payments with no allowance for set-off*".

- 3.15 **Royal Borough of Kensington & Chelsea** consulted on its Draft Charging Schedule from 21st January to 23rd February 2014. Only a small area of the borough is affected by the Crossrail SPG.
- 3.16 **Westminster City Council** has yet to publish a Preliminary Draft Charging Schedule.

Figure 1: Comparison of central borough CIL rates

Comparison of central borough CIL rates				
Borough	BCIL Status	Office rate	Retail rate	Hotel rate
Tower Hamlets	DCS	90 / 50 / 0	120 / 70 / 0	180
Islington	Adopted	80 / 0	175 / 125	350 / 250
City	Adopted	75	75	75
Southwark	Revised DCS	70 / 0	125 / 0	250 / 125
Hackney	DCS	50 / 0	65 / 0	80 / 55
Camden	DCS	45 / 25 / 0	25	40 / 30
K & C	DCS	0	0	160
Westminster	None			

Source: Transport for London, 2014

ⁱ LBTH CIL - Tower Hamlets' Response to Main Issues and Questions:

<http://www.towerhamlets.gov.uk/idoc.ashx?docid=3e82d64e-0680-40b6-b4dd-b8e4881fe876&version=-1>

ⁱⁱ How the Crossrail SPG has been accounted for in respect of Office development in the North Docklands:

<http://www.towerhamlets.gov.uk/idoc.ashx?docid=94a6a2fd-085e-4da6-bfe0-b4f8c587cb9a&version=-1>

ⁱⁱⁱ Breakdown of Commercial Rates:

<http://www.towerhamlets.gov.uk/idoc.ashx?docid=36f80d92-6810-4960-b53e-33ca736cfadf&version=-1>

^{iv} Use of planning obligations in the funding of Crossrail, and the Mayoral Community infrastructure Levy (April 2013): <http://www.london.gov.uk/sites/default/files/Crossrail%20SPG%20April%202013.pdf>

^v Examiner's Report - City of London's Draft CIL Charging Schedule:

<http://www.cityoflondon.gov.uk/services/environment-and-planning/planning/planning-policy/local-development-framework/Documents/col-cil-public-examination-inspectors-report.pdf>

^{vi} Islington's Draft Charging Schedule and Supporting Information:

[http://www.islington.gov.uk/publicrecords/library/Planning-and-building-control/Publicity/Public-consultation/2013-2014/\(2013-06-28\)-CIL-Draft-Charging-Schedule-and-Supporting-Information-June-2013.pdf](http://www.islington.gov.uk/publicrecords/library/Planning-and-building-control/Publicity/Public-consultation/2013-2014/(2013-06-28)-CIL-Draft-Charging-Schedule-and-Supporting-Information-June-2013.pdf)

^{vii} London Borough of Islington's Draft Charging Schedule – Statement of consultation (October 2013):

[http://www.islington.gov.uk/publicrecords/library/Planning-and-building-control/Publicity/Public-consultation/2013-2014/\(2013-10-17\)-Draft-Charging-Schedule_Statement-of-Consultation.pdf](http://www.islington.gov.uk/publicrecords/library/Planning-and-building-control/Publicity/Public-consultation/2013-2014/(2013-10-17)-Draft-Charging-Schedule_Statement-of-Consultation.pdf)

^{viii} Examiner's Report – Islington's Draft CIL Charging Schedule:

[http://www.islington.gov.uk/publicrecords/library/Planning-and-building-control/Publicity/Public-consultation/2013-2014/\(2014-03-14\)-Report-on-the-Examination-of-the-Draft-London-Borough-of-Islington-CIL-Charging-Schedule.pdf](http://www.islington.gov.uk/publicrecords/library/Planning-and-building-control/Publicity/Public-consultation/2013-2014/(2014-03-14)-Report-on-the-Examination-of-the-Draft-London-Borough-of-Islington-CIL-Charging-Schedule.pdf)

^{ix} London Borough of Southwark – CDE1 CIL Viability Study (November 2013):

http://www.southwark.gov.uk/download/downloads/id/10169/cde1_cil_viability_study

^x London Borough of Hackney's Draft Charging Schedule
<http://www.hackney.gov.uk/Assets/Documents/Draft-Charging-Schedule.pdf>

^{xi} Viability Study (June 2014) - London Borough of Camden
http://www.camden.gov.uk/ccm/cms-service/download/asset?asset_id=3210034

^x Hackney Viability Assessment and Appendices
<http://www.hackney.gov.uk/Assets/Documents/Hackney-CIL-Viability-report-with-Appendices.pdf>