



**LONDON BOROUGH OF TOWER HAMLETS
COMMUNITY INFRASTRUCTURE LEVY SCHEDULE EXAMINATION
HEARING SESSION 1:**

**WRITTEN STATEMENT ON BEHALF OF LONDONNEWCASTLE
22 APRIL 2014**

Introduction

1. This Written Statement is submitted by DP9 on behalf of Londonewcastle ('LN'). It follows representations submitted by LN at the following stages in the preparation of the Council's Charging Schedule.
 - a. Draft Charging Schedule – representations submitted June 2013.
 - b. Revised Draft Charging Schedule – representations submitted December 2013.
2. LN is a major residential and mixed use developer with a number of projects and substantial land and development interest in the London Borough of Tower Hamlets ('LBTH'). The outcome of the Borough CIL will therefore have substantial implications on current and future projects. It is in LN interest to ensure that the adopted Borough CIL is robust to ensure the delivery of viable development in the Borough.
3. As stated within the submitted representations, LN's overriding concern is that insufficient focus has been given to the designated Opportunity Areas and Strategic Sites that are critical to the successful delivery of the Council's Development Plan and there is not suitable justification to the division of residential rates across the Boroughs geographical area. In light of this LN's focus is on Hearing Session 2, Question 9. However, Hearing Session 1 provides important context and there are a number of key points LN would like to highlight.
4. As noted above, LN has submitted representations at two stages in the Council's production of its Charging Schedule. The representations have been substantial and are relevant to many of the questions posed by the Examiner for debate at the Examination. Of course, LN does not wish to simply repeat the representations here, but instead provide comment following feedback and to draw attention to their main points.

Response to Questions

Question 3

5. LN doubts the robustness of the proposed 'buffers'. In the absence of viability sensitivity testing, it is inevitable that the scale of buffers has been over-estimated and as such LN is concerned that the Council does not appear to have sensitivity tested the implications of different viability buffers.
6. The Council has provided no justification for the viability buffers that have been used. This is an issue raised by LN in their earlier submitted representations.

7. Paragraph 30 of the Government's CIL Guidance (2013) requires that charging authorities should:

'avoid setting a charge right up to the margin of economic viability across the vast majority of sites in their area'

Although there is no guidance on the level of 'buffer' that should be allowed below the margin of viability, the 'Viability Testing Local Plans' (2012) note that *'the decision on what cushion might be appropriate will rest with planning authorities...having taken a view on the level of risk to delivery'*.

8. The extent of viability buffer varies between different authorities and is clearly to be determined as a result of the particular nature of development associated with each authority on a case by case basis. The nature of development clearly ought to determine the nature of risk. Therefore, one would expect an authority whose Development Plan is based upon a significant amount of strategic and complex development to take a more cautious approach to risk compared to an authority whose Development Plan is primarily dependent upon smaller, more straightforward, developments. Indeed, in determining the varying levels of risk between standard and strategic development, variances should be applied to the viability buffers when calculating the appropriate discounted CIL rates. A one size fits all approach, which has been taken by LBTH, is not correct in this instance and completely discounts the respective risk profiles.
9. Ascertaining the nature of development upon which a Development Plan is based is clearly important and critical to understanding the robustness of viability buffers. This should be done at the very outset of preparing a CIL Charging Schedule. This has not been done in the case of LBTH.
10. As such, the viability work undertaken by the Council in relation to the Opportunity Areas / strategic development has been an afterthought instead of being central to the viability analysis. It appears that the buffers relate to generic non-strategic development types and not the strategic nature of development that is so critical to the successful delivery of the Development Plan.
11. The BNPP Viability Study recommends that Tower Hamlets should have a buffer circa 25%. There is no explanation as to why BNPP has concluded that a 25% buffer is recommended as a blanket factor for the whole of the Borough. As such, it does not alter or reflect the complexities and challenges associated with different types of development or designated areas.

Question 4

12. It is unclear how the Council's assumptions regarding ongoing Section 106 payments have been derived. There does not appear to be any evidence that the Council has drawn upon in this respect. This has been an issue LN has previously raised in representations in the production of the Council's Charging Schedule.
13. The Council has also assumed a standard generic allowance for ongoing Section 106 across Tower Hamlets irrespective of the nature and type of development
14. LN have previously stressed the need for the Council not to assume that Section 106 costs will be scaled back significantly once the Charging Schedule comes into effect. The reasons for this are

clearly set out in representations and do not need to be repeated, but it is again a particular issue in respect of strategic development

15. The Council's assumptions for ongoing Section 106 costs appear to be very low when compared to the reality of what is currently anticipated for strategic development.
16. The Council assumes the Section 106 obligations would amount to £1,220 per residential unit and £5 per sqft for commercial floorspace. When this figured is tested against current proposals it is apparent that this is a significant under-estimation. When this was raised in earlier representations, the Council response was that *"the figures assumes are considered to be a reasonable proxy for likely sums to be sought after CIL is adopted, based on the requirements set out in the Revised Draft Planning Obligations SPD...and the figure adopted is broadly in line with those adopted by many other London Boroughs"*. Such a response does not provide suitable evidence or justification as to why such a figure has been reach, particularly such a precise figure.
17. Overall it is LN's opinion that the Council's assumptions in respect of ongoing Section 106 costs are fundamentally flawed and as such, suitable evidence / justification needs to be provided to identify how this figure has been reached.

Question 6

18. The phasing of development is clearly a critical factor to its viability and deliverability. This is obviously particularly the case in respect of complicated multi-phased strategic developments. Understanding phasing assumptions, including sensitivity testing these, will have a bearing on how viability is assessed from a CIL perspective.
19. The strategic site appraisals contained in the BNP Paribas Viability Study do not explicitly consider phasing. Clearly a phasing has been assumed and LN is concerned that this has been over simplified as is akin to non-strategic development types.

Question 8

20. As the Council has not made available the necessary appraisal detail that underpins the work that has been undertaken in relation to the strategic sites, it is difficult to determine whether there are errors in the viability assessments. The BNP Paribas Viability Study explains, at paragraph 7.4, that high level appraisals have been run for a selection of the designated strategic sites. The appraisals that are attached at Appendix 6 of the Study are essentially a list of appraisal inputs. The Council has not made available evidence it is relying on. LN consider that the appraisals for each of the strategic sites need to be released in order to properly assess whether there are any errors that are fundamental to how the Council has considered the strategic sites.