

**LBTH CIL Revised Draft Charging Schedule
Representation**

02/12/2013

No.	RDCS Ref	Represntor	Agent	Attend EIP Y/N/Maybe?
1	CIL_RDCS01	Stephen Ashworth	N/A	Y
2	CIL_RDCS02	James Ball	N/A	Y
3	CIL_RDCS04	Greater London Authority	N/A	Y
4	CIL_RDCS05	Lanak Square Ltd	NLP Planning	Unstated
5	CIL_RDCS06	W.M Morrison Supermarkets Plc.	Peacock and Smith + Aspinall Verdi	Unstated
6	CIL_RDCS09	Canal and River Trust	N/A	Unstated
7	CIL_RDCS10	TfL	N/A	Y
8	CIL_RDCS11	London First	N/A	Maybe
9	CIL_RDCS14	Environment Agency	N/A	Unstated
10	CIL_RDCS16	Bishopsgate Goods Yard Regeneration Ltd.	DP9	Maybe
11	CIL_RDCS17	London and Quadrant (Late)	DP9	Unstated
12	CIL_RDCS18	Berkeley Group	Quod	Maybe
13	CIL_RDCS22	Express Newspapers	DP9	Unstated
14	CIL_RDCS25	Sainsbury's Supermarkets Limited	Turley Associates	Y
15	CIL_RDCS26	Canary Wharf Group	DP9	Maybe
16	CIL_RDCS27	London Newcastle and UKI (Shoreditch) Ltd) and UKI (Fleet Street Hill Ltd)	DP9	Unstated
17	CIL_RDCS28	Travelodge	Turley Associates	Y
18	CIL_RDCS29	MPG St Katharine LP	DP9	Unstated
19	CIL_RDCS34	Unite	CGMS	Maybe
20	CIL_RDCS38	English Heritage	N/A	N
		New Reps		
21	CIL_RDCS39	Docklands Centre Ltd	Tibbalds Planning and Urban Design Ltd	Unstated
22	CIL_RDCS40	London Fire and Emergency Planning Authority	Dron & Wright	N
23	CIL_RDCS41	Theatres Trust	N/A	Unstated
24	CIL_RDCS42	Woodchester No 1 Limited	bptw partnership	N
25	CIL_RDCS43	Natural England	N/A	N
26	CIL_RDCS44	Land Securities	N/A	Maybe
27	CIL_RDCS45	Cross Property Investment SARI	DP9	Maybe
28	CIL_RDCS46	City of London	N/A	Unstated
29	CIL_RDCS47	THHF	Leaside Regeneration	Unstated

Joseph Ward

CIL - RDCS 01

From: Ashworth, Stephen <[REDACTED]>
Sent: 28 November 2013 23:44
To: CIL
Subject: LBTH CIL RDCS

It is good to see that changes have been made to the approach being adopted by the Council, the additional explanations that have been given and the corrections of flaws in some of the original background papers. However, I continue to have concerns about the overall approach for the reasons outlined in my note of the 23/5. In particular:

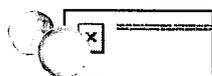
- the absence of adequate information on infrastructure costs means that an informed Regulation 14 balance cannot be struck
- there is a continuing failure to identify the scale of affordable housing that will be lost as a consequence of the proposed CIL rate, and the mantra that CIL is only 5% of the development cost is not an answer
- there is a failure to address the consequence of CIL on strategic sites, and on the major housing renewal sites in particular
- the retail differentiations, by use and location, are not supported by "fine grained" relevant evidence
- the student rate appears discriminatory, and unjustified

I applaud part of the approach taken in relation to the Crossrail SPD contributions. LBTH has multiple needs and it should be for the Council, as charging authority, to decide on the relative importance of planning obligations, affordable housing, additional Crossrail payments and your own CIL. The suggestion in some representations that the Crossrail SPD payments should take priority fails to acknowledge the discretion allowed to the charging authority. No authority should automatically assume that such charges will be levied.

As a detail the RDCS notes that the Mayor has an instalments policy and suggests that the Council will be developing a separate one. My understanding is that if the Council adopts an instalments policy then that applies to Crossrail CIL payments automatically.

I still wish to appear at the examination.

Stephen Ashworth



Stephen Ashworth
Partner

[Bio](#) | [Website](#)

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Section A – Personal Information

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Section B (1) – Representation to LBTH CIL Draft Charging Schedule

Your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested change(s), as there will not normally be a subsequent opportunity to make further representations based on the original representation at publication stage. After this stage, further submissions will be only at the request of the Examiner, based on the matters and issues he/she identifies for Examination in Public. The Examiner will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to attend the Examination in Public.

Questions:

1. Do you have any comments relating to the CIL Revised Draft Charging Schedule and its supporting evidence?

Yes (Please make sure you refer to the sections or paragraphs, to which your comments relate and provide details by using the box below for your comments. If needed, please continue on a separate sheet of paper.)

No

Yes – please see pages below

Summary

Revised Draft Charging Schedule makes residential development in north west Cubitt Town unviable

- The residential sales value in Cubitt Town (E14 3) is valued at £380/sq ft, the cheapest in the borough, and should be placed in Residential CIL Charge Zone 3 (per Viability Study, August 2013, Tables 4.3.1 and 1.5.4)
- This cost per sq ft is reasonable for the whole of Cubitt Town E14 3 (per evidence below)
- Yet a substantial area – FIVE HECTARES – of Cubitt Town has been placed in Charge Zone 1, with a CIL charge SIX TIMES more expensive than Charge Zone 3
- This makes development unviable in these five hectares. As such the proposed CIL fails the viability test and cannot be approved in its current form: it must be changed
- Therefore the boundary between Charge Zone 1 and Charge Zone 3 should be moved such that ALL of Cubitt Town E14 3 is placed inside Charge Zone 3
- This is easy to achieve as the affected five hectares are right on the border of Charge Zone 3, so it is simply a question of moving the boundary such that Charge Zone 3 includes them

Introduction

The boundary between Residential CIL Charge Zones 1 and 3 at the northern end of East Ferry Road should be moved such that all of Cubitt Town (E14 3) is in Charge Zone 3. This includes [REDACTED] 98 East Ferry Road, E14 3LL. (Note: when I refer to Cubitt Town E14 3, however, I am not including those parts of E14 3 which are on the riverfront in Millwall on the west side of the Isle of Dogs – these are plainly in a different area than most of E14 3)

The Council's own Viability Study (August 2013, by BNP Paribas) states that Cubitt Town (E14 3) should be in Charge Zone 3, in Table 1.5.4. But the council have drawn the border between Charge Zone 1 and Charge Zone 3 such that not all of Cubitt Town E14 3 is in Charge Zone 3 – a large part, approximately FIVE HECTARES (north west of East Ferry Road, at E14 3LL) misses out and is instead placed into Charge Zone 1. This has a CIL levy which is SIX TIMES more expensive than Charge Zone 3, and would make development in this large, five hectare area, UNVIABLE.

These five hectares make up a considerable part of Cubitt Town E14 3. Cubitt Town E14 3 comprises approximately 97 HECTARES of total land area, of which 22 HECTARES is made up of Mudchute and Millwall parks. Ignoring other parks this leaves an absolute maximum land area available for other uses of 75 HECTARES – therefore to make development unviable on 5 HECTARES cannot be dismissed as immaterial or insignificant.

The maps below show the total land area of Cubitt Town E14 3, and the area currently placed in Charge Zone 1.

All of Cubitt Town E14 3
(75 hectares excluding Mudchute park & Millwall park)



Cubitt Town E14 3 currently included in Charge Zone 1
(5 hectares)



Evidence for residential sales values in Cubitt Town, across both Charge Zones 1 and 3

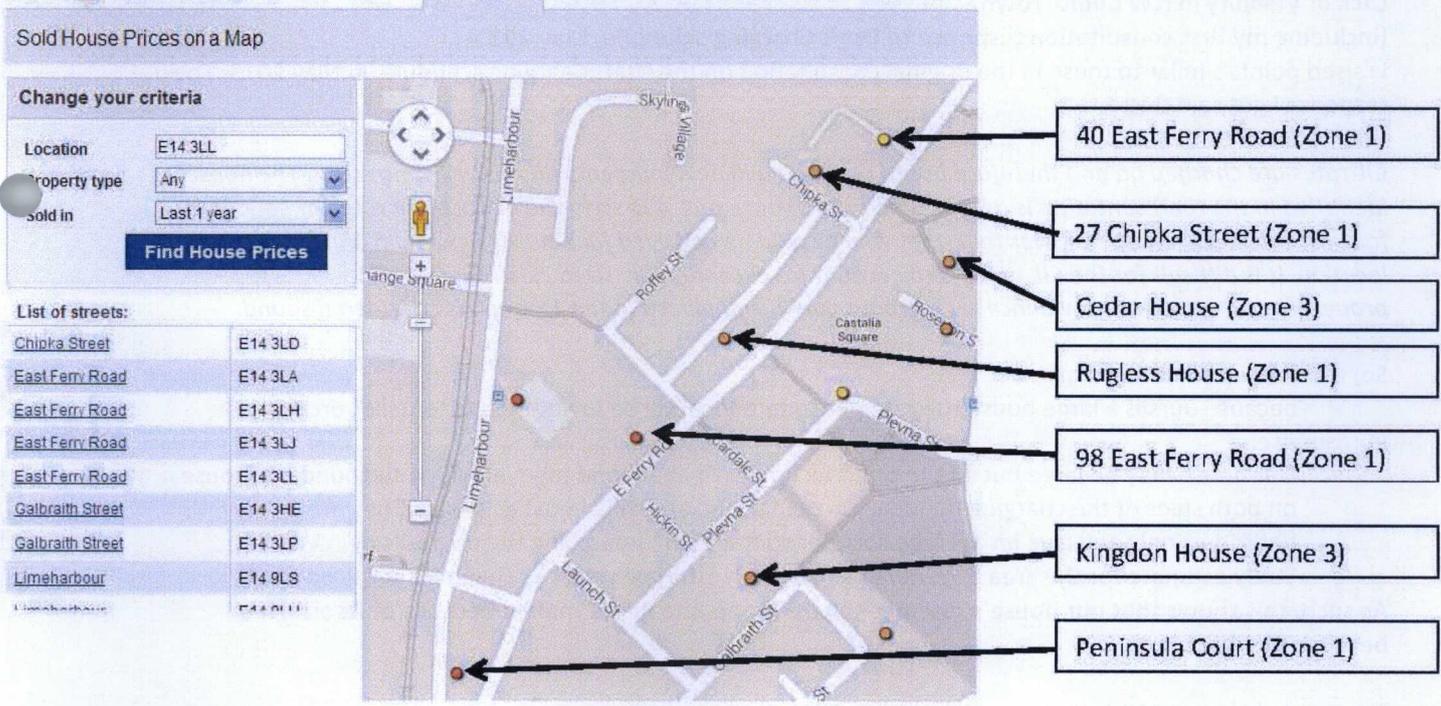
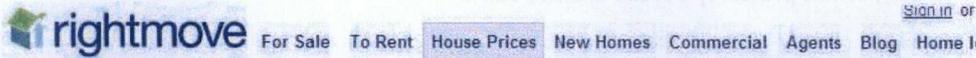
Splitting Cubitt Town (E14 3) into different Charge Zones makes no sense - values on the north west side of the northern part East Ferry Road are indistinguishable from values on the south east side of the road. This can be seen from the table below, which uses actual sales prices. I have centred the evidence [redacted] at E14 3LL, as this is at the border of Charge Zone 1 and Charge Zone 3 so is a good place to test whether there is any difference between sales values in the different Charge Zones. As such, I have included ALL sales data in 2013 for E14 3 in a 1/4 mile radius around E14 3LL, for all properties where I could source floor area from either Rightmove or Zoopla (data collected 28/11/2013).

Example residential sales value around East Ferry Road, E14 3LL

Property	Bedrooms	Sold date	Sq feet	Price £	Cost/sq ft	Proposed Charge zone	CIL for 100m2 build	Distance from E14 3LL^
Flat 12, Rugless House, East Ferry Rd, London, E14 3LJ	2	26/06/2013	600	245000	408	Zone 1	20000	0.048 miles/77m
27 Chipka Street, London, E14 3LD	2	22/08/2013	795	285000	358	Zone 1	20000	0.116 miles/186m
40 East Ferry Road, London, E14 3LA	1	03/07/2013	506	170000	336	Zone 1	20000	0.148 miles/238m
Flat 58, Peninsula Court, 121 East Ferry Road, London E14 3LH	2	12/07/2013	859	342000	398	Zone 1	20000	0.108 miles/174m
Flat 6, Cedar House, Manchester Road, London, Greater London E14 3PA	2	24/05/2013	630	210000	333	Zone 3	3500	0.136 miles/218m
Flat 10, Kingdon House, Galbraith Street, London E14 3LP	2	07/05/2013	603*	210000	348	Zone 3	3500	0.071 miles/114m
Average					364			
[redacted] 98 East Ferry Road, London, E14 3LL	5/6	30/09/2011	1403	425000	303	Zone 1	20000	

*calculated from room dimensions

^calculated from <http://www.freemaptools.com/how-far-is-it-between.htm>



As can be seen, there is **NO DISCERNABLE DIFFERENCE** in values between E14 3 sites in Charge Zone 1 and Charge Zone 3. The data shows an average sales value of £364/sq ft for Cubitt Town (E14 3), very close to the Viability Study (August 2013, table 4.3.1 extracted below) which suggests a value of £380/sq ft.

ft. To give some context, all sales values above are between £303/sq ft and £408/sq ft, all close to the average of £380/sq ft suggested for Area 1 and all comfortably below the average of £430/sq ft found for Area 2, the second cheapest area.

Viability Study (August 2013), Table 4.3.1

Table 4.3.1: Average sales values used in appraisals

Market Area	Market Area Description	Average values £s per sq ft	Average values £s per sq m
1	Cubitt Town (E14 3), Victoria Park, Fish Island, Bow and Mile End (E3 2, E3 4)	£380	£4,090
2	South Bromley-by-Bow (E3 3), Bow Common, Poplar (E14 6)	£430	£4,629
3	Bethnal Green (E2 6), Globe Town (E2 9), East Bow (E3 5) North Whitechapel (E1 5), Stepney (E1 0 E1 3, E1 4, E2 0) and South Isle of Dogs (E14 3)	£470	£5,059
4	Shadwell, South Whitechapel (E1 1, E1 2), E14 7 and Blackwall (non-riverside) and Leamouth (E14 0, E 14 2)	£500	£5,382
5	Limehouse & West Isle of Dogs (E1W 3, E1W 8), Shoreditch (E2 7) Blackwall (riverside) (E14 0)	£575	£6,189
6	Spitafields (E1 6)	£650	£6,997
7	Canary Wharf (E14 4, E14 5 & E14 9), Aldgate (E1 7, E1 8), Tower of London and St Katherine's Docks (EC3 N4, E1W 1) and Wapping (E1W 2)	£700	£7,535

As such my analysis

- justifies the view in the Viability Study (August 2013) that Cubitt Town, WHICH INCLUDES AREAS BOTH NORTH WEST (CHARGE ZONE 1) AND SOUTH EAST (CHARGE ZONE 3) of the northern part of East Ferry Road is the cheapest part of the borough, and so should ALL be included in Charge Zone 3
- shows the inclusion of the parts of Cubitt Town on the north west side of East Ferry Road (still E14 3) into Charge Zone 1 to be grossly unfair, asking developers to pay SIX TIMES the amount of CIL that properties on the other side of the road pay, when property values are the same

Lack of Viability in NW Cubitt Town

(including my first consultation response to Draft Charging Schedule, May 2013)

I raised points similar to these in the original consultation on the Draft Charging schedule, in May 2013. The response I got said this:

CIL rates are charged on and therefore based on new build developments and not existing stock. The house identified in the representation is a large 6 bedroom house of 1,403 sq ft and as such the rate per square foot will understandably be lower than that which could be achieved for smaller new build units in this location. It is difficult for the CIL process to account for exceptionally sized existing properties and as such the evidence for the boundary being placed in this location is considered sound.

So, the Council contends that

- because ours is a large house the rate per square foot will be lower than for smaller properties

In response:

- Our house may be large but all the other examples I have found (above) which surround our house on both sides of the charging boundary are small and are still almost as cheap. They are 1 or 2 bedrooms only and give an average cost per sq ft at £364 (matching the council's own Viability Study estimate for the area at £380/sq ft), by both estimates still the cheapest in the borough.

As such, this shows that our house's rate per square foot is cheap not mainly because of its size, it's because of where it is

The Council also contends that

- our house is cheaper per square foot than a new build would be

In response:

- **That's not a like for like comparison – a like for like comparison on second hand values shows Cubitt Town as the cheapest area** Of course new builds attract a slight premium, but that would be the case anywhere in the borough. To compare the second hand value of our house with a new

build is not a LIKE FOR LIKE comparison. The point of using second hand residential values is, in the absence of much new build sales data, to get a only a ROUGH idea of likely new build property values and more especially to allow LIKE FOR LIKE comparison across different parts of the borough using the more numerous second hand data which is available, to show what value each area's property has. And the Council's Viability Study comparison using second hand values shows that Cubitt Town is the cheapest place in the borough. My data shows that our house, and the other smaller properties still in Cubitt Town E14 3 but placed in Charge Zone 1, are just as cheap as the rest of Cubitt Town.

- **Even new builds in Cubitt Town would still be cheap, based on one of the examples above**
Included in the examples is a property from Peninsula Court (174m from our house) - built only in 1995 this is very close to new build specifications. Yet its cost is still only £398/sq ft: this shows that even new builds in this area are likely to be at the very cheapest end of property in the borough. With this selling at ONLY 57% of the price of second hand residential property in Area 7, this shows that charging the same CIL levy on the Charge Zone 1 parts of Cubitt Town and Area 7 would be grossly unfair.
- **Even adding a "new build premium" to Cubitt Town's prices does not change the area's status as the cheapest in the borough**
In general terms, the industry considers new build properties to attract on average a premium of UP TO 15% over similar second hand properties (for example, work done by Capital Economics and estimated by various indices). Taking this logic, even if you were aggressive and added ALL of this 15% to the value of second hand sales in Cubitt Town (so £380/sq ft x 1.15, ie £437/sq ft) the price is still only as expensive as the second cheapest area's second hand prices (Area 2 at £430/sq ft). You would still need an increase of a further 69% to bring the value per sq ft up to Area 7 levels (the most expensive, attracting the highest charge), which is clearly impossible to achieve

As such, this shows that Cubitt Town as a whole is rightly suggested to be in Area 1, the cheapest area in comparison to the others in the borough (on a like for like comparison) and that even after adding a "new build premium" to this area but not the others it is still the cheapest area. As such to levy the highest CIL charge in the borough on parts of Cubitt Town is totally inappropriate.

But it is more than inappropriate – a levy at this level destroys viability, as shown in the following table, using extracts from Viability Study (August 2013), table 1.5.1

Item	Source	Amount
Maximum CIL indicated by appraisals for Cubitt Town E14 3 (£s per sqm)	Viability Study	80
Maximum CIL, net of Mayoral CIL (£s per sqm)	Viability Study	45
Proposed CIL for Cubitt Town E14 3 north west of East Ferry Road (including E14 3LL, £s per sqm)	Viability Study	200
Viability deficit for Cubitt Town E14 3 north west of East Ferry Road (including E14 3LL, £s per sqm)	My calculation	-155

As such, this shows that for the whole area of Cubitt Town north west of East Ferry Road at its northern end, viability is absolutely destroyed, with CIL charge set at least FOUR TIMES higher than the margin of viability. This goes against DCLG CIL Guidance, April 2013, paragraph 30 which states

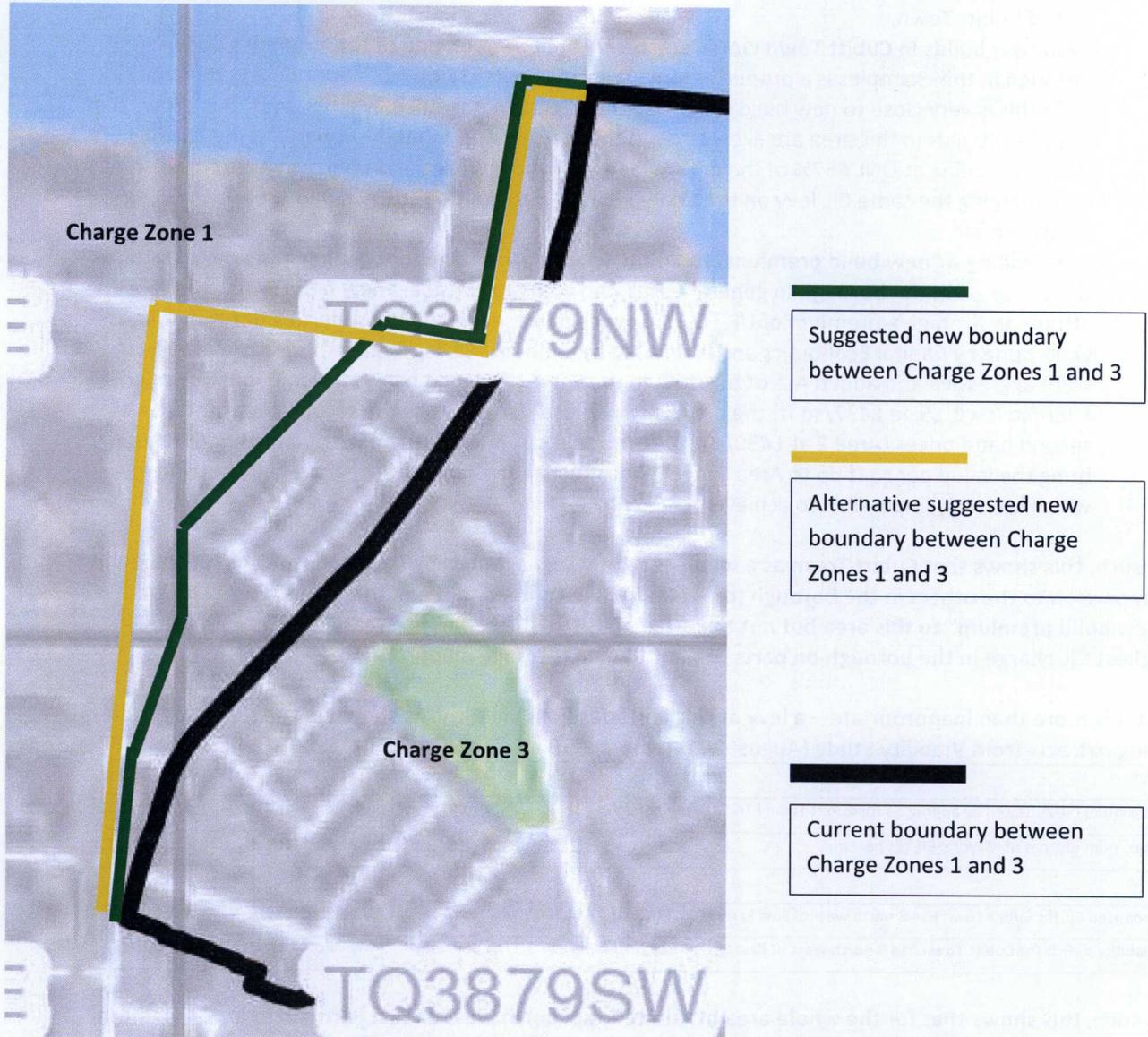
"Charging authorities should avoid setting a charge right up to the margin of economic viability across the vast majority of sites in their area."

In this case the charge is way beyond the margins of viability and therefore the charge at this level must surely be changed for the adoption of CIL to be allowed, and the whole of Cubitt Town E14 3 MUST be included in Charge Zone 3.

The Solution

Include all of Cubitt Town E14 3 in Charge Zone 3. This can be done very simply, by moving the boundary under one of the options suggested below.

North west Isle of Dogs showing current boundary across Charge Zones 1 and 3 and potential alternatives



Both of these solutions are perfectly workable, and can be made to not cut across any development sites. In addition, other, slightly different solutions which incorporate all of Cubitt Town E14 3 in Charge Zone 3 are quite possible.

If your representation is seeking a change to the CIL Draft Charging Schedule, do you consider it necessary to attend the Examination in Public?

Yes, I wish to attend

No, I do not wish to attend

Signature:

Date:

Section C – Equalities monitoring: I completed the Equalities monitoring section for the consultation on the Draft Charging Schedule in May, please refer to this.

GREATER **LONDON** AUTHORITY
Development, Enterprise and Environment

CIL RDCS Consultation
Infrastructure Planning Team
LB Tower Hamlets
2nd Floor Mulberry Place
5 Clove Crescent
E14 2BG

Our ref: LBTHRDCS/PH
Your ref:
Date: 2 December 2013

Dear Sir/Madam,

**Planning Act 2008
London Borough of Tower Hamlets Community Infrastructure Levy – Revised Draft
Charging Schedule**

I am writing with the representations of the Mayor of London with regard to your Borough's Community Infrastructure Levy (CIL) revised draft charging schedule.

As you know, the Mayor approved his own charging schedule in March 2012 and started charging his CIL from 1 April of that year. Under regulation 14(3) of the Community Infrastructure Levy Regulations 2010 (as amended), London boroughs are required to have regard to the rates set by the Mayor. As part of this, we also take account of the Mayor's policy on the use of planning obligations to help fund Crossrail which, as you know, affects that part of your Borough that falls within the Central London Contribution Area shown in the map in Annex 1 to the Mayor's supplementary planning guidance on "Use of Planning Obligations in the Funding of Crossrail, and the Mayoral Community Infrastructure Levy" (in short, those parts of the Central Activities Zone and of an area within a 1 kilometre radius of Liverpool Street station that fall within the Borough boundary). It also affects the entirety of the Isle of Dogs Contribution Area shown in Annex 2 of the same document.

The Mayor also considers borough CIL proposals as they might affect the economic viability of development across their area (part of the test set out in regulation 14(1)) in order to ensure that the objectives and detailed policies in the London Plan (which, of course, forms part of the development plan across Greater London – see section 38 of the Planning and Compulsory Purchase Act 2004) are not put at risk, in accordance with paragraphs 4, 8 and 21 of the statutory guidance in the CIL published by the Government under section 221 of the Planning Act 2008. The Mayor's role in borough CIL-setting is explained in more detail in the London Plan supplementary planning guidance on "Use of Planning Obligations in the Funding of Crossrail, and the Mayoral Community Infrastructure Levy".

The Mayor has carefully considered the revised draft charging schedule and the CIL rates it proposes. For the reasons set out below, he considers that the rates proposed do not adequately take account of the rates set by the Mayor, and that in putting them forward the Borough has failed to apply properly the test set out in regulation 14(1). For these reasons he would urge the Borough to withdraw the revised draft charging schedule (RDCS). If it chooses not to do so, he intends to be represented at the public examination of the draft schedule and will ask the Examiner to reject the RDCS.

This letter sets out the basis for the Mayor's objection. It does so by reference to the relevant matters which will be the subject of the public examination:

- Whether in setting its proposed CIL rates, the Borough has properly applied the "appropriate balance" test set out in regulation 14(1)
- Whether in setting its proposed rates, the Borough has properly applied the requirement in regulation 14(3) to take into account rates set by the Mayor in considering the potential effects of imposition of CIL on the economic viability of development.

I will deal with each of these in turn but before doing so I must put out that there are a number of inaccuracies in the Viability Study (the more important of which are touched on later in this letter). Our professional advisers have also identified significant factual and methodological flaws in the appraisals on which the Viability Study bases its conclusions. The profit-on-cost calculations do not include site value as a cost and appraisals do not appear to substantiate the maximum CIL rates asserted. For example the figures in chart 6.25.1 are not supported by the appraisals for Office City Fringe in Appendix 5.

The regulation 14(1) test

The Council has to show that it has struck an appropriate balance between on the one hand, the desirability of using CIL to fund infrastructure required to support the development of its area, and on the other the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area. The statutory guidance applies the principles set out in the National Planning Policy Framework, using the likely effects on delivery of the development plan as a means of striking this balance, and demonstrating that it has been struck (see paragraphs 8 and 29). The Mayor considers that the Borough has failed to address this test adequately.

The Borough has failed to give sufficient weight to the importance of Crossrail. The London Plan identifies this as the Mayor's "top strategic transport priority for London" (Policy 6.4), a priority confirmed in policies 6.5 and 8.2. It is worth noting that there are intended to be two Crossrail stations in Tower Hamlets (Whitechapel, which will help underpin development of the City Fringe opportunity area, and Canary Wharf which will be critical to realisation of the potential of the Isle of Dogs as without it there will be limited scope for additional commercial development)

and the City Fringe part of the Borough will also benefit from the station at Liverpool Street.

The Mayor has in place arrangements for the use of planning obligations to seek contributions towards the cost of Crossrail, the basis for which is set out in London Plan policies 6.5 and 8.2. This was introduced in accordance with a funding agreement between the Mayor, Transport for London and ministers, and approved by Parliament. The CIL Regulations also recognise the importance of the policy, as it is the sole exception from the provisions of regulation 123 scaling back the use of planning obligations following introduction of the CIL.

As Policy 6.5 suggests, the details of the Crossrail contributions policy are set out in supplementary guidance. Uniquely, the part of the guidance document referred to earlier dealing with planning obligations was scrutinised alongside alterations to the London Plan to introduce the policy at an examination in public in December 2009 (at which Tower Hamlets attended), and the Mayor accepted a number of suggestions for changes to the document made by the Panel. Although the guidance is not formally part of the development plan, it is soundly based on formal policy and the way it was prepared coupled with the extent of ministerial support means that it should be given particular weight. It was brought forward to give effect to national policy, as the funding arrangements for Crossrail (including this policy) were laid before Parliament during passage of what became the Business Rates Supplements Act 2009.

In responding to the examination in public, the Mayor acknowledged that following introduction of the Community Infrastructure Levy, he would ensure that developers did not effectively make the same contribution twice under both the Mayor's CIL and s106. He has sought to do this by treating the CIL as a "credit" towards the planning obligation contribution calculated in accordance with the supplementary planning guidance (SPG) in those parts of London where the latter applied – in Tower Hamlets these are that part of the Central London contribution area shown in Annex 1 of the SPG, the Isle of Dogs contribution area shown in Annex 2 and an area within a 1 kilometre radius of Whitechapel station (see Annex 4). The practical result is that in these areas, where the Mayoral CIL payable is less than the amount payable under the planning obligation policy a "top up" will be sought representing the difference between the two amounts.

Tower Hamlets' viability consultants propose rates at the highest levels they can justify having allowed a buffer for abnormal costs etc. and only part of the Mayor's Crossrail S106. It follows that if the Crossrail S106 "top-up" was collected at the full rate this would require a reduction in the proposed rates if development is not to be put at risk. To avoid this, the Borough is proposing an arbitrary reduction in the Crossrail "top-up" on the North Dockland Office market. It is possible to deduce from the Tower Hamlets' CIL Infrastructure Planning and Funding Gap Report that North Docklands is estimated to deliver almost 50% of all commercial development subject to Crossrail S106 policy in the borough between 2014 and 2026. The fact that the Crossrail "top-up" is restricted on office property use in the North Docklands area is likely to have a significant effect on the amount of Mayor's S106 collected from the borough and on the overall funding of Crossrail. In practical

terms meaning either an unfair further burden on other parts of London, or other strategic transport projects in Tower Hamlets being cancelled or delayed to help make up the gap.

The Mayor submits that in taking this approach, the Borough has incorrectly applied the test in regulation 14(1) by disregarding a policy in the development plan which has a vital bearing on the question of the potential effects (taken as a whole) of the proposed CIL rates on economic viability. It has failed to show how this approach could contribute towards the implementation of relevant development plan policies (paragraph 8 of the statutory guidance). It has brought forward rates which could only be set by compromising delivery of London Plan policies 6.5 and 8.2 in a way that recent reports by Examiners considering draft schedules put forward by Mid Devon District Council and the Greater Norwich Development Partnership have suggested does not conform with regulation 14.

The Mayor further submits that the correct approach in applying regulation 14 is to start with the policies in the development plan, including those for affordable housing and other calls on development, and assessing the effects of proposed CIL rates over and above these. This view is supported by paragraph 29 of the statutory guidance. The Borough has not done this; rather it has treated the "Crossrail top-up" as the residual, to be reduced to accommodate their CIL proposals regardless of the extent of congestion a development might cause on the London rail network (the "harm" the Mayor's planning obligations policy is intended to address, and which is a factor in making relevant development acceptable in planning terms). The Borough has therefore failed to apply the regulation 14 test properly.

It is worth noting that the reduction in "Crossrail top-up" is wholly arbitrary. This approach is contrary to the spirit encouraged by paragraph 32 of the statutory guidance.

It is also worth noting in respect of affordable housing provision that the Council does not appear to have had due regard to its overall strategic target for affordable housing of 50%, as set out in Core Strategy SP02. This policy identifies that the 50% target is to be achieved by: securing affordable housing via planning obligations in the range 35-50% of units (subject to viability); securing additional affordable homes from public sector initiatives with housing associations; and bringing long-term vacant properties back into use. Whilst some consideration has been given to the impact on affordable housing supply via planning obligations this does not appear to be the case with supply from public sector initiatives with housing associations. In particular many such affordable housing and estate regeneration schemes rely on an element of internal cross-subsidy from private sale units. Moreover the inclusion of an element of cross-subsidy is often necessary to demonstrate that schemes offer value for money when housing associations are bidding for public grant for such schemes i.e. a negative impact on the level of cross-subsidy may in turn reduce or negate public grant for such schemes. The Council's failure to assess the impact of the proposed charging rate on the supply of affordable housing from public sector initiatives with housing associations constitutes a failure to have due regard to Core Strategy SP02 and therefore to comply with regulation 14.

In summary, the Mayor considers that Tower Hamlets has clearly failed to strike the balance required by regulation 14. The RDCS should be either withdrawn or rejected on this ground.

Regulation 14(3)

Regulation 14(3) requires Boroughs to take account of CIL rates set by the Mayor in setting their own. The Borough has failed to do so.

It is common practice in setting CIL rates to allow a buffer between the rates proposed and the maximum that could be sought. This reduces the scope for "shocking" the development market and gives some headroom for exceptional costs in particular cases. As at October 2012 the Borough's then viability study stated that typically a reduction of 30%-50% is allowed as a buffer. In the August 2013 updated study the range is given as "circa 20%-50%". No evidence is provided to support the level of discount and no explanation is given as to why over the space of 10 months it is thought appropriate to reduce the buffer from 30% to 25%.

No evidence is put forward for why the kind of costs and other factors intended to be covered by the buffer should differ so markedly from one part of the Borough to another (indeed the use of percentages to cover factors probably unlikely to vary much in actual cost terms from place to place could be questioned). Oddly perhaps, the application of a percentage after deduction of the Mayor's CIL means that the lowest buffer appears to have been allowed for in places where the viability fundamentals are at their weakest. We can see no explicit consideration of whether the buffer percentages are appropriate to the circumstances found at the strategic sites.

Furthermore, using City Fringe offices as an example the current Viability Evidence sets the maximum potential CIL by reference to the "current use value 2" calculation whereas the previous evidence adopted the more cautious "current use value 3" calculation. No explanation is given for this change of approach which increases the risk that the adopted rates will make development unviable.

The Mayor considers that the Borough has failed to have proper regard to the Mayoral CIL in striking the balance required by regulation 14. He also considers that the flaws identified here undermine the value of the Viability Study as appropriate available evidence.

We would be glad to discuss these issues with you further, if you consider that would be helpful. In the meantime I would be grateful if you would note our request to be heard at the public examination and to be notified of the various steps outlined in paragraphs 5.1 and 5.2 of your Statement of Representation Procedure (October 2013). Please notify Richard Linton, Principal Planner, via email Richard.Linton@london.gov.uk.

Yours sincerely

Joseph Ward

CIL-RDCS05

From: Sarah Watts [REDACTED]
Sent: 29 November 2013 17:22
To: CIL
Cc: [REDACTED]
Subject: CIL DCS (Representations on behalf of Lanark Square Ltd [NLP-DMS.FID173960])
Attachments: 12911 CIL Representations 29.11.13.PDF; Representations on behalf of Lanark Square Ltd - Suggested new boundary for CIL Zone 1.pdf

London Borough of Tower Hamlets CIL Draft Charging Schedule

On behalf of Lanark Square Ltd., please find attached representations on the LB Tower Hamlets CIL Draft Charging Schedule.

For the reasons set out in the attached letter, we suggest that the area of CIL Zone 1 is amended to exclude the area to the south of Pepper Street, including Turnberry Quay/Lanark Square and that this area should be included within the CIL Zone 2. A plan showing the proposed revised boundary for CIL Zone 1 is also attached.

Please do not hesitate to contact me should you require any further information. I would be grateful if you would confirm receipt of these representations.

Many thanks

Kind regards

Sarah Watts
Planner

Nathaniel Lichfield & Partners, 14 Regent's Wharf, All Saints Street, London N1 9RL
 [REDACTED]

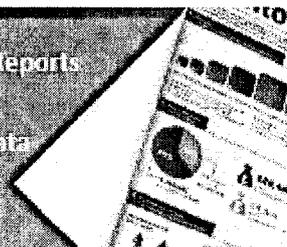
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CIL - RDCS 05

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CIL - RDCS 05

Sent by email to CIL@towerhamlets.gov.uk

Date 29 November 2013
Our ref 12911/IR/BK/SW/5963250v1
Your ref

Dear Sir/ Madam

London Borough of Tower Hamlets CIL Draft Charging Schedule

On behalf of our client, Lanark Square Ltd., we are writing to set out our concerns regarding the Council's Draft CIL Charging Schedule. We attach at Appendix 1 our original representation on the schedule (June 2013). The key points from our original representations are set out below.

1. The identification of three charging zones covering the whole of LBTH with suggested residential CIL rates of £35, £65 and £200 per sqm masks and simplifies the huge variation in the housing market across the borough. Whilst we recognise that this is a strategic exercise, to adopt the same rate for Canary Wharf and the Millwall dock area (not to mention Shoreditch, Aldgate, Wapping, Limehouse and Blackwall riverside...) is inappropriate and will inhibit development within the lower value sections of Zone 1.
2. The market in the Lanark Square area is, in fact, more comparable to the southern sections of the Isle of Dogs, which are in Zone 2 and where a £65 rate would apply, than Canary Wharf, where £200/sqm would apply.
3. In the vicinity of Lanark Square, the draft charging zones map shows CIL Zone 1 to the west of Crossharbour DLR Station and Zone 3 to the east. To suggest that residential values to the west of the station can viably support a CIL level of £200/sqm whilst areas immediately to the east can only support £35/sqm is inherently flawed. It would surely be more appropriate to include a section of Zone 2 between Zones 1 and 3 in this area and, in our view, this Zone 2 'buffer' should include the Lanark Square area.

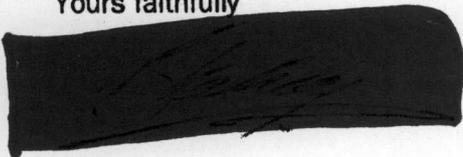
We trust that these representations on the London Borough of Tower Hamlets Community Infrastructure Levy Draft Charging Schedule will be taken into account as the final schedule is



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formulated. Please do not hesitate to contact me should you require any further information at this stage.

Yours faithfully



Ben Kelway
Associate Director

LBTH RDCS

Appendix 1 Original Representations on the Schedule (June 2013)

RTPI Planning
Consultancy of the Year



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020 7837 4477
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Date 4 June 2013
Our ref 12911/IR/FY/4868157v1
Your ref

Dear Sir/Madam

London Borough of Tower Hamlets CIL Draft Charging Schedule

On behalf of our client, Lanark Square Ltd., we set out below representations on the London Borough of Tower Hamlets Community Infrastructure Levy Draft Charging Schedule, currently out to consultation until 5 June 2013.

Paragraph 5.1 of the consultation document states that *"the Council intends to charge differential rates of CIL, which are to be determined by the land use of a proposed development (expressed as pounds per square metre) and by the area where a proposed development is situated.."* In the case of residential development, three zones are proposed and the proposed CIL rates per sqm (GIA) of development are £200 for Zone 1, £65 for Zone 2 and £35 for Zone 3. The boundaries of these zones are shown on the Draft Residential Charging Zone Boundaries Map.

We note that the Viability Evidence prepared by BNP Paribas (March 2013) assessed seven areas in terms of existing residential market and the ability to support CIL, for which they identified (i) maximum CIL indicated by appraisals, (ii) maximum CIL net of Mayoral CIL and (iii) suggested CIL after buffer (Table 1.5.1 of the BNP Paribas Viability Assessment). As a result, the Report put forward five levels of CIL, ranging from £35 to £200 as follows: one area at £35 CIL rate (Cubitt Town, Victoria Park, Fish Island, Bow and Mile End); one area at £50 CIL rate (South Bromley-by-Bow, Bow Common and Poplar); one area at £65 CIL rate (Bethnal Green, Globe Town, East Bow, Whitechapel, Stepney and South Isle of Dogs); one area at £95 CIL rate (Shadwell, South Whitechapel, Blackwall (non-riverside) and Leamouth); and three areas at £200 CIL rate ((i) Limehouse & West Isle of Dogs, Shoreditch and Blackwall (riverside); (ii) Spitalfields; and (iii) Canary Wharf, Aldgate, Tower of London and St Katharine's Dock and Wapping). However, these seven areas have subsequently been combined into three CIL zones (with the suggested CIL rates of £35, £65 and £200 respectively), which we do not consider adequately reflects the previously identified variation in housing market areas.

In relation to the proposed CIL Zone 1 (which covers Tower Limehouse and West Isle of Dogs, Shoreditch, Spitalfields, Canary Wharf, Blackwall (waterside), Aldgate, Tower of London and St.

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Katharine's Docks and Wapping), we consider that the residential market across this area is variable and that either the zone should be subdivided to reflect this, or that areas outside the highest value areas should be redesignated as CIL Zone 2.

In regard to the area around Turnberry Quay/Lanark Square and the area to the south of Pepper Street, which is currently included in the southern part of CIL Zone 1, we consider that this area is markedly different from the area further north in CIL Zone 1, focussed on Canary Wharf, Central London and along the River Thames, in terms of residential market; and is in fact more similar to the area of the south of the Isle of Dogs, i.e. CIL Zone 2.

Strutt and Parker LLP, who have undertaken a viability assessment for the recently approved residential led scheme at 1 and 2 Turnberry Quay and 1 and 5 Lanark Square, and have been involved in negotiating the viability position on this scheme (i.e. a real representative example in E14 9) found that, based upon current S.106 and affordable housing requirements, no additional development tax in the form of CIL is sustainable without forcing residential propositions to become unviable. Indeed, the full amount of affordable housing required has been proven to be unsustainable.

Moreover, in the negotiations on the Turnberry Quay/Lanark Square scheme, BNP Paribas confirmed that the office demand in the Turnberry Quay area is poor and that there is poor anticipated demand for such space. It is considered that the introduction of CIL at £200 per sqm for residential development would merely stifle future residential development and blight the Turnberry Quay area.

The BNP Paribas CIL Viability report does not include an analysis of current land values across the Borough, which should have been carried out in order to assess the potential impact upon land values that the proposed CIL charging schedule might have. The Viability Report assumes that average residential values in the E14 9 area are £700 p.s.f. However, within Strutt and Parker's recent viability negotiations with BNP Paribas, they agreed to private residential values of £625 p.s.f. Therefore, for example, on the Turnberry Quay scheme, the £75 difference in private residential values would lead to a £3.45m value over-statement. The residential CIL charge for the proposed scheme would be around £1.03m. Clearly, the value over-statement justifies an ability to sustain the proposed CIL charge but the correct private residential assumption (i.e. £625 p.s.f.) would not.

The Viability Report does not include full development appraisals, which makes it difficult to fully assess the situation. Moreover, BNP Paribas have not indicated what landowner's premium (if any) they have adopted over CUV to drive their assumed Site Value Benchmarks (i.e. the fundamental epicentre around which proposed development viability is assessed). We therefore consider that further information needs to be provided to justify the proposed CIL values.



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Recommendation

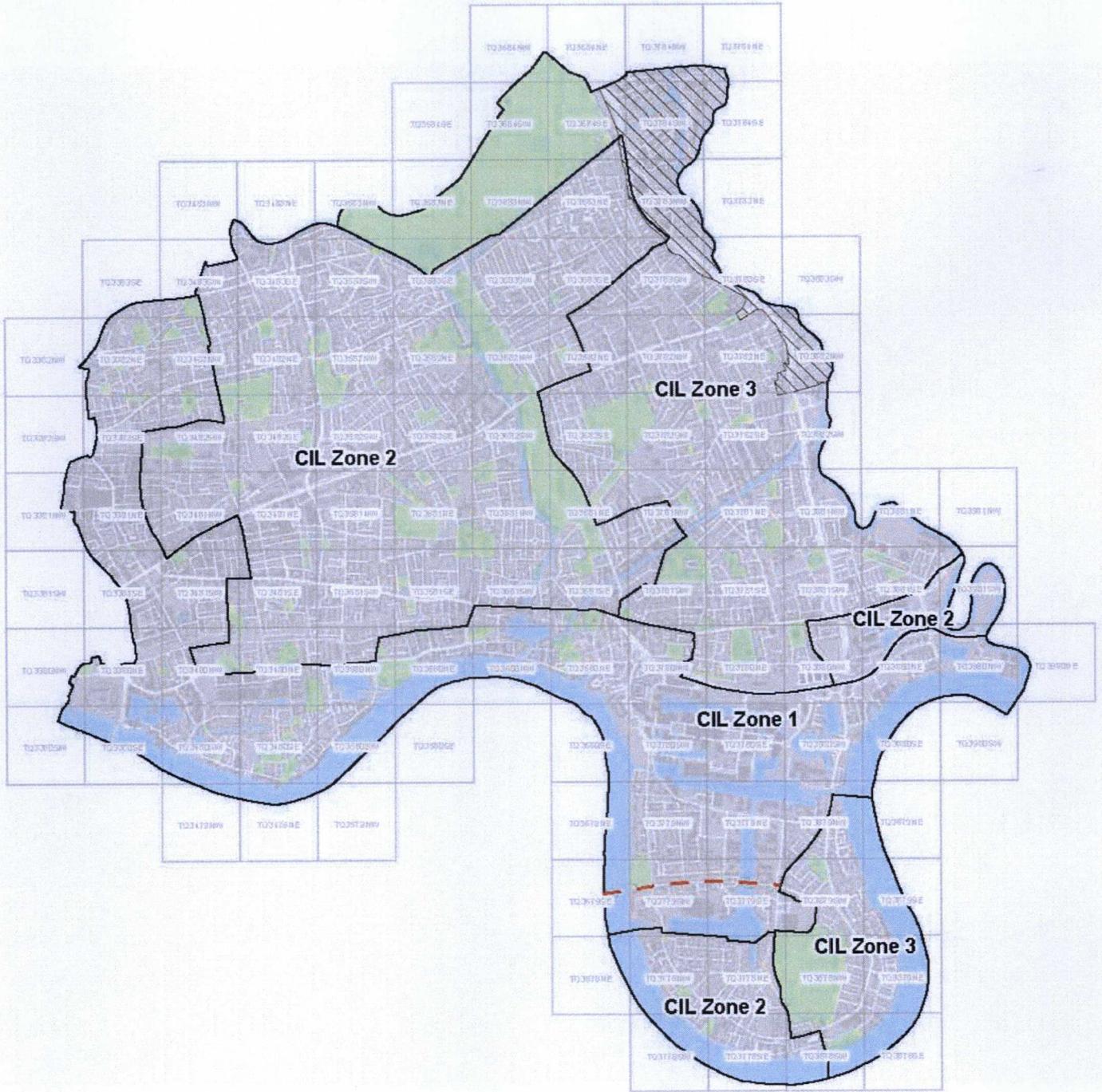
We suggest that the area of Zone 1, as detailed in Table 1.5.2 and shown on the Plan of Draft Residential Charging Zone Boundaries, is amended to exclude the area to the south of Pepper Street including Turnberry Quay/Lanark Square and that this area be included within the CIL Zone 2 at the south of the Isle of Dogs. The proposed revised boundary for CIL Zone 1 is shown on the attached plan (drawing no. IL 12911-007).

Yours faithfully

A black rectangular redaction box covering the signature of Frances Young.

Frances Young
Senior Planner

Enc.



KEY

Suggested new boundary 



Project Turnberry Quay

Title **Suggested new boundary of CIL Zone 1**

Client Lanark Square Ltd

Date June 2013

Scale 1:26000 @ A3

Drawn by AH

Dwg. No. 1112911-007



CIL - RDCS 06

Hong Chen

From: Loraine Kelly [REDACTED]
Sent: 02 December 2013 10:40
To: CIL
Subject: LB of Tower Hamlets: CIL RDCS
Attachments: 131125 LB of Tower Hamlets Council DCS2 CIL Rep AVL v4.pdf

Dear Sir / Madam

We have been instructed by our client, WM Morrison Supermarkets Plc (Morrison's), to object to Tower Hamlets Revised Draft Charging Schedule (RDCS), which proposes a CIL rate of: £135/sq m (borough-wide) for convenience-based supermarkets, superstore and retail warehousing (>280 sq m).

The RDCS rate is informed by an updated Viability Study (August 2013) prepared by BNP Paribas. Morrison's have instructed Aspinall Verdi Property and Development Consultants to review the updated viability study and responses to their earlier comments on the draft charging schedule and subsequently provide their comments to support this objection. Accordingly, please find attached representations prepared by Aspinall Verdi.

Aspinall Verdi note that the work undertaken to date has been substantial, however many of their comments in respect of the earlier version of the Draft Charging Schedule remain outstanding. The main issue in Aspinall Verdi's view is that the analysis is flawed in that the consultants have not provided any actual property market evidence to support the various benchmark and current use land values used in their scenarios. Given the complexity of the analysis with four benchmark land values and three current use values it is not clear and transparent what actual 'threshold land value' has been adopted.

In our view, the CIL RDCS continues to put undue additional risk on the delivery of any such proposals and will be an 'unrealistic' financial burden on new large-scale retail development. This, in turn, poses a significant threat to potential new investment and job creation in the local area at a time of economic recession and low levels of development activity. Our client is concerned that a balance has not been found between infrastructure funding requirements and viability and subsequently the suggested charge will have a significant adverse impact on the overall viability of future retail development in the borough.

I trust our objection and the attached comments by Aspinall Verdi will be taken into account when finalising the CIL Charging Schedule.

We look forward to the Council's response.

Kind regards

Loraine Kelly
 Senior Planner



1 Naoroji Street | London | WC1X 0GB

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Web: www.peacockandsmith.co.uk

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London Borough of Tower Hamlets –DCS CIL Rep
on behalf of W.M. Morrison Supermarkets Plc.

**London Borough of Tower Hamlets Council – Community Infrastructure Levy Viability Study
Representation on behalf of W.M. Morrison Supermarkets Plc.**

25 November 2013

This representation has been prepared in response to the consultation launched by London Borough of Tower Hamlets Council in respect of their Community Infrastructure Levy Viability Study (August 2013) and Revised Draft Charging Schedule (October 2013). We are instructed by W.M. Morrison Supermarkets Plc. to make representations on their behalf.

Introduction

AspinallVerdi is a niche firm of Chartered Surveyors and Chartered Town Planners specialising in property development and regeneration consultancy. We have direct experience of advising both public and private sector clients with respect to development viability, CIL, S106 and planning gain matters. The firm has a thorough understanding of property markets, valuation, development economics, and delivery.

This representation has been prepared by Ben Aspinall, MRICS MRTPI. Ben is a Director of AspinallVerdi with 20 years experience in the planning and development consultancy sector advising on projects throughout the UK.

This submission has been prepared to support further representations by Peacock & Smith town planning consultants for W.M. Morrison Plc.

For the purposes of these representations we have reviewed the following documents:

1. London Borough of Tower Hamlets Council, Community Infrastructure Levy – Revised Draft Charging Schedule (October 2013) Statement of the Representations Procedure
2. London Borough of Tower Hamlets Council, Community Infrastructure Levy – Revised Draft Charging Schedule, Summary of Consultation Responses to the Draft Charging Schedule [October] 2013
3. London Borough of Tower Hamlets Council, Community Infrastructure Levy – Revised Draft Charging Schedule, October 2013
4. BNP Paribas, Community Infrastructure Levy – Viability Study August 2013
5. BNP Paribas, Viability Appraisal Appendices

We note that the CIL rate for Convenience Supermarkets, Superstores and Retail Warehousing rate has been reduced from £195 to £135 per square metre in the latest DCS.

Viability Appraisal Methodology – Land Value

Referring to the Viability Appraisal Methodology and the suggestion that land value assumptions are not justified with reference to the market in the Summary of Consultation Responses to the Draft Charging Schedule [October] 2013 (paragraphs 2.10 – 2.15) we consider that this is still the case and has not been satisfactorily addressed/resolved.

The updated BNP Viability report August 2013 provides further comments on benchmark land values (paragraphs 4.35 – 4.47) for residential, but there is no further analysis/evidence in respect of retail or commercial uses.

We would specifically draw your attention to paragraph 2.12 of the Summary of Consultation Responses which states that:

It is [therefore] considered that actual land transactions are fundamentally misleading as a means of assessing viability of a planning policy.

On the contrary, we consider that BNP Paribas approach to ignore market evidence is the flawed approach and they are interpreting the Local Housing Delivery Group (Harman) guidance too strictly and dismissive of the RICS guidance.

The Harman report and the RICS guidance are both useful and best practice in the wider area of plan making. However, the two reports do take differing approaches. The Harman report advocates an Existing Use Value plus premium approach whereas the RICS advocates a Market Value (MV) approach less a discount to reflect the emerging planning policy requirements. Both approaches have their challenges and limitations.

The Harman report 'Viability Testing Local Plans' (June 2012) refers to the concept of 'Threshold Land Value'. We adopt this terminology as it is a precise description of the important value concept. Harman states that the 'Threshold Land Value should represent the value at which a typical willing landowner is likely to release land for development.' (page 28)

The Harman report also advocates that when considering the appropriate Threshold Land Value, consideration should be given to 'the fact that future plan policy requirements will have an impact on land values and owners' expectations' (page 29). In this context Harman is concerned that 'using a market value approach as the starting point carries the risk of building-in assumptions of current policy costs rather than helping to inform the potential for future policy' (page 29).

Harman does still acknowledge that reference to market values will still provide a useful 'sense check' on the Threshold Land Values that are being used in the appraisal model, however, 'it is not recommended that these are used as the basis for input into a model'. (page 29)

Harman recommends that 'the Threshold Land Value is based on a premium over current use values and 'credible' alternative use values'. (page 29) However, the report accepts that 'alternative use values are most likely to be relevant in cases where the Local Plan is reliant on sites coming forward in areas (such as town and city centres) where there is competition for land among a range of alternative uses.' (page 29)

The Harman report does not state what the premium over existing use value should be, but states that this should be 'determined locally' – but then goes on to state that 'there is evidence that it represents a sufficient premium to persuade landowners to sell' (page 29). This takes us back to a market value approach (see RICS guidance below).

The Harman report clearly favours an approach to benchmarking which is based on current / existing use value plus a premium. However, this is very ambiguous. At numerous points throughout the document, Harman advocates, that the outcome of this approach will need to be 'sense checked' against **local market evidence**. (page 29, 30, 31, 34, 36, 40)

Indeed the report does acknowledge that, 'if resulting Threshold Land Values do not take account [local market knowledge], it should be recognised that there is an increasing risk that land will not be released and the assumptions upon which a plan is based may not be found sound.' (page 30).

The RICS guidance on Financial Viability in Planning was published after the Harman report and it is much more 'market facing' in its approach.

The RICS guidance is grounded in the statutory and regulatory planning regime that currently operates in England and is consistent with the NPPF and CIL Regulations.

London Borough of Tower Hamlets –DCS CIL Rep
on behalf of W.M. Morrison Supermakets Plc.

Whilst the RICS Guidance and that from the Local Housing Delivery Group can be seen as complimentary the RICS guidance provides more technical guidance on determining an appropriate site / benchmark value.

The RICS Guidance defines financial viability for the purposes of town planning decisions as: “An objective financial viability test of the ability of development to meet its costs including the cost of planning obligations, whilst ensuring an appropriate site value for the landowner and a market risk adjusted return to the developer” (paragraph 2.1.1)

In assessing the impact of planning obligations on the viability of the development process, the Guidance does not specify a prescriptive tool or financial model, albeit it does recognise that it is accepted practice to use a residual valuation model as the appraisal framework (page 16).

However, it does emphasise the ‘importance of using **market evidence** as the best indicator of the behaviour of willing buyers and willing sellers in the market’ (paragraph 3.1.4) (our emphasis). The Guidance warns that ‘where planning obligation liabilities reduce the Site Value to the landowner and return to the developer below an appropriate level, land will not be released and/or development will not take place. This is recognised in the NPPF.’ (paragraph 2.1.4)

The RICS Guidance defines ‘site value’, whether this is an input into a scheme specific appraisal or as a [threshold land value] benchmark, as follows: “Site value should equate to the **market value** subject to the following assumption: that the value has regard to development plan policies and all other material planning consideration and disregards that which is contrary to the development plan” (Box 7) (our emphasis)

The guidance also advocates that any assessment of site value will need to consider prospective planning obligations and recommends that a second assumption be applied to the aforementioned definition of site value, when undertaking Local Plan or CIL (area wide) viability testing. This is set out below: “Site value (as defined above) may need to be further adjusted to reflect the emerging policy / CIL charging level. The level of the adjustment assumes that site delivery would not be prejudiced. Where an adjustment is made, the practitioner should set out their professional opinion underlying the assumptions adopted.....” (Box 8)

As can be seen from the above the emphasis does have to be on property market evidence if the Plan is to be grounded in reality and therefore deliverable. We therefore commend the RICS Guidance and not just the Harman report.

The BNP Paribas viability studies make no reference to market value evidence (even if this is adjusted for emerging planning policy) but relies on *four* ‘benchmark land values’ and *three* ‘current use values’ all of which are purely artificial and hypothetical. These values are ‘made up’ hypothetical scenarios with no evidence to support the valuation assumptions therein.

Paragraph 4.40 of the BNP Viability report August 2013 states that:

The four benchmark land values used in this study have been selected to provide a broad indication of likely land values across the Borough, but it is important to recognise that other site uses and values may exist on the ground. There can never be a single threshold land value at which we can say definitively that land will come forward for development, especially in urban areas.

Whether BNP Paribas use the EUV *plus* premium approach or MV *less* discount for emerging policy, it is not satisfactory to rely on arbitrary 'benchmark land values' / 'current use values'. Both the Harman and the RICS guidance require the threshold land value to be set in the market context.

For example, there is a hierarchy of values in terms of uses ranging from the lowest land value (heavy industrial) to light industrial, office, residential and retail uses. Through a process of consultation and research, BNP Paribas should be able to recommend a single land value for each 'step' of the land value hierarchy based on market evidence (i.e. £ per hectare). This [adjusted] value should be used as the threshold for the next, higher, redevelopment scenario/typology.

We would recommend this market approach over a hypothetical benchmark land / current use value approach, but in any event this would help to determine which of the BNP Paribas benchmark land values / current use values is the most appropriate to use for calculating CIL and substantially simplify the analysis which we find unhelpfully confusing with too many scenarios.

Specific Comments

The following specific comments from our previous representation (29 May 2013) have been updated having regard to the BNP Paribas report August 2013.

Item (Paragraph Number)	Comment
Viability Benchmark – HCA and Appeals (paragraphs 3.6 – 3.8)	<p>The following comments were made in regard to the March 2013 report, however the suggested alterations do not appear to have been made to the August 2013 report and therefore still apply. See our detailed comment above in this respect - Viability Appraisal Methodology – Land Value</p> <p>The HCA guidance and the planning appeal decisions referred to are for specific planning applications and not area-based policy formulation.</p> <p>The planning appeal decisions are all based on a specific planning application on a specific site and therefore the existing use of the site is known. It is therefore entirely possible to appraise the residual value of the site for development and compare this against the existing use value of the site. Assuming that the residual value is greater than the existing use value there will be a commercial incentive for the landowner to release the site for development.</p> <p>However, to apply the same approach to area wide policy formulation is flawed. This approach is too academic and is not how the market actually works in practice.</p>
Local Housing Delivery Group (LHDG) guidance (paragraphs 3.9 – 3.10)	<p>The following comments were made in regard to the March 2013 report, however the suggested alterations do not appear to have been made to the August 2013 report and therefore still apply. See our detailed comment above in this respect - Viability Appraisal Methodology – Land Value</p> <p>The LHDG report refers to the concept of 'Threshold Land Value' (TLV). We adopt this terminology as it is an accurate description of the important value concept. The report states that 'Threshold Land Value should represent the value at which a typical willing landowner is likely to release</p>

London Borough of Tower Hamlets –DCS CIL Rep
on behalf of W.M. Morrison Supermarkets Plc.

Item (Paragraph Number)	Comment
	<p>land for development.'</p> <p>The LHDG report refers to an approach to benchmarking TLV's which is based on current / existing use value plus a premium. However, this is very ambiguous and has been interpreted out of context. We interpret existing use value and alternative use value as in the LHDG report to be a subset of Market Value as it is not possible to be site specific in a Districtwide strategic context. At numerous points throughout the LHDG report it is advocated, that TLV's will need to be 'sense checked' against local market evidence (pages 29, 30, 31, 34, 36, 40).</p> <p>Indeed the report does acknowledge that, 'if resulting Threshold Land Values do not take account [local market knowledge], it should be recognised that there is an increasing risk that land will not be released and the assumptions upon which a plan is based may not be found sound' (page 30 of the report).</p> <p>The consultants have failed to refer to the RICS guidance which superseded the LHDG guidance. The RICS guidance on Financial Viability in Planning was published after the Harman report in August 2012 (the Harman Report was published in June 2012) and it is much more 'market facing' and less academic in its approach. The RICS guidance is grounded in the statutory and regulatory planning regime that currently operates in England and is consistent with the Localism Act 2011, the NPPF and Community Infrastructure Levy (CIL) Regulations 2010.</p> <p>The RICS Guidance defines 'site value' [threshold land value] benchmark, as the Market Value having regard to development plan policies and all other material planning considerations.</p> <p>If the economics of development are to be grounded in reality and therefore schemes deliverable the emphasis does have to be on property market evidence. We therefore commend the RICS Guidance.</p>
Reduction in land value (paragraphs 3.11 – 3.13)	<p>The following comments were made in regard to the March 2013 report, however the suggested alterations do not appear to have been made to the August 2013 report and therefore still apply. See our detailed comment above in this respect - Viability Appraisal Methodology – Land Value</p> <p>We note the comments about a reduction in land value being an inherent part of the CIL concept. This concurs with the RICS guidance referred to above which requires the TLV to be further adjusted to reflect the emerging policy / CIL charging level (RICS Box 8). Note that this goes on that the level of the adjustment assumes that site delivery would not be prejudiced which is a matter of judgement (see below).</p>
Four Benchmark Land Values (paragraphs 4.40 – 4.45)	<p>The following comments were made in regard to the March 2013 report, however the suggested alterations do not appear to have been made to the August 2013 report and therefore still apply. See our detailed comment above in this respect - Viability Appraisal Methodology – Land Value</p>

Item (Paragraph Number)	Comment
	<p>We note the comment at 4.38 that “current use values should be regarded as benchmarks rather than definitive fixed variables on a site by site basis” however, BNP have then gone on to define a series of 4 Benchmark Land Values which are purely hypothetical and not relevant to how the market actually works in practice.</p> <p>Take for example Benchmark Land Value 4, which refers to the existing use value of community building (including a 20% premium) at £2.99 million (presumably per hectare?) and assuming that a developer wanted to acquire the site for a scheme generating a residual land value of £5 million per hectare – would the Council sell the site for £2.99 million? If it did it would be failing in its duty to get Best Value. This example shows why it is important to sense-check Threshold Land Values to Market Values (per hectare) as recommended by the RICS. (Note that it may be relevant to reflect a discount from MV to reflect emerging CIL (rather than a premium over EUV)).</p> <p>In any event the results of the land value benchmarking should be drawn together and the valuers use their judgement to recommend a single TLV figure (albeit maybe varied by zones) to use within the Economic Viability Appraisals. To use 4 Benchmark Land Values is overly complex, divorced from reality and dilutes the recommendations about the actual maximum CIL rate.</p>
Commercial Development Land Value (paragraph 4.48)	<p>The following comments were made in regard to the March 2013 report, however the suggested alterations do not appear to have been made to the August 2013 report and therefore still apply. See our detailed comment above in this respect - Viability Appraisal Methodology – Land Value</p> <p>This follows on from the above comments in respect of the residential TLV. In the case of commercial development typologies BNP have assumed that the TLV is derived from the existing use value of the site which is based on the same use as the proposed development. Furthermore, they assume that the existing use is <i>“half the size of the new development, with a lower rent and higher yield reflecting the secondary nature of the building.”</i></p> <p>We consider that this approach does not reflect the reality of the market. For example, this approach does not address the circumstance where say a now obsolete industrial site is being acquired for redevelopment for a retail or residential scheme.</p> <p>In reality a developer would need to acquire a site of sufficient size to accommodate the development contemplated (i.e. a retail scheme) – including aspects such as landscaping, circulation and car parking. Allowances therefore should be made using a TLV derived from MV benchmark’s for development land and appropriate planning assumptions for site size/density.</p> <p>Furthermore we would challenge the rationale behind applying the rate of 1:1.5 in terms of the building size of the new development. As we have</p>

London Borough of Tower Hamlets –DCS CIL Rep
on behalf of W.M. Morrison Supermarkets Plc.

Item (Paragraph Number)	Comment
	<p>mentioned car parking and other aspects need to be considered. We would recommend that market/scheme evidence be provided to support this assertion. There is no rationale for the percentages of intensification between the existing and proposed floor areas. This seems to be discretionary assumption with no supporting evidence.</p> <p>The approach of applying a lower rent and higher yield for existing uses than for the planned new floor space automatically generates positive viability. Again we would advise a review of this assertion within the context of market reality.</p>
Retail scheme appraisal assumptions (Table 4.48.1)	<p>There is limited property market evidence within the report to support the appraisal value assumptions (rents, yields etc).</p> <ul style="list-style-type: none"> • We understand that the base construction cost assumptions have been amended from the previous Draft Charging Schedule to £121 psf and £117 psf for 1,000 and 5,000 sqm stores respectively. We have checked this against the BCIS Construction Cost database which returns data for stores of 1,000 to 7,000 sqm (therefore no distinction). The Median construction rate rebased for Greater London is 1,388 psm / £128.95 psf and rebased of Tower Hamlets is even higher at £1,412 psm / £131.17 psf. These higher figures would have a significant impact on viability and the appraisals should be re-run on this basis. • It is also worth noting that BCIS is forecasting build cost inflation and therefore this needs to be factored into testing the CIL rate. <p>The other cost assumptions within the appraisals are unchanged from the previous Viability report:</p> <ul style="list-style-type: none"> • Professional fees of 10% have been used. We would recommend the use of 12% given the complexity of retail schemes and the requirements for additional reports (e.g. retail impact assessments etc.) • Profit is set at 20%. We would suggest that the developers profit level for the supermarket typology is increased to 25% on cost based on the: developer's site assembly risk; holding costs and timescales to secure returns can be very long; funding costs and risks where even for prime supermarket developments bank finance is scarce and requires developers to contribute large amounts of equity; planning costs and risks (some of which could be abortive). • Comparing rents of £6-£10 psf on the existing to £21.50 psf on the new build and a yield of 8% compared to 6.25% on an existing building of half the size will naturally create viability for CIL. This is a completely artificial and contrived scenario and not representative of how the property market works in practice (see above). • Landowner premium – as discussed above we recommend an approach that starts from Market Value and deducts an allowance for emerging planning policy (e.g. CIL) rather than an Existing Use Value + premium approach which is unrealistic. Notwithstanding this it is not

Item (Paragraph Number)	Comment
	<p>clear within the report why supermarket typologies have assumed a 15% - 20% landowner premium and not a greater premium. In the case of retail developments where landowners consider that there is prospect of securing developments on their site that yield high value, their aspirations to secure higher land values will be prevalent. Land owners are likely to "hold out" until they have explored their potential returns fully, and may not sell the site if the proposed returns are below their expectations. Also, in many cases landowners have not fully discounted the value of their land following the credit crunch and the land market price correction is still taking place. This is particularly relevant for sites that have the potential for the delivery of retail schemes, where the market remains buoyant. In the case of retail developments, landowners are likely to hold out for the highest value and are unlikely to accept a reduction in their land value for CIL.</p>
<p>Commercial appraisal results (paragraph 5.12 and Table 5.12.2)</p>	<p>The following comments were made in regard to the March 2013 report, however the suggested alterations do not appear to have been made to the August 2013 report and therefore still apply. See our detailed comment above in this respect - Viability Appraisal Methodology – Land Value</p> <p>The BNP report gives no explanation as to how, or why, three different Current Use Values (CUV) are used in presenting the results. As described above, in practice, if a landowner is approached by a developer to build a new food store their aspirations as to value will be based on the Market Value of the site derived from the Residual Value of the scheme for the new use. The landowner will not sell the site for existing use value, even existing use value + a small [20%] premium, if he thinks that the MV of the site is substantially greater.</p> <p>The Council's consultants need to use their judgement to recommend what the TLV figure is in order to simplify the analysis and reduce the need for purely hypothetical CUV scenarios.</p>
<p>Retail CIL rates (page 73)</p>	<p>It is not clear how the maximum CIL rates have been derived (e.g. what TLV etc. – see above) and we do not support the retail CIL rates proposed.</p> <p>The CIL rates for retail require review in light of the comments made within our representations herein.</p>
<p>Appendix 5 Commercial Appraisal Results – Convenience Retail and Retail Warehousing</p>	<p>The following comments were made in regard to the March 2013 report, however the suggested alterations do not appear to have been made to the August 2013 report and therefore still apply. See our detailed comment above in this respect - Viability Appraisal Methodology – Land Value</p> <p>We note the tabulated Current Use Value assumptions – rent £6-£10 psf, yield 8%, premium 15-20% - but as we have shown above this is meaningless based on a purely manufactured set of assumptions and completely divorced from the property market.</p>

London Borough of Tower Hamlets –DCS CIL Rep
on behalf of W.M. Morrison Supermakets Plc.

Item (Paragraph Number)	Comment
	We recommend that the aforementioned CUV's are translated into a land price per hectare and compared to the land values required in the context of the strategic sites and other development land. This will provide evidence to base the selection of the [single] TLV (Threshold Land Value).
Representation Comments	

Summary and Conclusions

We are pleased to have been given this opportunity to comment again on the London Borough of Tower Hamlets CIL Revised DCS.

The work undertaken to date has been substantial, however many of our comments in respect of the earlier version of the Draft Charging Schedule remain outstanding.

The main issue is that in our view the analysis is flawed in that the consultants have not provided any actual property market evidence to support the various benchmark and current use land values used in their scenarios. Given the complexity of the analysis with four benchmark land value and three current use values it is not clear and transparent what actual 'threshold land value' has been adopted.

Right to be Heard at an Examination in Public

We would like to register our interest to be heard at the Examination in Public.

Please also can you notify us of the next stage and specifically when/if the Draft Charging Schedule is submitted to an Independent Examination (5.1/5.2 of your Statement of Representations Procedure).

Contact details

Please would you register our interest as follows:

Atam Verdi
Director
AspinallVerdi – Property Regeneration Consultants
Suite 21
30-38 Dock Street
Leeds
LS10 1JF

[REDACTED]
[REDACTED]

131125 LB of Tower Hamlets Council DCS2 CIL Rep AVL v3

Hong Chen

CIL - RDCS 09

From: Claire McLean
Sent: 12 November 2013 11:39
To: CIL
Subject: CIL RDCS - Canal & River Trust

Dear CIL Team,

Thank you for this recent consultation. The Trust has no further comments to make on the document.

I note in some of the supporting documents the Trust is referred to as a few different names. Could you ensure that we are referred to as the 'Canal & River Trust' or 'the Trust' only.

We are pleased to be kept informed of the process. Please feel free to contact me if you need any further information.

Many thanks,

Claire McLean
Area Planner – Canal & River Trust London
The Toll House, Little Venice, Delamere Terrace, London W2 6ND

Please visit www.canalrivertrust.org.uk to find out more about the Canal & River Trust and download the "Shaping Our Future" document on the **About Us** page.

From: Joseph Ward [Joseph.Ward@towerhamlets.gov.uk] on behalf of CIL [CIL@towerhamlets.gov.uk]
Sent: 21 October 2013 16:23
Subject: Announcement of Consultation on Tower Hamlets' CIL

Dear Sir/Madam,

Please see attached a letter and documents relating to the above. Please contact us if you have any queries.

Regards

Joseph Ward MRICS
CIL Viability and Property Officer | London Borough of Tower Hamlets | 5 Clove Crescent | E14 1BY | T 020 7364 2343

Working Together for a Better Tower Hamlets
Web site : <http://www.towerhamlets.gov.uk>

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Transport for London



Our ref: Cdl/boroughplanning/Tower Hamlets/CIL/
Draftchargingschedule

London Borough of Tower Hamlets
Infrastructure Planning Team
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Transport for London
Group Planning

Windsor House
42 – 50 Victoria Street
London SW1H 0TL

Phone 020 7222 5600
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2 December 2013

Dear Sir / Madam

LB Tower Hamlets CIL – Revised Draft Charging Schedule

I refer to the consultation on your revised draft charging schedule. As you are aware TfL has been working closely with the GLA on the implementation of the Mayor's CIL and reviewing proposed borough CILs. TfL is responsible for administering the collection of both the Mayoral CIL and those planning obligations collected in accordance with the Mayor's supplementary planning guidance on 'Use of Planning Obligations in the Funding of Crossrail, and the Mayoral Community Infrastructure Levy'.

The amended rates have not addressed the concerns expressed in my letter dated 5 June 2013 in respect of the Draft Charging Schedule, and therefore those comments still apply. In particular, the objection to the proposed arbitrary reduction in the funding to be secured via the Mayor's SPG on Funding of Crossrail referred to above.

A substantial proportion of the planning obligation funding is likely to be raised within the London Borough of Tower Hamlets, and by the Wood Wharf development specifically. The boroughs proposed arbitrary reduction is considered contrary to the requirements of regulation 14 and could have a significant effect on the funding of Crossrail. TfL objects to the proposed approach and fully supports the argument set out in more detail within the response on behalf of the Mayor of London provided to you earlier today.

In particular, TfL has very grave concerns at the potential financial implications of the approach set out within the Revised Draft CIL and its implications for the funding of Crossrail. This in turn will increase the risk to other strategic transport projects in Tower Hamlets being cancelled or delayed to help make up the gap.

MAYOR OF LONDON



VAT number 756 2770 08

23/01/2014

For these reasons TfL would urge the Borough to withdraw the revised draft charging schedule (RDCS). If it chooses not to do so, TfL requests the right to be heard at the Examination in Public stage of the draft schedule in accordance with paragraph 5.1 & 5.2 of your Statement of Representation Procedure, and at which it will ask the Examiner to reject the RDCS.

Yours faithfully

Neil Lees
Team Manager, Planning Obligations

[REDACTED]

Hong Chen

CIL-RDCS 11

From: Faraz Baber [REDACTED]
Sent: 27 November 2013 12:20
To: CIL
Subject: CIL RDCS
Attachments: London First submission to the LBTH DCS.pdf

Dear Sir/ Madam

Community Infrastructure Levy - Revised Draft Charging Schedule

Having reviewed the Revised Draft Charging Schedule, London First remains concerned that many of the points we made in our original submission to the Draft Charging Schedule (a copy attached) has not been adequately addressed.

We are concerned the Charging Authority has still not provided a sufficient level of evidence to justify how development will be viable on their strategic sites given the CIL rates proposed (and taking into account the cumulative planning obligations requirements set by the Charging Authority). Whilst we note and welcome that the Charging Authority has introduced a provision for discretionary relief for 'exceptional circumstances' in the revised Draft Charging Schedule, it should not be the only basis for managing financial viability across these strategic areas.

London First wishes to reserve its right to be heard by the Independent Examiner at the Examination in Public. We request to be notified at the address below when:

- i. The revised draft charging schedule has been submitted for Independent Examination in accordance with section 212 of the Planning Act 2008
- ii. Of the publication of recommendations by the Examiner and the reasons behind those recommendations, and
- iii. Of the approval of the Charging Schedule by the Charging Authority.

I look forward to receiving further details in due course.

Kind regards

Faraz

Faraz Baber MRICS MRTPI FRSA
 Executive Director, Policy
 London First

3 Whitcomb Street London WC2H 7HA

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London Property Summit

London First,
 3 Whitcomb Street,
 WC2H 7HA



5 June 2013

CIL Consultation
Infrastructure Planning Team
London Borough of Tower Hamlets
2nd Floor Mulberry Place
5 Clove Crescent, E14 2BG

E: CIL@towerhamlets.gov.uk with 'CIL DCS' in the subject box

Dear Sir / Madam

Tower Hamlets Community Infrastructure Levy Draft Charging Schedule

I am writing on behalf of London First in relation to the consultation on the London Borough of Tower Hamlets (referred to as the Charging Authority) Community Infrastructure Levy Draft Charging Schedule.

Overview

London First is a business membership organisation with the mission to make London the best city in the world in which to do business. We represent the capital's leading employers in key sectors such as financial and business services, property, transport, ICT, creative industries, hospitality and retail. Our membership also includes higher education institutions and further education colleges.

London First is concerned the London Borough of Tower Hamlets (referred to as the Charging Authority) has not complied with its legal obligation to strike an 'appropriate balance' between helping to fund necessary infrastructure provision and the potential effects of the imposition of CIL on the economic viability of development across its area (as prescribed in Regulation 14(1)).

We do not believe the Charging Authority has used the most appropriate evidence available to them when setting their CIL rates. London First believes the underlying assumptions used to ascertain land values is flawed and there is no evidence to suggest market testing has taken place, particularly on strategic locations identified in the Charging Authority's Management Development Document. The Charging Authority has not met the requirement, which is set out in statutory guidance, to undertake a comparison of historical data on s.106 receipts that have been achieved in the borough nor their affordable housing delivery in recent years and the impact this will have on the proposed levy rates. From the evidence published, the Charging Authority has assumed a broad brush low level residual s106 rate without any justification whatsoever. It also only assumes a residual rate for residential use and nothing for non-residential use which we believe is not reflective of the market. We therefore question how the Charging Authority can assume a flat rate s.106 charge in addition to the proposed rates across the Borough. The Charging Authority should take a cautious approach to the level of scaling back of s106 for strategic developments.

In our view, the Charging Authority has not taken account of the Mayoral CIL rate (as prescribed in Regulation 14(3) and (4)) when proposing their own levy rates. The proposed levy rates pose a significant risk to development being viable across the charging authority, especially in relation to strategic sites.

The Charging Authority has not complied with the requirements set out in paragraph 9 of the DCLG's Community Infrastructure Levy Guidance issued in April 2013.

London First recommends the Charging Authority halts progressing with its Draft Charging Schedule and restarts the process; starting with developing a more robust evidence base in line with Regulation 14(1).

London First has been informed by its members that the Charging Authority has not undertaken meaningful engagement with the development industry. This is particularly the case when the evidence has been prepared for appraisals for strategic sites. London First is very concerned that its members' views have not been adequately taken in to consideration following representations made to the Preliminary Draft Charging Schedule. The statutory guidance on CIL requires all charging authorities to undertake proper proactive engagement. It is vital the Charging Authority engages with the development industry, particularly if it aspires to achieve its planning policy objectives including the delivery of affordable housing.

London First wishes to reserve its right to be heard at the Examination in Public.

Detailed comments

Economic viability

The Government has made it clear in the National Planning Policy Framework (NPPF) that charging authorities should develop and test their levy rates alongside their Local Plan. Paragraph 173 & 175 of the NPPF explicitly states that CIL should support and incentivise new development. It also requires local planning policy to pay careful attention to viability and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. Given the clear policy steer to ensure development is viable, London First is concerned that the draft charging schedule has not adequately addressed the NPPF policies as the levy rates proposed by the Charging Authority place a significant additional cost burden on development and in our view discourages development from coming forward. We are unclear how the Development Plan (including the London Plan) has been considered by the Charging Authority in preparing the Draft Charging Schedule. This is particularly important to consider given London Borough of Tower Hamlets has the highest housing targets and job economic forecasts out of all London Boroughs.

The evidence base does not comply with the DCLG Community Infrastructure Levy guidance nor has it followed guidance set out in either the Local Housing Delivery Group (LHDG) Advice of July 2012 or the Royal Institution of Chartered Surveyors Guidance Note of August 2012. London First therefore considers the evidence base is fundamentally flawed.

It is important the Charging Authority can clearly demonstrate that any proposed levy rates are based on clear evidence which reflect the current market conditions. This will necessitate the Charging Authority to undertake market testing of the proposed rates with a clear understanding of how developers and landowners bring forward development. Otherwise, it is clear that the right conclusions cannot be arrived at in setting rates. While there are different approaches used in the industry to assess development viability, the main issue is to comprehend the extent to which market value of land is taken into account. The market value of the land is the major determinant for developers to assess whether a scheme is viable to proceed or not to release land for development. When proposing levy rates, we believe all charging authorities must take in to account the effect it will have on market values on land and ensure this will not impede the ability for the policy objectives to be achieved which are set out in the Development Plan.

We do not believe the Charging Authority has sufficiently tested the proposed levy rates in current market conditions. As stated above, the viability study does not adhere to guidance and is inconsistent in its approach of what the price it assumes developers and landowners will release and buy land at, taking into account policy and appropriate CIL rates in the future. The assumptions made in the viability study is that existing use value plus a premium (EUV+) is a sufficient basis to determine the land value as a singular approach with no evidence to support the conclusions arrived at. No attempt has been made to market sense test the premium adopted and the overall level of land value applied in the viability study. The singularity of approach in the absence of evidence simply does not reflect the market going forward. Furthermore, the charging authority has not undertaken any market or sensitivity testing between the values that have been assumed through EUV+ and the land values that are realistically achievable in the market today. The Charging Authority has not engaged in any market testing with the developers involved with the strategic and allocated sites identified in the Development Plan that has led to a set of proposed levy rates in the Draft Charging Schedule, which we believe are unviable.

London First does not believe the number of generic development appraisals relied upon is in any way sufficient in order to adequately test development schemes that would be coming forward in the Borough. Whilst they may reflect different types of development in various geographical areas, the very limited number of generic development appraisals is wholly inadequate when testing viability in order to set CIL rates in a complex urban area. The evidence, as a result, does not provide a suitable basis for testing marginal sites or the implications on more strategic sites. This is in clear contradiction and does not comply with DCLG and other guidance.

The introduction of CIL has direct implications for the use of S106 planning obligations. The CIL is intended to be used for infrastructure contributions that are identified in the Regulation 123 list. S.106 obligations are primarily for site-specific mitigation and affordable housing. It is not permitted for a charging authority to use s.106 contributions towards infrastructure provision identified on the Regulation 123 list to avoid double charging. Given the strict remit for the use of s.106 contributions, we are concerned how the Charging Authority has set a standard rate for s.106 contributions across the charging area without any clear justification or evidence. Setting a standard s.106 rate is akin to setting a supplementary levy rate which is expressly not the intention of how s.106 contributions should operate under CIL. The Charging Authority needs to justify why a Borough wide s.106 planning obligation has been applied instead of differential rates based on site-specific mitigation, especially in relation to the strategic sites, and affordable housing requirements.

The statutory guidance (paragraph 22) makes it clear that as background evidence, the charging authority should provide information about the level of s.106 planning obligations and affordable housing they have raised in recent years. This information should include the extent to which affordable housing and other targets have been met. The Charging Authority has not undertaken a comparison of historical s.106 receipts they have achieved over recent years (and the extent to which affordable housing policy targets have been met) and how this matches with the proposed levy rates. We suggest the Charging Authority revisits the viability appraisal by reviewing the levels of s.106 contributions and affordable housing that has been historically achieved and clarify why any differences in cumulative planning obligations differ from the proposed levy rates. If the evidence shows an increase in cumulative costs to development (taking account of the proposed levy rates and scaled back planning obligations), the Charging Authority should justify how this is economically viable and sustainable (in line with national planning policy) given the current economic climate where land values are unlikely to change in the short to medium term.

Appropriate balance test

London First's primary concern over the draft charging schedule is the Charging Authority's failure to apply the appropriate balance between the need to set the levy at rate(s) which promotes additional investment for infrastructure to support development and the potential economic effect of imposing the levy upon development across their area (as prescribed in paragraph 8 of the CIL Statutory Guidance paper, April 2013).

The Community Infrastructure Levy regulations (Regulation 14(1)) place the balance of these considerations at the centre of the charge-setting process. In our view the Charging Authority has not adequately demonstrated how their proposed levy rate(s) would contribute towards the implementation of their relevant Plan and support the development of their area. Our concern stems from the fact that we believe the Charging Authority has not addressed the requirement to provide a robust evidence base on economic viability and infrastructure planning as prescribed in the April 2013 and December 2012 statutory guidance on CIL. Regulation 14 requires the balance to be drawn between the desirability of securing funding for infrastructure and the effect the levy will have on the viability of development as a whole.

In our view the viability study does not provide any analysis of how the different levy rates will impact on the delivery of different land uses. Also, the viability study does not indicate what the spatial planning consequences will be as a result of the proposed levy rates. Without a detailed assessment of the impacts on land uses and their spatial consequences, we seriously question whether the viability analysis has provided sufficient detail in meeting the requirement set out in Regulation 14.

As part of the test in reaching an appropriate balance, an understanding of the cost of the infrastructure that is required to support development is necessary. However, the infrastructure analysis provided does not separate out the 'required' infrastructure from the more broader infrastructure provisions the Charging Authority would like to see come forward.

The Charging Authority must be able to demonstrate from their evidence base that the proposed levy rates will be viable for the sufficient number and type of developments the Development Plan relies on over the duration of the Plan period. It is unclear how the Charging Authority has developed its proposed rates taking into account the London Plan 2011, Tower Hamlets Core Strategy 2010 and Tower Hamlets Managing Development DPD. Whilst the viability study makes a brief reference to the local policy context in relation to CIL, there is no detailed information on how the proposed rates will impact on the deliverability of the Development Plan particularly in relation to meeting the housing pipeline and borough wide/ area specific policy targets. It is vital the Charging Authority underpins their proposed rates with a clear understanding of the impact it will make to the Development Plan and the cumulative burdens it will consequently have on development.

Given the importance of Crossrail as the "top strategic transport priority" as stated in policies 6.5 and 8.2 of the London Plan 2011, London First believes the Charging Authority has not complied with its requirement set out in Regulation 14(1). There are three designated areas in Tower Hamlets that are identified where the Mayor may seek to negotiate a top up on Mayoral CIL towards Crossrail s.106. The Charging Authority proposes where Crossrail s.106 contributions are applicable, that these rates will be subject to a 70% reduction in the top-up payable. It is unclear from the viability study how the Charging Authority has arrived at the 70% reduction. We can only assume the Charging Authority is seeking to apply this reduction in a bid to ensure their own proposed levy rates do not put development at risk. This is another example where we believe the Charging Authority has not applied Regulation 14(1) correctly in setting their proposed levy rates. This raises serious concerns over the validity of the Draft Charging Schedule in its current format.

Strategic sites

A sample of eight strategic sites, taken from the Managing Development DPD, has been analysed in the viability study. We are not clear from the viability study how these eight sites have been selected and would welcome clarification on why these have been chosen. The analysis undertaken fails to cross reference the Charging Authority's Development Plan targets and policy objectives. It is vital this cross referencing is undertaken if we are to ascertain the cumulative burden of policies on the economic viability of each site, which is a requirement under national planning policy.

As stated above, the limited generic development appraisals do not sufficiently address strategic sites contained in the viability study. They are at a very high level and use inputs and assumptions that are not capable of sufficient testing to be in accordance and comply with DCLG Guidance. We strongly urge the Charging Authority to work closely with those developers and landowners responsible for the strategic sites as well as those who have sites on the margins of viability.

Appropriate evidence

The legislation (section 211 (7A)) requires a charging authority to use 'appropriate available evidence' to inform their draft charging schedule and that charging authorities need to demonstrate that their proposed levy rates are informed by 'appropriate available' evidence and consistent with that evidence across their area as a whole.

The legislation also requires a charging authority to use appropriate available evidence to 'inform the draft charging schedule'. A charging authority's proposed levy should be reasonable given the available evidence.

Given this legal requirement upon the Charging Authority, we wish to re-emphasise the point that no information has been made available on the amount of s.106 receipts it has received over recent years and how this contributed to the delivery of affordable housing and other targets. Also, we do not think the Charging Authority has collated an appropriate level of detailed evidence to underpin their proposed levy rates. For example, a limited analysis has been undertaken in the viability study on Strategic Sites. We also question the underlying assumptions used to calculate land value and there is no evidence that the Charging Authority has undertaken a robust level of market/ sensitivity testing.

London First believes the Draft Charging Schedule is not underpinned by an appropriate available evidence base and poses a real threat to incentivising new development coming forward under the proposed levy rates. In our view, the Charging Authority must start afresh with their evidence base and recalibrate the proposed levies accordingly. If this is not done, we believe there is a strong case to contest the Draft Charging Schedule at examination on procedural grounds.

Mayoral CIL

In our view, the Charging Authority has failed to take in to account the Mayoral CIL rates when setting their own levy rates. Regulation 14(3) and (4) requires all charging authorities in London to take account of the Mayor's CIL rates when proposing their own levy rates.

Statutory guidance requires that charging authorities to not set their CIL at the margins of viability. In response to this, some charging authorities have set their rates at a discount (buffer) to the maximum rate which have ranged between 30% to 50%. The viability study suggests a buffer of circa 30% for Tower Hamlets.

In order to comply with Regulation 14(3) and meet the requirements set out in statutory guidance, it is necessary for the cumulative costs of the Mayoral CIL and the proposed levy rates (set by the charging authority) is fully reflected when calculating the discount rate. Table 1.5.1 clearly shows only include the Borough levy rate has been used to assess the maximum CIL achievable and the suggested CIL rate after the buffer has been applied. It does not take account of the Mayoral CIL rate which in our view is flawed.

If you have any queries regarding our response please contact me using the contact details below.

Yours sincerely

Faraz Baber
Executive Director, Policy
London First

For further information contact:

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creating a better place



Environment
Agency

Joseph Ward
London Borough of Tower Hamlets
Strategic Planning Team
224-226 Tower Bridge Road
London
SE1 2UP

Our ref: NE/2006/100349/OR-02/IS2-L01

Date: 2 December 2013

By email:
Joseph.Ward@towerhamlets.gov.uk

Dear Joseph

**Consultation on the London Borough of Tower Hamlets' Community
Infrastructure Levy Revised Draft Charging Schedule.**

Thank you for your consultation on the revised changes to the above. We welcome an additional opportunity to comment on the CIL process.

We are pleased to see public open space and flood defences in your draft Regulation 123 list. We would also suggest that green infrastructure is referenced here as provision for GI would be in line with the approach in the London Plan for provision, enhancement and management of green infrastructure and also the All London Green Grid which is promoting GI delivery by London Boroughs. In addition to flood management and biodiversity benefits GI is also extremely important to improve the health and welfare of the residents of Tower Hamlets as well as ensuring you are better equipped to respond to climate change. Water quality is also a significant issue within your borough and therefore Sustainable Drainage Systems should also be included in your Draft Regulation 123 List.

We are pleased to see in the Infrastructure Funding Gap report, the provision of flood mitigation measures, flood mitigation works and installation of sustainable urban drainage systems with your Surface Water Management Plan for source material. We have highlighted in our responses to the preliminary draft in January this year and revised draft in June this year the importance of using CIL as a mechanism to bridge the funding gap for implementing some of the boroughs actions to manage surface water flood risk. We suggest that you continue to work with Ruth Seager, Highways Planning Manager who is leading on the SWMP to fill in the gaps in the costings for the projects as these should be available from the SWMP and it is important to ensure recommendations in your SWMP are taken on board as evidence for infrastructure needed to support development in the borough.

In addition to recommendations from your SWMP, in terms of Flood Risk you should also consider any Tidal Defence Works required in your borough. The Thames Estuary 2100 plan (TE2100) sets out our recommendations for flood risk management for London and the Thames Estuary. Your borough falls within Action Zone 3 'East London'. The Policy Unit for the Isle of Dogs is P5 'to take further action to reduce flood risk beyond that required to keep pace with climate



change.' Although the Thames Barrier continues to provide reliable protection to central London against surge tides and the river walls provide protection to low-lying areas, should there be a failure of defences or an extreme event, low-lying areas would flood as shown on the 'at risk' map on page 116 of the plan. This means a higher standard of protection is needed within the first 25 years of the plan. This could consist of maintenance, enhancement or replacement river defence walls and active structures. For further information please refer to the TE2100 plan <http://www.environment-agency.gov.uk/homeandleisure/floods/125045.aspx>

The Revised Planning Obligations SPD document includes contributions to biodiversity and specifically refers to river enhancements. We support the intention of contribution towards the Tower Hamlets Biodiversity Action Plan, which includes many river related biodiversity improvement actions. We are satisfied that contributions toward these projects will provide biodiversity gains for the river habitats in the area to help achieve Water Framework Directive outcomes.

Please do not hesitate to contact me with any further queries relating to our comments.

Yours sincerely

Mrs Eleri Randall
Planning Advisor





02 December 2013

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Dear Sir/Madam,

**LONDON BOROUGH OF TOWER HAMLETS, COMMUNITY INFRASTRUCTURE
LEVY, REVISED DRAFT CHARGING SCHEDULE
REPRESENTATIONS OF BISHOPSGATE GOODS YARD REGENERATION
LIMITED**

I am writing on behalf of Bishopsgate Goods Yard Regeneration Limited ('BGY Regeneration Limited') in relation to the consultation on your Revised Draft Charging Schedule for the proposed Community Infrastructure Levy ('CIL') in the London Borough of Tower Hamlets ('the Council' or 'the Charging Authority').

The enclosed representations follow those submitted in connection with the Preliminary Draft Charging Schedule in January 2013 and the Draft Charging Schedule in June 2013. These representations should be read in conjunction and alongside those previously submitted: they do not replace them. A number of points and concerns set out in previous representations have either not been responded to by the Council or have been responded to inadequately.

As explained previously, BGY Regeneration Limited is a joint venture between Hammerson plc and Ballymore: they jointly own Bishopsgate Goods Yard which is the largest development site in the City Fringe Opportunity Area (as designated in the London Plan (2011)) and is allocated as a strategic site within the Council's Managing Development DPD (2013). The site is allocated for substantial development and straddles the administrative boundary with neighbouring London Borough of Hackney. The site is strategically important and has the potential to contribute significantly over the Development Plan period to meeting challenging housing targets.

The enclosed representations comprise two parts:

- Enclosure A – this provides BGY Regeneration Limited's comments on the Council's response to representations made in relation to the Draft Charging Schedule. It is a point-by-point response to the relevant extracts of the Council's document titled 'Table of detailed responses to the Draft Charging Schedule consultation' (October 2013).

- Enclosure B – this provides BGY Regeneration Limited’s specific comments in relation to the strategic site appraisal for Bishopsgate Good Yard (as contained in the Council’s ‘Viability Study’ (August 2013).

BGY Regeneration Limited’s overriding concern is that insufficient focus has been given to the designated Opportunity Areas and Strategic Sites in the Council’s approach and evidence base. This represents a failure to comply with paragraph 27 of the CIL Guidance (2013). Thorough evidence related to the Opportunity Areas and Strategic Sites must be prepared in order for the Council to understand the consequences of its proposed CIL rates on the Development Plan. The work undertaken to date has been broad-brush and generic. Significant information is readily available for the Council to use in order to establish whether CIL rates for the Opportunity Areas / Strategic Sites ought to be differentiated from other – more normal – development sites within the Borough (e.g. Draft Opportunity Area Planning Framework for the City Fringe; Interim Planning Guidance for Bishopsgate Goods Yard; as well as the evidence base associated with the Council’s recently adopted Managing Development DPD).

As it stands – and consistent with previous representations – BGY Regeneration Limited is of the considered opinion that the Council has not complied with its legal obligation to strike an appropriate balance between helping to fund necessary infrastructure and the potential effects on the economic viability of development across its area.

BGY Regeneration Limited recommend that the Council undertake to prepare more thorough evidence in relation to the Opportunity Areas / Strategic Sites. The Council can look at evidence compiled for Opportunity Areas by other Charging Authorities within London as a steer in this respect e.g. the evidence prepared for the Vauxhall / Nine Elms / Battersea Opportunity by the London Borough of Wandsworth. Specifically, in respect of the City Fringe Opportunity Area (and the Bishopsgate Goods Yard site within that), this must include close working with neighbouring Charging Authorities.

At this stage, given the particular site specific circumstances associated with the Opportunity Areas / Strategic Sites, including Bishopsgate Goods Yard, BGY Regeneration Limited is of the opinion that a differential rate is the only robust evidence-based approach. There is no compelling justification for treating Opportunity Areas / Strategic Sites as being the same as other development sites in viability terms.

Finally, BGY Regeneration Limited acknowledge that the Council has indicated it will make available exceptional circumstances relief (in accordance with Regulation 55). BGY Regeneration Limited would like to note that it is unacceptable and inappropriate for the Council to rely upon the use of exceptional circumstances relief at the CIL setting stage insofar as the Opportunity Areas and Strategic Sites are concerned. Making available the principle of exceptional circumstances relief must not be at the expense of undertaking thorough evidence in connection with the Opportunity Areas and Strategic Sites at this stage. Exceptional circumstances relief is discretionary (and, therefore, uncertain) and its application is complex. It ought to be used in unforeseen circumstances, not relied upon at the CIL setting stage for strategic sites that the Council can readily assess and analyse.

BGY Regeneration Limited welcome further dialogue once the Council has had the opportunity to consider these representations.

BGY Regeneration Limited wishes to reserve the right to be heard by the CIL Examiner at the forthcoming Examination.

<p>90</p>	<p>CIL_DCS16: DP9 on behalf of Bishopsgate Goods Yard Limited There is concern that the NPPF has not been adequately considered and there is concern that the statutory guidance in relation to CIL has not been adequately considered. Clarification needs to be provided in relation to how the Council's evidence base accounts for the Development Plan.</p>	<p>Council Response The NPPF, Statutory Guidance and Development Plan have all been considered in the CIL rates setting process. The CIL Regulations 2010 as amended and associated guidance acknowledge that it is for the charging authority to aim to strike an appropriate balance between infrastructure provision and viability when setting its charging rates. The Council has to take a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in the economic cycle. The Council has proposed a CIL charge that amounts to less than 5% of the development costs of residential development; a modest proportion of development costs. The Council has also proposed a minimum discount of 25% of the maximum CIL chargeable in the rates reflected in the Revised Draft Charging Schedule. It is highly unlikely therefore that CIL would be the determining factor that would make developments unviable. In addition, the Council's policy for affordable housing and other policy requirements have been factored into the viability appraisals undertaken to arrive the Revised Draft Charging Schedule CIL rates proposed. Accordingly, the Council is of the view that it has fully considered the implication of the development plan for the CIL charge and the impacts of the proposed CIL on the development plan.</p>	<p>BGY Regeneration Limited Response (December 2013) BGY Regeneration Limited remain concerned that the NPPF and CIL Guidance have not been appropriately addressed in the Council's Revised DCS and the evidence base supporting this. The concerns explained in the June 2013 remain. Specifically in relation to points set out in the Council's response, BGY Regeneration Limited would note the following: Firstly, the main issue not appropriately addressed by the Council in relation to the NPPF is that the Revised DCS evidence base does not thoroughly explore and assess the likely scale of obligations and policy burdens associated with the viability and deliverability of the designated Opportunity Areas and Strategic Sites. As explained in previous representations, BGY Regeneration Limited is of the strong opinion that the Council has available evidence at its disposal to ensure a thorough understanding of the Opportunity Areas and Strategic Sites in this respect. To use one example, the assumption is that across LBTH the residual S106 will be £1,220 per unit for residential development. This is assumed to be the case for any site coming forward, whether strategic or not. The Council has not analysed the likely residual S106 for the strategic sites. It can do so based on a combination of planning guidance and evidence base documents that have been prepared in connection with the Opportunity Areas / Strategic Sites. Secondly, in respect of the CIL Guidance, again the concerns as set out in the June 2011 remain. In summary, the concerns are primarily that the Council</p>
<p>91</p>			



ENCLOSURE A – BGY REGENERATION LIMITED

has not demonstrated that its proposed rates have been sufficiently informed by appropriate evidence and that sufficient focus has not been awarded to strategic sites (including the designated Opportunity Areas) (refer to paragraphs 25 and 27 of the CIL Guidance. More appropriate evidence can be readily prepared. This should be thorough given the focus and importance of the Opportunity Areas and Strategic Sites. The exercise should be particularly focused on the Opportunity Areas due to their importance in meeting both regional and local housing targets. The scope of work necessary is similar to that undertaken by other authorities to support CIL rates for Opportunity Areas e.g. LB Wandsworth in respect of the Vauxhall / Nine Elms / Battersea Opportunity Area.

Thirdly, it is explained by the Council that implications of CIL, when considered alongside other development costs, is modest. This is a sweeping statement and one that is prematurely made in the absence of thorough work considering the burden of policy costs on the Opportunity Areas and Strategic Sites. BGY Regeneration Limited is concerned that such statement by the Council is misleading since it is percentage based. The capital amount of CIL liability within the Opportunity Areas and Strategic Sites is substantial, especially when cumulatively considered alongside the Mayor of London's Crossrail requirements; the Mayor's CIL; affordable housing and planning obligations. BGY Regeneration Limited consider that the cumulative burden of costs as a result of the Council's planning policies and objectives for the Opportunity Areas and Strategic Sites has not been understood. The Council is readily able to undertake further work in this respect due to the extent of available evidence it has for the Opportunity

Areas and Strategic Sites.

Fourthly, the Council has highlighted the importance of the 25% buffer it has applied (or rather 'discount') to the maximum CIL rates it could have proposed. BGY Regeneration Limited is concerned about the basis and logic associated with the 25% buffer which has not been appropriately explained. The main points BGY Regeneration Limited has on this matter are, as follows:

- The BNPP Viability Study states the following: "The ability of residential schemes to make CIL contributions varies depending on area and the current use of the site. Having regard to these variations, residential schemes should be able to absorb a maximum CIL rate of between £80 to £300 per square metre. The department for Communities and Local Government ('DCLG') guidance requires that charging authorities do not set their CIL at the margins of viability. Other authorities have set their rates at a discount (buffer) to the maximum rate, with discounts ranging from circa 20% to 50%. We would recommend a buffer of circa 25% for Tower Hamlets."
- There is no explanation as to why BNPP has concluded that a 25% buffer is recommended.
- The 25% buffer has been applied as a blanket factor across the whole of LBTH. It does not alter to reflect the complexity and challenges associated with different types of development. This is particularly concerning when considering the Opportunity Areas / Strategic Sites.
- Opportunity Areas / Strategic Sites are complicated to deliver. They typically involve the

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<p>regeneration of heavily constrained brownfield sites. They are distinctly different to non-Strategic Sites: the risks and costs and contingencies associated with delivering a Strategic Site are substantial greater than more straightforward sites e.g. a development of 20 residential units for example. Logic suggests that the nature of Strategic Sites is such that they warrant a greater 'buffer' or discount compared to non-Strategic Sites. In simple terms, it is unclear why the Council is taking more risk and less caution in relation to the delivery of the Strategic Sites compared to other development sites.</p>		
<p>BGY Regeneration Limited note that the Council has not responded to all of the points raised in the June 2011 representations (paragraphs 5.1 to 5.9) as well as the January 2013 representations (paragraphs 3.44 to 3.48) in relation to this matter.</p> <p>The issue at play here is at risk of being lost due to arguments around different viability approaches and methodologies. The key issue as far as BGY Regeneration Limited is concerned is this: that CIL rates should be based on an evidence base that includes market testing and market sense-checking. This is common to advice / guidance on viability offered by both the Local Housing Delivery Group publication 'Viability Testing Local Plans' (2012) and the RIC's 'Financial Viability in Planning' (date). No evidence of market testing and market sense-checking has been provided despite this being a point made by BGY Regeneration Limited in all previous representations. It is also a point that has been made by other developers/landowners.</p>	<p>The approach we have adopted was considered in depth at the London Mayoral CIL examination. The merits of the Market Value and Existing Use Value plus a premium approach were considered in detail by the Examiner. It was accepted that market transactions are of limited relevance to testing a new planning requirement, as they are historic and relate to prevailing planning policies at the time. As such, the Market Value approach was found to be an unsound basis for testing the viability of CIL. It should also be noted that this approach has been accepted in numerous other CIL Examinations both inside and out of London including Croydon, Redbridge, Bristol, Poole, Havant, Harrow, Brent, Waveney.</p>	



	<p>Concerned that the Council has not fully engaged with land owners of strategic sites.</p>	<p>On 22nd April 2013, the Council published the CIL Draft Charging Schedule for consultation between until 5th June 2013. The consultation was advertised in the local press – East End Life, and on the Council’s website. The advertisements stated its duration, location for inspection and two drop-in sessions. Developer Drop-in Sessions were also held at the Council’s offices, where developers were invited to drop in to discuss issues 1st May 2013 and 3rd June 2013. The Council has also met with some of the agents for two of the strategic sites. This followed consultation the Preliminary Draft Charging Schedule (between 16th November 2012 and 2nd January 2013) and a workshop was run on 6th July 2012 right at the start of the process to invite input as to the proposed methodology and assistance with inputs into the appraisals. The Council has also met with owners of strategic sites and invited submission of appraisal information and other evidence to help inform the rate setting process. The Council has met all the regulatory and local consultation requirements, and made extra efforts to encourage proactive participation from a wide range of stakeholders.</p>	<p>Without market testing and market sense-checking it is uncertain how robust or sufficient the 25% buffer or discount mentioned by the Council above is.</p>
<p>93</p>			<p>Some engagement with the development industry has now taken place, but this has occurred late in the process. As mentioned in previous representations, the Council did not engage with the development industry between publication of the Preliminary Draft Charging Schedule (in November 2012) and publication of the Draft Charging Schedule (in April 2013). This lack of engagement early on in the process has meant that, for example, the development industry has not been able to be involved from the outset in formulating the approach taken to the Council’s Viability Study in respect of the Opportunity Areas and Strategic Sites. This would have been useful, noting the following paragraph 49 of the Government’s CIL Guidance (2013).</p> <p>The engagement with the development industry that has taken place has not been particularly meaningful insofar that it has focused on the Council requesting sensitive and confidential viability information associated with particular sites. BGY Regeneration Limited is of the strong opinion that the onus and responsibility is on the Council to ensure it has based its proposed CIL rates on appropriate available evidence. As already mentioned, BGY Regeneration Limited is of the opinion that the evidence prepared by the Council in relation to the Opportunity Areas and Strategic Sites is broad-brush and insufficient. The Council already has a wealth of evidence at its disposal that it can readily use to better understand the implications of CIL on the Opportunity Areas and Strategic Sites.</p>



	<p>Concerned that the Council has assumed a standard borough-wide assumption for residual S106 and S278. This approach requires justification, particularly in relation to strategic sites, where investment in infrastructure is required to enable and mitigate development. The Council has also not published any evidence on the cost implications of residual S106 and there is no cross referencing between the Planning Obligations SPD and the Draft Charging Schedule.</p>	<p>The Council has included cost assumptions for Section 278 and residual Section 106 requirements in a CIL context (thereby reducing the probable CIL charge) even though there are likely to be instances in which such contributions may not be required e.g. minor schemes. The residential appraisals incorporate an allowance of £1,220 per unit and the commercial appraisals have also been amended to incorporate an allowance of £5 per square foot (£53.82 per square metre). These figures 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 where it can be quantified, and the figure adopted is broadly in line with those adopted by many other London boroughs for CIL testing purposes.</p>	<p>Further to the above, BGY Regeneration Limited again wish to note that requests have been made to the Council for information that it has available and has produced to feed-in to the summary Strategic Site appraisals contained within the Viability Study. The Council has refused to issue this information.</p>
<p>94</p>		<p>BGY Regeneration Limited is concerned about the Council's response on this important matter. In the context of both the January 2013 and June 2013 representations, BGY Regeneration Limited do not understand how the Council has arrived at its assumptions for residual Section 106 and Section 278. There does not appear to be any evidence. Why is it that the assumptions are considered to be a 'reasonable proxy'? What is this proposition based on?</p> <p>BGY Regeneration Limited consider the Council's opinion that the assumptions are justified based on the fact that the residual figures are in line with 'many other London boroughs' to be irrelevant. No single borough is the same. The assumptions on residual Section 106 and Section 278 must be based on the specifics of the likely infrastructure required to deliver the Development Plan. This needs to be particularly focused, in the context of the CIL Regulations, on the Strategic Sites.</p> <p>Based on a review of the Council's proposed Regulation 123 List, the Council should have considered the infrastructure items that are needed for the Strategic Sites and ascertained whether these would be covered by the Regulation 123 List or not (i.e. delivered through Section 106 and Section 278 as</p>	<p>Based on a review of the Council's proposed Regulation 123 List, the Council should have considered the infrastructure items that are needed for the Strategic Sites and ascertained whether these would be covered by the Regulation 123 List or not (i.e. delivered through Section 106 and Section 278 as</p>



	<p>The Council has not provided information on historic Section 106 Agreements, including the extent to which affordable housing and other targets have been met.</p>	<p>The Council has published additional information on historic section 106 receipts as part of the Revised Draft Charging Schedule consultation (Section 106 Receipts Background Report, October 2013). This includes affordable housing targets.</p>	<p>opposed to CIL). This is especially necessary because the Council highlights on its Regulation 123 List that Section 106 may continue to apply if the infrastructure is required to make the development acceptable in planning terms (in other words, if site specific mitigation is required). In essence, this is no change to the system pre-CIL charging.</p> <p>The Opportunity Areas and Strategic Sites are different to other development sites within LBTH. They are multi-phased, complex, mixed-use, challenging, constrained, etc. They are importantly in meeting the Council's significant housing targets. This is obvious from the available evidence that the Council has at its disposal in relation to the Opportunity Areas and Strategic Sites. Further work clearly needs to be done in this respect. But, at this stage, given the particular site specific circumstances associated with the Opportunity Areas and Strategic Sites, BGY Regeneration Limited is of the opinion that a different assumption for Section 106 and Section 278 compared to the remainder of LBTH is the only robust evidence-based approach. There is no compelling justification for treating the Opportunity Areas and Strategic Sites as being the same as other sites in respect of Section 106 and Section 278.</p>
<p>95 Page 54 of 163</p>	<p>The Council has undertaken to prepare some work on this matter. But, the 'Section 106 Receipts Background Report' (October 2013) is meaningless. It explains the Section 106 receipts that the Council has obtained on an annual basis. It does not provide any site specific information in this respect or attempt to work out, for example, an average £ per sqm or £ per unit figure. The BGY Regeneration January 2013 Representations provided a view on this following evidence gathered</p>		





			<p>from the Molior database. The Council must do something similar and undertake further work in this respect in order to understand how the cost burden on development will change pre- and post-CIL. See paragraphs 3.39 to 3.41 of the January 2013 representations and 7.1 to 7.3 of the June 2013 representations. This work is necessary in order to fulfil the intention of paragraph 22 of the Government's CIL Guidance (2013).</p>
<p>96</p>	<p>The Council should estimate likely S106 costs for strategic sites and account for this in Strategic Site appraisals.</p>	<p>Estimates have been made reflecting comments from developers where provided and where justified.</p>	<p>The BNPP Viability Study assumes £1,220 per dwelling. The figure in the BGY strategic site appraisal is unchanged from the March 2013 version. In relation to the figure, para 4.28 of the BNPP study states 'This figure is considered to be a reasonable proxy for likely sums to be sought after CIL is adopted'. There is however no analysis in the viability report or the Council's S106 study that accompanies the Draft Charging Schedule as to how this has been calculated. Please refer to Enclosure B for further comments.</p>
<p>97</p>	<p>The Council has not undertaken a proper assessment of the likely balance between CIL and other Planning Obligations required to deliver the development plan.</p>	<p>The Council has to take a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in the economic cycle. In addition, it should be noted that CIL will constitute a maximum of 5% of development costs of residential development. It is therefore highly unlikely that CIL would be the determining factor that would make developments unviable.</p>	<p>See response above in relation to line item x.</p> <p>The key point here seems to have been misunderstood by the Council. There is no evidence that the Council has analysed fully the likely burden of policy costs associated with the delivery of the Opportunity Areas and Strategic Sites. A more thorough exercise should be undertaken in order to ensure the proposed CIL rates are based on appropriate evidence. BGY Regeneration Limited recommend that the Council undertakes to prepare more thorough evidence in relation to the Opportunity Areas (including the Strategy Sites within that). The work undertaken by the Council to date is broad-brush and light-touch. The Council should look at the work undertaken by other authorities in respect of Opportunity Areas e.g. the</p>



<p>substantial evidence compiled by LB Wandsworth in respect of its CIL proposals for the Vauxhall / Nine Elms / Battersea Opportunity Area.</p>		
<p>BGY Regeneration Limited is concerned that the office rate proposed by the Council for the City Fringe area (i.e. the area covered by the City Fringe Opportunity Area) is out of kilter with rates proposed by other Charging Authorities for the same area. For ease of reference, the LBTH proposed rate of £120 per sqm can be compared to the following:</p> <ul style="list-style-type: none"> • Hackney: £74 per sqm. • Islington: £80 per sqm. • City of London: £75 per sqm. <p>BGY Regeneration Limited is unclear as to why there is such a difference. This has not been explained. It is particularly illustrated on a case such as Bishopsgate Goods Yard given different parts of the same site would be liable to pay significantly different rates for the same use. BGY Regeneration Limited request an explanation from the Council on this matter.</p>	<p>Noted: Tower Hamlets' CIL office rate has been reduced to £120. In addition, Tower Hamlets' residential rate (£200) is broadly similar to Hackney's latest published rate (£190).</p>	<p>The CIL charge in Bishopsgate Goodyard (which straddles Hackney and Tower Hamlets) should have a consistent approach to CIL. For example, the proposed office rate in Hackney's PDCS is £74 per sq. m and in LBTH's DCS is £215 per sq. m. Again, there is little consistency in the rate between the City of London and Tower Hamlets.</p>
	<p>Noted: Tower Hamlets and Hackney will be working together to ensure a consistent approach to Bishopsgate Goods Yard.</p>	<p>In setting CIL rates for Bishopsgate Goods Yard both Hackney and Tower Hamlets must work closely together.</p>
<p>There is no evidence of a joined-up / consistent approach. The concerns explained at paragraphs 10.1 to 10.5 of the June 2013 representations remain. The Council has not responded to the inconsistencies that have been highlighted.</p> <p>See response in relation to line item 98 above.</p>	<p>The approach relating to the City Fringe office rate has been amended and explained in the latest Viability</p>	<p>No justification has been provided for the increase in the City Fringe office rate.</p>



	<p>Study (October 2013).</p> <p>In accordance with the CIL Guidance 2013, the Council has tested the viability of eight strategic sites across the whole borough. These are all sites which have been identified in the Council's Managing Development Document, which represent a range of different viability scenarios.</p>	<p>It is unclear why the Council feel as though the selection of only eight sites means that their approach is in accordance with the CIL Guidance. BGY Regeneration Limited consider that the Council has not prepared sufficient evidence in respect of the Strategic Sites in order to demonstrate that the Development Plan will not be put at risk.</p> <p>The Council's response does not deal with BGY Regeneration Limited's queries / concerns. The primary point – as explained in both the January and June 2013 representations - is this:</p> <ul style="list-style-type: none"> • The Council needs to be satisfied that its proposed CIL rates will not pose a significant risk to the delivery of the Development Plan. • The Development Plan is underpinned by the Opportunity Area and Strategic Site allocations. • CIL Guidance is clear in that the Council should be particularly focused on understanding / testing the Strategic Sites. • The sample of eight sites tested by the Council represents less than half of the 20 strategic sites that underpin the Development Plan. Given that three of the sites tested are shown not to be viable in the BNPP Viability Study, this reinforces the need to test more of the strategic sites to understand the impact CIL could have on the Development Plan. <p>BNPP have retained table 1.5.1 in their viability assessment which nets the Mayoral CIL figure from a gross borough CIL. It is not clear however as to whether the 25% buffer from the maximum CIL rate to</p>
<p>The Strategic Site Appraisals are not accompanied by an explanation for why eight have been chosen. Furthermore there is no detailed analysis of the site's policy requirements.</p>		<p>The viability appraisals now include Mayoral CIL as a cost, so the outputs identified are the maximum viable levels of Borough CIL.</p>
<p>The Mayor's CIL rate should be treated as a development cost. The Council have approached this instead by subtracting the Mayor's CIL rate from the maximum rate which</p>		<p>The Mayor's CIL rate should be treated as a development cost. The Council have approached this instead by subtracting the Mayor's CIL rate from the maximum rate which</p>



	<p>could possibly be sought.</p>		<p>the proposed net rate has any reference to the Mayoral CIL rate (note 91 above and the points relating to the buffer / margin). The Mayoral CIL figure is included as a development cost in the appraisal.</p> <p>DS2 has recreated a number of the strategic appraisals using the BNPP inputs. They have been able to match the residual outputs in some but not all of the appraisals. Greater transparency, for example in relation to the calculation of development finance, would be provided if the summary sheets of the appraisals were attached to the BNPP work, as has been done in previous policy based assessments such as affordable housing viability studies.</p>
<p>103</p>	<p>It is difficult to analyse the strategic site appraisal summaries included within the viability report. A request has been made for this information but it hasn't been forthcoming.</p>	<p>The Council invited submission of appraisal inputs/ information and has reflected specific comments - where received - in amendments to the strategic site appraisals. It is noted all inputs into the appraisals are provided within the study. Inputs into the Argus models related to the Strategic Sites have been provided in the Viability Study (October 2013) so should developers or stakeholders wish to test these they are able to do so. The focus should be on whether the inputs are reasonable or whether there is evidence to suggest otherwise</p>	<p>BGY Regeneration Limited is concerned that the Council's Viability Study does not assume the full Mayor's Crossrail liability: it is likely that the burden of policy costs has, therefore, been underestimated. The Council should take a more cautious approach. It is understood that the Greater London Authority (inclusive of Transport for London) has expressed their concerns on this matter with the Council.</p>
<p>104</p>	<p>The way the Mayor of London's Crossrail charge has been taken into account is not clear.</p>	<p>Crossrail is a priority for London Borough of Tower Hamlets and an important one but it should not obliterate the pressing need for other local infrastructure. In response to the representations, the Council has amended its approach from that of the Draft Charging Schedule of assuming 30% of the Mayor of London's Crossrail 'top up' in its appraisals in setting its rates. It is expected that the rates set out in the Revised Draft Charging Schedule will allow the for the full 'top up' required under the Crossrail SPG 2013 where the viability of individual schemes allow for it in line with the approach set out in the Crossrail SPG, 2013, paragraph 3.34. However, it is acknowledged that achieving the full top up may be more challenging in certain office schemes in the North Docklands in the current market and in light of the fact that it has the highest 'top up' charge in London. Accordingly, a lower Crossrail SPG top is assumed for office floorspace in North Docklands (please refer to paragraph 4.55 of the Viability Study (October 2013)). This has resulted in a</p>	

CIL - RDCS16



ENCLOSURE A – BGY REGENERATION LIMITED

	<p>The Council needs to clarify a number of inputs into the Bishopsgate Goods Yard Appraisal, including: -</p> <ul style="list-style-type: none"> • How the site area has been derived. • How the unit density has been assumed. • The Viability Study assumes a residential mixed use whereas the site allocation in the Managing Development Document assumes a mixed use. • How the development quantum has been derived. • How the unit mix has been derived. • What are the reasons to assume the gross to net ratio of 85%? • How the 'Construction pre sales start' has been derived. • Whether an IRR approach to profit is more suitable. • The build cost assumption of £177 per sq. ft. 	<p>reduction in the CIL rate for offices in North Docklands. This approach reflects the Crossrail funding requirements arising from office development in this part of the borough while recognising the need to fund local infrastructure to enable sustainable development.</p>	
<p>105</p>	<p>The Council has, where appropriate, updated appraisals to address comments made during the Draft Charging Schedule consultation. The approach to assessing the largest sites has been amended to an Internal Rate of Return ('IRR') approach in response to representations. It is noted that although developers commonly identify that they are targeting an IRR of 20%, BNP Paribas Real Estate have advised that large schemes in London, particularly in the current economic climate, developers have agreed to proceed with developments identified as generating IRRs of between 11% and 13%. In addition:</p> <ul style="list-style-type: none"> • The Strategic Site inputs data has been updated to include the development programmes and we can confirm that S106 and CIL costs are included as upfront costs at the beginning of construction • The professional fees on strategic sites and all 	<p>The Council has, where appropriate, updated appraisals to address comments made during the Draft Charging Schedule consultation. The approach to assessing the largest sites has been amended to an Internal Rate of Return ('IRR') approach in response to representations. It is noted that although developers commonly identify that they are targeting an IRR of 20%, BNP Paribas Real Estate have advised that large schemes in London, particularly in the current economic climate, developers have agreed to proceed with developments identified as generating IRRs of between 11% and 13%. In addition:</p> <ul style="list-style-type: none"> • The Strategic Site inputs data has been updated to include the development programmes and we can confirm that S106 and CIL costs are included as upfront costs at the beginning of construction • The professional fees on strategic sites and all 	<p>Please refer to Enclosure B of these representations.</p>

ENCLOSURE A – BGY REGENERATION LIMITED

<p>£270 - £300 is more appropriate.</p> <ul style="list-style-type: none"> • The 'Exceptionals/Abnormals' assumed. • The marketing costs assumed. 2% is more appropriate. • The sales costs assumed. 2% is more appropriate. • The letting fee assumed. 15% is more appropriate. • Professional fees assumed. 12 – 14% is more appropriate. • Finance costs assumed. 9% is more appropriate. 	<p>schemes larger than 250 units have been increased to 12% in line with the assumptions in the typologies for consistency.</p> <ul style="list-style-type: none"> • With respect to energy requirements on large sites, the provision of such technologies will be included in the cost to achieve CSH level 4 on such sites. A 5% contingency is also allowed for the on the uplift of the build costs associated with achieving CSH level 4, which should allow for any unforeseen costs relating to the provision of such elements. • Allowances have been made for the onsite infrastructure that is sought by the Council's policies such as schools, health facilities through land in kind. • The higher abnormal costs identified on the Bishopsgate Goodsyard (and Wood Wharf) sites have been taken into account in line with comments made to the DCS consultation. These site appraisals have been updated to include commercial uses in line with the quantum identified in relevant planning policies and guidance which will inform the planning application on this site • Assumptions with respect to marketing have been amended and a rent free period to 24- months for the office elements included. 	<p>The Council's response does not alleviate BGY Regeneration Limited's concerns on this matter as fully set out at paragraphs 8.5 to 8.7 of the June 2013 representations. The important point here is that Section 106 is more likely than not to continue as the mechanism for providing site specific mitigation for Strategic Sites. This will continue to be a significant cost item in terms of development viability. The</p>
<p>The Council should not use CIL to provide site-specific infrastructure. Such an approach risks the robustness of development decisions which approve development without securing a commitment to the provision of necessary infrastructure on the assumption that it will be provided by CIL.</p>	<p>The Draft Planning Obligations SPD sets out the Council's approach to mitigating the impacts of development. The Council's Draft Regulation 123 List provides an overview of where CIL and where Section 106 contributions will be used. The SPD states that, following the adoption of the local CIL, Section 106 will be limited to mitigating site-specific impacts of development (Regulation 123 CIL Regulation 2010 (as</p>	<p>The Council's response does not alleviate BGY Regeneration Limited's concerns on this matter as fully set out at paragraphs 8.5 to 8.7 of the June 2013 representations. The important point here is that Section 106 is more likely than not to continue as the mechanism for providing site specific mitigation for Strategic Sites. This will continue to be a significant cost item in terms of development viability. The</p>



		<p>amended)). Where a site allocation requires the provision of infrastructure on-site CIL, or in-kind provision to an equivalent value, will be used to ensure the provision, rather than Section 106.</p>	<p>Council should not assume in-kind payment of CIL can be achieved easily and as the 'norm'. In-kind provision is challenging and likely to be an exception.</p> <p>As such, the Council should take a more cautious approach to the ability of Strategic Sites to afford CIL and – as expressed in relation to line item 91 above – it is recommended that the Council adopts a higher viability 'buffer' than that assumed for non-Strategic Sites.</p>
<p>107</p>	<p>Complications around in kind transfer of land have not been considered and need to be properly addressed in the Planning Obligations SPD.</p>	<p>The Draft Planning Obligations SPD sets out the Council's approach to mitigating the impacts of development. The Council's Draft Regulation 123 List provides an overview of where CIL and where Section 106 contributions will be used. The SPD states that, following the adoption of the local CIL, Section 106 will be limited to mitigating site-specific impacts of development (Regulation 123 CIL Regulation 2010 (as amended)). Where a site allocation requires the provision of infrastructure on-site CIL, or in-kind provision to an equivalent value, will be used to ensure the provision, rather than Section 106.</p>	<p>See above. The Council needs to recognise the challenges with in-kind provision and appreciate the likelihood the Section 106 costs for Strategic Sites are unlikely to alter significantly once CIL is in place. This is for the reasons explained in the June 2013 representations (paragraphs 8.5 to 8.7). This needs to be reflected in a higher 'buffer' for the Opportunity Areas / Strategic Sites (see comment on the buffer at line item 91).</p>
<p>108</p>	<p>Reference to circular 5/05 needs to be removed and replaced with provisions of NPPF</p>	<p>Noted: References to Circular 5/05 have been deleted.</p>	<p>No comment.</p>
<p>109</p>	<p>Para 4.16 refers to two DPD documents, but only lists the Managing Development Document. The publication date of the National Planning Policy Framework is cited as 2011 however this was adopted in 2012. The commentary around Managing Development Document needs to be updated following the adoption of the document.</p>	<p>The Draft Planning Obligations SPD has been updated to reflect the current Development Plan and national guidance.</p>	<p>No comment.</p>



ENCLOSURE A – BGY REGENERATION LIMITED

DP9

2nd December 2013

23/01/2014

Development Consultants



PL/ds

02.12.2013

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Dear Sir / Madam

LONDON BOROUGH OF TOWER HAMLETS – COMMUNITY INFRASTRUCTURE LEVY DRAFT CHARGING SCHEDULE REPRESENTATIONS ON BEHALF OF BISHOPSGATE GOODS YARD REGENERATION LIMITED IN RELATION TO BISHOPSGATE GOODS YARD

In response to the Council's most recent Revised Draft Charging Schedule dated October 2013, DS2 has been asked by Bishopsgate Goods Yard Regeneration Limited (a joint venture between Hammerson and Ballymore) to review the viability study that underpins the CIL rates. These representations form part of the overall representations that have been submitted by DP9. Our comments are included in the table below. In making these comments we have had sight of the following documentation:

- Revised Preliminary Draft Charging Schedule (October 2013)
- Detailed Consultation Responses to Draft Charging Schedule (October 2013)
- Summary of Consultation Responses to the Draft Charging Schedule with particular regard to Section B (October 2013)
- BNPP CIL Viability Assessment (August 2013)
- DP9 Representation on behalf of Bishopsgate Goods Yard Regeneration Limited dated June 2013
- CIL Draft Charging Schedule – S106 Report (October 2013)
- CIL Infrastructure Planning and Funding Gap Funding Report (October 2013)

Our comments are collated in two parts. Firstly, the table below addresses individual inputs and assumptions made in the viability assessment prepared by BNPP for Bishopsgate Goods Yard. Secondly, we provide comments in relation to a number of the major items included in the Council's Summary of Consultation Responses.

Section One: Updated Table of Inputs in Response to BNPP Viability Study dated August 2013)

Table One: Response to the BNPP CIL Viability Assessment in Relation to the Bishopsgate Goods Yard Strategic Site Appraisal – Updated from 5th June 2013		
Viability Input	BNPP Input	Landowner comments
Site area	Gross 4.24, net 2.44	BGY Regeneration have measured the site and calculated a gross site area of 3.477 ha in Tower Hamlets (4.7873 ha overall). See attached plan.
Density	310 u.p.ha	The gross (and net) areas have now changed (see above)
Land use mix	BNPP study now includes commercial (66,598 sq m office and 22,866 sq m retail both GIA)	The commercial property figure that BNPP have derived appears to include a large proportion of the commercial space from LB Hackney. The current iteration of the design includes a higher level of residential area than included in the BNPP study. Higher net densities are required in order to assist with the viability of the site albeit the higher density areas are in LBH.
Gross to net ratio	Residential 85%	The scheme located in the Tower Hamlets area is unlikely to achieve 85% due to: - Height / number of cores required - Facilities / reception - The first 5 floors will contain minimal residential floorspace due to the East

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A list of the names of the members and their professional qualifications is available for inspection at the above office

		London Line Ballymore/Hammerson experience of similar sized developments is between 65% and 70%. Our comments therefore remain unchanged on this point.
Construction Timings	18 months pre-construction, 51 months construction and 18 months post completion	The current indicative programme (Tower Hamlets) is that the two phases have a construction period of last 81 months (including the provision of the park)
Private sales rate	£680 psf	Sales & marketing advice would suggest that there will be a range of values across the site with higher values likely to be achieved to the west of the site in Hackney (given the location of the taller buildings). Our comments on the Tower Hamlets element remain unchanged at this time.
Affordable Sales rate	£177 psf	This is a reasonable assumption based on LBTH's position on Affordable Rent, GLA caps on intermediate provision affordability and zero grant
Car parking income	£25,000 per space	Updated from previous site appraisal, although the site may not accommodate any private car parking due to the below ground constraints
Ground rent income	£4,500 per private dwelling	No further comment
Contingency	5%	10% on strategic development more appropriate given the increased risks. Please also note comments below on construction.
Private residential profit	IRR based return albeit no target provided (a range of 11 to 13% in noted within the BNPP commentary)	We note that BNPP have now included reference to 20% IRR being reasonable at 7.15 of their updated report. Whilst a 20% IRR is referenced in the BNPP report, the report then states that 11% to 13% is reasonable based upon ' <i>our experience on large schemes in London that developers have agreed to proceed with developments identified as generating IRRs of between 11% and 13%</i> '. There is no further explanation than this. The target rate of return (ungeared) at BGY is in excess of 13% on a present day basis given the scale and complexity of the development.
Affordable profit	6% on value	Reasonable on a profit on cost basis on a less complicated scheme. The IRR as noted above is adjusted to reflect all property types
Build costs	£177 per sq ft residential	The BNPP build costs remain extremely low. As previously noted BGY Regen Ltd experience and expectation on BGY is for costs to be in the region of £270 to £300 psf once the basement areas, podium deck and external areas are accounted for. Please find attached a benchmarking exercise that the landowners cost consultants have provided. The exercise illustrates ten London schemes on between 15 and 75 storeys. The costs are for the GIA and do not include basement areas or externals. The build costs at £200 psf on the office space are more expensive than the residential build. The residential build costs in the BNPP model are only £27 psf more expensive than the retail costs (retail is generally delivered to shell and core).
Exceptionals / Abnormals	£26,032,000 for decontamination, abnormals and the ELLX	We note that BNPP have now added the £20m ELLX cost. However the full range of potential liabilities is still being assessed and this will figure be updated in due course.
Marketing	2%	BNPP have now included 2%. Albeit there remain reservations as to whether this is an adequate allowance given the scale and timing of development. BGY Regen Ltd has advised that there will be a significant on-site marketing cost over and above the 2% 'standard' marketing fee. Please see attached evidence supplied by Ballymore Properties (one half of the Bishopsgate Good Yard partnership) in relation to the cost of provision of a residential marketing suite for the first phase (500 units) at another of their central London developments. Further costs will be accrued for later phases. This is in addition to a 'standard' 2% for marketing collateral.

Sales agent	1.5%	BNPP have increased sales agent fees from 1% to 1.5% but not the 2% as previously advised for a joint agency instruction
Sales legal fee	0.25%	Unchanged
Letting fee	10%	Joint agency instruction (which is applicable to this scale of development) be 15% as previously advised
Professional fees	12%	BNPP have increased the professional fees to 12% from 10%
Finance	Removed	Given the inclusion of an ungeared IRR finance becomes (for the purposes of this appraisal) irrelevant albeit the return generated by the IRR is a gross profit from which finance costs will be deducted. Finance costs for a project of this scale and risk profile will be derived from equity and debt, resulting in a weighted average cost of capital that is likely to be above prevailing market debt rates for both senior and mezzanine debt rates.
Planning Obligations (s106 and s278)	£1,220 per unit	Requires an analysis that is site specific and an understanding of the cumulative burden of planning policies and guidance. Current examination would suggest that the £1,220 per dwelling for site specific mitigation will not be sufficient
Site Value	£17,808,000	BNPP figure needs explanation. No reference to NPPF para 173 or requirement to sense check against market evidence. Please note comments in Section Two below in relation to land value.

Section Two: Response to Major Items within the Summary of Consultation Responses Section B

Market Value vs. Existing Use Value

- The Council's Summary at 2.10 makes reference to the Local Housing Delivery Guidance (Lord Harman) dated June 2013. The LHDG study makes reference to a 'sense check' on pages 29 and 30 to local comparable land evidence in order to ensure that the margin above the Current Use Value (CUV) is appropriate. The BNPP Viability assessment does not sense check the Benchmark Land Values that are constructed on the 'CUV plus' approach and there is therefore no recognition as to whether the land values that are included in the site appraisals bear any resemblance to the local market and as such, in accordance with paragraph 173 of the NPPF, 'provide competitive returns to a willing land owner'.
- Whilst there are a range of variables that impact upon land value as noted in the Council's Summary at 2.11, analysis of the local land market provides a reasonable range which should be used to inform the process. We would agree that only a certain amount of weight should be adopted in the use of historic land information for the purposes of policy making, however the 'sense check' that the LHDG publication refers to remains important so that there is not a complete separation in land value for the purposes of policy making and the market otherwise if land value is set at a punitive rate, sites simply will not come forward.

Site Specific Section 106 Assumptions

- The Council's Summary at 2.17 refers to the rationale for £1,220 per dwelling being used as a residual S106 requirement for site specific matters. We have reviewed the Council's S106 Report however the document sheds little light on what an average figure for S106 matters secured on recent large scale consents are.
- Analysis of CIL Planning and Funding Gap Report that accompanies the PDCS would suggest that there will be a significant S106 liability on the strategic sites for site specific mitigation measures. We do not believe that the standard £1,220 per unit rate is applicable to the larger sites.

Argus Models

- We have used the BNPP inputs to recreate a number of the strategic site appraisals and in some instances have derived similar residual outputs, albeit in others we are some way from balancing the appraisals. There are a number of variables that are required to accurately recreate the BNPP models that were not provided and in our opinion, for the purposes of thoroughly understanding BNPP's approach in terms of setting the proposed CIL rates, it would be helpful to have site of the full appraisals for the strategic sites.

Summary

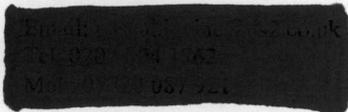
We trust that the above is helpful. We are of the opinion that the strategic sites appraisals retain a number of fundamental flaws that have not been picked up on following our comments made in June 2013.

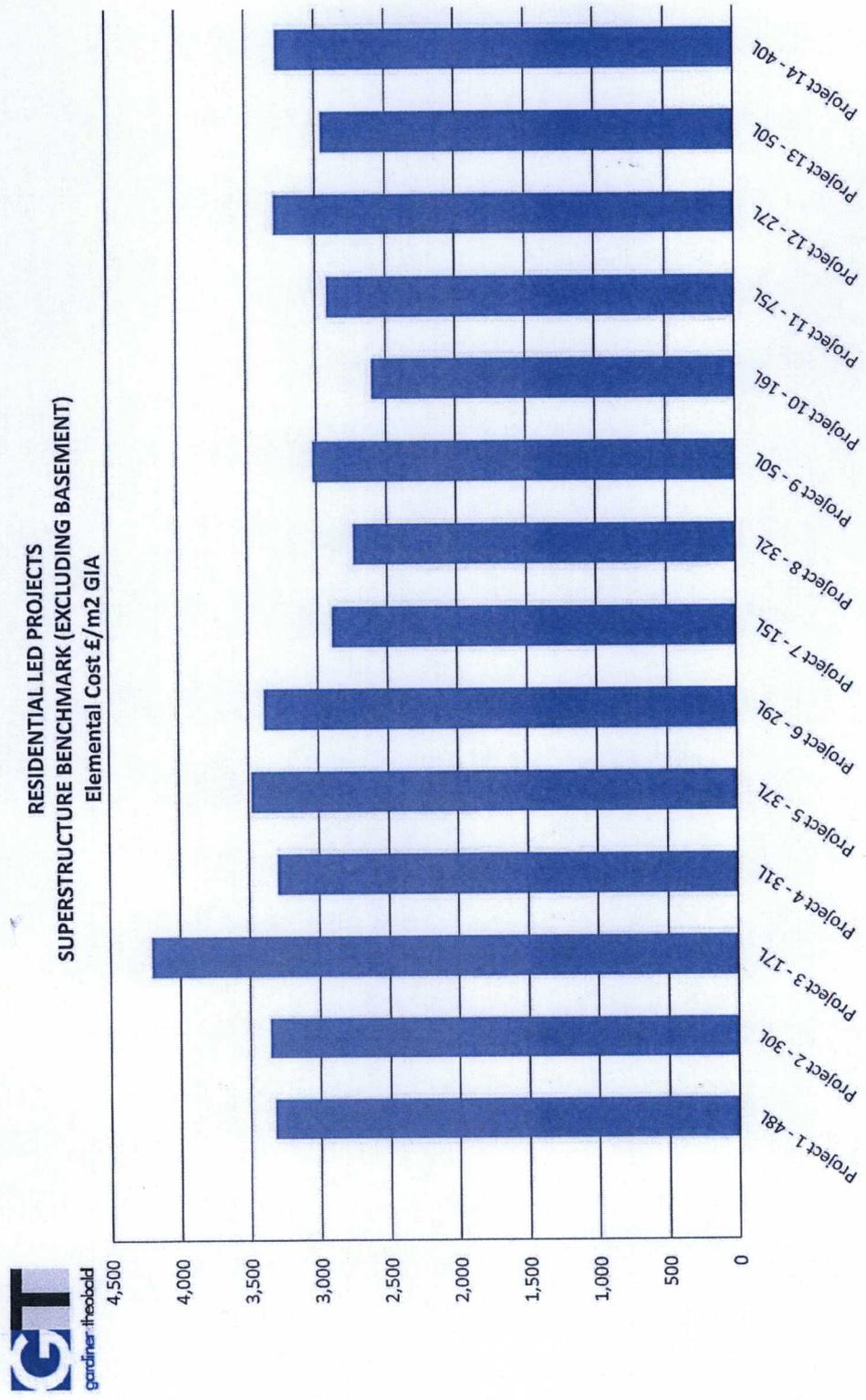
Whilst the commercially sensitive nature of the site specific information has been noted on several occasions as a reason for its non-submission we have provided sufficient information previously to illustrate that a number of the major inputs, for example the proposed efficiency of development and build costs, are inaccurate to such a significant degree that the residual outputs are inaccurate.

In light of this, we would therefore ask the Council and BNPP to reconsider the strategic appraisals in their assessment of what are appropriate CIL rates based upon a robust assessment of the evidence available.

Yours sincerely

Pascal Levine MRICS
Partner, DS2 LLP





Planning Consultants

DP9

DJR/DPNF

02 December 2013

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Dear Sirs,

REVISED DRAFT CIL CHARGING SCHEDULE, OCTOBER 2013
REVISED PLANNING OBLIGATIONS SPD, OCTOBER 2013
SUBMISSION OF REPRESENTATIONS BY LONDON AND QUADRANT

On behalf of London and Quadrant, we write to submit representations to the above documents in relation to London and Quadrant's land interests in the Safestore site on Raven Row, Whitechapel and Ensign Court, Ensign Road. DP9 submitted representations to the Draft Charging Schedule issued in March 2013.

Despite further work being undertaken to underpin the charging schedule, our client remains concerned about compliance of the Revised Draft Charging Schedule with planning policy and statutory guidance.

As per our previous representations, we are not satisfied that the evidence base presented to underpin the Draft CIL Charging Schedule is robust and the consequences of adopting the Charging Rates set out within it have been properly considered.

The representations are set out in the attached table and addresses the Council's responses to our previous representations.

If you would like to discuss further, please contact me at this office.

Yours faithfully,

**DAVID ROACH**

<p>110</p>	<p>CIL_DCS17: DP9 on behalf of London and Quadrant</p> <p>The Council has not articulated how its proposed CIL rates supports the Development Plan</p>	<p>Council's Comments</p> <p>The NPPF, Statutory Guidance and Development Plan have all been considered in the CIL rates setting process. The CIL Regulations 2010 as amended and associated guidance acknowledge that it is for the charging authority to aim to strike an appropriate balance between infrastructure provision and viability when setting its charging rates. The Council has to take a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in the economic cycle. The Council has proposed a CIL charge that amounts to less than 5% of the development costs of residential development; a modest proportion of development costs. The Council has also proposed a minimum discount of 25% of the maximum CIL chargeable in the rates reflected in the Revised Draft Charging Schedule. It is highly unlikely therefore that CIL would be the determining factor that would make developments unviable. In addition, the Council's policy for affordable housing and other policy requirements have been factored into the viability appraisals undertaken to arrive the Revised Draft Charging Schedule CIL rates proposed. Accordingly, the Council is of the view that it has fully considered the implication of the development plan for the CIL charge and the impacts of the proposed CIL on the development plan.</p>	<p>London and Quadrant Response, November 2013</p> <p>London and Quadrant maintain their concern that the NPPF and CIL Guidance have not been appropriately addressed in the Council's Revised DCS and its supporting evidence base.</p> <p>London and Quadrant remain of the view that the charging rates have failed to strike an appropriate balance between infrastructure provision and viability. There have been no changes made to the residential and commercial charging rates since the previous round of consultation, to address concerns about the robustness of the evidence base and the impact that the charging rates will have on the viability of delivering development.</p> <p>Furthermore, it is explained by the Council that cost implications of CIL when considered alongside other development costs, is modest. This is a sweeping statement and one that is prematurely made in the absence of thorough work considering the burden of policy costs on the development of allocated sites. London and Quadrant is concerned that such a statement is misleading since it is percentage based. The capital amount of CIL liability is substantial, especially when considered cumulatively alongside the Mayor of London's Crossrail requirements; the Mayor's CIL; affordable housing and planning obligations. London and Quadrant consider that the cumulative burden of costs as a result of the Council's planning policies and objectives for development has not been understood.</p>
<p>111</p>			

<p>Furthermore, the Council has highlighted the importance of the 25% buffer it has applied (or rather 'discount') to the maximum CIL rates it could have proposed. London and Quadrant is concerned about the basis and logic associated with the 25% buffer which has not been appropriately explained, and wish to make the following points:</p>	<ul style="list-style-type: none"> • The BNPP Viability Study states the following: "The ability of residential schemes to make CIL contributions varies depending on area and the current use of the site. Having regard to these variations, residential schemes should be able to absorb a maximum CIL rate of between £80 to £300 per square metre. The department for Communities and Local Government ('DCLG') guidance requires that charging authorities do not set their CIL at the margins of viability. Other authorities have set their rates at a discount (buffer) to the maximum rate, with discounts ranging from circa 20% to 50%. We would recommend a buffer of circa 25% for Tower Hamlets." • There is no explanation as to why BNPP has concluded that a 25% buffer is recommended. • The 25% buffer has been applied as a blanket factor across the whole of LBTH. It does not alter to reflect the complexity and challenges associated with different types of development. <p>On this basis, London and Quadrant considers that the Draft Charging Schedule remains contrary to planning policy and statutory planning guidance, and if adopted, would harm</p>

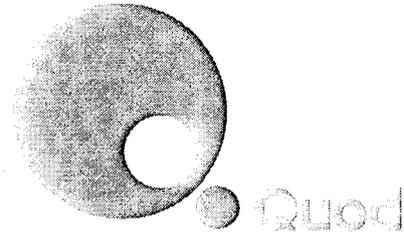
<p>the delivery of housing in Tower Hamlets and the Plan as a whole.</p>			
<p>London and Quadrant maintain their concerns with the approach of 'merging' areas together where there are wide variations in values. The DCLG Guidance states at paragraph 27 that 'in most instances where a charging authority is proposing to set differential rates, they will want to undertake more fine-grained sampling (of a higher percentage of total sites), to identify a few data points to use in estimating the boundaries of particular zones, or different categories of intended use.</p> <p>The sampling should reflect a selection of the different types of sites included in the relevant Plan, and should be consistent with viability assessment undertaken as part of plan-making.'</p> <p>The BNPP report fails to undertake a sufficient</p>	<p>The Council has sought to adopt an approach which merges areas together to avoid undue complexity in line with paragraph 37 of the CIL Guidance, 2013. It is acknowledged that a range of residential values will be achieved on new build schemes in each Zone. Indeed, there will always be a range of values per square foot that could be achieved on new build units within an area. For a strategic exercise such as this, an approach of taking an average value that reflects the likely values that could be achieved in new developments in the area has been sought to be defined.</p>	<p>The Viability Study does not adequately explain the relationship between charging zones and the viability of development within them. Within the proposed zones there are wide differences in the value of land. This means that development is far more likely to occur in some areas within certain zones than in other areas within the same zone.</p>	<p>112</p>

<p>amount of sampling to allow a robust average charging rate to be set.</p> <p>Further sampling within these zones is required to justify the charging rates proposed and ensure that they do not result in unviable development.</p>			
<p>London and Quadrant is still unclear how the Council has arrived at its assumptions for residual Section 106. There does not appear to be any evidence to justify why the assumptions are a 'reasonable proxy'.</p> <p>London and Quadrant is of the view that little weight can be attached to the Council's justification for these assumptions on the basis that the residual figures are in line with 'many other London boroughs'. Clearly, no single borough is the same. The assumptions on residual Section 106 must be based on the specifics of the likely infrastructure required to deliver the Development Plan in accordance with CIL regulations.</p> <p>Furthermore, the Council's background evidence on historic s106 income is not fit for purpose. It explains the Section 106 receipts that the Council has obtained on an annual basis but does not provide any site specific information in this respect or attempt to work out, for example, an average £ per sqm or £ per unit figure for contributions.</p>	<p>The residual S106 amounts assumed 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 where it can be quantified, and the figure adopted is broadly in line with those adopted by many other London boroughs for CIL testing purposes. A report has been published which contains background evidence on historic S106 income.</p>	<p>The viability study provides no evidence for the residual S106 buffer of £1,220 per residential unit. The Council should publish background evidence on historic Section 106 in accordance with paragraph 22 of the new statutory guidance</p>	<p>113</p>

114	<p>The Regulation 123 List is too generic to offer certainty over which infrastructure will be funded through CIL and/or Section 106</p>	<p>In accordance with the CIL Regulations 2010 (as amended) and CIL Guidance 2013 (paragraph 15) the Council has set out for examination a draft list of the projects or types of infrastructure that are to be funded in whole or in part by the levy. The list has been published alongside a revised Planning Obligations SPD to provide transparency on what the charging authority intends to fund in whole or part through the levy and those known matters where section 106 contributions may continue to be sought.</p>	Noted.
115	<p>We object to paying energy contributions if targets are not met. There is no clarity on threshold levels before payment is triggered.</p>	<p>Policy DM 29 of the Managing Development Document clearly sets out the extent to which residential and non-residential developments will be expected to reduce Carbon emissions up to the year 2031. Should a development fail to meet these targets through on-site provision, and all opportunities to do so have been exhausted, financial contributions towards carbon reduction projects will be secured through Section 106 Agreements. It is appropriate to mitigate any environmental sustainability impacts of development on a scheme by scheme basis, rather than through CIL as the opportunity to enter into a Section 106 Agreement on non-policy compliant schemes allows for a proactive and flexible approach to development in circumstances where environmental sustainability is an issue. Additionally, it is important to reserve the opportunity to penalise non-compliant schemes to ensure incentives to reduce carbon emissions on-site are not undermined.</p>	Noted.

<p>116</p>	<p>Biodiversity - There is an objection to paying a contribution. Sites are penalised for physical reasons that don't contribute to biodiversity.</p>	<p>Policy DM 11 of the Managing Development Document clearly sets out the Council's approach to ensuring all new developments enhance, and do not harm, the borough's natural environment and biodiversity value. Potential developments which fail to achieve on-site policy compliance in respect of this policy will be required to mitigate the impacts of the development through financial contributions. It is appropriate to mitigate any environmental impacts of development on a scheme by scheme basis, as the opportunity to enter into a Section 106 Agreement on non-policy compliant schemes allows for a proactive and flexible approach to development in circumstances where environmental sustainability is an issue. Additionally, it is important to maintain the opportunity to penalise non-compliant schemes to ensure incentives to enhance biodiversity value and habitats on-site are not undermined.</p>	<p>Noted.</p>
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Direct: TD/Q30311
 Your ref: [REDACTED]
 Email: [REDACTED]
 Date: 02 December 2013



Anne-Marie Berni
 CIL RDCS Consultation,
 Infrastructure Planning Team,
 London Borough of Tower Hamlets,
 2nd Floor Mulberry Place,
 5 Clove Crescent,
 E14 2BG

Dear Anne-Marie,

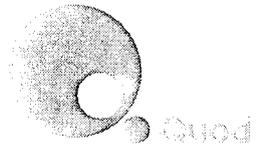
CIL Revised Draft Charging Schedule Consultation

I am writing on behalf of the Berkeley Group in response to your Revised Draft Charging Schedule (RDCS) and associated documents, including the revised draft SPD on Planning Obligations.

You will be aware that we have previously submitted two sets of detailed representations which set out my client's concerns that, on the basis of their knowledge of viability issues on a number of the Borough's strategic sites, the proposed CIL rates would threaten the delivery of the sites and scale of development set out in the Local Plan (CIL Guidance, 2013, para. 8). In particular, we expressed concern that, in a Borough with clear housing need and a very firm line on affordable housing delivery, there is a significant risk that affordable housing viability would be reduced as a result of the implementation of the proposed CIL rates.

We were also concerned that the Council did not appear to have benchmarked the proposed CIL rates against actual developments in the Borough. In addition, the Section 106 contributions achieved in examples we have reviewed, suggests that CIL will be at a premium over current planning obligations and, therefore, impact directly on the viability of developments.

Alongside our CIL representations, we submitted representations on your Draft Planning Obligations SPD. We were concerned that the initial draft did not contain sufficient certainty that planning obligations would be significantly scaled back to levels suggested in the CIL viability assessment. We are, therefore, pleased that the wording in the revised SPD and its interpretation of the Legislation and Regulations has been significantly tightened. We acknowledge the Council's intention with regard to strategic sites, that the 'In-Kind' provision of infrastructure may be considered by the Council as an 'In-Kind Contribution'. While we welcome the intention and agree with the Council that it would provide additional flexibility on large sites, we are concerned that the Regulations themselves may not provide sufficient flexibility to achieve the Council's intentions. The Council may wish to consider reviewing this approach when the revised Regulations are published and consider whether that impacts on its viability findings in relation to large sites.



Page 2

The Council has made some minor amendments to its Charging Schedule and undertaken additional viability research to support this review. This includes an updated indicative site-specific appraisal of Berkeley's London Dock site. The Council is aware of our concerns that, even when carried out well and with care, such appraisals which, by definition, do not address real schemes are unlikely to provide reassurance that the viability of such developments will not be negatively impacted. This is particularly the case given that CIL is non-negotiable and, therefore, as the Council acknowledges in its evidence, there will be instances where it will need to reduce affordable housing requirements.

You will be aware that my client is currently working with the Council to finalise the independent assessment of viability of the London Dock planning application, and the required obligations, including affordable housing. This is not yet finalised but is likely to be prior to the Council submitting its Charging Schedule for examination. We would suggest that the Council may want to review the conclusions of the generic London Dock appraisal in light of this evidence when the process is complete and in advance of finalising the Charging Schedule.

We are grateful for the Council's continued engagement on this matter but remain concerned that the CIL rate in Residential Zone 1 remains too high. The Berkeley Group would like to reserve its right to appear at any Examination of the CIL Charging Schedule.

Please do not hesitate to contact me if you require further information.

Yours sincerely,

A large, dense black scribble used to redact the signature of Tom Dobson.

Tom Dobson
Director

A thick black horizontal bar used to redact contact information, likely a phone number or email address.

CIL - Consultants

JHM/DP3024

2 December 2013

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Dear Sirs,

REVISED DRAFT CIL CHARGING SCHEDULE, OCTOBER 2013
REVISED PLANNING OBLIGATIONS SPD, OCTOBER 2013
SUBMISSION OF REPRESENTATIONS BY EXPRESS NEWSPAPERS

On behalf of Express Newspapers, we write to submit representations to the above documents.

Express Newspapers hold an interest in the Westferry Printworks site on the Isle of Dogs. DP9 submitted representations to the Preliminary Draft Charging Schedule in December 2012 and Draft Charging Schedule issued in March 2013.

Despite further work being undertaken on the viability of the strategic sites, our client remains concerned about compliance of the Revised Draft Charging Schedule with planning policy and statutory guidance. On the basis of the evidence put forward by the Council, Express Newspapers considers that:

- An appropriate balance has not been struck between the need to fund necessary infrastructure and the potential economic viability of development across its area; and
- The Charging Authority has not complied with the requirements set out at paragraph 9 of DCLG's 'Community Infrastructure Levy: Guidance' (April 2013).

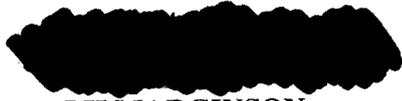
The previous representations that were submitted remain valid. Express Newspapers would however wish to make additional representations in relation to the viability appraisal for Westferry Printworks and respond to the detailed comments made by the Council to our previous representations. We attach these additional representations at Appendix A and B respectively.

As per our previous representations, we are not satisfied that the evidence base presented to underpin the Draft CIL Charging Schedule is robust and the consequences of adopting the Charging Rates set out within it have been properly considered. There are two fundamental areas of concern: the first relates to the viability of strategically important sites, including the delivery of the Borough's housing and other infrastructure requirements; and, the second relates to the setting of the charging zone boundaries.



If you would like to discuss further, please contact me at this office.

Yours faithfully,



J H MARGINSON



PL/ds

2 December 2013

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London SW1Y 5NQ
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Dear Sir / Madam

LONDON BOROUGH OF TOWER HAMLETS – COMMUNITY INFRASTRUCTURE LEVY DRAFT CHARGING SCHEDULE REPRESENTATIONS ON BEHALF OF EXPRESS NEWSPAPERS IN RELATION TO WESTFERRY PRINTWORKS

In response to the Council's most recent Revised Draft Charging Schedule dated October 2013, DS2 has been asked by Express Newspapers to review the viability study that underpins the CIL rates. These representations form part of the overall representations that have been submitted by DP9. Our comments are included in the table below. In making these comments we have had sight of the following documentation:

- Revised Preliminary Draft Charging Schedule (October 2013)
- Detailed Consultation Responses to Draft Charging Schedule (October 2013)
- Summary of Consultation Responses to the Draft Charging Schedule with particular regard to Section B (October 2013)
- BNPP CIL Viability Assessment (August 2013)
- DP9 Representation on behalf of Express Newspapers dated 4 June 2013 including CBRE appendix in relation to sales values
- CIL Draft Charging Schedule – S106 Report (October 2013)
- CIL Infrastructure Planning and Funding Gap Funding Report (October 2013)

Our comments are collated in two parts. Firstly, the table below addresses individual inputs and assumptions made in the viability assessment prepared by BNPP for Westferry Printworks. Secondly, we provide comments in relation to a number of the major items included in the Council's Summary of Consultation Responses.

Table One: Response to the BNPP CIL Viability Assessment in Relation to the Westferry Print Works Strategic Site Appraisal		
Viability Input	BNPP Input	Landowner Comments
Site area	Gross 6.16, net 3.46 ha	Gross figure from LBTH Development Management DPD Site Allocation We note that the 1.2 ha for a local park and 1.5 ha for a school have been deducted at zero cost however this has not been discussed / agreed
Density	260 u p ha	DP9 previously commented in the representations to the March 2013 Preliminary Charging Schedule on the consistency of this density figure with the London Plan, given the PTAL rating of the site
Land use mix	888,646 sq m residential	No commercial property is included by BNPP however the application will include a mix of uses with varying costs and values that will impact upon the scheme viability
Gross to net ratio	85% residential	The scheme is unlikely to achieve 85% given the large number of cores, servicing and communal areas that will be required in development of this scale. Expectations are that 70% would be a reasonable assumption at this relatively early stage of design
Private sales rate	£625 psf	No comment at this time; subject to valuation
Affordable Sales rate	£176 psf	This is a reasonable assumption based on LBTH's position on Affordable Rent, GLA caps on intermediate provision affordability and zero grant
Car parking income	£25,000 per space	No comment at this time; consistent with information that is currently available

Development Services 2 LLP is a limited liability partnership registered in England with no. 0C372219 whose registered office is at the above address. References to partners mean members of Development Services 2 LLP.

A list of the names of the members and their professional qualifications is available for inspection at the above office

Ground rent income	£4,500 per private dwelling	No comment at this time; consistent with information that is currently available
Contingency	5%	Please note comments below on construction
Private residential profit	IRR based return albeit no target provided (a range of 11 to 13% in noted within the BNPP commentary)	We note that BNPP have now included reference to 20% IRR being reasonable at 7.15 of their updated report. Whilst a 20% IRR is referenced in the BNPP report, the report then states that 11% to 13% is reasonable based upon 'our experience on large schemes in London that developers have agreed to proceed with developments identified as generating IRRs of between 11% and 13%'. There is no further explanation than this and the Westferry appraisal is deemed to be viable at 15.33% IRR.
Affordable profit	6% on value	Reasonable (albeit the IRR would be adjusted to reflect all property types)
Build costs	£177 per sq ft residential	The BNPP build costs are extremely low. Please find attached evidence from Coll Associates from another current scheme in central London. The evidence shows that on a large scheme in Greenwich, demolition, basement works, car parking and servicing added an additional £46 per sq ft over and above the core above ground build cost. This is excluding the River Wall works that are referred to. The information has come from London & Regional who are development managers at Westferry. Greenwich Wharf is one of their recent projects. The build costs at £200 psf on the office space are more expensive than the residential build. The residential build costs in the BNPP model are only £27 psf more expensive than the residential costs (retail is generally delivered to shell and core).
Exceptionals / Abnormals	£4,498,000	The BNPP appraisals do not take into consideration the park or school and the current approach assumes the land at zero cost with no reference to a benefit in kind
Marketing	2%	Reasonable albeit reservations as to whether this is an adequate allowance given the scale and timing of development.
Sales agent	1.5%	Our experience is 2% on joint agency instructions
Sales legal fee	0.25%	Reasonable but could be 0.5%
Letting fee	10%	Joint agency instruction (which is applicable to this scale of development) be 15%
Professional fees	12%	Reasonable although strategic development up to 14% and sensitivities to this point should be assessed
Finance	0	Given the inclusion of an ungeared IRR finance becomes (for the purposes of this appraisal) irrelevant albeit the return generated by the IRR is a gross profit from which finance costs will be deducted
Planning Obligations (s106 and s278)	£1,220 per unit	Requires an analysis that is site specific and an understanding of the cumulative burden of planning policies and guidance. Current examination would suggest that the £1,220 per dwelling for site specific mitigation will not be sufficient. Further comment has been provided by DP9.
Site Value	CUV of £51,744,000	BNPP figure needs explanation.

Response to Summary of Consultation Responses Section B

Market Value vs. Existing Use Value

- The Council's Summary at 2.10 makes reference to the Local Housing Delivery Guidance (Lord Harman) dated June 2013. The LHDG study makes reference to a 'sense check' on pages 29 and 30 to local comparable land evidence in order to ensure that the margin above the Current Use Value (CUV) is appropriate. The BNPP Viability assessment does not sense check the Benchmark Land Values that are constructed on the 'CUV plus' approach and there is therefore no recognition as to whether the land values that are included in the site appraisals bear any resemblance to the local market and as such, in accordance with paragraph 173 of the NPPF, 'provide competitive returns to a willing land owner'.
- Whilst there are a range of variables that impact upon land value as noted in the Council's Summary at 2.11, analysis of the local land market provides a reasonable range which should be used to inform the process. We would agree that only a certain amount of weight should be adopted in the use of historic land information for

the purposes of policy making, however the 'sense check' that the LHDG publication refers to remains important so that there is not a complete separation in land value for the purposes of policy making and the market otherwise if land value is set at a punitive rate, sites simply will not come forward.

Site Specific Section 106 Assumptions

- The Council's Summary at 2.17 refers to the rationale for £1,220 per dwelling being used as a residual S106 requirement for site specific matters. We have reviewed the Council's S106 Report however the document sheds little light on what an average figure for S106 matters secured on recent large scale consents are. Analysis of CIL Planning and Funding Gap Report that accompanies the PDCS would suggest that there will be a significant S106 liability on the strategic sites for site specific mitigation measures once CIL is adopted and payable. We do not believe that the standard £1,220 per unit rate is applicable to the larger sites.

Argus Models

- We have used the BNPP inputs to recreate a number of the strategic site appraisals and in some instances have derived similar residual outputs, albeit in others we are some way from balancing the appraisals. There are a number of variables that are required to accurately recreate the BNPP models that were not provided and in our opinion, for the purposes of thoroughly understanding BNPP's approach in terms of setting the proposed CIL rates, it would be helpful to have sight of the full appraisals for the strategic sites.

Residential Values and Zoning

- We are unclear as to how the residential zones have been derived. The subject site is at the southern end of the Isle of Dogs and average residential values are significantly below schemes to the north. We have reviewed Molior London which monitors development and new sales pricing across London.
- There is a clear distinction between schemes that have launched to the south of the Isle of Dogs over the last two years when compared to schemes further north. For example, Parkside Quarter, a scheme by Telford Homes to the south east of the subject site averaged £616 per sq ft (asking prices) when it launched in November. Schemes such as Ballymore Group's New Providence Wharf and Baltimore Wharf as well as and Galliard's Canary Quarter closer to Canary Wharf have marketing details averaging above £750 per sq ft.
- Molior illustrate that Parkside Quarter recently launched averages £616 per sq ft and this is located within CIL Zone 3. However, the BNPP Strategic appraisal notes an average value of £625 per sq ft for the subject site and this is located in CIL Zone 1. The difference is a residential CIL charge of £200 per sq m verses £35 per sq m for development that in value terms is very similar. It is unclear from the BNPP study as to how zones 1 to 3 have been established. Table 4.2.1 on page 22 refers to seven value 'bands' that seem to have derived the subsequent three residential zones. However given the assessment of new build values for the subject site verses those in schemes to the north that are included within the same CIL zone, it would appear that the line had been drawn too far to the south.

We trust that this is helpful.

Yours sincerely


 Pascal Levine MRICS
 Partner, DS2 LLP



Further response by Express Newspapers to Council's detailed response to previous representations

182	CIL_DCS22: Express Newspapers (DP9)	Council's Comments	Express Newspapers Response, November 2013
	<p>The Council has not addressed the previous concerns raised during the consultation of PDCS stage, in respect of its compliance with planning policy and statutory guidance.</p>	<p>The NPPF, Statutory Guidance and Development Plan have all been considered in the CIL rates setting process. The CIL Regulations 2010 as amended and associated guidance acknowledge that it is for the charging authority to aim to strike an appropriate balance between infrastructure provision and viability when setting its charging rates. The Council has to take a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in the economic cycle. The Council has proposed a CIL charge that amounts to less than 5% of the development costs of residential development; a modest proportion of development costs. The Council has also proposed a minimum discount of 25% of the maximum CIL chargeable in the rates reflected in the Revised Draft Charging Schedule. It is highly unlikely therefore that</p>	<p>Express Newspapers remain of the view that the charging rates have failed to strike an appropriate balance between infrastructure provision and viability. There have been no changes made to the residential charging rates since the previous round of consultation, to address concerns about the robustness of the evidence base and the impact that the charging rates will have on the viability of Westferry Printworks and other strategic sites. Consequently, Express Newspapers considers that the Draft Charging Schedule remains contrary to planning policy and statutory planning guidance, and if adopted, would harm the delivery of housing in Tower Hamlets and the Plan as a whole.</p>
183			<p>We would urge the Council to consider reducing its residential charge rates. The Council has the ability to review the charge rates for CIL in the future, allowing the land market to adjust and avoiding penalising and deterring development coming forward on sites which have been purchased without factoring in CIL.</p>

		<p>CIL would be the determining factor that would make developments unviable. In addition, the Council's policy for affordable housing and other policy requirements have been factored into the viability appraisals undertaken to arrive the Revised Draft Charging Schedule CIL rates proposed. Accordingly, the Council is of the view that it has fully considered the implication of the development plan for the CIL charge and the impacts of the proposed CIL on the development plan.</p>	
184	<p>The quantity of strategic sites tested is insufficient and it is not clear how these sites have been chosen.</p>	<p>In accordance with the CIL Guidance 2013, the Council has tested the viability of eight strategic sites across the whole borough. These are all sites which have been identified in the Council's Managing Development Document, which represent a range of different viability scenarios.</p>	<p>The sample of eight sites tested by the Council represents less than half of the 20 strategic sites in the Managing Development Document. Given that 3 of the sites tested were shown not to be viable by BNPP, this reinforces the need to test more of the strategic sites to understand the impact CIL could have on their delivery.</p>
185	<p>The findings suggest that the imposition of CIL will clearly reduce the further prospects of strategically important sites coming forward, which will have negative impacts on meeting the housing targets.</p>	<p>The Council has to take a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in</p>	<p>Whilst it is noted that the BNPP works has identified that some sites are unviable irrespective of CIL, CIL does represent an extra financial burden which could further prevent housing development coming forward. CIL acts as a further deterrent to development coming forward.</p> <p>It is not possible to be conclusive about the impact of CIL on the strategic sites as only 8 out of 20 sites have been tested. If viability</p>

		<p>the economic cycle. In addition, it should be noted that CIL will constitute a maximum of 5% of development costs of residential development. It is therefore highly unlikely that CIL would be the determining factor that would make developments unviable.</p>	<p>appraisals were run on all strategic sites then the impact of CIL could be more rigorously assessed, subject to the correct inputs being made into the appraisals.</p>
186	<p>The appraisal in relation to Westferry Printworks is inconsistent with the adopted Managing Development Document (2013).</p>	<p>The appraisal in the latest Viability Study (October 2013) has considered the appraisal undertaken for the Managing Development Document and it has been appropriately updated to reflect the purpose of the appraisal and the change in circumstances.</p>	<p>We note that the appraisal has now been amended so that a secondary school forms part of the assessment to be consistent with the site allocation. We would query the 1.2ha local park figure, and ask how this has been calculated as it does not form part of the site allocation and when taken with the 1.5ha for the school, represents nearly half the site being given to public use.</p>
187	<p>The previous concerns in respect of variation of residential values across the Borough still remain.</p>	<p>It is acknowledged that a range of residential values will be achieved on new build schemes in each Zone. Indeed, there will always be a range of values per square foot that could be achieved on new build units within an area. For a strategic exercise such as this, an approach of taking an average value that reflects the likely values that could be achieved in new developments in the area has been sought to be defined. Extensive research into residential values across the borough has been undertaken. A number of sources have been used, which include Land Registry data on sub-post code</p>	<p>The concerns about grouping together areas where there are wide variations in values remains. The DCLG Guidance states at paragraph 27 that 'in most instances where a charging authority is proposing to set differential rates, they will want to undertake more fine-grained sampling (of a higher percentage of total sites), to identify a few data points to use in estimating the boundaries of particular zones, or different categories of intended use. The sampling should reflect a selection of the different types of sites included in the relevant Plan, and should be consistent with viability</p>

		<p>areas, EGI London Residential Research data, the Molior database, BNPPRE information on viability assessments of proposed new developments in the borough and data from the Rightmove website (both sold and asking process). As such, we consider variation in residential values across the borough has been appropriately accounted for.</p>	<p>assessment undertaken as part of plan-making.' The BNPP report fails to undertake a sufficient amount of sampling to allow a robust average charging rate to be set. There is a significant difference between the charging rates set for residential use in Zone 1 at £200 per sqm compared to Zone 2 at £65 per sqm. Further sampling within these zones is required to justify the charging rates proposed and ensure that they do not result in unviable development.</p>
<p>188</p>	<p>The viability study lacks explanation of the level of S106 contributions that would be payable by schemes, which also leads to concerns that the Council has not considered S106 costs sufficiently.</p>	<p>The residential appraisals incorporate an allowance of £1,220 per unit for S106 and the commercial appraisals have also been amended to incorporate an allowance of £5 per square foot (£53.82 per square metre). These figures 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 where it can be quantified, and figure adopted is broadly in line with those adopted by many other London boroughs for CIL testing purposes.</p>	<p>For the reasons we have previously stated, we consider that the figure of £1,220 per unit for S106 contributions is too low for sites of strategic nature. Taking the financial contributions for construction and training alone, based on a scheme of 75,000 sqm GIA and 750 residential units, the S106 contributions are likely to be in the region of £220,000. Added to the site specific mitigation required to fund road and public realm improvements in the vicinity of the site, then allowance of £1,220 per unit is not sufficient and we would expect a higher allowance to be needed for strategic sites.</p>

<p>The Draft Regulation 123 list is very generic and does not provide any clarity on what infrastructure will be provided as part of CIL.</p>	<p>In accordance with the CIL Regulations 2010 (as amended) and CIL Guidance 2013 (paragraph 15) the Council has set out for examination a draft list of the projects or types of infrastructure that are to be funded in whole or in part by the levy. The list has been published alongside a revised Planning Obligations SPD to provide transparency on what the charging authority intends to fund in whole or part through the levy and those known matters where section 106 contributions may continue to be sought. As such, we consider that the Regulation 123 List, when reviewed in conjunction with the Draft Planning Obligations SPD, does provide certainty in respect of what infrastructure will be funded through CIL.</p>	<p>The Regulation 123 list is noted and is helpful in providing some clarity when read in conjunction with the draft SPD on Planning Obligations.</p>
<p>189</p>	<p>BNP PARIBAS The development site area has been reduced by an assumption of the area of land required to deliver the infrastructure identified in the site allocation. The Council has indicated that in line with CIL Regulations (2010 as amended) it is may accept CIL payments in kind. It is further noted that Government recently consulted on proposals to allow the acceptance of facilities in kind. The final costs of such in kind provision is unknown and the appraisals assume the full liability without any discounts for value of the land that the developer is providing.</p>	<p>We note the approach adopted by BNPP in relation to removing 1.5ha from the site. The 1.5ha is an opportunity cost which should have been factored into the appraisal. DS2 have commented further on this matter in more detail in Appendix A.</p>
<p>190</p>	<p>The Council should provide clarification on how 'payment in kind' in relation to strategic sites identified in the Managing Development Document, has been factored into the overall viability assessments when setting the proposed CIL rates.</p>	<p></p>

191	<p>This document would benefit from greater clarity on its application in circumstances where infrastructure is provided on site.</p>	<p>The Draft Planning Obligations SPD sets out the Council's approach to mitigating the impacts of development. The Council's Draft Regulation 123 List provides an overview of where CIL and where Section 106 contributions will be used. The SPD states that, following the adoption of the local CIL, Section 106 will be limited to mitigating site-specific impacts of development (Regulation 123 CIL Regulation 2010 (as amended)). Where a site allocation requires the provision of infrastructure on-site CIL, or in-kind provision to an equivalent value, will be used to ensure the provision, rather than Section 106.</p>	<p>We note further clarity has been provided in the Draft Planning Obligations SPD. It may also be beneficial to set this out in the Draft Regulation 123 List for clarity.</p>
192	<p>The term 'Local Parks' is not consistent with the MD DPD.</p>	<p>The Managing Development Document does include reference to Local Parks - and the use of this terminology is consistent.</p>	<p>Comment noted.</p>
193	<p>Sites that are unable to meet their Carbon Reduction or Biodiversity targets due to physical constraints shouldn't have to pay a contribution. The SPD doesn't clarify what contributions will actually be sought.</p>	<p>The Draft Planning Obligations SPD clearly describes the thresholds and circumstances under which a Section 106 Agreement may be required to mitigate any impacts of development which are site specific. In such instances the value of any financial contribution sought as part of a Section 106 agreement will be dependent upon the extent to which a scheme deviates from policy compliance or causes harmful site-specific impacts. It is not therefore appropriate to provide an indicative value for each principal clause within a Section 106 Agreement. When a S106 requirement correlates to the nature</p>	<p>Comment noted.</p>

	<p>and scale of a scheme impacts, such as in the case of Crossrail contributions, standard formulae are available.</p>		
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CIL. RDOS 22

**GREENWICH WHARF
BANNING ST, GREENWICH
BLOCKS 2, 3, 8 & 9
DEMOLITION, SITE PREPARATION, PODIUM & RIVER WALL
SITE FOR RESIDENTIAL/COMMERCIAL
ACTUAL COST OVERVIEW**



	Area	Unit	Rate	Actual Cost
1	423,595	ft/2	15	6,421,140
2	423,595	ft/2	3	1,122,943
3	423,595	ft/2	30	12,750,000
4	423,595	ft/2	6	2,597,417
5	423,595	ft/2	1	423,260
6	45,750	l/m	10	457,576
TOTAL GEA				423,595
Build Cost/ft				56.12
Build Cost/ft				23,772,336
Demolition, Site Prep, Services and Podium Costs				26,072,505
Build Cost Including Fees/ft2				61.55

- 1 General Demolition, Site Preparation and Remediation
- 2 External Services, Utility Supplies
- 3 Piling, Sub-structure, Basement & Podium Slab.
- 4 Podium Hard and Soft Landscaping
- 5 Basement Car Park Surfacing & White Lining
- 6 River Wall Works

- Add Fees**
- 7 Consultants Fees and Appointments @ 9%
- 8 CDMC/H&S/Signage, path diversions etc.
- 9 Council Permits & Licences

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Email:
[REDACTED]

2 December 2013
Delivered by email

Infrastructure Planning Team
London Borough of Tower Hamlets
2nd Floor, Mulberry Place
5 Clove Crescent
London
E14 2BG

Dear Sir/Madam

COMMUNITY INFRASTRUCTURE LEVY: REVISED DRAFT CHARGING SCHEDULE (RDCS) CONSULTATION

We act on behalf of our client, Sainsbury's Supermarkets Ltd, in response to publication of the London Borough of Tower Hamlets CIL RDCS and would like to take this opportunity to make representations to the consultation.

Sainsbury's previously submitted representations to the Councils CIL Draft Charging Schedule (DCS) in June 2013.

Sainsbury's requests the right to be heard at the CIL Examination and requests to be notified of the following:

- That the Draft Charging Schedule has been submitted to the examiner in accordance with Section 212 of the Planning Act 2008;
- The publication of the recommendations of the Examiner and the reasons for these recommendations; and
- The approval of the Charging Schedule by the Council.

Sainsbury's supports the principle of CIL as an efficient means of ensuring that funding is in place to deliver the infrastructure needed to enable and support planned development and growth. However, it is important to strike the right balance between securing the funding of infrastructure and the effect that has on the viability and deliverability of much needed development and investment in Tower Hamlets.

Proposed CIL Rates

Retail Development

For convenience supermarkets, superstores and retail warehousing, there is a borough-wide rate of £135 per sq m. For all other retail uses, there is a lower rate of £70 per sq m within the City Fringe and North Docklands area and nil rate elsewhere (in addition to the adopted Mayoral CIL rate of £35 per sq m). The revised DCS defines convenience supermarkets/superstores and retail warehousing as the following:

1. Convenience Supermarkets/Superstores: Shopping destinations in their own right where weekly food shopping needs are met and which can also include non-food floorspace as part of the overall mix of the unit.

2. Retail Warehousing: Shopping destinations specialising in the sale of household goods (such as carpets, furniture and electrical goods), DIY items and other ranges of goods, catering for a significant portion of car-borne customers.

Residential Rates

Whilst there has been no change to the current residential rates from those proposed with the previous Draft Charging Schedule (DCS) consultation, the amounts are still high. The Viability Study has tested seven scenarios, with only broad hypothetical assumptions made, which do not accurately reflect the appropriate range of local housing availability within each of the seven study areas of the Borough. As stated within our previous written representation during the Draft Charging Schedule (DCS) consultation, the sampling should reflect a greater selection of the different typologies of strategic residential sites allocated within the Tower Hamlets Plan, in line with paragraph 27 of the CIL Guidance (April, 2013).

Lack of Evidence that Sub-Categories of an Intended Use or Geographical Boundaries of Particular Zones are Different

There is no adequate evidence that the sale of retail goods within a supermarket/superstore and in a retail warehouse, are different intended uses (for Regulation 13 purposes) compared with the sale of goods from all other retail uses. All are retail uses involving the sale of goods to visiting members of the public for their own consumption, with similar operational characteristics. What is the real difference in "intended use" between retail warehousing, supermarket/superstores and other forms of retailing? Is there really a difference between retail warehousing selling DIY goods and one selling sports equipment – given the definitions it appears that the first is charged and the second not. They are all simply shops and should be treated equally.

It is the view of Sainsbury's that there is no material difference in the way in which a building referred to as a 'supermarket' or a smaller 'retail use' will be used in Tower Hamlets. Supermarkets, superstores and smaller retail developments have the same intended use in that its purpose is to sell goods to visiting members of the public (i.e. the use of the building is retailing). The manner in which the customer arrives at the shop, whether the customer uses a basket or trolley, or the servicing arrangements of that shop do not mean that there would be clear and unambiguously different intended uses. There is no adequate evidence justifying differentiation.

Furthermore, the range of lower differential retail rates charged specifically within the City Fringe, North Docklands area and nil rate elsewhere across the borough is not supported by evidence that justified differentiation by location. A more fine-grained evidenced approach is required to justify the boundaries of each particular zone and the differences in viability between the zones.

Lack of Viability Evidence

In respect of retail development, the CIL Viability Study Update (August, 2013) prepared by BNP Paribas Real Estate, assessed three types of retail development including a 30,000 sq ft retail use within the City Fringe and North Docklands area and a 30,000 sq ft use elsewhere within the borough. The study also tests a 10,754 sq ft and 53,820 sq ft supermarket, superstore and retail warehousing scheme (refer to Table 4.48.1 within the Viability Study Update).

For all retail developments, the CIL Viability Study Update has only appraised hypothetical schemes coming forward across the borough. The commercial assumptions are based on an intensification of the existing use on the same site, with the existing building being half the size of new retail development being

proposed (see paragraph 4.50). Our view is that the evidence does not adequately reflect the characteristics of local market conditions or variations in land values across the borough.

Given the proposed £135 per sq m retail rate for supermarkets, retail warehousing and superstores across the borough, lower £70 per sq m for retail uses within the City Fringe/North Docklands area and nil rate elsewhere, such differential CIL rates should be adequately supported by "fine grained" evidence. The BNP Paribas Real Estate CIL Assessment fails to provide sufficient evidence of the different viability of retail warehousing (and of different types of retail warehousing given that some are charged and others not), supermarket/superstore development and other development uses.

Where there is no clear, demonstrable and locally evidenced division based on the definitions and 'zones' set, the CIL Regulations (2010 as amended) and CIL Guidance (April 2013) are clear that a single CIL charge should be applied to development as a 'use'. As a result, Sainsbury's maintains the position that there should be a single CIL rate for all retail development within Tower Hamlets.

Lack of Definition

When applications are made, particularly for smaller retail units, the operator will not be known. It will not be clear whether it will be a supermarket, retail warehouse or not. Indeed that may not be known until after the unit has been built, particularly if the unit is part of the ground floor uses in a residential scheme. This makes a CIL charge impractical since the authority will not know whether a £70 or a £135 charge per sq m should be levied.

Reflecting the fact that there is no clear distinction in supermarkets and convenience stores, Sainsbury's do not define what constitutes a convenience store within their portfolio. Some of their existing stores trading under their 'Local' convenience store fascia are larger than stores trading under the 'Sainsbury's supermarket' fascia; the key determinant for Sainsbury's, as it is for other retailers, is location and competition. This is all evidence that is public, appropriate and available but which does not appear to have been taken into account.

State Aid

Supermarkets and superstores sell an overlapping range of goods with many other shops. They compete in the same market. The Revised DCS charges a high CIL to supermarkets, superstores and retail warehousing but not to competitors. There is no consideration in the available evidence on the state aid implications of this or whether it is objectively justified, particularly in relation to smaller retail uses outside of the City Fringe and North Docklands area.

Instalments Policy

Sainsbury's consider it essential that the London Borough of Tower Hamlets prepare and adopt an instalments policy in line with CIL Regulation 69B. If all CIL is payable at the commencement of a development process then that will affect viability. Further clarification will therefore be required within the published Charging Schedule so that the financial consequences can be modelled.

Discretionary Relief for Exceptional Circumstances

In addition to adopting an instalments policy, Sainsbury's suggest that the Council also adopt a policy which would allow the Charging Authority to offer discretionary relief from the CIL payments.

Sainsbury's considers it essential that the Council retains the opportunity for such an agreement to be reached in particular circumstances and welcomes the drafting of an exceptions policy within the published Charging Schedule.

Regulation 123 List

Sainsbury's is pleased to see that a draft Regulation 123 List has been published within the RDCS. However, Sainsbury's is concerned that this is a highly generic document, which fails to name and prioritise key infrastructure, provide a firm commitment to delivery, or provide any form of accompanying timetable / target timescale. Sainsbury's requests that the Council adds this level of detail to the Regulation 123 List to provide clarity and reassurance to investors and developers going forward.

CLG CIL Proposed Further Reforms

When preparing the CIL DCS for Examination, the Council will be required to reflect the 'CLG response' (October 2013) to the Proposed Further Reforms to the CIL Regulations in its evidence base and approach to CIL implementation. It is anticipated the reforms to the CIL Regulations will be introduced prior to the Council proceeding to Examination of the RDCS.

We trust the above points are helpful and look forward to reviewing the Charging Schedule when published in due course.

Yours sincerely



Kiran Ubbi
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Dear Sir/Madam,

**LONDON BOROUGH OF TOWER HAMLETS, COMMUNITY INFRASTRUCTURE
LEVY, REVISED DRAFT CHARGING SCHEDULE
REPRESENTATIONS OF CANARY WHARF GROUP**

I am writing on behalf of Canary Wharf Group ('CWG') in relation to the consultation on your Revised Draft Charging Schedule for the proposed Community Infrastructure Levy ('CIL') in the London Borough of Tower Hamlets ('the Council' or 'the Charging Authority').

The enclosed representations follow those submitted in connection with the Preliminary Draft Charging Schedule in January 2013 and the Draft Charging Schedule in June 2013. These representations should be read in conjunction and alongside those previously submitted; they do not replace them. A number of points and concerns set out in previous representations have either not been responded to by the Council or have been responded to inadequately.

As explained previously, CWG has substantial land and development interest in LBTH. Canary Wharf forms part of the Isle of Dogs Opportunity Area (as designated in the London Plan (2011)). CWG is currently preparing a planning application for the comprehensive redevelopment of Wood Wharf; a strategic site allocation within the Council's Managing Development DPD (2013). The site is allocated for substantial development and is strategically important. It has the potential to contribute significantly over the Development Plan period to meeting challenging housing targets.

The enclosed representations comprise two parts:

- Enclosure A – this provides CWG's comments on the Council's response to representations made in relation to the Draft Charging Schedule. It is a point-by-point response to the relevant extracts of the Council's document titled 'Table of detailed responses to the Draft Charging Schedule consultation' (October 2013).
- Enclosure B – this has been prepared by DS2 and provides CWG's specific comments in relation to the strategic site appraisal for Wood Wharf (as contained in the Council's 'Viability Study' (August 2013)).

CWG's overriding concern is that insufficient focus has been given to the designated Opportunity Areas and Strategic Sites in the Council's approach and evidence base. This

23/01/2014



represents a failure to comply with paragraph 27 of the CIL Guidance (2013). Thorough evidence related to the Opportunity Areas and Strategic Sites must be prepared in order for the Council to understand the consequences of its proposed CIL rates on the Development Plan. The work undertaken to date has been broad-brush and generic. Significant information is readily available for the Council to use in order to establish whether CIL rates for the Opportunity Areas / Strategic Sites ought to be differentiated from other – more normal – development sites within the Borough.

As it stands – and consistent with previous representations – CWG is of the considered opinion that the Council has not complied with its legal obligation to strike an appropriate balance between helping to fund necessary infrastructure and the potential effects on the economic viability of development across its area.

CWG recommend that the Council undertake to prepare more thorough evidence in relation to the Opportunity Areas / Strategic Sites. The Council can look at evidence compiled for Opportunity Areas by other Charging Authorities within London as a steer in this respect e.g. the evidence prepared for the Vauxhall / Nine Elms / Battersea Opportunity by the London Borough of Wandsworth.

At this stage, given the particular site specific circumstances associated with the Opportunity Areas / Strategic Sites, including Wood Wharf, CWG is of the opinion that a differential rate is the only robust evidence-based approach. There is no compelling justification for treating Opportunity Areas / Strategic Sites as being the same as other development sites in viability terms.

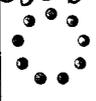
CWG welcome further dialogue once the Council has had the opportunity to consider these representations. It may be appropriate to share further information with the Council when the outline planning application for Wood Wharf has been formally submitted.

CWG wishes to reserve the right to be heard by the CIL Examiner at the forthcoming Examination.

Yours faithfully,

DP9

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	<p>There is concern that the NPPF has not been adequately considered.</p>	<p>The NPPF, Statutory Guidance and Development Plan have all been considered in the CIL rates setting process. The CIL Regulations 2010 as amended and associated guidance acknowledge that it is for the charging authority to aim to strike an appropriate balance between infrastructure provision and viability when setting its charging rates. The Council has taken a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in the economic cycle. The Council has proposed a CIL charge that amounts to less than 5% of the development costs; a modest proportion of development costs. The Council has also proposed a minimum discount of 25% of the maximum CIL chargeable in the rates reflected in the Revised Draft Charging Schedule. It is highly unlikely therefore that CIL would be the determining factor that would make developments unviable. In addition, the Council's policy for affordable housing and other policy requirements have been factored into the viability appraisals undertaken to arrive the Revised Draft Charging Schedule CIL rates proposed. Accordingly, the Council is of the view that it has fully considered the implication of the development plan for the CIL charge and the impacts of the proposed CIL on the development plan.</p>	<p>CWG remain concerned that the NPPF and Government's CIL Guidance has not been appropriately addressed in the Council's Revised DCS and the evidence base supporting this. The concerns explained in the June 2013 remain.</p> <p>Specifically in relation to points set out in the Council's response, CWG would note the following:</p> <p>Firstly, the main issue not appropriately addressed by the Council in relation to the NPPF is that the Revised DCS evidence base does not thoroughly explore and assess the likely scale of obligations and policy burdens associated with the viability and deliverability of the designated Opportunity Areas and Strategic Sites. As explained in previous representations, CWG is of the strong opinion that the Council has available evidence at its disposal to ensure a thorough understanding of the Opportunity Areas and Strategic Sites in this respect. To use one example, the assumption is that across LBTH the residual S106 will be £1,220 per unit for residential development. This is assumed to be the case for any site coming forward, whether strategic or not. The Council has not analysed the likely residual S106 for the strategic sites. It can do so based on a combination of planning guidance and evidence base documents that have been prepared in connection with the Opportunity Areas / Strategic Sites.</p> <p>Secondly, in respect of the CIL Guidance, again the concerns as set out in the June 2011 remain. In summary, the concerns are primarily that the Council has not demonstrated that its proposed rates have been sufficiently informed by appropriate evidence</p>
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and that sufficient focus has not been awarded to strategic sites (including the designated Opportunity Areas) (refer to paragraphs 25 and 27 of the CIL Guidance. More appropriate evidence can be readily prepared. This should be thorough given the focus and importance of the Opportunity Areas and Strategic Sites. The exercise should be particularly focused on the Opportunity Areas due to their importance in meeting both regional and local housing targets. The scope of work necessary is similar to that undertaken by other authorities to support CIL rates for Opportunity Areas e.g. LB Wandsworth in respect of the Vauxhall / Nine Elms / Battersea Opportunity Area.

Thirdly, it is explained by the Council that implications of CIL, when considered alongside other development costs, is modest. This is a sweeping statement and one that is prematurely made in the absence of thorough work considering the burden of policy costs on the Opportunity Areas and Strategic Sites. CWG is concerned that such statement by the Council is misleading since it is percentage based. The capital amount of CIL liability within the Opportunity Areas and Strategic Sites is substantial, especially when cumulatively considered alongside the Mayor of London's Crossrail requirements; the Mayor's CIL; affordable housing and planning obligations. CWG consider that the cumulative burden of costs as a result of the Council's planning policies and objectives for the Opportunity Areas and Strategic Sites has not been understood. The Council is readily able to undertake further work in this respect due to the extent of available evidence it has for the Opportunity Areas and Strategic Sites.

Fourthly, the Council has highlighted the importance of



<p>the 25% buffer it has applied (or rather 'discount') to the maximum CIL rates it could have proposed. CWG is concerned about the basis and logic associated with the 25% buffer which has not been appropriately explained. The main points CWG has on this matter are, as follows:</p>	<ul style="list-style-type: none"> • The BNPP Viability Study states the following: "The ability of residential schemes to make CIL contributions varies depending on area and the current use of the site. Having regard to these variations, residential schemes should be able to absorb a maximum CIL rate of between £80 to £300 per square metre. The department for Communities and Local Government ('DCLG') guidance requires that charging authorities do not set their CIL at the margins of viability. Other authorities have set their rates at a discount (buffer) to the maximum rate, with discounts ranging from circa 20% to 50%. We would recommend a buffer of circa 25% for Tower Hamlets." • There is no explanation as to why BNPP has concluded that a 25% buffer is recommended. • The 25% buffer has been applied as a blanket factor across the whole of LBTH. It does not alter to reflect the complexity and challenges associated with different types of development. This is particularly concerning when considering the Opportunity Areas / Strategic Sites. • Opportunity Areas / Strategic Sites are complicated to deliver. They typically involve the regeneration of heavily constrained brownfield sites. They are distinctly different to non-Strategic Sites: the risks and costs and

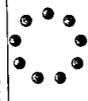


			<p>contingencies associated with delivering a Strategic Site are substantially greater than more straightforward sites e.g. a development of 20 residential units for example. Logic suggests that the nature of Strategic Sites is such that they warrant a greater 'buffer' or discount compared to non-Strategic Sites. In simple terms, it is unclear why the Council is taking more risk and less caution in relation to the delivery of the Strategic Sites compared to other development sites.</p>
<p>218</p>	<p>There is concern that the statutory guidance in relation to CIL has not been adequately considered.</p>	<p>The NPPF, Statutory Guidance and Development Plan have all been considered in the CIL rates setting process. The CIL Regulations 2010 as amended and associated guidance acknowledge that it is for the charging authority to aim to strike an appropriate balance between infrastructure provision and viability when setting its charging rates. The Council has to take a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in the economic cycle. The Council has proposed a CIL charge that amounts to less than 5% of the development costs of residential development; a modest proportion of development costs. The Council has also proposed a minimum discount of 25% of the maximum CIL chargeable in the rates reflected in the Revised Draft Charging Schedule. It is highly unlikely therefore that CIL would be the determining factor that would make developments unviable. In addition, the Council's policy for</p>	<p>As above.</p>

		<p>affordable housing and other policy requirements have been factored into the viability appraisals undertaken to arrive the Revised Draft Charging Schedule CIL rates proposed. Accordingly, the Council is of the view that it has fully considered the implication of the development plan for the CIL charge and the impacts of the proposed CIL on the development plan.</p>	
<p>219</p>	<p>Clarification needs to be provided in relation to how the Council's evidence base accounts for the Development Plan. Furthermore there is no detailed analysis of the site's policy requirements.</p>	<p>The NPPF, Statutory Guidance and Development Plan have all been considered in the CIL rates setting process. The CIL Regulations 2010 as amended and associated guidance acknowledge that it is for the charging authority to aim to strike an appropriate balance between infrastructure provision and viability when setting its charging rates. The Council has to take a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in the economic cycle. The Council has proposed a CIL charge that amounts to less than 5% of the development costs of residential development; a modest proportion of development costs. The Council has also proposed a minimum discount of 25% of the maximum CIL chargeable in the rates reflected in the Revised Draft Charging Schedule. It is highly unlikely therefore that CIL would be the determining factor that would make developments unviable. In addition, the Council's policy for affordable housing and other policy requirements have been factored into the viability appraisals undertaken to arrive the Revised Draft Charging Schedule CIL rates proposed. Accordingly, the Council is of the view that it</p>	<p>As above.</p>

<p>The Council should consider adopting a market value approach in respect of the assumption of what price will be bought forward for development.</p>	<p>has fully considered the implication of the development plan for the CIL charge and the impacts of the proposed CIL on the development plan.</p>	<p>CWG note that the Council has not responded to all of the points raised in the June 2011 representations (paragraphs 5.1 to 5.9) as well as the January 2013 representations (paragraphs 3.44 to 3.48) in relation to this matter.</p> <p>The issue at play here is at risk of being lost due to arguments around different viability approaches and methodologies. The key issue as far as CWG is concerned is this: that CIL rates should be based on an evidence base that includes market testing and market sense-checking. This is common to advice / guidance on viability offered by both the Local Housing Delivery Group publication 'Viability Testing Local Plans' (2012) and the RIC's 'Financial Viability in Planning' (2012).</p>
<p>220</p>	<p>The approach we have adopted was considered in depth at the London Mayoral CIL examination. The merits of the Market Value and Existing Use Value plus a premium approach were considered in detail by the Examiner. It was accepted that market transactions are of limited relevance to testing a new planning requirement, as they are historic and relate to prevailing planning policies at the time. As such, the Market Value approach was found to be an unsound basis for testing the viability of CIL it should also be noted that this approach has been accepted in numerous other CIL Examinations both inside and out of London including Croydon, Redbridge, Bristol, Poole, Havant, Harrow, Brent, Waveney.</p>	<p>CIL - RDCS 26</p> 

			<p>No evidence of market testing and market sense-checking has been provided despite this being a point made by CWG in all previous representations. It is also a point that has been made by other developers/landowners.</p> <p>Without market testing and market sense-checking it is uncertain how robust or sufficient the 25% buffer or discount mentioned by the Council above is.</p>
<p>221</p>	<p>We concern that the Council's Viability Study lacks market testing evidence, which could be gained by engaging with development industry.</p>	<p>On 22nd April 2013, the Council published the CIL Draft Charging Schedule for consultation between until 5th June 2013. The consultation was advertised in the local press – East End Life, and on the Council's website. The advertisements stated its duration, location for inspection and two drop-in sessions. Developer Drop-in Sessions were also held at the Council's offices, where developers were invited to drop in to discuss issues 1st May 2013 and 3rd June 2013. The Council has also met with some of the agents for two of the strategic sites. This followed consultation the Preliminary Draft Charging Schedule (between 16th November 2012 and 2nd January 2013) and a workshop was run on 6th July 2012 right at the start of the process to invite input as to the proposed methodology and assistance with inputs into the appraisals. The Council has also met with owners of strategic sites and invited submission of appraisal information and other evidence to help inform the rate setting process. The Council has met all the regulatory and local consultation requirements, and made extra efforts to encourage proactive participation from a wide range of stakeholders.</p>	<p>Some engagement with the development industry has now taken place, but this has occurred late in the process. As mentioned in previous representations, the Council did not engage with the development industry between publication of the Preliminary Draft Charging Schedule (in November 2012) and publication of the Draft Charging Schedule (in April 2013). This lack of engagement early on in the process has meant that, for example, the development industry has not been able to be involved from the outset in formulating the approach taken to the Council's Viability Study in respect of the Opportunity Areas and Strategic Sites. This would have been useful, noting paragraph 49 of the Government's CIL Guidance (2013).</p> <p>The engagement with the development industry that has taken place has not been particularly meaningful insofar that it has focused on the Council requesting sensitive and confidential viability information associated with particular sites. CWG is of the strong opinion that the onus and responsibility is on the Council to ensure it has based its proposed CIL rates on appropriate available evidence. As already mentioned, CWG is of the opinion that the evidence prepared by the Council in relation to the Opportunity Areas and Strategic Sites is broad-brush and insufficient. The</p>



	<p>Concerned that the Council has assumed a standard borough-wide assumption for residual S106 and S278. This approach requires justification, particularly in relation to strategic sites, where investment in infrastructure is required to enable and mitigate development. The Council has also not published any evidence on the cost implications of residual S106 and there is no cross referencing between the Planning Obligations SPD and the Draft Charging Schedule.</p>	<p>The Council has included cost assumptions for Section 278 and residual Section 106 requirements in a CIL context (thereby reducing the probable CIL charge) even though there are likely to be instances in which such contributions may not be required e.g. minor schemes. The residential appraisals incorporate an allowance of £1,220 per unit and the commercial appraisals have also been amended to incorporate an allowance of £5 per square foot (£53.82 per square metre). These figures 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 where it can be quantified, and the figure adopted is broadly in line with those adopted by many other London boroughs for CIL testing purposes.</p>	<p>Council already has a wealth of evidence at its disposal that it can readily use to better understand the implications of CIL on the Opportunity Areas and Strategic Sites.</p> <p>Further to the above, CWG again wish to note that requests have been made to the Council for information that it has available and has produced to feed-in to the summary Strategic Site appraisals contained within the Viability Study. The Council has refused to issue this information.</p> <p>CWG is concerned about the Council's response on this important matter. In the context of both the January 2013 and June 2013 representations, CWG do not understand how the Council has arrived at its assumptions for residual Section 106 and Section 278. There does not appear to be any evidence. Why is it that the assumptions are considered to be a 'reasonable proxy'? What is this proposition based on?</p> <p>CWG consider the Council's opinion that the assumptions are justified based on the fact that the residual figures are in line with 'many other London boroughs' to be irrelevant. No single borough is the same. The assumptions on residual Section 106 and Section 278 must be based on the specifics of the likely infrastructure required to deliver the Development Plan. This needs to be particularly focused, in the context of the CIL Regulations, on the Strategic Sites.</p> <p>Based on a review of the Council's proposed Regulation 123 List, the Council should have considered the infrastructure items that are needed for the Strategic Sites and ascertained whether these would be covered by the Regulation 123 List or not</p>
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<p>(i.e. delivered through Section 106 and Section 278 as opposed to CIL). This is especially necessary because the Council highlights on its Regulation 123 List that Section 106 may continue to apply if the infrastructure is required to make the development acceptable in planning terms (in other words, if site specific mitigation is required). In essence, this is no change to the system pre-CIL charging.</p> <p>The Opportunity Areas and Strategic Sites are different to other development sites within LBTH. They are multi-phased, complex, mixed-use, challenging, constrained, etc. They are important in meeting the Council's significant housing targets. This is obvious from the available evidence that the Council has at its disposal in relation to the Opportunity Areas and Strategic Sites. Further work clearly needs to be done in this respect. But, at this stage, given the particular site specific circumstances associated with the Opportunity Areas and Strategic Sites, CWG is of the opinion that a different assumption for Section 106 and Section 278 compared to the remainder of LBTH is the only robust evidence-based approach. There is no compelling justification for treating the Opportunity Areas and Strategic Sites as being the same as other sites in respect of Section 106 and Section 278.</p>		<p>The Council has undertaken to prepare some work on this matter. But, the 'Section 106 Receipts Background Report' (October 2013) is meaningless. It explains the Section 106 receipts that the Council has obtained on an annual basis. It does not provide any site specific information in this respect or attempt to work out, for example, an average £ per sqm or £ per unit figure. The CWG January 2013 Representations provided a view on this following evidence gathered from the Molior database. The Council must do something</p>
		<p>The Council has published additional information on historic section 106 receipts as part of the Revised Draft Charging Schedule consultation (Section 106 Receipts Background Report, October 2013). This includes affordable housing targets.</p>
		<p>The Council has not provided information on historic Section 106 Agreements, including the extent to which affordable housing and other targets have been met.</p>

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			<p>similar and undertake further work in this respect in order to understand how the cost burden on development will change pre- and post-CIL. This work is necessary in order to fulfil the intention of paragraph 22 of the Government's CIL Guidance (2013).</p>
<p>224</p>	<p>We recommend the Council undertake a thorough review of previous site specific viability appraisals, levels of affordable housing, S106 contribution and make clear why any different when compared to the proposed CIL rates.</p>	<p>Whilst of course the Council has, to an extent, considered historic site specific appraisals it should be borne in mind that area wide viability work should avoid scrutinising individual sites. A thorough review of the site specific appraisals has been undertaken. Please see the latest Viability Study (October 2013). The Bristol CIL examiner identified this at Para 26 of his report dated July 2012, stating that, 'The rates have to be based on a generic analysis of a variety of size and type of schemes across the area, taking into account average local build costs, not the individual circumstances of particular sites.'</p>	<p>As above.</p>
<p>225</p>	<p>We are concerned that the items on the Draft Regulation 123 List have not been appropriately considered.</p>	<p>In accordance with the CIL Regulations 2010 (as amended) and CIL Guidance 2013 (paragraph 15) the Council has set out for examination a draft list of the projects or types of infrastructure that are to be funded in whole or in part by the levy. The list has been published alongside a revised Planning Obligations SPD to provide transparency on what the charging authority intends to fund in whole or part through the levy and those known matters where section 106 contributions may continue to be sought.</p>	<p>The Council has not responded to CWG's representations on this matter (as set out at paragraphs 8.1 to 8.7 of the June 2013 representations). The issue and concern is principally that it is unclear how the items on the Regulation 123 List relate back to the anticipated necessary infrastructure delivery for the Opportunity Areas and Strategic Sites. There is no explanation or cross-referencing. How has the Regulation 123 List informed likely Section 106 assumptions for the Opportunity Areas / Strategic Sites and vice versa?</p>

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<p>226</p>	<p>The Strategic Site Appraisals are not accompanied by an explanation for why eight have been chosen.</p>	<p>In accordance with the CIL Guidance 2013, the Council has tested the viability of eight strategic sites across the whole borough. These are all sites which have been identified in the Council's Managing Development Document, which represent a range of different viability scenarios.</p>	<p>It is unclear why the Council feel as though the selection of only eight sites means that their approach is in accordance with the CIL Guidance. CWG consider that the Council has not prepared sufficient evidence in respect of the Strategic Sites in order to demonstrate that the Development Plan will not be put at risk.</p> <p>The Council's response does not deal with CWG's queries / concerns. The primary point – as explained in both the January and June 2013 representations - is this:</p> <ul style="list-style-type: none"> • The Council needs to be satisfied that its proposed CIL rates will not pose a significant risk to the delivery of the Development Plan. • The Development Plan is underpinned by the Opportunity Area and Strategic Site allocations. • CIL Guidance is clear in that the Council should be particularly focused on understanding / testing the Strategic Sites. • The sample of eight sites tested by the Council represents less than half of the 20 strategic sites that underpin the Development Plan. Given that three of the sites tested are shown not to be viable in the BNPP Viability Study, this reinforces the need to test more of the strategic sites to understand the impact CIL could have on the Development Plan.
<p>Page 227 106 of 163</p>	<p>The Mayor's CIL rate should be treated as a development cost. The Council have approached this instead by subtracting the Mayor's CIL rate from the maximum rate which could possibly be sought.</p>	<p>Noted: The Mayoral CIL has now been accounted for as a development cost.</p>	<p>BNPP have retained table 1.5.1 in their viability assessment which nets the Mayoral CIL figure from a gross borough CIL. It is not clear however as to whether the 25% buffer from the maximum CIL rate to the proposed net rate has any reference to the Mayoral CIL rate (note 217 above and the points</p>



	<p>It is difficult to analyse the strategic site appraisal summaries included within the viability report. A request has been made for this information but it hasn't been forthcoming.</p>	<p>The Council invited submission of appraisal inputs/ information and has reflected specific comments - where received - in amendments to the strategic site appraisals. It is noted all inputs into the appraisals are provided within the Viability Study (October 2013). Should developers or stakeholders wish to test these they are able to do so. The focus should be on whether the inputs are reasonable or whether there is evidence to suggest otherwise.</p>	<p>relating to the buffer / margin). The Mayoral CIL figure is included as a development cost in the appraisals.</p>
228	<p>The way the Mayor of London's Crossrail charge has been taken into account is not clear.</p>	<p>Crossrail is a priority for London Borough of Tower Hamlets and an important one but it should not obliterate the pressing need for other local infrastructure. In response to the representations, the Council has amended its approach from that of the Draft Charging Schedule of assuming 30% of the Mayor of London's Crossrail 'top up' in its appraisals in setting its rates. It is expected that the rates set out in the Revised Draft Charging Schedule will allow the for the full 'top up' required under the Crossrail SPG 2013 where the viability of individual schemes allow for it in line with the approach set out in the Crossrail SPG, 2013, paragraph 3.34. However, it is acknowledged that achieving the full top up may be more challenging in certain office schemes in the North Docklands in the current market and in light of the fact that it has the highest 'top up' charge in London. Accordingly, a lower Crossrail SPG top is assumed for office floorspace in North Docklands (please refer to paragraph 4.55 of the Viability Study (October 2013)). This has resulted in a reduction in the CIL rate for offices in North Docklands. This approach reflects the Crossrail funding requirements arising from office development in this part of the borough while recognising the need to fund</p>	<p>Please refer to Enclosure B.</p>
229			<p>CWG is concerned that the Council's Viability Study does not assume the full Mayor's Crossrail liability: it is likely that the burden of policy costs has, therefore, been underestimated. The Council should take a more cautious approach. It is understood that the Greater London Authority (inclusive of Transport for London) has expressed their concerns on this matter with the Council.</p>

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	<p>local infrastructure to enable sustainable development.</p>	
<p>Please refer to Enclosure B.</p>	<p>The Council has, where appropriate, updated appraisals to address comments made during the Draft Charging Schedule consultation. The approach to assessing the largest sites has been amended to an Internal Rate of Return ('IRR') approach in response to representations. It is noted that although developers commonly identify that they are targeting an IRR of 20%, BNP Paribas Real Estate have advised that large schemes in London, particularly in the current economic climate, developers have agreed to proceed with developments identified as generating IRRs of between 11% and 13%. In addition:</p> <ul style="list-style-type: none"> • The Strategic Site inputs data has been updated to include the development programmes and we can confirm that S106 and CIL costs are included as upfront costs at the beginning of construction • The professional fees on strategic sites and all schemes larger than 250 units have been increased to 12% in line with the assumptions in the typologies for consistency. • With respect to energy requirements on large sites, the provision of such technologies will be included in the cost to achieve CSH level 4 on such sites. A 5% contingency is also allowed for the on the uplift of the build costs associated with achieving CSH level 4, which should allow for any unforeseen costs relating to the provision of such elements. • Allowances have been made for the onsite infrastructure that is sought by the Council's policies such as schools, health facilities through land in kind. 	<p>The Council needs to clarify a number of inputs into the Wood Wharf Appraisal, including: -</p> <ul style="list-style-type: none"> • How the site area has been derived. • How the unit density has been assumed. • The Viability Study assumes a residential mixed use whereas the site allocation in the Managing Development Document assumes a mixed use. • How the development quantum has been derived. • How the unit mix has been derived. • What are the reasons to assume the gross to net ratio of 82%? 65 – 70% is more reasonable. • How the 'Construction pre sales start' has been derived. • Whether an IRR approach to profit is more suitable. • The build cost assumption of £177 per sq. ft. £220 - £250 is more appropriate. • The 'Exceptionals/Abnormals' assumed. £100m - £150m would be more appropriate • The marketing costs assumed. 2% is more appropriate. • The sales costs assumed. 2% is more appropriate. • The letting fee assumed. 15% is more appropriate. • Professional fees assumed. 12 – 14% is more appropriate. • Finance costs assumed. 9% is more <p>230</p>

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23/01/2014

	<p>appropriate.</p>	<ul style="list-style-type: none"> The higher abnormal costs identified on the Wood Wharf (and Bishopsgate Goodyard) site have been taken into account in line with comments made to the DCS consultation. These site appraisals have been updated to include commercial uses in line with the quantum identified in relevant planning policies and guidance which will inform the planning application on this site Assumptions with respect to marketing have been amended and a rent free period to 24- months for the office elements included. 	<p>There is no evidence that the Council has analysed fully the likely burden of policy costs associated with the delivery of the Opportunity Areas and Strategic Sites. A more thorough exercise should be undertaken in order to ensure the proposed CIL rates are based on appropriate evidence. CWG recommend that the Council undertakes to prepare more thorough evidence in relation to the Opportunity Areas (including the Strategy Sites within that). The work undertaken by the Council to date is broad-brush and light-touch. The Council should look at the work undertaken by other authorities in respect of Opportunity Areas e.g. the substantial evidence compiled by LB Wandsworth in respect of its CIL proposals for the Vauxhall / Nine Elms / Battersea Opportunity Area.</p>
<p>231</p>	<p>We are concerned that other adopted planning policies have not been considered in viability testing, e.g. strategic sites allocated in the Managing Development Document. The explanation of policy and guidance is considered too brief and does not explain the relationship between the draft SPD and infrastructure planning.</p>	<p>Local, regional and national planning policies have been considered in the rate setting process. The Viability Study (October 2013) in particular contains explains the policy context. In addition, the testing of strategic sites - informed by the Council's Managing Development Document (2013) have been undertaken to inform the rate setting process.</p>	<p>The Council's response does not alleviate CWG's concerns on this matter as fully set out at paragraphs x of the June 2013 representations. The important point here is that Section 106 is more likely than not to continue as the mechanism for providing site specific mitigation for Strategic Sites. This will continue to be a significant cost item in terms of development viability.</p>
<p>Page 232 of 109 of 163</p>	<p>Complications around in kind transfer of land have not been considered and need to be properly addressed.</p>	<p>The Draft Planning Obligations SPD sets out the Council's approach to mitigating the impacts of development. The Council's Draft Regulation 123 List provides an overview of where CIL and where Section 106 contributions will be used. The SPD states that, following the adoption of the local CL, Section 106 will be limited to mitigating site-specific impacts of</p>	<p>The Council's response does not alleviate CWG's concerns on this matter as fully set out at paragraphs x of the June 2013 representations. The important point here is that Section 106 is more likely than not to continue as the mechanism for providing site specific mitigation for Strategic Sites. This will continue to be a significant cost item in terms of development viability.</p>



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		<p>development (Regulation 123 CIL Regulation 2010 (as amended)). Where a site allocation requires the provision of infrastructure on-site CIL, or in-kind provision to an equivalent value, will be used to ensure the provision, rather than Section 106.</p>	<p>The Council should not assume in-kind payment of CIL can be achieved easily and as the 'norm'. In-kind provision is challenging and likely to be an exception (refer to paragraphs 8.1 to 8.7 of the June 2013 on this matter).</p> <p>As such, the Council should take a more cautious approach to the ability of Strategic Sites to afford CIL and – as expressed in relation to line item 217 above – it is recommended that the Council adopts a higher viability 'buffer' than that assumed for non-Strategic Sites.</p>
233	<p>Complications around in kind transfer of land have not been considered and need to be properly addressed in the Planning Obligations SPD.</p>	<p>Regulation 72 of the CIL Regulations 2010 (as amended) prescribes this, and further proposals related to in-kind measures were published by DCLG in April 2013. The Council is therefore awaiting further guidance on this matter.</p>	<p>See above.</p>
234	<p>Reference to circular 5/05 needs to be removed and replaced with provisions of NPPF</p>	<p>Noted: References to Circular 5/05 have been deleted.</p>	<p>No comment.</p>
235	<p>Para 4.16 refers to two DPD documents, but lists only Managing Development Document. The publication date of the National Planning Policy Framework is cited as 2011 however this was adopted in 2012. The commentary around Managing Development Document needs to be updated following the adoption of the document.</p>	<p>The Draft Planning Obligations SPD has been updated to reflect the current Development Plan and national guidance.</p>	<p>No comment.</p>

Development Consultants



PL/ds

02.12.2013

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Dear Sir / Madam

LONDON BOROUGH OF TOWER HAMLETS – COMMUNITY INFRASTRUCTURE LEVY DRAFT CHARGING SCHEDULE REPRESENTATIONS ON BEHALF OF CANARY WHARF GROUP IN RELATION TO WOOD WHARF

In response to the Council's most recent Revised Draft Charging Schedule dated October 2013, DS2 have reviewed BNPP's CIL Viability Assessment (August 2013) that underpins the CIL rates and our comments are included in the table below.

These representations are made in isolation to the site specific viability appraisal that will be submitted in support of the outline planning application shortly. The information provided in this letter and the previous representations are done so in order to assist the Council with their setting of a reasonable and appropriate Charging Schedule and should in no way prejudice the site specific viability work.

In making these comments we have had sight of the following documentation:

- Revised Preliminary Draft Charging Schedule (October 2013)
- Detailed Consultation Responses to Draft Charging Schedule (October 2013)
- Summary of Consultation Responses to the Draft Charging Schedule with particular regard to Section B (October 2013)
- BNPP CIL Viability Assessment (August 2013)
- DP9 Representation on behalf of Canary Wharf Group (June 2013)
- CIL Draft Charging Schedule – S106 Report (October 2013)
- CIL Infrastructure Planning and Funding Gap Funding Report (October 2013)

Our updated representations are collated in two parts. Firstly, the table below is an update from our representations made in June 2013 relating directly to the BNPP inputs in their Viability Study. Secondly, comments in relation to a number of the major items included in the Council's Summary of Consultation Responses.

Section One: Updated Table of Inputs in Response to BNPP Viability Study dated August 2013)

Table One: Response to the BNPP CIL Viability Assessment in Relation to Wood Wharf Strategic Site Appraisal – Updated from 5 th June 2013		
Viability Input	BNPP Input	Landowner comments
Site area	Gross 7.26, net 6.46 ha	Gross figure from LBTH Development Management DPD Site Allocation We note that the 0.8 ha for a health facility has been removed to assist in deriving the net developable area however this land will not be transferred at zero cost
Density	464 u p ha	Please note comments below in relation to land use mix
Land use mix	2,960,942 sq ft residential, 270,000 sq m office & 27,000 retail sq m (all GIA)	A planning application for the site's comprehensive redevelopment will be submitted prior to the year-end and the development quantum will differ to that included in the BNPP Viability Study. LBTH will have an understanding from the pre-application discussions as to what is being applied for and Canary Wharf Group would be happy to provide the areas to BNPP once the application has been submitted

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A list of the names of the members and their professional qualifications is available for inspection at the above office

Gross to net ratio	85% residential	As per previous representations the scheme is unlikely to achieve 85% and the previous consented scheme was at circa 65%. New scheme in the region of 70%. The impact of the BNPP input to significantly inflate the residential income that will be derived (i.e. artificially improves the development viability)
Private sales rate	£700 psf	The average residential blended rate across the site will be based on an assessment of comparable information that is available in the market on a phase by phase basis. The BNPP figure appears reasonable however once the planning application is submitted along with the site specific viability assessment Canary Wharf Group would be willing to discuss this in more detail
Affordable Sales rate	£177 psf	This is a reasonable assumption based on LBTH's position on Affordable Rent, GLA caps on intermediate affordability and zero grant however the final figure will be dependent on the likely final consented affordable mix
Car parking income	£25,000 per space	Updated from previous site appraisal
Ground rent income	£4,500 per private dwelling	No further comment other than to note that we assume that this is a capitalised rent.
Contingency	5%	Please note comments below on construction
Private residential profit	IRR based return albeit no target provided (a range of 11 to 13% in noted within the BNPP commentary)	We note that BNPP have now included reference to 20% IRR being reasonable at 7.15 of their updated report. Whilst a 20% IRR is referenced in the BNPP report, the report then states that 11% to 13% is reasonable based upon 'our experience on large schemes in London that developers have agreed to proceed with developments identified as generating IRRs of between 11% and 13%'. There is no further explanation than this and the Wood Wharf appraisal is deemed to be viable at 13.28% or 17.79% depending which benchmark land value is used. We are of the opinion that a minimum 20% return on an outturn basis is a reasonable assumption for strategic development of this scale in this location.
Affordable profit	6% on value	Noted but please refer to June 2013 comments in relation to site-wide IRR.
Build costs	e.g. £177 per sq ft residential, and £200 psf Office	The BNPP build costs remain extremely low. As previously noted CWG's experience and expectation on Wood Wharf is for costs to be significantly higher. We understand that the project cost consultants will be submitting detailed information with the planning application and Canary Wharf Group may consider making further build cost information available once the application is submitted.
Exceptionals / Abnormals	£150,000,000	BNPP appraisal now includes £150,000,000 for exceptional costs as referenced in our June representations. The figure is exclusive of basement areas.
Marketing	2%	BNPP have now included 2%. Albeit there remain reservations as to whether this is an adequate allowance given the scale and timing of development and a requirement for a significant on-site staffed marketing presence for the duration of the project
Sales agent	1.5%	BNPP have increased sales agent fees from 1% to 1.5%
Sales legal fee	0.25%	Unchanged.
Letting fee	10%	Joint agency instruction (which is applicable to this scale of development) be 15% as previously advised
Professional fees	12%	BNPP have increased the professional fees to 12% from 10%
Finance	Removed	Given the inclusion of an ungeared IRR finance becomes (for the purposes of this appraisal) irrelevant albeit the return generated by the IRR is a gross profit from which finance costs will be deducted
Planning Obligations (s106 and s278)	£1,220 per unit	Requires an analysis that is site specific and an understanding of the cumulative burden of planning policies and guidance. Current examination would suggest that the £1,220 per dwelling for site specific mitigation will not be sufficient. GVA have advised Canary Wharf Group that the figure will likely be in the region of £7k per unit once CIL is adopted (see comment below)

Site Value	AUV of £4,249,000 for the extant consent / £38,480,000 for the CUV i.e. industrial	BNPP figure needs explanation. No reference to NPPF para 173 or requirement to sense check against market evidence. Please note comments in Section Two below in relation to land value. The BNPP figures on a variety of measures, per sq ft of development, per hab room per unit and so on, are extremely low and are not conducive to sites being brought forward (see comments below).
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Section Two: Response to Major Items within the Summary of Consultation Responses Section B

Market Value vs. Existing Use Value

- The Council's Summary at 2.10 makes reference to the Local Housing Delivery Guidance (Lord Harman) dated June 2013. The LHDG study makes reference to a 'sense check' on pages 29 and 30 to local comparable land evidence in order to ensure that the margin above the Current Use Value (CUV) is appropriate. The BNPP Viability assessment does not sense check the Benchmark Land Values that are constructed on the 'CUV plus' approach and there is therefore no recognition as to whether the land values that are included in the site appraisals bear any resemblance to the local market and as such, in accordance with paragraph 173 of the NPPF, 'provide competitive returns to a willing land owner'.
- Whilst there are a range of variables that impact upon land value as noted in the Council's Summary at 2.11, analysis of the local land market provides a reasonable range which should be used to inform the process. We would agree that whilst the application of historic land information for the purposes of policy making needs to be appropriately weighted, the 'sense check' that the LHDG publication refers to remains important so that there is not an unrealistic separation in land value for the purposes of policy making and the functioning market. Such a separation will directly inhibit the ability of development sites to come forward contrary to the NPPF.

Site Specific Section 106 Assumptions

- The Council's Summary at 2.17 refers to the rationale for £1,220 per dwelling being used as a residual S106 requirement for site specific matters. We have reviewed the Council's S106 Report however the document sheds little light on what an average figure for S106 matters secured on recent large scale consents are. Analysis of CIL Planning and Funding Gap Report that accompanies the PDCS would suggest that there will be a significant S106 liability on the strategic sites for site specific mitigation measures once CIL is adopted and payable. We do not believe that the standard £1,220 per unit rate is applicable to the larger sites. GVA have advised CWG that this figure is closer to £7,000 per unit.

Summary

We trust that the above is helpful. We are of the opinion that the strategic sites appraisals retain a number of fundamental flaws that have not been picked up on following our comments made in June 2013. Whilst the commercially sensitive nature of the site specific information has been noted on several occasions as a reason for its non-submission we have provided sufficient information previously to illustrate that a number of the major inputs, for example the proposed efficiency of development and build costs, are inaccurate to such a significant degree that the residual outputs are not sufficiently robust.

In light of this, we would therefore ask the Council and BNPP to reconsider the strategic appraisals in their assessment of what are appropriate CIL rates based upon a robust assessment of the evidence available.

Yours sincerely

Pascal Levine MRICS
Partner, DS2 LLP



OBS/HF/DP2100

2nd December 2013

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Dear Sirs,

REVISED DRAFT CIL CHARGING SCHEDULE, OCTOBER 2013
REVISED PLANNING OBLIGATIONS SPD, OCTOBER 2013
SUBMISSION OF REPRESENTATIONS BY LONDONNEWCASTLE (ON
BEHALF OF UKI (SHOREDITCH) LIMITED AND UKI (FLEET STREET HILL)
LIMITED)

On behalf of Londonnewcastle (and UKI (Shoreditch) Limited and UKI (Fleet Street Hill) Limited), we write to submit representations to the above documents.

Londonnewcastle hold significant interests in the Borough. DP9 submitted representations to the Draft Charging Schedule issued in March 2013.

Despite further work being undertaken, our client remains concerned about compliance of the Revised Draft Charging Schedule with planning policy and statutory guidance. On the basis of the evidence put forward by the Council, Londonnewcastle considers that:

- An appropriate balance has not been struck between the need to fund necessary infrastructure and the potential economic viability of development across its area; and
- The Charging Authority has not complied with the requirements set out at paragraph 9 of DCLG's 'Community Infrastructure Levy: Guidance' (April 2013).

The previous representations that were submitted remain valid. However, Londonnewcastle would also like to take the opportunity to respond to the detailed comments made by the Council to our previous representations. These comments are attached at Appendix A.

As per our previous representations, we are not satisfied that the evidence base presented to underpin the Draft CIL Charging Schedule is robust and the consequences of adopting the Charging Rates set out within it have been properly considered. There are two fundamental areas of concern: the first relates to the viability of designated area,



including the delivery of the Borough's housing and other infrastructure requirements; and, the second relates to the setting of the charging zone boundaries.

Should you wish to discuss any of our comments, please contact Oliver Sheppard or Holly Farrow of this office.

Yours faithfully,

A handwritten signature in black ink, appearing to be the initials 'DP9'.

DP9

APPENDIX A

Further response by Londonnewcastle to Council's detailed response to previous representations

182	CIL_DCS27: Londonnewcastle (DP9)	Council's Comments	Londonnewcastle (DP9), November 2013
<p>The Proposed Draft Charging Schedule does not comply with the NPPF (Para 173 and 175), the Statutory Guidance (Para 8, 9, 15, 21, 22, 25, 27, 30, 34, 85) and the Development Plan.</p>	<p>The NPPF, Statutory Guidance and Development Plan have all been considered in the CIL rates setting process. The CIL Regulations 2010 as amended and associated guidance acknowledge that it is for the charging authority to aim to strike an appropriate balance between infrastructure provision and viability when setting its charging rates. The Council has to take a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in the economic cycle. The Council has proposed a CIL charge that amounts to less than 5% of the development costs of residential development; a modest proportion of development costs. The Council has also proposed a minimum discount of 25% of the maximum CIL chargeable in the rates reflected in the Revised Draft Charging</p>	<p>Londonnewcastle remain concerned that the NPPF and CIL Guidance have not been appropriately addressed in the Council's Revised DCS and the evidence base supporting this. The concerns explained in our letter of June 2013 therefore remain valid.</p> <p>Specifically in relation to points set out in the Council's response, Londonnewcastle would note the following:</p> <p>1) The Council has not demonstrated that its proposed rates have been sufficiently informed by appropriate evidence and that sufficient focus has not been awarded to strategic sites (including the designated Opportunity Areas) (refer to paragraphs 25 and 27 of the CIL Guidance. More appropriate evidence can be readily prepared. This should be thorough given the focus and importance of the Opportunity Areas. The exercise should be particularly focused on the Opportunity Areas due to their importance in meeting both regional and local housing targets. The scope of work</p>	<p>237</p>

	<p>Schedule. It is highly unlikely therefore that CIL would be the determining factor that would make developments unviable. In addition, the Council's policy for affordable housing and other policy requirements have been factored into the viability appraisals undertaken to arrive the Revised Draft Charging Schedule CIL rates proposed. Accordingly, the Council is of the view that it has fully considered the implication of the development plan for the CIL charge and the impacts of the proposed CIL on the development plan.</p>	<p>necessary is similar to that undertaken by other authorities to support CIL rates for Opportunity Areas.</p> <p>2) It is explained by the Council that implications of CIL, when considered alongside other development costs, is modest. This is a sweeping statement and one that is prematurely made in the absence of thorough work considering the burden of policy costs on the Opportunity Areas. Londonewcastle is concerned that such statement by the Council is misleading since it is percentage based. The capital amount of CIL liability within the Opportunity Areas and Strategic Sites is substantial, especially when cumulatively considered alongside the Mayor of London's Crossrail requirements; the Mayor's CIL; affordable housing and planning obligations. Londonewcastle consider that the cumulative burden of costs as a result of the Council's planning policies and objectives for the Opportunity Areas has not been understood. The Council is readily able to undertake further work in this respect due to the extent of available evidence it has for the Opportunity Areas.</p> <p>3) The Council has highlighted the importance of the 25% buffer it has applied (or rather 'discount') to the maximum CIL rates it could have</p>
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<p>proposed. Londonnewcastle is concerned about the basis and logic associated with the 25% buffer which has not been appropriately explained. The main points Londonnewcastle has on this matter are, as follows:</p>	<ul style="list-style-type: none"> • The BNPP Viability Study states the following: "The ability of residential schemes to make CIL contributions varies depending on area and the current use of the site. Having regard to these variations, residential schemes should be able to absorb a maximum CIL rate of between £80 to £300 per square metre. The department for Communities and Local Government ('DCLG') guidance requires that charging authorities do not set their CIL at the margins of viability. Other authorities have set their rates at a discount (buffer) to the maximum rate, with discounts ranging from circa 20% to 50%. We would recommend a buffer of circa 25% for Tower Hamlets." • There is no explanation as to why BNPP has concluded that a 25% buffer is recommended. • The 25% buffer has been applied as a blanket factor across the whole of LBTH. It does not alter to reflect the complexity and challenges associated with different

<p>types of development. This is particularly concerning when considering the Opportunity Areas.</p>		
<p>The key issue remains that CIL rates should be based on an evidence base that includes market testing and market sense-checking. This is common to advice / guidance on viability offered by both the Local Housing Delivery Group publications 'Viability Testing Local Plans' (2012) and the RIC's 'Financial Viability in Planning' (2012). No evidence of market testing and market sense-checking has been provided.</p> <p>Without market testing and market sense-checking it is uncertain how robust or sufficient the 25% buffer / discount is.</p>	<p>The Viability Study (October 2013) demonstrates the variation in sales values across the borough and therefore demonstrates the appropriateness of differential rates for residential users by area.</p>	<p>We are concerned that insufficient evidence has been provided in the Viability Study (2013) to support differential rates for residential uses by areas.</p> <p>238</p>
<p>The concerns about grouping together areas where there are wide variations in values remains. The DCLG Guidance states at paragraph 27 that 'in most instances where a charging authority is proposing to set differential rates, they will want to undertake more fine-grained sampling (of a higher percentage of total sites), to identify a few data points to use in estimating the boundaries of particular zones, or different categories of intended use. The sampling</p>	<p>It is acknowledged that a range of residential values will be achieved on new build schemes in each Zone. However, the approach to proposing three residential charging zones is done so to avoid undue complexity in line with paragraph 37 of the CIL Guidance, 2013.</p>	<p>We recommend that three proposed Charging Zones are too broad brush and a more detailed assessment is required to identify more Charging Zones and a more divers Charging Rate.</p> <p>239</p>

			<p>should reflect a selection of the different types of sites included in the relevant Plan, and should be consistent with viability assessment undertaken as part of plan-making.' The BNPP report fails to undertake a sufficient amount of sampling to allow a robust average charging rate to be set. There is a significant difference between the charging rates set for residential use in Zone 1 at £200 per sqm compared to Zone 2 at £65 per sqm. Further sampling within these zones is required to justify the charging rates proposed and ensure that they do not result in unviable development.</p>
240	<p>The Council should provide explanation on the assumption of the level of S106 contributions payable by scheme at £1,220 per residential unit.</p>	<p>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 where it can be quantified, and the figure adopted is broadly in line with those adopted by many other London boroughs for CIL testing purposes.</p>	<p>Londonnewcastle is concerned about the Council's response on this important matter. In the context of June 2013 representations, Londonnewcastle do not understand how the Council has arrived at its assumptions for residual Section 106 and Section 278. There does not appear to be any evidence. Why is it that the assumptions are considered to be a 'reasonable proxy'? What is this proposition based on?</p> <p>Based on a review of the Council's proposed Regulation 123 List, the Council should have considered the infrastructure items that are needed and ascertained whether these would be covered by the Regulation 123 List or not (i.e. delivered through Section 106 and</p>

			<p>Section 278 as opposed to CIL). This is especially necessary because the Council highlights on its Regulation 123 List that Section 106 may continue to apply if the infrastructure is required to make the development acceptable in planning terms (in other words, if site specific mitigation is required). In essence, this is no change to the system pre-CIL charging.</p> <p>The Opportunity Areas are different to other development sites within LBTH. Further work clearly needs to be done in this respect. But, at this stage, given the particular site specific circumstances associated with the Opportunity Areas, Londonewcastle is of the opinion that a different assumption for Section 106 and Section 278 compared to the remainder of LBTH is the only robust evidence-based approach. There is no compelling justification for treating the Opportunity Areas as being the same as other sites in respect of Section 106 and Section 278.</p>
241	<p>The Draft Regulations 123 list is very generic and does not provide clarity on what infrastructure will be provided under the Borough's CIL.</p>	<p>In accordance with the CIL Regulations 2010 (as amended) and CIL Guidance 2013 (paragraph 15) the Council has set out for examination a draft list of the projects or types of infrastructure that are to be funded in whole or in part by the levy. The list has been published alongside a revised Planning</p>	<p>The Regulation 123 list is noted and is helpful in providing some clarity when read in conjunction with the draft SPD on Planning Obligations.</p>

		<p>Obligations SPD to provide transparency on what the charging authority intends to fund in whole or part through the levy and those known matters where S106 contributions may continue to be sought.</p>	
<p>242</p>	<p>With regard to energy contribution stated within the Draft Planning Obligations SPD we object to paying contribution if targets are not met. There is no clarity on threshold levels before payment is triggered.</p>	<p>Policy DM 29 of the Managing Development Document clearly sets out the extent to which residential and non-residential developments will be expected to reduce Carbon emissions up to the year 2031. Should a development fail to meet these targets through on-site provision, and all opportunities to do so have been exhausted, financial contributions towards carbon reduction projects will be secured through Section 106 Agreements. It is appropriate to mitigate any environmental sustainability impacts of development on a scheme by scheme basis, rather than through CIL as the opportunity to enter into a Section 106 Agreement on non-policy compliant schemes allows for a proactive and flexible approach to development in circumstances where environmental sustainability is an issue. Additionally, it is important to reserve the opportunity to penalise non-compliant schemes to ensure incentives to reduce carbon emissions on-site are not undermined.</p>	<p>Comment Noted</p>

243	<p>With regard to biodiversity contribution stated within the Draft Planning Obligations SPD we object as it will penalise sites that for physical reasons cannot contribute to biodiversity.</p>	<p>Policy DM11 of the Managing Development Document clearly sets out the Council's approach to ensuring all new developments enhance, and do not harm, the borough's natural environment and biodiversity value. Potential developments which fail to achieve on-site policy compliance in respect of this policy will be required to mitigate the impacts of the development through financial contributions. It is appropriate to mitigate any environmental impacts of development on a scheme by scheme basis, rather than through CIL as the opportunity to enter into a Section 106 Agreement on non-policy compliant scheme allows for a proactive and flexible approach to development in circumstances where environmental sustainability is an issue. Additionally, it is important to maintain the opportunity to penalise non-compliant schemes to ensure incentives to enhance biodiversity value and habitats on-site are not undermined.</p>	<p>Comment Noted</p>
244	<p>Greater clarity in the Planning Obligations SPD is required relating to when obligations will apply.</p>	<p>The Draft Planning Obligations SPD clearly describes the thresholds and circumstances under which a Section 106 Agreement may be required to mitigate any impacts of development which are site specific. In all such instances the value of any financial contribution sought as part of a Section 106 Agreement will be dependent upon the extent to which a scheme deviated from policy compliance or causes harmful site-</p>	<p>Comment Noted</p>

		<p>specific impacts. It is not therefore appropriate to provide an indicative value for each principal clause within a Section 106 Agreement. When a S106 requirement does bare a direct correlation to the nature and scale of a scheme, such as in the case of training contributions and Crossrail contributions, standard formulae are available which can be used to indicate a value.</p>	
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2 December 2013

Delivered by email

CIL Consultation
Infrastructure Planning Team
London Borough of Tower Hamlets
2nd Floor Mulberry Place
5 Clove Crescent
London
E14 2BG

Dear Sirs,

LONDON BOROUGH OF TOWER HAMLETS COMMUNITY INFRASTRUCTURE LEVY: REVISED DRAFT CHARGING SCHEDULE (NOVEMBER 2013)

We act on behalf of Travelodge Hotels Limited (Travelodge) and write in response to the current consultation being undertaken by the London Borough of Tower Hamlets in respect of the Community Infrastructure Levy (CIL): Revised Draft Charging Schedule (November 2013).

Travelodge previously submitted representations to the Draft Charging Schedule (DCS) consultation on 5 June 2013. Accordingly, the enclosed representations have been prepared in the context of these submitted representations and in response to the latest consultation documentation including the CIL: Revised Draft Charging Schedule (October 2013) and Summary of Consultation Responses to the Draft Charging Schedule (October 2013) including appendix 1: Table of detailed responses to DCS consultation representations.

It is noted that an updated viability study 'The Viability Study' has been prepared. However, this does not reconsider the viability evidence for hotel development.

It is noted that the next stage in the process is to submit the CIL Revised Draft Charging Schedule for Examination following consideration of comments to this consultation. We trust that Tower Hamlets reconsiders the CIL rate proposed for hotel development within the Borough for the reasons set out within these representations in addition to the reasons set out within the DCS representations.

Proposed CIL Rate: Hotel Development

The proposed CIL charge rate for hotel use remains at £210 per sqm across the entire borough as was the case in the DCS. In addition the Mayoral CIL charge of £35 per sqm is applicable, making the total CIL charge for hotel development £245 per sqm across the entire borough. The CIL rate proposed for hotel development is too high and cannot be supported by the budget hotel sector.

The Council has failed to properly consider the detail of the representations already submitted by Travelodge to inform the proposed charging rate for hotel use including the lack of evidence base to set the rate, unrealistic commercial assumptions used within appraisals and lack of proposed differential rates by geographic area.

Appropriate Evidence Base

The Summary of Consultation Responses to the Draft Charging Schedule (October 2013) states at No. 250 that *'The Viability Study (October 2013) includes hotel appraisals which reflect the scale and type of such developments coming forward in Tower Hamlets. Sensitivity analysis of these appraisals – across a wide range of rental levels – has been undertaken'*. However, as already stated no updated hotel appraisals have been undertaken and the hotel CIL rate has not been reduced. This is notwithstanding the representations submitted by Travelodge previously, that a greater number of hotel appraisals with hotel sector input need to be undertaken.

Accordingly, we remain of the view for the reasons previously set out that the viability appraisals undertaken do not comprise a sound evidence base that can credibly be used to set the proposed CIL charge rate for hotel use.

As mentioned, the inputs within the two appraisals undertaken are not in line with what is achievable for a budget hotel developer as per the comments made in the former DCS representations:

"Table 4.48.1 'commercial appraisal assumptions for each use' sets out the viability consultant's development assumptions. This information has then been used to inform the viability appraisals for use classes. On immediate review of this table with respect to hotel use, it is evident that the rent per square foot assumed for the single hotel appraisal undertaken is significantly more (between 80%-100% more) than what is achievable for Travelodge (and most likely other budget hotel operators) across the Borough. The rate adopted is seemingly for a City Fringe location; however, even then this is still in the order of 60% higher than is realistic for Travelodge in such locations. The rental assumption adopted is not therefore realistic or achievable in practice for any location across the Borough and is therefore not helpful in informing an appropriate CIL charge rate for the Borough. The other assumptions adopted for hotel development are reasonable"

As such the evidence base for hotel use is not considered to meet the relevant tests contained within Section 212 (4) of the Planning Act (2008) and Regulation 14 of the CIL Regulations (2010 as amended).

Further, what has become evident from hotel appraisal 1, which has now been made available for the first time is that it is based on a luxury hotel within Canary Wharf - one of the highest value areas within the borough. This now clarifies that both appraisals have been based on hotels located in the highest value areas within the borough (City Fringe and Canary Wharf). This is not representative of the borough's economic context or hotel market.

What is also appropriate to note is the proposed CIL hotel rates in adjacent boroughs are significantly lower. The rates proposed by the immediate adjacent boroughs north of the Thames are as follows: London Borough of Hackney £65 per sqm; City of London £75 per sqm; and London Borough Newham £120 per sqm. Therefore if the Council remain intent on imposing a single hotel CIL rate across the Borough it is recommended that it should be significantly lower than the proposed £210 per sqm and more reflective and comparable to the rates suggested in adjacent boroughs. However, Travelodge remain of the view that differential rates should be set within the borough in response to hotel development. Regulation

14 of the CIL Regulations (2010) requires that proposed hotel CIL rates should be set to reflect an appropriate balance across an area – this has not been achieved within Tower Hamlets.

Overall, an appropriate evidence base has not been appraised or tested which effectively accounts for the economic disparities that exist within the Borough. It is considered therefore that the evidence base that has been used to inform the proposed CIL rate for hotels is limited and inadequate. Further appraisals should be undertaken to address this imbalance prior to submitting the revised charging schedule to Examination. As it stands, it has not been demonstrated that a credible evidence base has been used to inform the CIL rate for hotel use.

Conclusion

Overall, CIL should not worsen viability and prejudice development. To enable the London Borough of Tower Hamlets to fully understand the potential effects of a hotel levy on the economic viability of development, a greater number of hotel comparables still need to be appraised and with hotel sector input. Proposing a CIL charge rate for hotels at £210 across the entire borough will not serve to provide funding for infrastructure as this rate will prevent hotel development coming forward and therefore will not achieve the aim of CIL.

The relevant tests contained within Section 212 (4) of the Planning Act (2008) and Regulation 14 of the CIL Regulations (2010 as amended) is not considered to have been met as a result of the available evidence base.

We trust that these representations will be taken into account in advance of submitting the CIL Charging Schedule for Examination. We also request to appear at the Examination.

Yours sincerely



Kiran Ubbi
Planner

DP9
 Consultants

CEMc/HF/DP2874

2nd December 2013

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Dear Sirs,

**REVISED DRAFT CIL CHARGING SCHEDULE, OCTOBER 2013
 REVISED PLANNING OBLIGATIONS SPD, OCTOBER 2013
 SUBMISSION OF REPRESENTATIONS BY MPG ST KATHERINE LP**

On behalf of MPG St Katherine LP, we write to submit representations to the above documents.

MPG St Katherine hold significant interests in the Borough. DP9 submitted representations to the Draft Charging Schedule issued in March 2013.

Despite further work being undertaken, our client remains concerned about compliance of the Revised Draft Charging Schedule with planning policy and statutory guidance.

The previous representations that were submitted remain valid. However, MPG St Katherine LP would also like to take the opportunity to respond to the detailed comments made by the Council to our previous representations. These comments are attached at Appendix A.

As per our previous representations, we are not satisfied that the evidence base presented to underpin the Draft CIL Charging Schedule is robust and the consequences of adopting the Charging Rates set out within it have been properly considered. There are two fundamental areas of concern: the first relates to the viability of designated area, including the delivery of the Borough's housing and other infrastructure requirements; and, the second relates to the setting of the charging zone boundaries.

Should you wish to discuss any of our comments, please contact Caroline McIntyre or Holly Farrow of this office.

Yours faithfully,



DP9

APPENDIX A

Further response by MPG St Katherine LP to Council's detailed response to previous representations

182	CIL_DCS29: MPG St Katherine LP (DP9)	Council's Comments	MPG St Katherine LP (DP9), November 2013
	<p>The Proposed Draft Charging Schedule does not comply with the NPPF (Para 173 and 175), the Statutory Guidance (Para 8, 9, 15, 21, 22, 25, 27, 30, 34, 85) and the Development Plan.</p>	<p>The NPPF, Statutory Guidance and Development Plan have all been considered in the CIL rates setting process. The CIL Regulations 2010 as amended and associated guidance acknowledge that it is for the charging authority to aim to strike an appropriate balance between infrastructure provision and viability when setting its charging rates. The Council has to take a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in the economic cycle. The Council has proposed a CIL charge that amounts to less than 5% of the development costs of residential development; a modest proportion of development costs. The Council has also proposed a minimum discount of 25% of the maximum CIL chargeable in the rates reflected in the Revised Draft Charging</p>	<p>MPG St Katherine LP remain concerned that the NPPF and CIL Guidance have not been appropriately addressed in the Council's Revised DCS and the evidence base supporting this. The concerns explained in our letter of June 2013 therefore remain valid.</p> <p>The Council has highlighted the importance of the 25% buffer it has applied (or rather 'discount') to the maximum CIL rates it could have proposed. MPG St Katherine LP is concerned about the basis and logic associated with the 25% buffer which has not been appropriately explained. The main points MPG St Katherine LP has on this matter are, as follows:</p> <ul style="list-style-type: none"> The BNPP Viability Study states the following: "The ability of residential schemes to make CIL contributions varies depending on area and the current use of the site. Having regard to these variations, residential schemes should be able to absorb a maximum CIL rate of between £80 to £300 per square metre. The department for Communities and
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		<p>Schedule. It is highly unlikely therefore that CIL would be the determining factor that would make developments unviable. In addition, the Council's policy for affordable housing and other policy requirements have been factored into the viability appraisals undertaken to arrive the Revised Draft Charging Schedule CIL rates proposed. Accordingly, the Council is of the view that it has fully considered the implication of the development plan for the CIL charge and the impacts of the proposed CIL on the development plan.</p>	<p>Local Government ('DCLG') guidance requires that charging authorities do not set their CIL at the margins of viability. Other authorities have set their rates at a discount (buffer) to the maximum rate, with discounts ranging from circa 20% to 50%. We would recommend a buffer of circa 25% for Tower Hamlets."</p> <ul style="list-style-type: none"> • There is no explanation as to why BNPP has concluded that a 25% buffer is recommended. • The 25% buffer has been applied as a blanket factor across the whole of LBTH. It does not alter to reflect the complexity and challenges associated with different types of development.
<p>255</p>	<p>We are concerned that insufficient evidence has been provided in the Viability Study (2013) to support differential rates for residential uses by areas.</p>	<p>The Viability Study (October 2013) demonstrates the variation in sales values across the borough and therefore demonstrates the appropriateness of differential rates for residential users by area.</p>	<p>The key issue remains that CIL rates should be based on an evidence base that includes market testing and market sense-checking. This is common to advice / guidance on viability offered by both the Local Housing Delivery Group publications 'Viability Testing Local Plans' (2012) and the RICS 'Financial Viability in Planning' (2012). No evidence of market testing and market sense-checking has been provided.</p> <p>Without market testing and market sense-checking it is uncertain how robust or sufficient the 25% buffer / discount is.</p>

256	<p>We recommend that three proposed Charging Zones are too broad brush and a more detailed assessment is required to identify more Charging Zones and a more divers Charging Rate.</p>	<p>It is acknowledges that a range of residential values will be achieved on new build schemes in each Zone. However, the approach to proposing three residential charging zones is done so to avoid undue complexity in line with paragraph 37 of the CIL Guidance, 2013.</p>	<p>The concerns about grouping together areas where there are wide variations in values remains. The DCLG Guidance states at paragraph 27 that 'in most instances where a charging authority is proposing to set differential rates, they will want to undertake more fine-grained sampling (of a higher percentage of total sites), to identify a few data points to use in estimating the boundaries of particular zones, or different categories of intended use. The sampling should reflect a selection of the different types of sites included in the relevant Plan, and should be consistent with viability assessment undertaken as part of plan-making.' The BNPP report fails to undertake a sufficient amount of sampling to allow a robust average charging rate to be set. There is a significant difference between the charging rates set for residential use in Zone 1 at £200 per sqm compared to Zone 2 at £65 per sqm. Further sampling within these zones is required to justify the charging rates proposed and ensure that they do not result in unviable development.</p>
257	<p>The Council should provide explanation on the assumption of the level of S106 contributions payable by scheme at £1,220 per residential unit.</p>	<p>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 where it can be quantified, and the figure adopted is broadly</p>	<p>MPG St Katherine LP is concerned about the Council's response on this important matter. In the context of June 2013 representations, MPG St Katherine LP do not understand how the Council has arrived at its assumptions for residual Section 106 and Section 278. There</p>

		<p>in line with those adopted by many other London boroughs for CIL testing purposes.</p>	<p>does not appear to be any evidence. Why is it that the assumptions are considered to be a 'reasonable proxy'? What is this proposition based on?</p> <p>Based on a review of the Council's proposed Regulation 123 List, the Council should have considered the infrastructure items that are needed and ascertained whether these would be covered by the Regulation 123 List or not (i.e. delivered through Section 106 and Section 278 as opposed to CIL). This is especially necessary because the Council highlights on its Regulation 123 List that Section 106 may continue to apply if the infrastructure is required to make the development acceptable in planning terms (in other words, if site specific mitigation is required). In essence, this is no change to the system pre-CIL charging.</p>
<p>258</p>	<p>The Draft Regulations 123 list is very generic and does not provide clarity on what infrastructure will be provided under the Borough's CIL.</p>	<p>In accordance with the CIL Regulations 2010 (as amended) and CIL Guidance 2013 (paragraph 15) the Council has set out for examination a draft list of the projects or types of infrastructure that are to be funded in whole or in part by the levy. The list has been published alongside a revised Planning Obligations SPD to provide transparency on what the charging authority intends to fund in whole or part through the levy and those</p>	<p>The Regulation 123 list is noted and is helpful in providing some clarity when read in conjunction with the draft SPD on Planning Obligations.</p>

	<p>With regard to energy contribution stated within the Draft Planning Obligations SPD we object to paying contribution if targets are not met. There is no clarity on threshold levels before payment is triggered.</p>	<p>known matters where S106 contributions may continue to be sought.</p>	
<p>259</p>		<p>Policy DM 29 of the Managing Development Document clearly sets out the extent to which residential and non-residential developments will be expected to reduce Carbon emissions up to the year 2031. Should a development fail to meet these targets through on-site provision, and all opportunities to do so have been exhausted, financial contributions towards carbon reduction projects will be secured through Section 106 Agreements. It is appropriate to mitigate any environmental sustainability impacts of development on a scheme by scheme basis, rather than through CIL as the opportunity to enter into a Section 106 Agreement on non-policy compliant schemes allows for a proactive and flexible approach to development in circumstances where environmental sustainability is an issue. Additionally, it is important to reserve the opportunity to penalise non-compliant schemes to ensure incentives to reduce carbon emissions on-site are not undermined.</p>	<p>Comment Noted</p>

<p>260</p>	<p>With regard to biodiversity contribution stated within the Draft Planning Obligations SPD we object as it will penalise sites that for physical reasons cannot contribute to biodiversity.</p>	<p>Policy DM11 of the Managing Development Document clearly sets out the Council's approach to ensuring all new developments enhance, and do not harm, the borough's natural environment and biodiversity value. Potential developments which fail to achieve on-site policy compliance in respect of this policy will be required to mitigate the impacts of the development through financial contributions. It is appropriate to mitigate any environmental impacts of development on a scheme by scheme basis, rather than through CIL as the opportunity to enter into a Section 106 Agreement on non-policy compliant scheme allows for a proactive and flexible approach to development in circumstances where environmental sustainability is an issue. Additionally, it is important to maintain the opportunity to penalise non-compliant schemes to ensure incentives to enhance biodiversity value and habitats on-site are not undermined.</p>	<p>Comment Noted</p>
<p>261</p>	<p>Greater clarity in the Planning Obligations SPD is required relating to when obligations will apply.</p>	<p>The Draft Planning Obligations SPD clearly describes the thresholds and circumstances under which a Section 106 Agreement may be required to mitigate any impacts of development which are site specific. In all such instances the value of any financial contribution sought as part of a Section 106 Agreement will be dependent upon the extent to which a scheme deviated from policy compliance or causes harmful site-</p>	<p>Comment Noted</p>

	<p>specific impacts. It is not therefore appropriate to provide an indicative value for each principal clause within a Section 106 Agreement. When a S106 requirement does bare a direct correlation to the nature and scale of a scheme, such as in the case of training contributions and Crossrail contributions, standard formulae are available which can be used to indicate a value.</p>	
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LONDON BOROUGH OF TOWER HAMLETS: COMMUNITY INFRASTRUCTURE LEVY

**Draft Charging Schedule
Representations on behalf of UNITE Group PLC
CgMs Ref: 13442**

Purpose of Note

To provide representations to the Draft Charging Schedule (DCS), further to our initial DCS representation dated 5th June 2013 and follow up meeting with LBTH on 12th November 2013. This representation concluded:

1. No justification of projected rental values was forthcoming
2. A consistent approach to proposed student accommodation levy was advocated, accounting for values across the Borough and reflecting the approach to varying market values for different land uses. The DCS amends the proposed Levy for Hotels, justified via further sensitivity analysis for relevant scheme appraisals within LBTH viability assessment .
3. Minor variations to the appraisal variables demonstrate a significant impact upon scheme viability
4. The Existing Use Values adopted within LBTH appraisals are flawed and undermine scheme viability

CgMs reserve the right to participate in the forthcoming DCS Examination in Public (EIP) in order to amplify the further principal issues raised below and respond further to LBTH, as required.

Draft Charging Schedule – Representations – Principal Issues

DCS needs to account for the two Borough areas identified within the adopted Development Plan which focus student accommodation delivery– i.e. Aldgate and Mile End. The following additional issues are therefore raised in respect of the DCS: -

1. Existing Use Value (EUV) and Rental Levels for Mile End are specifically appraised.
2. Existing Use Value (EUV) and Rental Levels for Aldgate are specifically appraised.

UNITE Group PLC have therefore commissioned the two **Appraisals attached at Appendix 1.**

*1. Geographical Approach – **Mile End** EUV and Projected Rental Values (Appendix 1)*

LBTH Core Strategy and Managing Development Policies dictate student accommodation is expected to be delivered within proximity to London Metropolitan University and Queen Mary University (respectively Aldgate and Mile End areas of the Borough). This comprises CIL Charging Zones 1 and 2 respectively. The appraisals undertaken by the LPA therefore must accurately reflect EUV for both areas as EUV is used as a Benchmark value to test viability in a Residual Valuation appraisal model.

LBTH assumption of EUV and rental values in Mile End is flawed as:-

- a. Existing floorspace as % of new should be assumed at 35% within high density

- location
- b. £200/pw (term rent) and £225/pw (vacation rent) represents accurate likely maximum achievable rents for this location.

Appraisal A (see Appendix 1) uses the same development costs assumptions as the LBTH appraisal (rolls build costs and contingency as a singular assumption). By varying the EUV to reflect accurate level for this part of the borough, the following is demonstrated:

- a. Gross Development Value: **£54,055,728**
 b. Minus Total Development Costs: **£46,741,195**
 c. Gives Residual Land Value: **£5,888,382**
 d. Minus Existing Use Value: **£3,697,024**
 e. Leaves Surplus of: **£2,191,358**
 f. Means Maximum viable CIL at: **£255/sq.m**
 g. Using LBTH Appraisal buffer (35%): **£166/sq.m**

2. Geographical Approach – Aldgate EUV and Projected Rental Values (Appendix 2)

As above, the appraisals undertaken by the LPA must accurately reflect EUV for both areas where student accommodation is directed toward as EUV is used as a Benchmark value to test viability in a Residual Valuation appraisal model.

LBTH assumption of EUV does and rental values does not accurately reflect values in Aldgate as:-

- a. The yield rate (total revenue, capitalised and including costs) is set too high
 b. Existing rent is set too low (£15/sq.ft is considered more accurate, reflecting the central London location) and has considerable bearing on the EUV benchmark
 c. The projected achievable rental level should also account for maximum higher rental at £220/pw and vacation rent (assumed at £248/pw.)
 d. Existing floorspace as % of new should be assumed at 35% within high density location

Appraisal B (see Appendix 1) uses the same development costs assumptions as the LBTH appraisal (appraisal rolls build costs and contingency as a singular assumption). Notwithstanding the reduced yield and the amended rent levels, the increased existing use rental level results in a higher EUV benchmark and therefore the following is demonstrated:

- a. Gross Development Value: **£61,043,861**
 b. Minus Total Development Costs: **£48,261,114**
 c. Gives Residual Land Value: **£10,290,431**
 d. Minus Existing Use Value: **£5,706,477**
 e. Leaves Surplus of: **£4,583,955**
 f. Means Maximum viable CIL at: **£533/sq.m**
 g. Using LBTH Appraisal buffer (35%): **£346/sq.m**

Draft Charging Schedule – Representations – Conclusion

It is demonstrated above that minor variations in the assumptions used by LBTH to demonstrate that student accommodation can support the proposed CIL at £425/sq.m across the Borough cannot be substantiated and is unviable.

The singular tariff approach set at this unviable level does not account for alternative values within the specific areas of the borough to which student accommodation is restricted. There are therefore two options: -

1. Include Student accommodation within the CIL Zone approach; or
2. Set student accommodation levy at a borough wide viable level

In accordance with UNITE's representations dated 5th June 2013, option 2 immediately above is the preferred option. This reflects (a) LBTH approach to hotel accommodation, (b) The Framework Paragraph 175 and (c) Statutory Guidance Paragraphs 8 and 37 (see representation letter 5th June 2013).

The assessment above and included within the appendices demonstrates that a viable and reasonable CIL rate between £166/sq.m - £350/sq.m CIL can be viably and reasonably achieved when using accurate appraisal variables, i.e. (a) bespoke projected rental levels; (b) existing use yield; (c) existing use rental values. However the values vary considerably across the borough, which does not reflect the student accommodation market in the borough. It is demonstrated above, the minor alterations in the development variables have a considerable impact upon viability and therefore an amended lower CIL rate for student accommodation is respectfully requested.

CgMs Ltd
December 2013

Date of Val ^A	24-Oct-13
Date Printed	02/12/2013 16:48

COMMUNITY INFRASTRUCTURE LEVY
Commercial Development

DEVELOPMENT VALUE	Common Assumptions		Appraisal A		Appraisal B	
	Existing Space	Rooms	£ per room	£ pa	£ per room	£ pa
<u>Rental Income</u>						
Gross Rent	49,875	500	£200.00	£4,636,500	£220.00	£5,100,150
Operating Costs				-£1,050,000		-£1,050,000
Net Annual Rents				£3,586,500		£4,050,150
Rent free / voids (years)			-	-	-	-
Yield	6.25%		6.25%		6.25%	
Capitalised rent				£57,384,000		£64,802,400
GROSS DEVELOPMENT VALUE						
Purchasers Costs	5.80%			£3,328,272		£3,758,539
				£54,055,728		£61,043,861
DEVELOPMENT COSTS						
<u>Development Costs</u>						
Existing floor area	35%					
Demolition costs (psf)	£5			£249,375		£249,375
Building costs (psf)	£180			£25,650,000		£25,650,000
Area per unit (inc. common area)	285	142,500				
External works	10.00%			£2,565,000		£2,565,000
Professional fees	10.00%			£2,846,438		£2,846,438
Contingency				£0		£0
Mayor CIL and S106				£1,232,512		£1,232,512
<u>Disposal Costs</u>						
Letting Agent's fee (% of rent)	0.00%			£0		£0
Agent's fee (on capital value)	1.00%			£540,557		£610,439
Legal fees (% of capital value)	0.75%			£405,418		£457,829
<u>Interest on Finance</u>						
Total development duration	24 months					
Loan arrangement fee		1.00%		£325,433		£325,433
Interest on Construction Costs	24 months	6.50%		£2,115,316		£2,115,316
<u>Profit</u>						
Developer's profit on total revenue	20.00%			£10,811,146		£12,208,772
TOTAL DEVELOPMENT COSTS				£46,741,195		£48,261,114
LAND VALUE						
Land surplus				£7,314,533		£12,782,747
Stamp duty	4.00%			£292,581		£511,310
Agent's fees	1.25%			£91,432		£159,784
Legal fees	0.50%			£36,573		£63,914
Interest rate	6.50%			£1,005,565		£1,757,308
Finance period	24 months					
RESIDUAL LAND VALUE				£5,888,382		£10,290,431
Less CUV				£2,191,358		£4,583,955
Net additional floorspace (sq ft)		92625		92625		92625
Net additional floorspace (sq m)		8,605		8,605		8,605
Maximum CIL per sqm						
Against CUV				£255		£533

Date of Val* 24-Oct-13
Date Printed 02/12/2013 16:38

**COMMUNITY INFRASTRUCTURE LEVY
Commercial Development**

	Common assumptions	CUV A	CUV B
Current use value			
Existing space as percentage of new	35%		
Rent per sq ft	49,875	£12 psf	£15 psf
Rental income per annum		£598,500	£748,125
Rent free/voids (years)		3.0	3.0
Total revenue, capitalised (including all costs)		8.00%	7.75%
Refurbishment costs	£50 psf	£2,493,750	£2,493,750
Fees	7%	£174,563	£174,563
Capitalised rent, net of refurb and fees		£3,270,544.95	£5,048,192
Purchaser's costs	5.80%	-£189,692	-£292,795
Current use value		£3,080,853	£4,755,397
CUV including landowner premium		20%	20%
		£3,697,024.02	£5,706,477

Date of Val ^a	24-Oct-13
Date Printed	02/12/2013 16:48

COMMUNITY INFRASTRUCTURE LEVY

Commercial Development

DEVELOPMENT VALUE	Common Assumptions		Appraisal A		Appraisal B	
	Existing Space	Rooms	£ per room	£ pa	£ per room	£ pa
Rental Income						
Gross Rent	49,875	500	£200.00	£4,636,500	£220.00	£5,100,150
Operating Costs				-£1,050,000		-£1,050,000
Net Annual Rents				£3,586,500		£4,050,150
Rent free / voids (years)				-		-
Yield	6.25%		6.25%		6.25%	
Capitalised rent				£57,384,000		£64,802,400
GROSS DEVELOPMENT VALUE						
Purchasers Costs	5.80%			£3,328,272		£3,758,539
				£54,055,728		£61,043,861
DEVELOPMENT COSTS						
<u>Development Costs</u>						
Existing floor area	35%					
Demolition costs (psf)	£5			£249,375		£249,375
Building costs (psf)	£180			£25,650,000		£25,650,000
Area per unit (inc. common area)	285	142,500				
External works	10.00%			£2,565,000		£2,565,000
Professional fees	10.00%			£2,846,438		£2,846,438
Contingency				£0		£0
Mayor CIL and S106				£1,232,512		£1,232,512
<u>Disposal Costs</u>						
Letting Agent's fee (% of rent)	0.00%			£0		£0
Agent's fee (on capital value)	1.00%			£540,557		£610,439
Legal fees (% of capital value)	0.75%			£405,418		£457,829
<u>Interest on Finance</u>						
Total development duration	24 months					
Loan arrangement fee		1.00%		£325,433		£325,433
Interest on Construction Costs	24 months	6.50%		£2,115,316		£2,115,316
<u>Profit</u>						
Developer's profit on total revenue	20.00%			£10,811,146		£12,208,772
TOTAL DEVELOPMENT COSTS				£46,741,195		£48,261,114
LAND VALUE						
Land surplus				£7,314,533		£12,782,747
Stamp duty	4.00%			£292,581		£511,310
Agent's fees	1.25%			£91,432		£159,784
Legal fees	0.50%			£36,573		£63,914
Interest rate	6.50%			£1,005,565		£1,757,308
Finance period	24 months					
RESIDUAL LAND VALUE				£5,888,382		£10,290,431
Less CUV				£2,191,358		£4,583,955
Net additional floorspace (sq ft)		92625		92625		92625
Net additional floorspace (sq m)		8,605		8,605		8,605
Maximum CIL per sqm						
Against CUV				£255		£533

ENGLISH HERITAGE

CIL - RDCS 38

Infrastructure Planning Team
 London Borough of Tower Hamlets
 Development & Renewal
 Mulberry Place
 5 Clove Crescent
 London
 E14 2BG

Our ref: 1671

Your ref: [REDACTED]

Telephone
 Fax

11 November 2013

Dear Infrastructure Planning Team

**Consultation on London Borough of Tower Hamlets' Community Infrastructure
 Levy Revised Draft Charging Schedule 2013**

Thank you for your letter of 21 October 2013 consulting English Heritage on the revisions to the planning document relating to the above site.

Our specialist staff have considered the information received and we do not wish to offer any comments on this occasion.

If you would like further advice, please contact us to explain your request. We can then let you know if we are able to help further and agree a timetable with you.

In returning the consultation to you without comment, English Heritage stresses that it is not expressing any views on the merits of the proposed revisions.

Yours sincerely

[REDACTED]
 Julie Patenaude
 Business Officer
 [REDACTED]

1 WATERHOUSE SQUARE, 138-142 HOLBORN, LONDON EC1N 2ST

Telephone 020 7973 3000 Facsimile 020 7973 3001

www.english-heritage.org.uk

Please note that English Heritage operates an access to information policy.
 Correspondence or information which you send us may therefore become publicly available



Development Consultants

DS2

PL/ds
02.12.2013CIL Consultation
Infrastructure Planning Team
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Dear Sir / Madam

LONDON BOROUGH OF TOWER HAMLETS – COMMUNITY INFRASTRUCTURE LEVY DRAFT CHARGING SCHEDULE REPRESENTATIONS ON BEHALF OF DOCKLANDS CENTRE LIMITED IN RELATION TO NO.2 MILLHARBOUR

Docklands Centre Limited holds an interest in the No.2 Millharbour, a major site on the Isle of Dogs to the immediate south of Canary Wharf. Our client remains concerned about the Revised Draft Charging Schedule compliance with planning policy and statutory guidance. In making these comments we have had sight of the following documentation:

- Revised Preliminary Draft Charging Schedule (October 2013)
- Detailed Consultation Responses to Draft Charging Schedule (October 2013)
- Summary of Consultation Responses to the Draft Charging Schedule with particular regard to Section B (October 2013)
- BNPP CIL Viability Assessment (August 2013)
- CIL Draft Charging Schedule – S106 Report (October 2013)
- CIL Infrastructure Planning and Funding Gap Funding Report (October 2013)

On the basis of the evidence put forward by the Council, the landowner considers that:

- An appropriate balance has not been struck between the need to fund necessary infrastructure and the potential economic viability of development across its area; and
- The Charging Authority has not complied with the requirements set out at paragraph 9 of DCLG's 'Community Infrastructure Levy: Guidance' (April 2013).

We are not satisfied that the evidence base presented to underpin the Draft CIL Charging Schedule is correct and the consequences of adopting the Charging Rates set out within it have been properly considered. We have reviewed the BNP Paribas Viability Study that underpins the Charging Schedule and highlight below a number of concerns relating to the robustness of the residual outputs that inform the charging rates.

We note that No.2 Millharbour is not listed as a strategic site, albeit there are a number of strategic sites that have been discounted from the study as they are already unviable and as such CIL is not deemed to be a contributing factor to their non-delivery. It is not clear as to whether 2 Millharbour is one of these unviable sites.

Table One: Response to the BNPP CIL Viability Assessment – Key Development Inputs		
Viability Input	BNPP Input	Landowner comments
Gross to net ratio	85% residential	No.2 Millharbour will be highly unlikely to get anywhere near 85% gross to net given the inclusion of significant areas of basement, plant and storage and multiple cores. The 85% gross to net ratio potentially overvalues the net income and as such the viability, particularly on larger sites.
Private residential profit	IRR based return albeit no target provided (a range of 11 to 13% in noted within the BNPP commentary)	We note that BNPP have included reference to 20% IRR being reasonable at 7.15 of their updated report in relation to the strategic site appraisals following representations made earlier in the year including those from DS2. Whilst a 20% IRR is referenced in the BNPP report, the report then states that 11% to 13% is reasonable based upon <i>'our experience on large schemes in London that developers have agreed to proceed with developments identified as generating IRRs of between 11% and 13%'</i>
Build costs	£177 per sq ft residential	The BNPP build costs are extremely low at £177 per sq ft on the GIA and the initial figures for the site specific application are at significant variance to those included in the BNPP study. Whilst for reasons of confidentiality we are unable to release the site specific figures at this time, the current build costs are comparable with figures made in other CIL representations for strategic sites elsewhere in the borough.
Planning Obligations (s106 and s278)	£1,220 per unit	Requires an analysis that is site specific and an understanding of the cumulative burden of planning policies and guidance. Current examination would suggest that the £1,220 per dwelling for site specific mitigation will not be sufficient.
Site Value	Unknown but BNPP study based upon 'CUV plus approach'	The Council's Summary at 2.10 makes reference to the Local Housing Delivery Guidance (Lord Harman) dated June 2013. The LHDG study makes reference to a 'sense check' on pages 29 and 30 to local comparable land evidence in order to ensure that the margin above the Current Use Value (CUV) is appropriate. The BNPP Viability assessment does not sense check the Benchmark Land Values that are constructed on the 'CUV plus' approach and there is therefore no recognition as to whether the land values that are included in the site appraisals bear any resemblance to the local market and as such, in accordance with paragraph 173 of the NPPF, <i>'provide competitive returns to a willing land owner'</i> . Whilst there are a range of variables that impact upon land value as noted in the Council's Summary at 2.11, analysis of the local land market provides a reasonable range which should be used to inform the process. We would agree that only a certain amount of weight should be adopted in the use historic land information for the purposes of policy making, however the 'sense check' that the LHDG publication refers to remains important so that there is not a complete separation in land value for the purposes of policy making and the market otherwise if land value is set at a punitive rate, sites simply will not come forward.

If you would like to discuss No.2 Millharbour in greater detail we would be able to meet with you and your colleagues as we have done on other strategically important sites.

Yours sincerely

Pascal Levine MRICS
Partner, DS2



Date 27th November 2013

Your Reference

Our Reference MBK/AO/30318

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Infrastructure Planning Team
London Borough of Tower Hamlets
2nd Floor Mulberry Place
5 Clove Crescent
London E14 2BG

CIL - RDCS 40

Dear Sirs

LB Tower Hamlets - Community Infrastructure Levy - Consultation On Revised Draft Charging Schedule

We write in order to make comment on the above named document. Please note that we act on behalf of the London Fire And Emergency Planning Authority (LFEPA) and that this representation is made on their behalf. For your information, the following LFEPA sites are within the borough:-

- Bethnal Green Fire Station – 11 Roman Road, E2 0HU.
- Bow Fire Station – 64 Parnell Road, E3 2RU.
- Millwall Fire Station – 43 Westferry Road, E14 8JH.
- Poplar Fire Station – 168 East India Dock Road, E14 0BP.
- Shadwell Fire Station – 290 Cable Street, E1 0BX.
- Whitechapel Fire Station – 27 Commercial Road, E1 1LD.

We note, under Appendix 3 of the Draft Charging Schedule, that there is a list setting out the 'types of infrastructure projects that Tower Hamlets Council intends will be, or may be, wholly or partly funded by CIL.' We request that 'fire fighting facilities and ancillary' be included on this list. This is due to the fact that we consider fire stations to be community safety facilities, which are included within the wider definition of 'infrastructure' under the Planning Act 2008.

As fire stations are a vital community safety facility, we believe that consideration should be given to the use of CIL funding for any future LFEPA fire fighting and ancillary use development within the borough. Please note that LFEPA do not receive any Section 106 contributions, despite having requested them in the past, via planning framework representations.

Cont/..

regulated by RICS

Whiteboard: 020 7891 2345
list of partners is on display at the Firm's offices.

WEST END OFFICE

54 Conduit Street
London W1S 2YV
F: 020 7891 2399

Page 143 of 166

We trust that the above is clear and look forward to receiving future correspondence from you relating to the matter. Please note that we do wish to be kept informed of all future progress regarding this matter and ask that all correspondence is sent to the above address, for the attention of Mel Barlow-Graham. We will not, however, look to be heard by the Independent Examiner at the public hearing examination.

In the meantime, please do not hesitate to contact Mel Barlow-Graham, of this firm, should you require any further information, or further clarification of the point raised above.

Yours faithfully



Dron & Wright

(njob/30318/bexleyCILui24 (MBG))

Joseph Ward

From: Rose Freeman [REDACTED]
Sent: 27 November 2013 18:13
To: CIL
Subject: Revised CIL Draft

Our Ref.: C/5420

CIL Revised Draft Charging Schedule

Thank you for your email of 21 October consulting The Theatres Trust on the revised draft charging schedule for the Community Infrastructure Levy.

We support the nil rate for 'All other uses' in Table 1.

We suggest that Appendix 3 is unclear with regard to the use of the term 'community facilities' in the second bullet point. Other bullet points identify such facilities for leisure, health, sports, public art and churches which we would classify under the umbrella term of 'community facilities'. What other facilities does this term therefore illustrate?

Rose Freeman
Planning Policy Officer
The Theatres Trust
22 Charing Cross Road
London WC2H 0QL
[REDACTED]

planning@theatrestrust.org.uk

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CIL RDCS Consultation
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London Borough of Tower Hamlets
2nd Floor Mulberry Place
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London
E14 2BG

Our ref: 13-103

2nd December 2013

Dear Sir/Madam

**Re: London Borough of Tower Hamlets CIL Revised Draft Charging Schedule
Representations of Woodchester No.1 Limited**

On behalf of our client, Woodchester No.1 Limited, we (bptw planning) set out below our representations on the London Borough of Tower Hamlets (LBTH) Community Infrastructure Levy (CIL) Revised Draft Charging Schedule (October 2013), out to consultation until 2nd December 2013.

Woodchester No.1 Limited has an interest in various development sites within the London Borough of Tower Hamlets, and in particular an interest in the Boatman's House site, on the eastern side of the Millwall Docks, to the south of Pepper Street.

Policy Framework

The National Planning Policy Framework (NPPF) states in paragraph 173 that:

"Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened." [underlining added]

With regard to CIL in particular, paragraph 175 states that:

bptw partnership is the trading name of bptw (ip) which is a limited liability partnership registered in England with number OC301897
registered office: 110-114 Norman Road, Greenwich, London SE10 9QJ.

"Where practical, Community Infrastructure Levy charges should be worked up and tested alongside the Local Plan. The Community Infrastructure Levy should support and incentivise new development, particularly by placing control over a meaningful proportion of the funds raised with the neighbourhoods where development takes place." [underlining added]

We consider that the Revised Draft Charging Schedule does not adequately meet the objectives of the NPPF requirements, in that the currently proposed CIL charges, in particular for new residential development, are too high, ultimately de-incentivising development in the area and in many cases making development unviable. This is discussed further below.

Proposed Residential Charges

The Revised Draft Charging Schedule, as with the previous schedule in April 2013, creates three zones within the borough, for charging for new residential development. For Zone 1, the highest charging zone, a charge of £200 per sqm of net additional residential development is proposed, for Zone 2 a charge of £65 per sqm is proposed, and for Zone 3 a charge of £35 per sqm is proposed.

We support the Council's approach in creating differential rates for CIL through zoning; however, we consider that the charge for residential development in Zone 1 is too high, and grossly out of proportion with the other two Zones. We are aware of a number of representations having been made by developers and landowners, as well as by the GLA, which consider that there are flaws in the Viability Study supporting the Draft Charging Schedule, and that little evidence has been provided to demonstrate that the impact of residential development within Zone 1 would be significantly greater than that of Zones 2 or 3, to justify this leap in the level of charging.

Despite a number of representations in the previous consultation of the Draft Charging Schedule (April 2013) in April to June 2013, the proposed charge of £200 per sqm has not been revised to take account of these and other similar concerns raised. This extremely high charge for residential development in Zone 1 is not in line with the objectives of the NPPF, given that it will prejudice development coming forward in this area, will likely make many schemes unviable, and de-incentivise development in the area.

Inconsistency with Local Policy

In addition to the proposed charge for development in Zone 1 being too high, we consider that the proposed boundaries of the zones and the subsequent levels of charging are not consistent with the Council's adopted policies with regard to the location of tall buildings.

Current local policy encourages tall buildings to be located within designated Town Centres, Activity Areas, the Central Activities Zone (CAZ) and Preferred Office Locations. The proposed Zone 1 boundary includes

areas where tall buildings are encouraged, such as Canary Wharf and Crossharbour District Centre, as well as areas such as that to the south of Pepper Street which lie outside of the designated areas where tall buildings are considered acceptable. However, the high CIL charge for residential development in Zone 1 is to be applied right across this area.

Such a high CIL rate will result in developers having to maximise the density of residential developments, and therefore building heights, coming forward in order for schemes to be viable. However, as already stated, local policy resists taller buildings in many of the areas covered by Zone 1. Where there is an indication that the Council will resist higher density development, on sites such as Boatman's House (being located outside of Crossharbour District Centre), this higher CIL rate will then significantly impact on the ability of the developer to deliver a viable scheme due to height restrictions, and also impact on the ability of the developer to deliver affordable housing, being the only remaining variable in the equation.

We therefore consider that the Draft Charging Schedule rates and zoning for residential development in the borough is inconsistent with adopted policy within the Local Development Framework, and is subsequently contrary to national planning policy as set out in the NPPF.

CIL Phasing

The introduction of the Tower Hamlets CIL will have a significant effect on schemes coming forward in the borough, and in particular in the Docklands and Isle of Dogs areas, largely due to the scale and nature of the development taking place there.

Given that many sites have been purchased on the basis of the existing policy framework, i.e. S106 obligations which are negotiable based on the viability of a scheme rather than the inflexible tariff charge imposed by CIL, we propose that the introduction of CIL could be phased. This would prevent schemes currently in the pipeline being rendered unviable.

We would suggest that CIL could be introduced over a period of around three years, starting with a much lower level charge, and stepping up to the final level of CIL to be imposed. We consider that this would enable landowners who have purchased sites at such a price that would make schemes undeliverable with the introduction of CIL, to deliver their proposed schemes, thereby allowing for the current momentum of development in the area to continue.

Conclusion

We consider that the Draft Charging Schedule is inconsistent with both local and national planning policy objectives, and that the proposed charge of £200/sqm of net additional residential development in Zone 1 is far too high, making many future developments in this area unviable. In addition to a reduction in the

proposed charge for development in Zone 1, we propose that CIL could also be phased in order to ensure that development continues to come forward in the next few years.

Yours faithfully

A large, irregular black redaction mark covering the signature of Mark Gibney.

Mark Gibney
Partner - Planning
on behalf of bptw partnership



Date: 29 November 2013
Our ref: 101321



ENGLAND

FAO: Joseph Ward
Infrastructure Planning Team
London Borough of Tower Hamlets
2nd Floor Mulberry Place
5 Clove Crescent
London E14 2BG

Consultation Service
Hornbeam House
Electra Way
Crewe Business Park
Crewe
CW1 6GJ
T: 0300 060 3900

By Email

CIL - RDCS 43

Dear Mr Ward,

Re: Tower Hamlet's CIL Revised Charging Schedule

Thank you for your consultation on the above, which was received by Natural England on the 21 October 2013.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Natural England has no specific comments to make on the draft CIL Charges, however would like to make the following general comments, which we hope are helpful.

Natural England is not a service provider, nor do we have detailed knowledge of infrastructure requirements of the area concerned. However, we note that the National Planning Policy Framework Para 114 states "Local planning authorities should set out a strategic approach in their Local Plans, planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure." We view CIL as playing an important role in delivering such a strategic approach.

As such we advise that the council gives careful consideration to how it intends to meet this aspect of the NPPF, and the role of the CIL in this. In the absence of a CIL approach to enhancing the natural environment, we would be concerned that the only enhancements to the natural environment would be ad hoc, and not deliver a strategic approach, and that as such the local plan may not be consistent with the NPPF.

Potential infrastructure requirements may include:

- Access to natural greenspace.
- Allotment provision.
- Infrastructure identified in the local Rights of Way Improvement Plan.
- Infrastructure identified by any Local Nature Partnerships and or BAP projects.
- Infrastructure identified by any AONB management plans.
- Infrastructure identified by any Green infrastructure strategies.
- Other community aspirations or other green infrastructure projects (e.g. street tree planting).
- Infrastructure identified to deliver climate change mitigation and adaptation.
- Any infrastructure requirements needed to ensure that the Local Plan is Habitats Regulation Assessment compliant

We hope that you find this information useful. For any correspondence or queries relating to this consultation only, please contact Piotr Behnke using the details given below. For all other correspondence, including in relation to forward planning consultations, please contact the address above or email consultations@naturalengland.org.uk.

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

Yours sincerely,

Piotr Behnke
Land Use Operations Team

[Redacted signature block]



CIL_RDCS 44

Your ref CIL RDCS
Our ref PlanningReps/LBTH/CIL

CIL Consultation
Infrastructure Planning team
London Borough of Tower Hamlets
2nd Floor Mulberry Place
5 Clove Crescent
E14 2BG

2 December 2013



Dear Sir

Representations on the Revised Draft CIL Charging Schedule

Thank you for providing us with the opportunity to comment on the Revised Draft CIL Charging Schedule. Land Securities is a FTSE 100 company and the largest Real Estate Investment Trust (REIT) in the UK, with a commercial property portfolio worth approximately £11.75 billion.

Land Securities owns in excess of 1.00m sq ft (92,900 sq m) of commercial office and retail accommodation within the London Borough of Tower Hamlets. The ownership is made up of 575,000 sq ft (53,400 sq m) at Thomas More Square, E1; and 470,000 sq ft (43,500 sq m) at Harbour Exchange, E14.

These representations are submitted on behalf of Land Securities in the context of its ownerships and its position as a major landowner and developer in the Borough.

These representations should also be considered in the context of the previous versions of the emerging CIL Charging Schedule.

General Principles

We acknowledge that, in setting CIL rates, the CIL Regulations (2010, as amended) require a charging authority to aim to strike an appropriate balance between the desirability of funding infrastructure from the levy and the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area (Regulation 14). In defining the appropriate balance, the latest CIL Guidance (April 2013) states that the levy is expected to "have a positive effect on development across an area".

It is noted that the monies collected through CIL will be used to fund the local infrastructure that is required to support new development and growth in the Borough, and this is welcomed.

Furthermore, we note that CIL will replace Section 106 agreements as the primary tariff based system to secure some or all of the funds necessary to provide infrastructure to support the sustainable development of the borough.

However, it is stated in the NPPF that development should not be subject to such a scale of obligations and policy burdens that its ability to be developed viably is threatened. To ensure viability, the NPPF



Representations on the Revised Draft CIL Charging Schedule (cont / 2)

states that the costs of any requirements likely to be applied to development, such as requirements for affordable housing and infrastructure contributions, should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable. Specifically, the NPPF states that CIL should "support and incentivise new development".

It is considered that in some locations within the Borough, CIL at the rates currently proposed in the Revised Draft CIL Charging Schedule may adversely impact scheme viability and, as such, will not create the conditions that support local economic growth, which is a key principle of the National Planning Policy Framework (NPPF) (2012). We do not believe that the appropriate balance has been struck in the proposed Revised Draft CIL Charging Schedule and, therefore, development activity will be stifled.

It is in this context that we make the following more detailed representations on the Revised Draft Charging Schedule.

Office

Land Securities' Thomas More Square site is situated within the City Fringe area identified in Appendix 1 of the Revised Draft CIL Charging Schedule. Thomas More Square is, however, geographically separated from the edge of the City of London by the residential development in St Katharine's Dock to the west and other residential development to the north of East Smithfield. It is, therefore, not comparable to the rest of the area identified as City Fringe.

Rental values are limited due to the distance from public transport links and are closer to those assumed in the BNP Paribas Viability Study for sites elsewhere in the Borough than those stated for the City Fringe.

As such, the Office Charging Zone in Appendix 1 of the Revised Draft Charging Schedule should be redrawn to exclude the Thomas More Square site from the City Fringe.

Retail

As stated above, it is considered that the Thomas More Square site is distinct from the edge of the City of London or 'City Fringe', as it is referred to in the Revised Draft Charging Schedule, as it is geographically separated and predominantly surrounded by residential development. Accordingly, the current and expected retail rents reflect this location and are considered to be more comparable to those expected in the BNP Paribas Viability Study for elsewhere in the Borough rather than assumptions for the City Fringe.

On that basis, the Retail Charging Zone in Appendix 1 of the Revised Draft Charging Schedule should be redrawn to exclude the Thomas More Square site from the City Fringe.

Representations on the Revised Draft CIL Charging Schedule (cont / 3)**Residential**

In the context of Land Securities' wider interest in development in the Borough, we comment on the proposed residential CIL rates below.

Increasing the supply of housing and, in particular, affordable housing is one of the top priorities of the Borough. The majority of developments within the Borough are already at the 'margins of viability', with the level of Section 106 contributions and other obligations, such as affordable housing, secured. This is evidenced by the number of residential schemes, for example, where the maximum amount of affordable housing that can be provided falls below the Borough's policy targets.

At a time when the Borough is under pressure to deliver its target growth levels, including increased housing supply, it is unreasonable to add an additional financial burden of these levels to developments that are already at their limits, particularly in the context of the Mayor's Draft Housing Strategy (November 2013), which proposes to increase the London Plan housing targets from 32,210 new homes per year to 42,000 new homes per year over the next ten years.

It is noted that CIL (both borough CIL and Mayoral CIL) is the top 'slice' cost on development and is non-negotiable. Whilst the appropriate time to test the viability of any development proposal for the site will be at the planning application stage, it is noted that in order to ensure that development remains viable whilst meeting its CIL requirements, it is other obligations, including the provision of affordable housing that may need to be reduced to below the target policy level of 35%.

It is also noted that the CIL rates for residential development are based on viability testing of eight strategic sites across the Borough, which have been identified in the Council's Managing Development Plan Document (DPD). Whilst this is considered an appropriate approach to viability testing in the CIL Guidance (2013), the Guidance also requires charging authorities to focus on "those sites (such as brownfield sites) where the impact of the levy on economic viability is likely to be most significance". It is therefore considered that the reliance on eight strategic sites as a sample to assess the viability of development across the Borough is too small and narrow to be robust and to fully understand the impact of CIL on viability. Further viability testing of other 'windfall' sites should be undertaken to ensure that CIL does not threaten the ability of the Borough to meet its growth targets.

Implementation of CIL

We understand that the forthcoming amendments to the CIL Regulations, due to be brought into effect by the end of January 2014, will allow for the provision of infrastructure in kind, either on- or off-site. In order to provide sufficient flexibility to allow development to come forward, whilst also ensuring delivery of the required infrastructure to support it, the final CIL Charging Schedule should make allowance for this provision.

Furthermore, the amendments to the CIL Regulations propose to allow for the phased payment of CIL for full planning permissions that are to be implemented in phases. It is considered that the Revised Draft Charging Schedule should reflect this to enable CIL to be paid in relation to each phase of development in order not to constrain delivery.

We look forward to receiving confirmation that these representations have been received. Please do not hesitate to contact me if you would like to discuss any of the above.

Representations on the Revised Draft CIL Charging Schedule (cont / 4)

We reserve the right to make further representations during any subsequent consultation periods and to attend the Examination in Public, as necessary.

Yours faithfully



Tom Venner
Development Director
London Portfolio



DP9 Consultants

JWP/CEMc/DP3373

2 December 2013

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Dear Sirs,

**REVISED DRAFT CIL CHARGING SCHEDULE, OCTOBER 2013
REVISED PLANNING OBLIGATIONS SPD, OCTOBER 2013
SUBMISSION OF REPRESENTATIONS**

On behalf of clients, we write to submit representations to the above documents.

Our clients are the current owners of the 'Whitechapel Estate'. The site has four separate owners; Cross Property Investment SARL, Cross Property Investment East SARL, Cross Property Investment West SARL and Cavell Properties SARL. Although the site is divided into separate ownerships, the owners themselves are ultimately under common ownership. Therefore the owners have requested that DP9 submit one single letter of representation on behalf of the respective owners in relation to the current Revised Draft CIL Charging Schedule and Revised Planning Obligations SPD.

Our clients did not make representations on the previous draft CIL Charging Schedule (DCS) or Planning Obligations SPD as they only purchased the site in mid 2013 and therefore there are no detailed comments for them to respond to as part of this submission.

However, our clients are concerned about a number of points within the DCS, the primary issue of which relates to the relationship of the Whitechapel Masterplan and the lack of consideration of this within the Charging Schedule and related evidence base.

The preparation of the DCS does not appear to have had regard to the requirements of Paragraphs 173 and 175 of the NPPF or the Statutory Guidance as outlined within the Community Infrastructure Levy Regulations 2010. In particular Paragraph 175 of the NPPF states that *'Where practical, Community Infrastructure Levy charges should be worked up and tested alongside the Local Plan. The Community Infrastructure Levy should support and incentivise new development, particularly by placing control over a meaningful proportion of the funds raised with the neighbourhoods where development takes place.'*

The DCS and supporting documents make no reference to the Whitechapel Masterplan. The preparation of the Masterplan document has taken place at the same time as the DCS, and the

Masterplan is a strategic proposal within the Borough. As such the proposed rates within the DCS should have been sufficiently informed by appropriate evidence in respect of this, but the current document as drafted does not provide sufficient focus to the Masterplan area. Our client is therefore concerned that the Council have not thoroughly explored and assessed the likely scale of obligations and policy burdens associated with the viability and deliverability of sites within the designated Whitechapel Masterplan area.

We would be grateful if the Council could provide further explanation on the process of consideration of the Whitechapel Masterplan in formulating the DCS. Our clients reserve the right to make further comments upon receipt of this information.

If you would like to discuss further, please contact Jim Pool or Caroline McIntyre at the above office.

Yours faithfully



DP9

Joseph Ward

CIL - RDCS 46

From: Claridge, Lewis [REDACTED]
Sent: 21 November 2013 16:12
To: CIL
Subject: CIL RDCS

F.A.O. Tower Hamlets CIL team:

I am writing on behalf of the City of London Corporation to state that we have no objections to Tower Hamlets' proposed revisions to the CIL Draft Charging Schedule. The changes are welcomed, in particular the rate reduction in the City Fringe and indication in the supporting information that your appraisals assume that development will now make a full contribution to borough CIL, borough Section 106, Mayoral CIL and Mayoral Section 106.

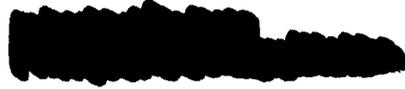
Overall the reduction in the CIL charge is welcome and brings the potential CIL payment closer to the level proposed in the City.

Kind regards

Lewis Claridge BSc (Hons) MSc MRTPI
Development Plans Team
Department of the Built Environment
[REDACTED]
www.cityoflondon.gov.uk

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2 December 2013



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Dear Sir/Madam,

Re: Representations on the LBTH Revised Draft CIL Charging Schedule (October 2013)

Thank you for providing us the opportunity to comment on the Tower Hamlets Revised Draft CIL Charging Schedule (October 2013). These representations are submitted on behalf of Tower Hamlets Housing Forum (THHF) Development Group

These comments relate to the Tower Hamlets Community Infrastructure Levy (CIL) Revised Draft Charging Schedule (October 2013), and the Summary of Consultation Responses to the Draft Charging Schedule [October] 2013.

I set out the comments below:

- Central Government's conclusion that social housing relief should be given on its communal areas as well as the floor areas of the individual affordable units is welcomed. This has been an anomaly since the Levy was introduced.
- Confirmation that the Council intends to introduce an instalments policy is welcomed (para. 2.20 of Council's summary paper). It is noted that the Council initially intends to adopt the Mayor of London's approach and to keep this issue under review. This flexibility is particularly important for large schemes where the ability to stage payments is an important factor in controlling costs through cash flow.
- It is clear that introducing a further cost to development will impact on the amount of affordable homes that can be provided in any residential scheme. We would like the Council to confirm that it will accept the inclusion of both the Mayoral and its own CIL as development costs to be factored into viability appraisals submitted with planning applications.
- There should be greater detail and clarity on what elements of infrastructure the Levy will pay for (Regulation 123) and that the Council will continue to consult with key stakeholders in compiling this list. In particular, we ask that the Council

works with landowners and developers to investigate what infrastructure could be brought forward through their new developments.

- In this respect, it is strongly believed that the Council will benefit from working with developers to 'off-set' their CIL contributions in lieu of the on-site provision of eligible infrastructure works. These works can frequently be achieved more economically as part of a development rather than through a financial levy. While this principle is accepted in the legislation, we ask for the Council to engage in a pro-active way with developers to identify individual opportunities.
- The Council notes in its summary paper that it is minded to implement an exceptional circumstances relief policy in line with the CIL Regulations. It is recommended that further consultation is held with the development industry to inform this policy. In the first instance, we raise the need for some estate regeneration schemes to be given relief from CIL as this cost adds a further burden to their renewal which frequently relies on cross-subsidy from the introduction of new residential development.

Should you wish to discuss any of these comments please do not hesitate to contact me on the above number.

Yours faithfully,

David Black
On behalf of THHF Development Group