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date: 2 June 2013



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Dear Ms. Berni,

LONDON BOROUGH OF TOWER HAMLETS COMMUNITY INFRASTRUCTURE LEVY DRAFT CHARGING SCHEDULE AND DRAFT REVISED PLANNING OBLIGATIONS SUPPLEMENTARY PLANNING DOCUMENT

a) **Introduction**

1. I am writing on behalf of One Housing Group in response to your Draft Charging Schedule (DCS) and associated documents.
2. As you will be aware One Housing Group is one of Tower Hamlets' largest housing providers with nearly 5,000 homes under its management. This includes nearly 2,000 homes in the Barkantine, St. John's, Samuda and Kingsbridge Estates on the Isle of Dogs, which were transferred from the London Borough of Tower Hamlets (LBTH). One Housing Group is also an active developer of mixed tenure developments, which include homes for private sale which subsidise the provision of affordable housing and create mixed and balanced communities.
3. One Housing Group is very worried that the proposed CIL charging levels for residential development, particularly in CIL Charging Zone 1, will put at serious risk the development of the Borough.
4. In particular it is concerned that the approach taken to setting CIL rates does not appear to have considered the potential impact of CIL on social housing estate regeneration and renewal initiatives at all despite them being a corporate priority for the Council, and a major component of the Borough's future delivery of affordable housing.
5. It is strongly of the view that the Council should not submit its Draft Charging Schedule in its current form for examination, and instead should consult further with housing providers and LBTH homes to ensure that the final approach to CIL does not put the future delivery of affordable housing in Tower Hamlets at risk.

b) Statutory Guidance

6. Before setting out our detailed concerns it is useful to briefly summarise the key points of the guidance to which local authorities are legally required to have regard which was published in December 2012 and updated in April 2013 to reflect updates to the regulations.

7. In relation to setting rates, Regulation 14 of the 2010 regulations (as amended) requires that a charging authority:

‘must aim to strike what appears to the charging authority to be 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’.

8. It sets out more clearly how the test set out in Regulation 14 should be interpreted and provides more details of the ‘appropriate evidence’ to which the Charging Authority, and the Inspector at the subsequent examination, should have regard when assessing the impact of proposed charges on viability.

9. This includes requirements to:

- Demonstrate that the proposed CIL charges contribute to the implementation of your relevant local plan (para 8) including impacts on strategic sites and affordable housing achieved (paras 27 and 29); and
- Provide evidence on the levels of Section 106 contributions and affordable housing previously achieved, how much of this will not continue to be required under the CIL regime and therefore the implications for the overall ‘pot’ left to fund CIL and its implications on development (para 22).

c) Affordable Housing Context in Tower Hamlets

10. 40% of homes in Tower Hamlets are social rented, with a further 2% in shared ownership. This is the fourth highest percentage of the 348 local authorities in England and Wales. Over half of these homes are rented from a Registered Provider (RP) - previously colloquially known as Housing Associations or RSLs - the highest in London.

11. Over 13,000 homes were transferred from the Council to RPs in the late 1990s as part of Estate Regeneration Schemes, which includes the estates under One Housing Group’s management on the Isle of Dogs.

d) Estate Regeneration

12. The Council and RPs have been actively involved in Estate Regeneration schemes for nearly 30 years. Some have involved investment, based on borrowing and grants from Government. There have been an increasing number of large scale estate regeneration projects which involve the Council or RP working with the Homes and Communities Agency (HCA), sometimes in partnership with a private housebuilder, to develop mixed use, multi-tenure schemes in which new private homes are used to cross subsidise the provision of new and/or refurbished affordable homes, and other improvements to the local environment and facilities.

e) Borough Investment Plan

13. The Council's Borough Investment Plan (2010) sets out its investment needs and how the Council intends to work with the HCA (now incorporated into the GLA) to practically deliver the investment and regeneration, including delivery of affordable housing, envisaged in the Council's Core Strategy (2010).
14. The Plan highlights the very difficult financial context in which the authority and its partners will be operating and emphasises the difficulties that will be caused by the cuts in central Government funding.
15. It states that:

"Much of our future work will be focused on getting 'more for less' from Homes and Communities resources and that we use available public sector resources as flexibly and imaginatively as possible."

16. The map below, extracted from the Investment Plan, shows (shaded in black) the housing estates that are owned and managed by the Council and its partners. They cover a very large part of the Borough.



17. On this basis it concludes that:

“An important element of this Investment Plan is to skew investment towards land which is in public and social sector ownership which can maximise both financial and social value from available land.”

18. It highlights the Blackwall Regeneration and Stepney (Ocean Estate) regeneration projects as the two immediate projects that it will seek to deliver through this approach.

f) Local Plan Policy

19. CIL Charging Schedules should be “consistent with and support the implementation of up to date Local Plans...and the London Plan”. (Paragraph 4)

20. The London Plan and Tower Hamlets Local Plan documents all identify the delivery of housing and affordable housing as absolute plan priorities and also include specific requirements in relation to the re-provision of homes in Estate Renewal projects.

g) London Plan

21. Relevant London Plan policies include:

- Setting Tower Hamlets the highest ten year housing target in London, 28,850 homes, or 2,850 per year to 2021 (Table 3.1);
- Suggesting that Boroughs should seek to meet and exceed these targets by, among other things, intensification, and realising capacity in opportunity and intensification areas (Policy 3.3 E);
- Seeking to ensure “A more balanced mix of tenures should be sought in all parts of London, particularly in some neighbourhoods where social renting predominates and there are concentrations of deprivation” (Policy 3.9 (B));
- Ensuring Opportunity Areas The London Borough of Tower Hamlets contains part of all of three Opportunity Areas“ contribute towards meeting (or where appropriate, exceeding) the minimum guidelines for housing and/or indicative estimates for employment capacity.” Tower Hamlets includes three Opportunity Areas– City Fringe (part), Isle of Dogs, and the Lower Lee Valley (part). Most of the City Fringe and Isle of Dogs Opportunity Areas are in LBTH’s residential charging zone 1;
- Ensuring that the maximum reasonable amount of affordable housing should be sought when negotiating on individual private residential and mixed use schemes – based, where necessary on and independent review of viability (Policy 3.12); and
- Prioritising Affordable Housing in the consideration of planning obligations (Policy 3.12).

h) Local Plan

22. Tower Hamlets Local Plan Policies are principally set out in two documents: the Core Strategy adopted in May 2010 (CS), and the Managing Development Document DPD (MDDPD).
23. Relevant CS policies include:
- Policy S07 which sets out the intention to meet the Mayor’s London Plan housing targets described above;
 - Policy SP02 which identifies a target of 43,275 homes, 2,885 per year, from 2010 to 2025. Part of the delivery of this will be through “Working with our housing partners to support the regeneration of housing estates, and ensure that homes are brought up to decent homes standard”. It also sets an overall strategic target for affordable homes of 50% until 2025. This will be achieved “by requiring 35%-50% affordable homes on sites providing 10 new residential units or more (subject to viability)” and “**Securing additional affordable homes from a range of public-sector initiatives directly with Housing Associations as identified in the Housing Strategy.**” As well as bringing long-term vacant properties back into use; and
 - Various policies, including SP11, in relation to Zero Carbon Delivery and S022, Creating Distinct and Durable Places, which specifically highlight requirements for estate regeneration schemes. These are based on a recognition of often ageing stock and maintenance systems and poor quality buildings and public realm. Such requirements are likely to add to obligations for Estate Regeneration projects.
24. Supporting text identifies a number of additional key issues including:
- Three components of the delivery of the housing target, one of which is through public sector initiatives and housing renewal . Under that heading it lists the following initiatives: the Decent Homes Programme, the Ocean Estate Regeneration Programme, the Blackwall Reach Regeneration Programme, and the Borough Investment Plan (described above); and
 - Annex 9, Delivering Placemaking identifies the potential for Estate Renewal across most of the Borough including specifically: Spitalfields, Bethnal Green, Globe Town, Whitechapel, Shadwell, Stepney, Limehouse, Bow, Mile End, Bow Common, Poplar, Poplar Riverside, Blackwall, and Millwall.
25. The MDD provides more detail about the implementation of some of these strategic policies.
26. Policy DM3 re-iterates the Core Strategy’s strategic targets for housing. Specifically in relation to Estate Renewal it requires no net loss of affordable housing except where it is necessary to improve tenure mix or open space or other uses will benefit a regeneration scheme.
27. The supporting text (paragraph 3.10) explicitly acknowledges that market housing is often required to support investment in the social housing stock stating:

“Within estate regeneration schemes, the level of affordable housing provided within a new development may be varied to facilitate the delivery of market housing where this is demonstrated to be necessary to cross-subsidise improvements to the quality of existing affordable housing.”

28. The Council is currently consulting on its Affordable Housing SPD (Engagement Version May 2013). This sets out the Borough’s intended approach to affordability, responding to the Government’s introduction of the ‘affordable rent’ product. This includes the target rents for affordable rent and the circumstances in which the Council will continue to seek provision of social rent accommodation. Policy AH1 (b) states that Social Rent will be considered appropriate where estate regeneration schemes are required to replace existing Social Rent units. The implementation of these policies will clearly have significant impacts on assumed affordable housing values.

i) Impacts of LBTH CIL on Estate Renewal & Affordable Housing Delivery

29. It is clear from the above that the re-development and/or refurbishment of social housing, currently in the ownership of the Council and RSLs is an essential part of Tower Hamlets’ investment strategy and Local Plan delivery. It also provides a very important component of the Council’s identified supply of affordable housing, with the Ocean Estate (Stepney) and Blackwall Reach (Robin Hood Gardens) identified in corporate and planning policy as key initiatives.

j) Absence of Appropriate Available Evidence in Relation to Estate Renewal

30. Given this significance we would have expected LBTH’s Viability Study to have included an assessment of the likely impacts on Estate Renewal initiatives. We would further have expected this to cover both generic housing typologies (Table 4.11.2) and Strategic Site assessments (Section 7). In fact Estate Renewal does not appear to be mentioned at all in the Viability Study.

31. We have reviewed LBTH Housing Supply (identified in the Council’s monitoring report and 5 Year Supply information) and recent planning permissions in Tower Hamlets and identified the following ‘live’ estate renewal projects:

- Holland Estate: 210 homes
- Bow Trinity (Eric and Trenby Estates): 180 homes
- Aberfeldy New Village: 342 homes
- St. George’s Estate: 193 homes
- Leopold Estate: 370 homes
- St. George’s Estate: 193 homes
- Bede Estate: 240 homes
- Island Gardens Estate: 60 homes
- Stepney Green (Ocean Estate): 820 homes
- Blackwall Reach/Robin Hood Gardens Estate: 1,575 homes

32. Two of the 20 strategic sites identified in the Managing Development DPD involve a major component of Estate Renewal. One of these is Blackwall Reach (Site 14) and the other Crisp Street Town Centre (Site 9).

In addition to these identified sites the CS identifies the potential for other Estate Renewal opportunities across the Borough.

33. Under Section 212 of the Planning Act 2008 the Council is required to use appropriate available evidence to inform the Draft Charging Schedule. The CIL Guidance states that “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.”
34. The absence of the use of any viability evidence in relation to Estate Renewal schemes means that this requirement is not properly addressed. As Tower Hamlets Council is a partner to most of these projects, it should have direct access to readily available evidence which would allow it to inform the Charging Schedule.

k) Non-Viability of Recent Estate Renewal Projects

35. In this regard we have reviewed public reports on the two largest strategic developments identified in the Council’s investment plan – Stepney Green (Ocean Estate) and Blackwall Reach. Both of these developments were referred to the Mayor of London and as such were required to have independent viability appraisals which demonstrated that they met the London Plan requirement of providing the maximum affordable housing.
36. The Ocean Estate scheme involves the demolition of 338 homes, to be replaced with 819 new homes. Of the additional homes 74% will be for private sale and will help cross subsidise the replacement and new affordable homes and the refurbishment of existing homes on the Estate. Paragraphs 27 and 28 of the Mayor of London’s report into the application confirm that even with this cross subsidy the scheme is unviable and required £43 million gap funding from the HCA, in addition to previous substantial public sector funding.

http://static.london.gov.uk/mayor/planning_decisions/strategic_dev/2010/20100202/Ocean_Estate_report.pdf
37. The Blackwall Reach/Robin Hood Gardens development involves the provision of a total of 1,575 homes, to replace an existing 257 homes. Just under 900 of the homes will be private and will cross subsidise the 679 new affordable homes. In addition to this cross subsidy the Council and GLA (and predecessor bodies) have invested £31 million in land acquisition.

<http://www.towerhamlets.gov.uk/idoc.ashx?docid=b8e43ba8-50ce-47c6-9cfb-fcbc9c2cfb32&version=-1>

38. Because the market housing is used to cross-subsidise the affordable renewal project, Estate Renewal schemes do not generate the normal surplus from which CIL could be secured. Section 106 contributions are effectively recycling of other public subsidy. The lack of viability is based on a number of factors:
 - They are required by policy to provide at least equivalent replacement housing;
 - It is required by policy that this is at social housing rent levels;
 - They can require cross subsidy for refurbishment of existing housing;
 - They have high costs of acquisition, usually requiring Compulsory Purchase;

- They have abnormal management costs, including the need for decanting and re-housing;
 - They are likely to require significant investment in public realm and open space, particularly child play space, compared to standard developments;
 - They can require significant investment in energy efficiency and other low carbon measures, particularly where replacement heating systems are required; and
 - Private sale values for homes within an estate renewal scheme can be lower than for stand-alone premium market-led sites.
39. Existing built space that is demolished as part of a scheme can in theory be offset against CIL, but in the case of an estate renewal this will often be very difficult for two reasons. Firstly, such projects tend to be long-term and phased, with each phase treated by CIL as a separate chargeable development. Initial demolition phases cannot be offset against later construction phases as they are separate chargeable developments. Secondly for demolished space to be offset it must meet the occupancy test of having been in use for six of the previous twelve months. Given the complexity of phasing and decanting in estate renewal it will often not be possible to meet this test.
40. Whilst, as LBTH notes in its response to East Thames Housing Group's representations to the Preliminary Draft Charging Schedule, social housing which meets the tests set out in the regulations is eligible for relief, the essential element of the model of Estate Renewal for many of the major schemes in the Borough has been the cross-subsidy of social housing from the profit derived from private housing. The Council itself states, in its Investment Plan, that reduced public sector funding will mean that such models will rely increasingly on private investment. If value uplift is removed as a CIL contribution to Borough infrastructure, it will render such a model unviable with a very significant impact on future affordable housing delivery in the Borough.

l) CIL Viability Assessment and the Isle of Dogs

41. As noted above, One Housing Group manages four estates on the Isle of Dogs which, like other estates across the Borough, will require significant investment during the current plan period. The Barkantine Estate is in proposed residential Zone 1, the Kingsbridge in Zone 2, St. Johns in Zones 1 and 3, and Samuda in Zone 3. If brought forward for regeneration each of these Estates would face the exceptional costs described above, and the generic cost assumptions in Table 4.46.1 of the Viability Study would be unsafe.

m) Approach to Use of Postcodes and Definition of Charging Zone Boundaries

42. In addition to higher costs the assumed private development values, and their use to determine proposed charging zones, is opaque and unsafe. Table 8.42 identifies the proposed groupings of postcodes. The postcodes which make up the Isle of Dogs are as follows: E14 3, E14 4, E14 5, E14 8 and E14 9. The table identifies these as being in Zone 1 (we assume reference to E1W 8 should be E14 8), with the exception of E14 3, which is in Zone 3. There are no Isle of Dogs postcodes included in Zone 2, although it is identified as separate area in the charging schedule map. The area on the Isle of Dogs covered by Zone 2 is predominantly also covered by the E14 3 postcode.

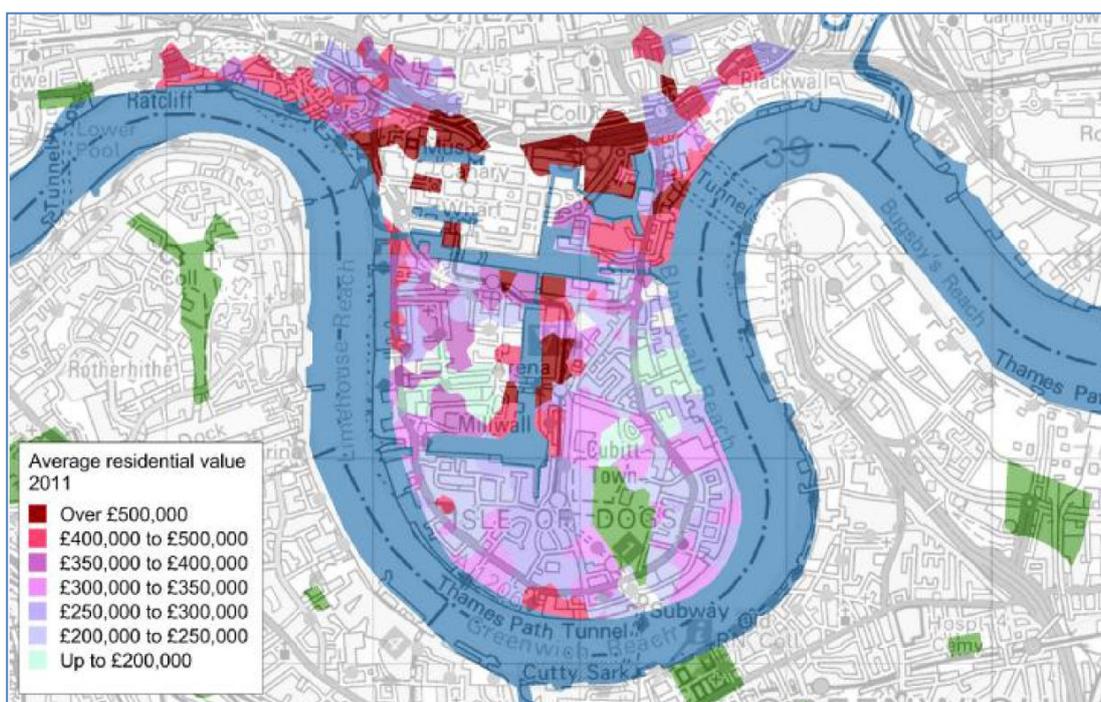
43. Paragraph 1.5 states that:

“Whilst the appraisals were undertaken according to postcode area groups (based on bottom-up research on sales values and rents), further analysis of specific sites has been undertaken to ensure that the boundaries are correctly placed. The boundaries are placed according to the variation in the level of CIL sites in each area can absorb without having a significant impact on development viability taking each area as a whole. The boundaries also have regard to the practicality of divisions between areas (e.g. down the centre of roads, rather than through the middle of development sites).”

44. This information has not been published, and if further work is available on the viability of specific sites in this area it should be brought forward before the examination. We would note in contradiction to paragraph 1.5 that the Boundary of Zones 1 and 3 passes through the middle of the St. John’s Estate.

45. As highlighted by Savills, in their response to the Council’s Preliminary Draft Charging Schedule on behalf of the Housebuilders Consortium, of which One Housing Group was a member, the use of postcodes in this way is arbitrary and does not reflect actual values. Housing estates on the inner part of the Isle of Dogs have significantly lower values than the northern part of the Island and of those parts that face onto the Docks or the River.

46. This is shown in the map below (re-produced from the original submission). Those areas within Zone 1 (Barkantine and St John’s) share value characteristics with the south and east of the Isle of Dogs as opposed to the higher value areas to the north. Any estate regeneration programmes which introduced new market units would not achieve the higher values as achieved on stand alone sites, and would need to raise long term values in order to secure viability.



n) Issues for Consideration

47. On the basis of the assessment described above we suggest that as it currently stands, LBTH has not provided evidence about the impact of its proposed CIL charging schedule in relation to Estate Renewal programmes, which have in the past and are likely to in future, form a significant element of the Council's housing supply, particularly affordable housing.
48. The Council has undertaken neither generic nor site specific viability assessments. Our review of publically available information on the consideration of recent major planning applications for such projects suggests that they require either public subsidy or reductions in obligations to ensure they are viable. Adding a non-negotiable CIL charge to the private component of such developments, which is currently essential to cross subsidise new and improved affordable housing, will mean that they are likely to be unable to meet policy requirements for at least like-for-like replacement for existing homes. This is likely to be an even more significant risk as public funding is reduced.
49. CIL Charging Zone 1 contains many housing estates, including those in which One Housing has an interest on the Isle of Dogs. Such estates have higher development costs and lower housing values than the sub-areas on which the justification for the Zone 1 boundary has been based. The potential for the regeneration of these estates should not be threatened because they are located close to very high value housing.
50. Whilst we welcome the proposal for the Council to allow for Exceptional Circumstances Relief on a case by case basis we would be concerned if this were used as an alternative to setting a proper rate – based on viability evidence. We note that other authorities have proposed low or zero rates for regeneration and estate renewal areas, including LB Wandsworth's adoption of a zero charging zone in Roehampton. We would regard this approach as preferable to the extensive use of reliefs which could be subject to third party challenge.
51. One Housing Group is keen to work with the Council prior to the submission of the Draft Charging Schedule for examination in order to address these issues. They are of the view that modifications are required if it is to have the effect of supporting rather than hindering development in the Borough.
52. It is suggested that the Council may wish to review Viability Assessments produced for its own developments and engage with RPs in the Borough to review impacts on their stock, which makes up about half the Borough's total affordable housing. One Housing would be happy to engage in identifying the inputs and typology for such assessments based on the specific cost issues facing such developments which we have described above.
53. One Housing would also request that the Council consider the charging zone boundaries on the Isle of Dogs to reflect the different values of sites with river/water frontage compared to those inland, based on the available viability evidence.
54. One Housing has worked with the Council for many years and has a long term commitment to Tower Hamlets. It wishes to work with you to ensure that the introduction of CIL does not have the unintended consequence of reducing investment in housing, and particularly affordable housing.

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