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Dear Sirs,

**DRAFT CIL CHARGING SCHEDULE – MARCH 2013
REVISED PLANNING OBLIGATIONS SPD – MARCH 2013
SUBMISSION OF REPRESENTATIONS BY LONDON & QUADRANT HOUSING
ASSOCIATION**

On behalf of London & Quadrant Housing Association, we write to submit representations to the above documents.

London & Quadrant are currently in the process of securing a site within the Wapping area of the borough, with a view to delivering its redevelopment for predominantly residential use. The publication of the Draft CIL Charging Schedule for the London Borough of Tower Hamlets (LBTH) is of particular interest to our client, given the potential implications it may have on the redevelopment coming forward on the site.

Following a review of the Draft CIL Charging Schedule (DCS) and the supporting documentation, London & Quadrant are concerned that an appropriate balance has not been struck between the need to fund necessary infrastructure and the potential economic viability of development across the borough; and that the Charging Authority has also not complied with the requirements set out at paragraph 9 of CLG's 'Community Infrastructure Levy: Guidance' (April 2013).

National Planning Policy Framework

“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. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements 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.” (para 173)

“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.” (para 175)

The above extracts from the National Planning Policy Framework (‘NPPF’) provide a number of important policy steers in the formulation of CIL Charging Schedules. Of particular note:

- Planning policy should be deliverable.
- CIL charges, where practical, should be prepared and tested alongside the Development Plan.
- CIL should support and incentivise development.

The NPPF is therefore clear in that it requires local planning authorities to pay due regard to the implications of any obligations on development. For the majority of sites, particularly those of a strategic nature, CIL is one of the main financial obligations which could impact on viability, affecting the ability of development to come forward and ultimately the delivery of the Development Plan objectives.

Statutory Guidance

Charging Authorities are legally required to have regard to the CLG statutory guidance document – ‘Community Infrastructure Levy Guidance (April 2013) – when setting their proposed CIL levels.

The statutory guidance provides important detail guiding how Charging Authorities should go about preparing Charging Schedules and the nature of supporting evidence base material that is necessary. The statutory guidance is consistent with the central theme of the NPPF: planning policy should be deliverable and the viability of Development Plan sites should not be put at risk.

Fundamentally, the statutory guidance supports the representations set out below. The following extracts are of particular significance:

“Charging schedules should be consistent with and support implementation of up-to-date Local Plans” (para 4)

“...charging authorities should show and explain how their proposed levy rate (or rates) will contribute towards the implementation of their relevant Plan and support the development of their area. As set out in the National Planning Policy Framework in England, the ability to develop viably the sites and the scale of development identified in the Local Plan should not be threatened.” (para 8)

“The independent examiner should establish that:



- *the charging authority has complied with the requirements set out in Part 11 of the Planning Act 2008 and the Community Infrastructure Levy Regulations*
- *the charging authority's draft charging schedule is supported by background documents containing appropriate available evidence*
- *the proposed rate or rates are informed by and consistent with, the evidence on economic viability across the charging authority's area; and*
- *evidence has been provided that shows the proposed rate (or rates) would not threaten delivery of the relevant Plan as a whole.” (para 9)*

“In addition, a charging authority should sample directly an appropriate range of types of sites across its area in order to supplement existing data, subject to receiving the necessary support from local developers. The focus should be in particular on strategic sites on which the relevant Plan relies and those sites (such as brownfield sites) where the impact of the levy on economic viability is likely to be most significant.” (para 27)

“Charging authorities should avoid setting a charge right up to the margin of economic viability across the vast majority of sites in their area. Charging authorities should show, using appropriate available evidence, including existing published data, that their proposed charging rates will contribute positively towards and not threaten delivery of the relevant Plan as a whole at the time of charge setting and throughout the economic cycle.” (para 30)

“The Government expects charging authorities will work proactively with developers to ensure they are clear about charging authorities' infrastructure needs and what developers will be expected to pay for through which route. This is so that there is no actual or perceived 'double dipping', with developers paying twice for the same item of infrastructure.” (para 85)

“The charging authority's proposed approach to the future use of any pooled section 106 contributions should be set out at examination and should be based on evidence.” (para 89)

Representations to LBTH CIL Draft Charging Schedule

Tower Hamlets has the highest housing targets of any London borough at 28,850 units over a ten year period, as set out in the adopted London Plan. To meet the housing target in the London Plan will ultimately require the delivery of housing on brownfield sites, and it is these sites which are identified in the CLG Guidance as having the potential for their economic viability to be most significantly affected by CIL.

London & Quadrant are concerned that the residential values within the different CIL Zones do not accurately reflect the different residential values across the Borough. It is considered that insufficient evidence has been provided to support the different CIL rates identified within the DCS.



Paragraph 34 of CLG's statutory guidance document explains that Charging Authorities can set differential levy rates for different geographical zones provided that those zones are defined by reference to the economic viability of development within them. The BNPP Viability Study does not adequately explain or justify the link between development viability and different geographical charging zones.

The DCS identifies three different Residential CIL Charging Zones. London & Quadrant does not agree with the boundaries to these zones, nor the large disparity between the rates applicable to these zones and considers they do not reflect the wide variation in values for residential development across the Borough.

The administrative area of Tower Hamlets is a Borough which experiences significant disparities in economic wealth, which is reflected in the value of residential property. Tower Hamlets has some of the poorest areas in London and the UK, yet it is also home to more affluent areas, such as Spitalfields and land adjacent to the River Thames. As a result, there are wide variations in residential values over small areas, with high value and low value pockets throughout the Borough.

London & Quadrant is concerned that the current identification of 3 very broad zones and the large differential in charging rates applicable to them will threaten the viability of development in the less valuable locations within each Zone and it considers that a more detailed assessment is required of price variations in the Borough with the identification of more charging zones and a more diverse charging rate.

The Regulation 123 List and S106 costs

The Viability Study makes an assumption in relation to the level of S106 contributions which would be payable by schemes at £1,220 per residential unit. This is a very precise figure and there is no explanation as to how this has been calculated or what infrastructure it could cover.

It is assumed that there must have been some benchmarking against previous S106 costs. The need to undertake an exercise of benchmarking against recent Section 106 obligations has now been recognised by CLG. Paragraph 22 of the new Statutory Guidance explains, at paragraph 22, that *"as background evidence, the charging authority should ... prepare and provide information about the amounts raised in recent years through section 106 agreements. This should include the extent to which affordable housing and other targets have been met."*

London & Quadrant is concerned that the Council has not considered the S106 costs sufficiently to be certain that the S106 levels would not exceed the £1,220 per unit identified.

In relation to the Regulation 123 list published at Appendix 3, we would make the comment that this is a very generic list and does not provide any clarity on what infrastructure will be provided as part of CIL. It is important that the Regulation 123 list is transparent.

Representations to LBTH Revised Planning Obligations SPD

In relation to the requirements for energy contributions, our client objects to the requirement that developments not meeting the carbon reduction targets should pay a contribution. There are sites that, due to their physical constraints, will not be able to meet the carbon reduction targets and in these circumstances it is unreasonable to request a 'top-up payment'.



Our client has a similar comment in relation to the proposed obligations for biodiversity. There is no clarity on what threshold levels need to be met before a payment is triggered. Furthermore, the obligations would seem to penalise those sites that, for physical reasons, are not capable of contributing to biodiversity.

The significant missing element of the SPD relates to the actual level of contributions which are being sought. Without these, it is difficult to understand the impact of the obligations on the viability of development and how these relate to CIL. This also relates back to the point made earlier that the £1,220 S106 cost factored into the appraisals is not robust.

Conclusion

Overall, London & Quadrant are concerned that the evidence base presented to underpin the Draft CIL Charging Schedule is not robust and the consequences of adopting the Charging Rates set out within it have not been properly considered. There are two fundamental areas of concern. The first relates to the lack of evidence supporting the CIL rates proposed by the Charging Authority; and the second relates to insufficient weight being given to the implications CIL will have on the viability of development, including the delivery of the Borough's housing targets.

In relation to the Revised Planning Obligations SPD, it is considered that greater clarity is required on when the obligations apply. Fundamentally, the costs of the obligations need to be made clear to understand the impact on viability and to be able to comment in detail.

We look forward to receiving confirmation of receipt of our comments and would ask that we be kept updated of any future changes to either of the documents, and any additional opportunities for further consultation.

Should you wish to discuss any of our comments, please contact Sam Hine or Tim Holtham of this office.

Yours faithfully,

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