

Our ref:

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Dear Sirs

REPRESENTATIONS ON THE DRAFT CIL CHARGING SCHEDULE

Thank you for providing us with the opportunity to comment on the Draft CIL Charging Schedule. These representations are submitted on behalf of various clients GVA act for in the Borough.

These representations follow those made on 21 December 2012 in respect of the preliminary draft charging schedule (submitted on behalf of various clients).

We note that the intention of CIL is to provide developers with more certainty about the costs associated with a development. It is acknowledged 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 s106 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. The ongoing use of s106 agreements to secure the provision of affordable housing and site specific infrastructure and requirements is acknowledged.

We also understand that the borough's proposed levels of CIL have been tested in combination with its other planning requirements, including the provision of affordable housing. In this regard, Paragraph 5.3 of the Draft Charging Schedule states that in establishing the CIL rates, "*a policy compliant affordable housing provision of 35% was assumed*". We would point out, however, that both London Plan and the borough's own Local Development Framework policies make it clear that the requirement to provide the maximum reasonable provision of affordable housing in developments is "*subject to viability*" and that a policy compliant level of affordable housing can therefore be as low as 0% where it is demonstrated as not being viable for development to provide more. We therefore recommend that Paragraph 5.3 of the Draft Charging Schedule should be amended to read:

"In establishing the rates, set out in the table below, a policy compliant target level of affordable housing of 35% was assumed."

As stated in the NPPF, 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, it is stated in the NPPF 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".

The latest Department of Communities and Local Government (DCLG) guidance on CIL, published December 2012, states that "charging authorities should avoid setting a charge right up to the limits of viability across the vast majority of sites in their area". Regulation 14 of the Community Infrastructure Levy Regulations 2010 similarly states that charging authorities, in setting levy rates, "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".

Acknowledging all of the above in the context of any future development proposals that come forward, 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%.

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.

We commented in December 2012 that the proposed Borough CIL rates were particularly high when compared to the existing Section 106 regime and this remains the case, despite the reduction to some of the rates (such as the hotel charge). Whilst the viability of any scheme will need to be tested through a future planning application, it is noted that there will be little flexibility for the borough to negotiate to secure its key priorities, including affordable housing, because of the need for development to first meet its CIL requirements before other obligations can be considered.

We look forward to receiving confirmation that these representations have been received. We reserve the right to make further representations during any subsequent consultation periods and to attend the Examination in Public, as necessary.

Yours faithfully



GVA
Acting on behalf of various clients