
Royal Borough of Kensington and Chelsea**Draft Community Infrastructure Levy (CIL) Schedule****Extended Examination****RBKC Response to Main Issues and Questions**

Question 1: What is the background to Core Strategy Policy CH2 and the 50% affordable housing requirement?

Note – it is not my role to re-examine the Core Strategy’s content and policies. However, in responding to this question the Council should seek to explain to me more fully the background to the policy and the evidence base (particularly on viability) that supported it. This is important for my further assessment of the Council’s CIL proposals in the light of its approach of relying on lower levels of affordable housing than the policy requires.

Observations on the Examiner’s above note

- 1.1 The premise of the Examiner’s above note is not entirely correct in stating that the Council is “relying on lower levels of affordable housing than the policy requires”, which implies that lower levels of affordable housing are not ‘policy-compliant’.
- 1.2 The note may seem correct when only considering Policy CH2(i) (“require developments to provide affordable housing at 50%...”) but lower levels of affordable housing are capable of being ‘policy-compliant’ when the policy is considered in its entirety, including Policy CH2(p), other policies within the Core Strategy, the London Plan and other material considerations including national policy and guidance. In fact, this point is a key theme in the Council’s response to these questions and is detailed further in the responses to this and subsequent questions.

Background to Core Strategy Policy CH2

- 1.3 The Core Strategy explains that the affordable housing target “is based on the high level of need, and takes account of the Council’s Affordable Housing Viability Study” (para.3.3.20), i.e. need and viability.
- 1.4 The key background documents to consider are set out below and considered in turn:

- Affordable Housing Viability Study (AHVS) Final Report (June 2010) (Fordham Research)¹
- Strategic Housing Market Assessment (SHMA) Main Report (November 2009) (Fordham Research)²
- Responses to the Inspector: Matter 10: Diversity of Housing. Core Strategy with a Focus on North Kensington Examination in Public (July 2010) (RBKC)³
- Report on the Examination into the Core Strategy for the Royal Borough of Kensington and Chelsea with a Focus on North Kensington (October 2010) (The Planning Inspectorate)⁴

Affordable Housing Viability Study (AHVS) Final Report (June 2010) (Fordham Research)

1.5 This study involved “preparing financial appraisals for a representative range of sites to give a picture of the Royal Borough-wide ability of such sites to afford given targets for affordable housing” (S5). The sites were tested against varying affordable housing target levels of 0%, 30%, 40% and 50% of floor area (S7) and assumed a level of grant funding (S7(iv)). The study’s conclusions suggest that “a 40% target... would be the highest that would be reasonable to put forward in present circumstances” (S15; 7.15; see also 7.9). It suggests a ‘dynamic viability approach’ could permit changing the target over time, i.e. “no new policy change is required to alter the target” (S18; see also section 8).

1.6 Whilst it is not appropriate to re-open judgements about the assumptions used in the study, it should be noted that its appraisals largely assumed Social Housing Grant (SHG). Even at the time it was acknowledged that “The future availability of grant... is typically subject to some uncertainty...” (para.3.14+). However, at the time the AVHS was drafted, central government had been providing substantial amounts of grant funding on schemes in London. Grant funding availability changed significantly shortly after the Coalition government’s first review of government expenditure in the autumn of 2010. As noted in the submitted BNP Paribas Viability Report (October 2012) produced for the purposes of informing the Borough’s CIL Draft Charging Schedule, “The CLG/HCA ‘2011-2015 Affordable Homes Programme – Framework’ (February 2011) document clearly states that RSLs will not receive grant funding for any affordable housing provided through planning obligations. Consequently, all our appraisals assume nil grant” (para.4.10).

1

<http://www.rbkc.gov.uk/planningandbuildingcontrol/planningpolicy/developmentplan/idoc.ashx?docid=f26b2f80-f95e-49fc-ac9a-05ec80063421&version=-1>

2

<http://www.rbkc.gov.uk/planningandbuildingcontrol/planningpolicy/developmentplan/idoc.ashx?docid=562d46cf-3b04-4842-8332-c7e0e19b9ae7&version=-1>

3

<http://www.rbkc.gov.uk/planningandbuildingcontrol/planningpolicy/developmentplan/idoc.ashx?docid=f901e114-cb6b-4e00-bc41-001610b35672&version=-1>

4

<http://www.rbkc.gov.uk/planningandbuildingcontrol/planningpolicy/corestrategy/corestrategyexamination.aspx>

Strategic Housing Market Assessment (SHMA) Main Report (November 2009) (Fordham Research)

- 1.7 In addition to the AHVS, CH2 was also informed by the Strategic Housing Market Assessment (SHMA). The SHMA identified a need for 3,663 affordable units in Kensington and Chelsea (para.5.5) and recommended that new housing in the Borough should be 50% market and 50% affordable (para.9.5). The SHMA acknowledges that “it is manifestly clear in a Borough such as Kensington and Chelsea that the level of housing need is far too high to be met by any foreseeable supply of newbuild affordable housing” (para.9.14).

Responses to the Inspector: Matter 10: Diversity of Housing. Core Strategy with a focus on North Kensington Examination in Public (July 2010) (RBKC)

- 1.8 This document was published as part of the examination into the Core Strategy to support the proposed housing policies, including CH2, and ‘join up’ the conclusions of the AHVS (recommending 40%) and the SHMA (recommending 50%)⁵.
- 1.9 The response to (Core Strategy) question 3 within the document clearly sets out the intended approach of having an affordable housing ‘target’ which is tested in terms of site-specific viability to deliver the maximum reasonable amount:

The Council considers that the key elements of any affordable housing policy should be the identification of an appropriate ‘threshold’ and a site specific ‘viability test’ to ensure that a housing proposal provides the ‘maximum reasonable’ amount of affordable housing. The Council therefore considers that any overall ‘target/objective’, derived from either a percentage or numerical basis, is a secondary factor as this is subordinate to the fundamental site specific viability test.

(para.3.1, emphasis added)

- 1.10 The document goes on to explain how the chosen policy ‘target’ was based on need (i.e. 50% in the SHMA), but viability will always need to be considered:

...the SHMA identifies a need for additional housing to be provided and recommends, based on need, the target of 50%. This has underpinned the site-target of Policy CH2(i). The target is therefore needs-driven, and the viability assessment provides a ‘reality check’ – indicating that generally the target can be achieved, but it will always driven by what is viable.

(para.3.6, emphasis added)

- 1.11 The remaining paragraphs for (Core Strategy) question 3 cover in detail the London Plan and national policy context at the time (paras.3.8-3.22).

⁵ Para.7.10 of the AHVS and paras.9.30-9.34 of the SHMA attempt to recommend how the Council could come to a policy approach based on the two evidence base documents

It should be noted that the relevant London Plan (2008)⁶ policy at the time included policies 3A.9 and 3A.10 which set a strategic target of 50% affordable housing whilst recognising that targets should be applied flexibly to seek the maximum reasonable amount:

...In setting targets boroughs should take account of regional and local assessments of need, the Mayor's strategic target for affordable housing provision that 50 per cent of provision should be affordable...

(Policy 3A.9 Affordable housing targets, emphasis added)

Boroughs should seek the maximum reasonable amount of affordable housing when negotiating... having regard to their affordable housing targets adopted in line with Policy 3A.9, the need to encourage rather than restrain residential development and the individual circumstances of the site. Targets should be applied flexibly, taking account of individual site costs, the availability of public subsidy and other scheme requirements.

(Policy 3A.10 Negotiating affordable housing in individual private residential and mixed-use schemes, emphasis added)

- 1.12 On the basis of the viability evidence relating to affordable housing delivery, the high need for affordable housing in the Borough and London Plan policy, it was the Council's view that the starting point for negotiations should be 50%.

Report on the Examination into the Core Strategy for the Royal Borough of Kensington and Chelsea with a Focus on North Kensington (October 2010) (The Planning Inspectorate)

- 1.13 During the course of the examination the precise wording of Policy CH2 was considered. The original wording was criticised by the Inspector as set out in his report:

...The wording suggests that the delivery target is a minimum policy requirement and therefore can only be exceeded. As a consequence it could be argued that any scheme failing to exceed 50% affordable housing would be contrary to policy. The wording is ambiguous and could be interpreted as inflexible and contrary to national and LP policies...

(para.6.8)

- 1.14 Accordingly, the council's proposed changes to the wording were recommended by the Inspector in Appendix A⁷ to his report which are set out below and reflect the adopted text [changes in blue]:

⁶ The London Plan: Spatial Development Strategy for Greater London: Consolidated with Alterations since 2004 (February 2008) (Mayor of London)

⁷ Appendix A: The Council's Post-Submission Schedule of Changes – Required for Soundness
[http://www.rbkc.gov.uk/pdf/Appendix_A_Schedule_of_changes_-_required_for_soundness%20%20v4\[1\].pdf](http://www.rbkc.gov.uk/pdf/Appendix_A_Schedule_of_changes_-_required_for_soundness%20%20v4[1].pdf)

35.3.18

In order to ensure we are delivering the maximum reasonable amount of affordable housing, developments proposing less than 50% will need to demonstrate a viability case, using the GLA toolkit or an agreed alternative. The target is based on the high level of need, and takes account of the Council's Affordable Housing Viability Study. The intention is to provide certainty to those developing housing in the Royal Borough as to the level of affordable housing that is expected.

Add new paragraph

35.3.18b In assessing any viability assessments the Council will have regard to the 'dynamic viability model' developed by Fordham Research and individual site circumstances. The Dynamic Viability Model † allows for changing market circumstances to be assessed annually, and therefore allows for the proportion of affordable housing sought to be more closely related to market conditions. This model can also take into account other planning obligations. A statement demonstrating the exceptional site circumstances or the weight attached to other benefits from the scheme should accompany any application proposing less than 50% affordable housing target, to justify to the Council a reduced level of affordable housing provision. Targets should be applied flexibly, taking account of individual site constraints, the availability of public subsidy and other scheme requirements.

CH2(i)

~~require the maximum reasonable amount of affordable housing with the presumption being at least 50% provision on gross residential floor space in excess of 800m2.~~
require developments to provide affordable housing at 50% by floor area on residential floorspace in excess of 800m2 gross external area.

CH2(p)

~~require a viability assessment, using the GLA toolkit or an agreed alternative, to be submitted where schemes fail to provide 50% affordable housing on floorspace in excess of 800 m2~~

Where a scheme over 800m2 does not provide 50% of gross external residential floorspace for affordable housing, the applicant must demonstrate:

- i) the maximum reasonable amount of affordable housing is provided through the provision of a viability assessment, using the GLA toolkit or an agreed alternative
- ii) the exceptional site circumstances or other public benefits to justify the reduced affordable housing provision.

- 1.15 The Inspector's Report, therefore, demonstrates that the adopted policy requirement of 50% affordable housing is *not* a minimum policy requirement which can only be exceeded and that schemes failing to provide 50% affordable housing are *not* necessarily contrary to policy (para.6.8).

- 1.16 All of the above documents demonstrate that the reasoning and intentions behind Core Strategy Policy CH2 supported flexibility in seeking the 'maximum reasonable amount' in light of site viability. Furthermore, the documents stress the need for the affordable housing target to be applied flexibly, taking into account *inter alia* "other scheme requirements" which clearly can include contributions towards infrastructure.

Background to London Plan Policies

- 1.17 It is important, however, to note that the affordable housing policy context in this Borough does not solely constitute the Core Strategy and policy CH2. The London Plan 2011 also forms an integral element of the 'relevant plan' as defined by the CIL guidance (NPPG CIL para.011). It is important that the Examiner considers London Plan policy and not just Core Strategy policy, as both documents represent the 'relevant plan' for CIL charge-setting purposes.
- 1.18 The previous London Plan (2008)⁸ policies (3A.9 and 3A.10) have already been described above, in the context of the Core Strategy.
- 1.19 The Report of the Panel of the Examination in Public (March 2011⁹) for the existing London Plan (2011¹⁰, noting that there are some other amendments in 2013¹¹) discussed the rationale behind the affordable housing policies. It concluded that it represents a robust approach to include an "aspirational percentage target" alongside the minimum numerical target (paras.3.164-3.167).
- 1.20 The Report of the Panel subsequently recommended changes to the London Plan policy on affordable housing to ensure flexibility in its approach and incorporate a 50% target. This was later contested within the Mayor's response to the report and removed from the policy¹². However, it was agreed that targets should be set which are stretching and which do not effectively become seen as caps on provision.
- 1.21 London Plan policies and the significance of the 'relevant plan' is discussed in more detail in the Council's responses to Questions 2 and 4 below.

⁸ The London Plan: Spatial Development Strategy for Greater London: Consolidated with Alterations since 2004 (February 2008) (Mayor of London) <http://www.london.gov.uk/thelondonplan/thelondonplan.jsp>

⁹ Draft Replacement London Plan: Report of the Panel: Volume 1 – Report (March 2011) (The Planning Inspectorate) <http://www.london.gov.uk/priorities/planning/london-plan/examination-in-public/previous-eips/replacement-london-plan-examination-in-public>

¹⁰ The London Plan: Spatial Development Strategy for Greater London (July 2011) (Mayor of London) <http://www.london.gov.uk/priorities/planning/london-plan>

¹¹ Revised Early Minor Alterations: Consistency with the National Planning Policy Framework (October 2013) (Mayor of London) <http://www.london.gov.uk/priorities/planning/london-plan>

¹² Schedule of all Draft London Plan EiP Panel Report Recommendations and Mayoral Responses (July 2011) (Mayor of London)

<https://www.london.gov.uk/sites/default/files/LP2011%20Mayor%20response%20to%20Panel%2022%20July%202011.pdf>

Question 2: To what extent does Policy CH2 allow for flexibility over affordable housing content?

Note – the policy’s use of the word ‘require’ along with Policy CH1’s minimum affordable housing target suggest limited flexibility. The Council should explain its position on policy flexibility, particularly in relation to development viability (see also Question 3).

Flexibility in Core Strategy policy and supporting guidance

- 2.1 The Examiner is correct in highlighting the use of the word ‘require’ within Policy CH2, however this should be considered in the context of the background to the policy provided in the Council’s response to Question 1. Also, many other Core Strategy policies use the word ‘require’. These will not all be listed here, but, for example, Policy C1 Infrastructure Delivery and Planning Obligations states “...The Council will require that there is adequate infrastructure to serve developments...” (emphasis added). It is therefore equally important that the Examiner considers the implementation of other policies in the Core Strategy (as part of the ‘relevant plan’) (and acknowledges that other material considerations are likely to exist), especially those relating to infrastructure delivery which is clearly relevant to this CIL examination. This point is further elaborated in the Council’s response to Question 4.

Core Strategy (December 2010) (RBKC)

- 2.2 The explanation of the background to Policy CH2 provided in the Council’s response to Question 1 clearly demonstrates that the reasoning and intentions behind Core Strategy Policy CH2 supported flexibility in seeking the ‘maximum reasonable amount’ in light of site-specific viability.
- 2.3 The resultant wording of CH2, and associated policies and text within the Core Strategy, demonstrate the aspiration to achieve the ‘maximum reasonable amount’ of affordable housing within a context of targets and with consideration of viability, other public benefits and other scheme requirements. Extracts from the Core Strategy are included below:

Policy CH1 Housing Targets

...

b. make provision for the maximum amount of affordable housing with a target of a minimum of 200 units per annum from 2011/2012 until 2027/28 from all sources, the exact target will be set through the London Plan process;

(Policy CH1 Housing Targets, emphasis added)

Policy CH2 Housing Diversity

...

i. Require developments to provide affordable housing at 50% by floor area on residential floorspace in excess of 800m² gross external area

...

p. where a scheme over 800m² does not provide 50% of gross external residential floorspace for affordable housing, the applicant must demonstrate:

i. the maximum reasonable amount of affordable housing is provided through the provision of a viability assessment...

ii. the exceptional site circumstances or other public benefits to justify the reduced affordable housing provision.

(Policy CH2 Housing Diversity, emphasis added)

- 2.4 The supporting text within the Core Strategy provides further guidance on intentions and practical implementation of CH2. It states:

... Targets should be applied flexibility [sic], taking account of individual site constraints, the availability of public subsidy and other scheme requirements.

(para.35.3.21, emphasis added)

Planning Obligations Supplementary Planning Document (SPD) (August 2010) (RBKC)¹³

- 2.5 The Borough's Planning Obligations SPD expands upon, and supports, the policies contained in the Core Strategy, including policy CH2. Paragraph 23.1 states:

The Royal Borough will seek the maximum reasonable proportion of affordable housing on qualifying sites. In accordance with the Core Strategy the initial basis for negotiations is that 50% of all housing should be provided as affordable housing. Should an applicant propose a lower proportion of affordable housing a financial appraisal will be required in order to demonstrate the maximum reasonable proportion for the specific sites...

(para.23.1, emphasis added)

- 8.1. The Council has confirmed a commitment to consulting on a revised Planning Obligations SPD, alongside a revised Draft Regulation 123 List, to take effect at the same time as the Council's proposed CIL comes into effect.

Flexibility in London Plan policy and supporting guidance

- 2.6 As discussed within Question 1, the affordable housing policy context for the Borough is also derived from the London Plan which similarly incorporates flexibility into its policy requirements. It is important that the Examiner considers London Plan policy and not just Core Strategy policy, as both documents represent the 'relevant plan' for CIL charge-setting purposes.

¹³ <http://www.rbkc.gov.uk/planningandbuildingcontrol/planningpolicy/section106.aspx>

The London Plan (2011¹⁴, as amended 2013¹⁵) (Mayor of London)

- 2.7 The explanation of the background to the London Plan policies provided in the Council's response to Question 1 clearly demonstrates that the reasoning and intentions behind the policies supported flexibility in seeking the 'maximum reasonable amount' in light of site-specific viability.
- 2.8 The resultant London Plan policies seek to achieve the 'maximum reasonable amount' of affordable housing within a framework of targets and consideration of development viability. Relevant extracts from the London Plan are considered below:

Policy 3.11 Affordable housing targets

Strategic

A The Mayor will, and boroughs and other relevant agencies and partners should, seek to maximise affordable housing provision and ensure an average of at least 13,200 more affordable homes per year in London over the term of this Plan...

LDF preparation

B Boroughs should set an overall target in LDFs for the amount of affordable housing provision needed over the plan period in their areas...

C LDF affordable housing targets should take account of... (f) the viability of future development, taking into account future resources as far as possible.

(Policy 3.11 Affordable housing targets, emphasis added)

Policy 3.12 Negotiating affordable housing on individual private residential and mixed use schemes

Planning decisions and LDF preparation

A The maximum reasonable amount of affordable housing should be sought when negotiating on individual private residential and mixed use schemes, having regard to:

(a) current and future requirements for affordable housing at local and regional levels identified in line with Policies 3.8, 3.10 and 3.11 and having particular regard to guidance provided by the Mayor through the London Housing Strategy, supplementary guidance and the London Plan Annual Monitoring Report...

(b) affordable housing targets adopted in line with Policy 3.11,

(c) the need to encourage rather than restrain residential development (Policy 3.3),

...

B Negotiations on sites should take account of their individual circumstances including development viability, resources available from

¹⁴ The London Plan: Spatial Development Strategy for Greater London (July 2011) (Mayor of London)

¹⁵ Revised Early Minor Alterations: Consistency with the National Planning Policy Framework (October 2013) (Mayor of London) <http://www.london.gov.uk/priorities/planning/london-plan>

registered providers (including public subsidy), the implications of phased development including provisions for reappraising the viability of schemes prior to implementation ('contingent obligations'), and other scheme requirements.

(Policy 3.12 Negotiating affordable housing on individual private residential and mixed use schemes, emphasis added)

Housing Supplementary Planning Guidance (SPG) (November 2012) (Mayor of London)¹⁶

2.9 The Mayor of London's Housing SPG provides further guidance on the intentions and practical implementation of the London Plan policies. It states:

The expression of local targets

While the Mayor has set a strategic numeric target in the LP to clearly quantify the scale of future provision, at local level either or both percentage and numeric targets can be useful – a numeric one to show the quantum of a borough's realistic ambitions (and to illustrate how it relates to London's overall affordable housing need), while a percentage can provide a convenient, and locally related starting point for negotiations on individual development proposals...

(para.4.3.24, emphasis added)

Within the national presumption in favour of sustainable development, and to realise this in London, the overarching requirement to maximise affordable housing output and give priority to family provision, a careful balance has to be struck between a range of sometimes competing issues which can arise with individual development proposals. There is no 'one size fits all' solution, and each case must be addressed on its merits always bearing in mind the overall intent of policy.

(para.4.4.1, emphasis added)

Use of targets

In keeping with the general approach to affordable housing targets to maximise output and, within this, to address the priority for affordable family housing (see above), it is for boroughs to determine how they use their local targets in coming to a view on individual development proposals, within the framework of national and London strategic policy. However, the Mayor will, and boroughs are advised, to go beyond mechanistic application of the target alone in assessing the amount and character of affordable housing appropriate in a proposal. As the Plan makes clear, there are a range of other factors to be taken into account within the context of the overarching objectives outlined above.

(para.4.4.2, emphasis added)

2.10 London Plan policies and the significance of the 'relevant plan' is discussed in more detail in the Council's responses to Question 4 below.

¹⁶ <http://www.london.gov.uk/priorities/planning/publications/housing-supplementary-planning-guidance>

Flexibility in national policy and supporting guidance

- 2.11 Although not part of the 'relevant plan' (or the 'development plan' for the determination of planning applications), national policy and guidance is clearly capable of being a significant material consideration when the Core Strategy and London Plan policies are applied. It is important that the Examiner considers national policy and supporting guidance in considering the Council's response to this question.

National Planning Policy Framework (NPPF) (March 2012) (DCLG)¹⁷

- 2.12 Flexibility in affordable housing provision is clearly supported in the NPPF. It states:

...[Affordable housing] policies should be sufficiently flexible to take account of changing market conditions over time.

(para.50, emphasis added)

...Any affordable housing or local standards requirements that may be applied to development should be assessed at the plan-making stage, where possible, and kept under review.

(para.177, emphasis added)

- 2.13 It should be noted that, to address challenges in delivering the affordable housing targets, the Council is committed to reviewing its housing policies in the Core Strategy. A publication draft of the policies was published for consultation from July to September 2013¹⁸, and further consultation is expected to take place in 2014 and 2015 before final policies are submitted.

National Planning Practice Guidance (NPPG): Planning Obligations (March 2014) (DCLG)¹⁹

- 2.14 Flexibility in affordable housing provision is clearly supported in this NPPG. It states:

...Where affordable housing contributions are being sought, obligations should not prevent development from going forward.

(para.004, emphasis added)

...where local planning authorities are requiring affordable housing obligations... they should be flexible in their requirements...

(para.006, emphasis added)

¹⁷ <http://planningguidance.planningportal.gov.uk/blog/policy/>

¹⁸ <https://planningconsult.rbkc.gov.uk/consult.ti/HousingD/consultationHome>

¹⁹ <http://planningguidance.planningportal.gov.uk/blog/guidance/planning-obligations/>

National Planning Practice Guidance (NPPG): Viability (March 2014) (DCLG)²⁰

- 2.15 Flexibility in affordable housing provision is clearly supported in this NPPG. It states:

...Where the viability of a development is in question, local planning authorities should look to be flexible in applying policy requirements wherever possible.

(para.001, emphasis added)

...the local planning authority should be flexible in seeking planning obligations. This is particularly relevant for affordable housing contributions...

(para.019, emphasis added)

Conclusion

- 2.16 The information above (and in the Council's response to Question 1) demonstrates that flexibility in affordable housing provision is inherent in the Core Strategy, the London Plan, national policy and supporting guidance documents. The Council is therefore of the opinion that its position on policy flexibility in relation to development viability and affordable housing, which has informed the viability testing carried for the Draft Charging Schedule, is entirely policy-compliant.
- 2.17 All of the above clearly and unequivocally demonstrate the significant extent that Policy CH2 and London Plan Policies 3.11 and 3.12 allow for flexibility over affordable housing content, under certain conditions and criteria.

²⁰ <http://planningguidance.planningportal.gov.uk/blog/guidance/viability-guidance/>

Question 3: How has Policy CH2 been applied in practice and what levels of affordable housing have been achieved?

Note – in responding to this question the Council should summarise its delivery record against Policy CH2 and explain any related viability issues. This should include evidence on submissions related to ‘exceptional site circumstances’ and the use of the ‘Dynamic Viability Model’ (paragraph 35.3.21 of the Core Strategy).

- 3.1 Appendix 2 of the Council's Draft Charging Schedule (DCS) Submission Commentary (March 2014)²¹ document provides a report on S106 and Affordable Housing. Some of the information provided in that Commentary is elaborated on here to assist in answering the Examiner's question.
- 3.2 It is important for the Examiner to note that the delivery of the Council's affordable housing targets is not solely based around the provision of "affordable housing at 50% of floor area of residential floorspace" (CH2(i)) and that Policy CH2 needs to be looked at as a whole, alongside Policy CH1. The affordable housing achievements / delivery record must be considered in light of:

Achievement / delivery	Policy (subsection)	Floorspace trigger	Affordable housing requirement
Quantum	CH1(b)	N/A	Sets target of 200 units per annum
Percentage floor area	CH2(i)	>800m ²	Requires provision "at 50% of floor area"
Commuted sum /Off site	CH2(j) /CH2(l)(m)	800-1,200m ²	Requires "provision to be in the form of a commuted sum in lieu of the equivalent amount of affordable housing floorspace"
On site	CH2(k)	>1,200m ²	Requires provision "on site... unless exceptional circumstances exist"
Justification of level of (non)-provision	CH2(p)	>800m ²	Requires the applicant to demonstrate, where 50% affordable housing floorspace is not provided: <ul style="list-style-type: none"> i. The maximum reasonable amount of affordable housing is provided through the provision of a viability assessment, using the GLA toolkit or an agreed alternative ii. The exceptional site circumstances or other public benefits to justify the reduced affordable housing provision

²¹ <http://www.rbkc.gov.uk/pdf/Submission%20Commentary.pdf>

Quantum (CH1(b))

- 3.3 In terms of quantum, the Council's affordable housing targets for the Core Strategy plan period (2010-2028) are explained in paragraph 35.3.2 and section 40.2 of the Core Strategy, paragraph 10.29 of the Council's Monitoring Report 2013 (December 2013)²² and paragraph 2.1 of the DCS Submission Commentary (March 2014)²³. They are:

Period	Years	Target units	Target units/annum	Source
2008 – 2011	3 years	270u	90u/a	The London Housing Strategy (February 2010) (Mayor of London) ²⁴
2011 – 2021	10 years	2,000u	200u/a	Core Strategy Para.35.3.2 Core Strategy Policy CH1(b) (London Plan 10-year period)
2021 – 2028	7 years	1,400u	200u/a	Policy CH1(b) (Assumes annual targets roll forward)

- 3.4 In terms of actual approvals, since 2008, the Council has been achieving around 85-88% of its affordable housing (quantum) targets on average per year, as set out below:

	2006 /07	2007 /08	2008 /09	2009 /10	2010 /11	2011 /12	2012 /13
Net Affordable Approvals	87	82	132	47	63	244	99
Total Net Affordable Approvals	169u		242u			343u	
Average units/annum approved	84u/a		80u/a			171u/a	
Target units/annum			90u/a			200u/a	
% of Target units/annum approved			88%			85%	

(Adapted from Table 10.5 Affordable Housing Approvals and Completions 2006-2012 (1 April – 31 March), Monitoring Report 2013; and Figure 1, Submission Commentary)

- 3.5 The following table from the Monitoring Report 2013 shows the pipeline projections for affordable housing from the Monitoring Report 2013 cut-off of 2012 up to 2024 (12 years). It demonstrates that 1,949 affordable units can be delivered. This represents 162 units per annum which is 81%

²² <http://www.rbkc.gov.uk/planningandbuildingcontrol/planningpolicy/monitoringreport2013.aspx>

²³ <http://www.rbkc.gov.uk/pdf/Submission%20Commentary.pdf>

²⁴ Appendix 3 Borough affordable housing delivery targets 2008-11
<http://www.london.gov.uk/priorities/housing-land/publications/london-housing-strategy>

of the target of 200 units per annum. It should be noted that the pipeline projections do not include affordable housing delivered from windfall sites or off-site financial contributions²⁵, which, if could be included, would bring the projections closer to the target.

Affordable Housing Planning Pipeline	No. of Units	Comments
Net permissions, Starts	487	-
Net permissions, not started	148	-
Total Pipeline	635	-
Outstanding Allocations (from CS Chapter 40, 40.2.4)	No. of Units	-
Kensal Gasworks (site north and south of the railway)	1250	(Estimated Maximum)
Land adjacent to Trellick Tower	NA	Uncertain due to relationship to Trellick Tower
Earl's Court Exhibition Centre	64	This was granted planning permission in November 2012 with the s106 signed a year later
Total Allocation Projections	1314	-
Total Projections	1,949	-

(Table 10.6 Affordable Housing Projections, Monitoring Report 2013)

- 3.6 The Council acknowledges that there are always challenges associated with delivering the affordable housing target, including the delivery of the Kensal Gasworks site (which is largely dependent on delivery of a Crossrail station) and provision of affordable housing on smaller sites²⁶ (which make up the majority of the Borough's land supply).

Commuted sum / off site (CH2(j)(l)(m))

- 3.7 The text supporting policy CH2 in the Core Strategy acknowledges some of the problems of providing on-site affordable housing and these issues remain relevant in the implementation of CH2 today:

- On-site affordable housing may not be feasible due to there only being one entrance (e.g. in a conversion). It is normal practice to have separate service charges for the market and affordable housing, and therefore separate entrances and cores enable the separation of charges for maintenance /heating communal hall ways etc;

²⁵ Para.10.33, Monitoring Report 2013

²⁶ Paras.10.32, 10.36, Monitoring Report 2013

- It may also be the case that on small development sites it is not practical from a design or management perspective to provide a small number of on-site affordable units;
- It may be easier to provide a particular type of affordable housing, such as large affordable units, off-site rather than on-site.

(para.35.3.17)

3.8 The constraints described above are even more acute where sites involve conservation areas and listed buildings and require retained building facades, high quality design and public realm. The nature of the existing built environment in the Borough means this is commonplace.

3.9 In practice, due to the size of many development sites within the Borough²⁷ and the restrictions on sites, such as prevailing building heights, many developments in this Borough entail a floorspace for which Policy CH2 (explained above) allows a payment in lieu of affordable housing, rather than units on site²⁸.

3.10 The Council has secured £3,937,500 in lieu of affordable housing contributions from 2009/10 – 2012/13 as set out in the table below:

Financial Year	2009/10	2010/11	2011/12	2012/13	Total
Amount secured (£)	750,000	1,140,000	1,000,000	1,047,500	£3,937,500

(adapted from Figure 2, DCS Commentary)

3.11 Such contributions are calculated in accordance with formula stated in the Borough's Planning Obligations SPD (August 2010)²⁹ at £2,500 per square metre over 800sqm. Due to the high land and property prices in the Borough, using the commuted sums to provide for new affordable housing off site is challenging. Paragraph 50 of the NPPF suggests that this money can be used for improvements to existing affordable housing or, for example, in remodelling existing affordable housing. The funding can be used to replace grant which no longer exists for such projects and help prevent the enforced sale of properties which would otherwise be unviable to renovate because of the costs versus the rental return on the refurbished properties³⁰. To date the Council have used some of these affordable housing contributions to deliver new affordable units through the 'Hidden Homes' scheme which seeks to convert redundant or underused spaces on existing Council estates to create new homes³¹.

²⁷ 94% of residential permissions in the borough have an average site area of 0.018ha (2010-14)

²⁸ Para.2.8, DCS Submission Commentary (March 2014) (RBKC)

²⁹ <http://www.rbkc.gov.uk/planningandbuildingcontrol/planningpolicy/section106.aspx>

³⁰ Paras.10.27-10.28, Monitoring Report 2013

³¹ The Royal Borough of Kensington and Chelsea Hidden Homes Scheme

<http://www.rbkc.gov.uk/housing/regenerationandcommunity/hiddenhomes.aspx>

Percentage floor area (CH2(i)) / On site (CH2(k)) / Justification of level of (non)-provision (CH2(p))

- 3.12 **Appendix 1** sets out a list of residential schemes approved after the adoption of the Core Strategy in December 2010 where affordable housing has been negotiated. The appendix sets out the percentage of affordable floorspace secured, where less than 50% affordable floorspace was justified and why (usually 'viability' or 'other public benefit' in accordance with (CH2(k)(p))). The list is not intended to be exhaustive and is provided for contextual information only. The full planning application records and decision-making reports should be consulted for full details and justification for each planning permission³².
- 3.13 As explained above, for developments of >1,200m², Policy CH2(k) requires applicants to demonstrate "exceptional circumstances exist" where on-site provision of affordable housing is not provided. And for developments of >800m², Policy CH2(p) requires the applicant to demonstrate, where 50% affordable housing floorspace is not provided:
- i. The maximum reasonable amount of affordable housing is provided through the provision of a viability assessment, using the GLA toolkit or an agreed alternative
 - ii. The exceptional site circumstances or other public benefits to justify the reduced affordable housing provision

On-site provision of affordable housing

- 3.14 Within Appendix 1, Appendix 1.1 summarises the permissions where an on-site provision of affordable housing has been achieved. It should be noted that one of the schemes listed within the table comprised part of an estate regeneration scheme where all existing affordable units were required to be re-provided. On the other schemes it can be seen that the percentage of floorspace secured falls well below the 50% figure provided by policy CH2(i) and averages just 20.75%. However, in all of these cases an independently assessed viability report demonstrated that the amount secured was the maximum reasonable amount that the scheme could deliver. For these reasons these schemes are not considered to be contrary to policy, but compliant with policy CH2(k) and (p) of the Core Strategy (and London Plan policies).

Off-site provision of affordable housing

- 3.15 Appendix 1.2 summarises the permissions where an off-site provision of affordable housing has been accepted. The table shows, however, that all of these schemes benefitted from planning consents which pre-date the adoption of the Core Strategy. Therefore they do not accurately reflect current practices under Core Strategy policies. They are useful, however,

³² <http://www.rbkc.gov.uk/planning/searches/>

in demonstrating the implementation of affordable housing policies within the interim period and early life of the Core Strategy.

'Other public benefits'

- 3.16 Appendix 1.3 summarises the permissions where policy CH2(p)(ii) has been applied in demonstrating that the provision of 'other public benefits' justifies reduced affordable housing provision. 'Other public benefits' included in the table include the delivery of three primary schools and in all cases viability testing confirmed that the maximum reasonable amount of affordable housing has been secured. In two of these cases this has entailed the maximum reasonable provision of affordable housing being zero. In the case of the 'Warwick Road sites' these negotiations took place in the context of Section 73 applications where the developer negotiated the maximum reasonable amount of affordable housing in order to construct a new school on the site.
- 3.17 The cases illustrated in **Appendix 1** therefore demonstrate that the Council have been consistent in successfully applying the policies of the Core Strategy and the London Plan in achieving the maximum reasonable amount of affordable housing and providing appropriate flexibility to allow development (and other public benefits) to be delivered.

Use of the 'Dynamic Viability model'

- 3.18 It is acknowledged that paragraphs 35.3.21 and 40.2.2 of the Core Strategy suggest that the council will have regard to the Dynamic Viability Model proposed in the AHVS (introduced in the Council's response to Question 1). It should be noted that the actual policy does not mention the use of the Dynamic Viability Model and, instead, requires provision of a viability assessment, using "the GLA toolkit or an agreed alternative" (Policy C1; Policy CH2(p)(i); see also para.35.3.20). It is this approach of requiring provision of viability assessments (not the GLA toolkit) which has been implemented in determining planning applications following adoption of the Core Strategy. The general approach has been to require applicants to provide viability assessments which are then scrutinised by the Council's own viability consultants, generally using a Residual Land Value (RLV) approach.
- 3.19 It should also be noted that the NPPG on Viability states that there is no "single approach for assessing viability... A range of sector led guidance on viability methodologies... is widely available" (para.002). The London Plan also states that boroughs should evaluate viability appraisals "rigorously, drawing on the GLA development control toolkit and other independent assessments which take account of the individual circumstances of a site, the availability of public subsidy and other scheme requirements" (para.3.71).

Conclusion

- 3.20 Actual achievement of the full 'target' levels of affordable housing in practice has not always been possible, which is why the policy context supports a flexible and pragmatic approach, which is reflected in the approach taken to setting the proposed CIL charges.
- 3.21 To address challenges in delivering the affordable housing targets, the Council is committed to reviewing its housing policies in the Core Strategy. A publication draft of the policies was published for consultation from July to September 2013³³, and further consultation is expected to take place in 2014 and 2015 before final policies are submitted.

³³ <https://planningconsult.rbkc.gov.uk/consult.ti/HousingD/consultationHome>

Question 4: What is the evidence to support the Council's use of lower levels of Affordable Housing (20% and 30%) to inform its CIL proposals?

Note – the Council should set out fully its evidential case for using development scenarios of 20% and 30% affordable housing content (rather than the 50% Policy CH2 level) to inform its CIL charging proposals. It would also be helpful if the Council could explain the apparent inconsistency between the post hearing clarification evidence (dated 15 June 2014) and its earlier substantive CIL evidence (which suggested that the policy 'base' position had been used).

- 4.1 The Council's responses to Questions 1, 2 and 3 above have clearly demonstrated that a 'policy-compliant' level of affordable housing provision is frequently not 50%. The responses demonstrate that there is a range of other factors to consider in applying this target flexibly, especially when considered in light of Policy CH2 as a whole, the Core Strategy as a whole, the London Plan, national policy and supporting guidance. It is therefore entirely appropriate and in accordance with policy and guidance that the Council has tested lower levels of affordable housing for CIL charge-setting purposes.
- 4.2 It is important that the Examiner considers his legitimate basis for considering how the Council has factored-in affordable housing requirements in its CIL viability evidence base – it is not as simple or as clear-cut as the Examiner's approach to date has suggested. The starting point must be the CIL legislation and guidance. The Council's justification of its approach to affordable housing, based on the CIL legislation and guidance, is as follows:
- The **legislation** simply states that the Council "must strike an appropriate balance" (R14(1)) and "must have regard to the guidance". This has been done.
 - The **guidance** simply states that the Council should "take development costs into account... such as policies on affordable housing..." (NPPG CIL para.020) and ensure that the proposed CIL contributes "towards the implementation of" (009; 018); does "not threaten" (008; see also 009; 038; 093); and "be consistent with, and support the implementation of" (010) the "relevant plan". This has been done.
 - The **"relevant plan" affordable housing policies** are clearly flexible and consider a much wider range of factors than just a fixed percentage (see Council's responses to Questions 1, 2 and 3). This has been a key consideration.
 - The **"relevant plan"** should be considered **in its entirety**, i.e. other policies in the Core Strategy (not just Policy CH2 (i)) and the London Plan. This has been a key consideration.
- 4.3 The Examiner's implicit approach to date of considering only a fixed percentage of affordable housing mechanistically is neither supported by the legislation, guidance nor the relevant plan. The Examiner must also consider other policies in the relevant plan, not just those relating to

affordable housing. These points are elaborated on in the following sections:

Legislation – striking an appropriate balance and having regard to guidance

- 4.4 The regulations simply state that the Council “must strike an appropriate balance” between infrastructure funding and “the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area” (R14(1)). This has been done.
- 4.5 The Planning Act 2008 (as amended) simply states that the Council “must have regard to the guidance” (issued by the Secretary of state) (S221). This has been done (guidance is considered in the next section).
- 4.6 There is no mention of local plan policies and/or affordable housing in the legislation – it is simply for the Council to “strike an appropriate balance” (R14(1)) and “have regard to the guidance” (S221). This has been done.

Guidance – taking affordable housing development costs into account and implementing the “relevant plan”

- 4.7 The guidance simply states that the Council should “take development costs into account... such as policies on affordable housing...” (NPPG CIL para.020). This has been done (in the viability appraisals – noting that the local, regional and national policies are flexible and consider a wide range of factors as explained in the Council’s responses to Questions 1, 2 and 3).
- 4.8 The guidance also states that the Council should ensure that the proposed CIL contributes “towards the implementation of” (009; 018); does “not threaten” (008; see also 009; 038; 093); and “be consistent with, and support the implementation of” (010) the “relevant plan”. This has been done (the relevant plan is considered in the next section).
- 4.9 There is no mention of considering only a fixed percentage of affordable housing mechanistically in the guidance.

The “relevant plan” – affordable housing policies

- 4.10 The “relevant plan” is both the Core Strategy and the London Plan as defined by the guidance (NPPG CIL para.011).
- 4.11 The policies within the relevant plan, and their background, have been described in detail in the Council’s responses to Questions 1, 2 and 3 which explain that the relevant plan policies are clearly flexible and consider a much wider range of factors than just a fixed percentage. This has been a key consideration.

- 4.12 There is no mention of considering only a fixed percentage of affordable housing mechanistically in the “relevant plan” (i.e. Core Strategy and London Plan).

The “relevant plan” – in its entirety: other policies

- 4.13 The “relevant plan” should be considered in its entirety, i.e. other policies in the Core Strategy (not just Policy CH2 (i)) and the London Plan. This has been a key consideration.
- 4.14 The most significant ‘other policies’ in the relevant plan for the purposes of CIL charge-setting are those which relate to infrastructure delivery. This is because in ‘striking an appropriate balance’, the other consideration in addition to “economic viability”, is “the desirability of funding from CIL... the actual and expected total cost of infrastructure required to support development of [its] area” (R14(1)). So the benefits of the proposed CIL charges in terms of delivering infrastructure policies must be considered alongside the affordable housing policies, rather than just looking at the affordable housing policies in isolation. The Council maintains it has struck an appropriate balance in doing this.
- 4.15 The key Core Strategy and London Plan policies relating to infrastructure delivery in the relevant plan are summarised below:

...The Council will require that there is adequate infrastructure to serve developments...

Core Strategy Policy C1 Infrastructure Delivery and Planning Obligations

Planning decisions

...

D Affordable housing; supporting the funding of Crossrail where this is appropriate...; and other public transport improvements should be given the highest importance....

E Importance should also be given to tackling climate change, learning and skills, health facilities and services, childcare provisions and the provision of small shops.

London Plan Policy 8.2 Planning obligations

- 4.16 It should be noted that the Greater London Authority submitted a representation to the Council’s Draft Charging Schedule which states “we are content that your CIL proposals will not put at risk the objectives and detailed policies in the London Plan” (Letter from GLA to RBKC, 21st February 2014)³⁴.
- 4.17 It is also important to note that S106s will continue to be negotiated after the adoption of the proposed CIL charges, albeit scaled back as per the Draft Regulation 123 List. Some sites may, subject to Regulation 122, still justify high levels of S106 contributions for infrastructure or mitigation in

³⁴ http://www.rbkc.gov.uk/pdf/consultation_statement_appendix3%20even%20smaller.pdf

particular circumstances, which, in accordance with affordable housing, infrastructure and other policies in the Core Strategy and London Plan, may justify reduced levels of affordable housing to ensure the policies in the development / 'relevant' plan in their entirety are delivered. It is therefore appropriate to model 'lower' levels of affordable housing for the purposes of CIL charge-setting.

Approach to modelling 20%, 30%, 40% and 50% affordable housing

- 4.18 There is no inconsistency between the submission CIL evidence and the post-hearing clarification evidence. The submission evidence clearly stated "Our appraisals take the Council's policy target of 50% for the base position, with sensitivity analyses incorporating 40%, 30% and 20% affordable housing" (Para.4.5, Viability Report, October 2012, BNP Paribas Real Estate). This is further clarified in a list of the scenarios tested:

Scenarios tested

1. Base sales and base costs (including Code for Sustainable Homes Level 4); 50% affordable housing (excluding Site types 1 and 2 that fall below the threshold of 800 square metres) with rented element in line with the Council's rent levels for Affordable Rent8;
2. Sales fall by 5%;
3. Sales increase by 10% and costs increase by 5%;
4. As (1), but affordable housing rents set at Local Housing Allowance levels;
5. As (1), but affordable housing rents set at Target rents;
6. As (1) with 40% affordable housing;
7. As (1) with 30% affordable housing; and
8. As (1) with 20% affordable housing.

(para.5.1, Viability Report, October 2012, BNP Paribas Real Estate, emphasis added)

- 4.19 The post-hearing clarification evidence states "The base appraisals and sensitivity analyses generated a total 840 viability outcomes which were used to determine a set of CIL rates for the Council to consider..." (Letter, 15 June 2014, BNP Paribas Real Estate).
- 4.20 In terms of why this range of percentages has been used, the use of 20%, 30% and 40% affordable housing targets was chosen in order to better reflect the implementation of the affordable housing policy on the ground and accurately reflect housing delivery within the Borough. This was explained in the Council's Submission DCS Commentary which states "Sensitivity analyses incorporating 40%, 30% and 20% affordable housing were also undertaken as part of the 2012 report and were taken into account to reflect recent delivery of affordable housing" (para.8.7). More detail on recent delivery of affordable housing is discussed above within the Council's response to Question 3. For the reasons discussed above within the Council's responses to Questions 1 and 2, the Council consider that these levels are capable of being policy-compliant due to the

flexibility which the affordable housing policies offer. The testing of these levels therefore represents a pragmatic and reasonable approach to viability testing in the Borough.

- 4.21 The principle of testing a range of (policy-compliant) affordable housing scenarios is fully in accordance with CIL legislation and guidance (as demonstrated above) and this has been confirmed by other CIL examinations within London. This shall be discussed further within the Council's response to Question 6.

Question 5: What would be the effect on scheme viability of applying Affordable Housing at, and closer to, the Policy CH2 requirement?

Note – the Council’s post-hearing clarification note identified the modelled development scenarios that had been used to inform the proposed CIL rates. This included highlighting the most relevant benchmark land value (or values) for each proposed charging zone. However, the highest affordable housing content used is 30%. The Council is asked to repeat the exercise for full policy compliance (50%) and for a closer to policy compliance scenario (40%). This evidence will be explored further at the Hearing.

Observations on the Examiner’s above note

5.1 The premise of the Examiner’s above note is not entirely correct in suggesting that “full policy compliance” is 50%, which implies that lower levels of affordable housing are not ‘policy-compliant’. It has been demonstrated in the Council’s responses to Questions 1, 2, 3 and 4 that the Council consider that lower affordable housing levels are capable of being policy-compliant due to the flexibility afforded by the wording of the development plan policies and subject to a wide range of other factors being considered.

Testing 40% and 50% affordable housing

5.2 As set out in the Council’s response to Question 4, the testing of 40% and 50% affordable housing levels has been done and submitted to the Examiner.

5.3 The Council has already summarised the results of the appraisals contained within the 2012 Viability Study (Appendix 1 of Letter, 15 June 2014, BNP Paribas Real Estate). The summary showed all the results of the assessment, including those at 50% and 40% affordable, in addition to the results for 30% and 20% affordable housing. We have amended this summary to distil the results further still and this data is provided at **Appendix 2** to this document. The Table shows the maximum CIL rate alongside the highest possible level of affordable housing at each given CIL rate.

5.4 In almost all cases, the results summary indicates that the proposed CIL rates are viable alongside 40% to 50% affordable housing. In the lowest value zone, schemes can provide 20% to 30% affordable housing alongside the much lower CIL rate of £110 per square metre. It is important to note, however, that at a nil CIL rate, schemes in Zone F would still not be able to achieve 50% affordable housing. This underlines the Council’s comments in response to the Examiner’s questions 1 to 4; namely that schemes will only come forward in Zone F if the affordable housing policy is applied flexibly, having regard to scheme-specific viability.

- 5.5 The Council must reiterate the point that modelling a 50% affordable housing provision in the appraisals sometimes results in a 'not viable' result, before CIL is even factored-in. It is not the proposed CIL charges resulting in a 'not viable' result, it is the application of the highest level (50%) of affordable housing which is causing this. This is not unusual in that the affordable housing policies in the relevant plan specifically allow for flexibility in such circumstances (i.e. seeking the 'maximum reasonable amount' in light of viability) (see Council's responses to Questions 1 and 2).
- 5.6 The table below shows that 19 of a sample of 33 schemes tested would not be viable with a 50% affordable housing provision and CIL. It also shows, however, in 18 of 19 of these cases it is not the proposed CIL charges which deem these schemes unviable as they were unviable before CIL has been factored-in. The proposed CIL charges have a negligible effect on the Borough's affordable housing delivery.

Zone	Number of schemes complying with Core Strategy 50% affordable housing 'base' position	Number of these schemes showing 'not viable'	Number of these schemes which show 'not viable' at 50% affordable housing, regardless of whether CIL is factored in
Zone A (Knightsbridge)	3 schemes	0	n/a
Zone B	12 schemes	6 schemes (including 1 not sufficiently viable)	5 schemes
Zone C	3 schemes	3 schemes	3 schemes
Zone D	6 schemes	3 schemes	3 schemes
Zone E	6 schemes	4 schemes	4 schemes
Zone F	3 schemes	3 schemes	3 schemes
Overall	33 schemes	19 schemes	18 schemes

(Adapted from Examiner's letter, 7 July 2014, page 2)

- 5.7 This was explained in the Viability Report (October 2012, BNP Paribas Real Estate) which addressed this matter and stated:

In assessing the results, it is important to clearly distinguish between two scenarios; namely, schemes that are unviable regardless of the level of CIL (including a nil rate) and schemes that are viable prior to the imposition of CIL at certain levels. If a scheme is unviable before CIL is levied, it is unlikely to come forward and CIL would not be a factor that comes into play in the developer's/landowner's decision making. We have therefore disregarded the 'unviable' schemes in recommending an appropriate level of CIL. The unviable schemes will only become viable following a degree of real house price inflation, or in the event that the

Council agrees to a lower level of affordable housing in the short term [Footnote: However, as shown by the sensitivity analyses (which reduce affordable housing to 40%, 30% and 20%) even a reduction in affordable housing does not always remedy viability issues. In these situations, it is not the presence or absence of planning obligations that is the primary viability driver – it is simply that the value generated by residential development is lower than some existing use values. In these situations, sites would remain in their existing use.]

(para.6.5, emphasis added)

The primary purpose of this exercise was to determine whether changes to affordable housing requirements on individual schemes would enable unviable sites to contribute towards infrastructure.

(para.6.12, emphasis added)

In the main, the imposition of CIL is not the critical factor in determining whether a scheme is viable or not (with the relationship between scheme value, costs and land value benchmarks being far more important).

(para.7.2, emphasis added)

- 5.8 The Council has also provided information to the Examiner on the relationship between affordable housing and CIL on one of the strategic sites (Kensal Gas Works). The BNP Paribas Real Estate 'Marginal Sites' report dated 31 January 2014 notes that a 1.91% reduction in affordable housing would be required to fully mitigate the impact of CIL (assuming of course that CIL is an entirely new requirement and there is no corresponding scaling back of Section 106 requirements). Clearly any requirement for contributions towards infrastructure will become a 'call' on scheme value that could otherwise have funded affordable housing. However, the Council's requirement for affordable housing, whilst important, does not have absolute priority over all other requirements. Like all other planning authorities, RBKC has always had to balance affordable housing requirements against other planning obligations and CIL does not change this.

Question 6: What is the relevance of other CIL examinations and is there, as the Council appears to contend, a “special case” for London boroughs?

Note – it is important to make plain that my examination relates to the CIL proposals of RBK&C. It does not extend to the re-examination of CIL proposals of other authorities. Each examination is specific to the Charging Authority and its unique evidence base. For those reasons, the extent to which parallels and precedents can be drawn is limited. Nonetheless, I will, with the foregoing limitations in mind, invite the Council to make any relevant submissions.

- 6.1 The Council is not contending a “special case” for London. The Council is simply drawing the Examiner’s attention to the requirement that he should, as a matter of course, follow legislation and guidance and consider the “relevant plan” (as explained in the Council’s response to Question 4). It is government guidance that contends that in London, the “relevant plan” includes local plans and the London Plan. The Council is simply following this government guidance in setting its proposed CIL charges.
- 6.2 The “relevance of other CIL examinations” in London is significant because they have been conducted under the same definition of the “relevant plan” which includes the same London Plan as in this examination. The relevance of CIL examinations in London is therefore overwhelmingly greater than the relevance of CIL examinations outside of London, which do not include consideration of the specific policies of the London Plan as part of their “relevant plan”.
- 6.3 As set out in the Council’s responses to Questions 1 and 2, the London Plan policies on affordable housing contain a significant degree of flexibility (subject to other considerations) in their application, as is the case for the Core Strategy policies.
- 6.4 A similar policy context and approach to affordable housing has been adopted in other local plans and CIL examinations within London. Some recent examples of local plan policies and their related CIL examiners’ reports are summarised below:
- 6.5 **London Borough of Redbridge**

1. The Council has a strategic borough-wide target that between 2007 and 2017 50% of new housing from all sources should be affordable.
2. ...
3. On these sites the Council will negotiate to achieve an affordable housing provision of 50% across the range of housing on the site having regard to:
 - (a) the size of the site;
 - (b) the economics of providing affordable housing;
 - (c) the extent to which the provision of affordable housing would prejudice other planning objectives to be met from the development of the site

(Strategic Policy 8: Affordable Housing Core Strategy, March 2008, emphasis added)

In summary, the output tables demonstrate that in normal market conditions, taken to mean some recovery in values approaching the peak in 2008, the mid-range CIL rate is likely to be deliverable in many development circumstances in the Borough, assuming mid-range sales values. This takes into account provision of affordable housing at 30%, with grant; a higher percentage may be deliverable if sales values improve over the next few years. The Viability Assessment is likely to outline 'worst case' scenarios, because it does not take into account the reduction in CIL charges on those sites where some existing floorspace would be redeveloped... However, in broad terms the study evidence shows that housing development is deliverable across the Borough with the middle band CIL charge selected. The charging rates for residential development are therefore informed by and consistent with the economic viability evidence.

(Para.11, Examiner's Report, September 2011, emphasis added)

6.6 London Borough of Newham

1. Aim to ensure 50% of the number all new homes built over the plan period are affordable;

...

(Policy H2 Affordable Housing, Core Strategy, January 2012, emphasis added)

A negotiation target of between 35% and 50% will be applied having regard to the considerations in Box H1 above. Some schemes will be unable to provide affordable housing within this range. However, varying scenarios have been modelled to consider different circumstances over the entire plan period and this target range is considered to be robust provided it is applied flexibly on a case by case basis.

(Para.6.126, Core Strategy, January 2012, emphasis added)

15. The Core Strategy was adopted in January 2012. Policy H2 was supported by an Affordable Housing Economic Viability Study and seeks the provision of 35 to 50% affordable housing on sites with a capacity of 10 units or more. However, the Council concede that, at present, the majority of new schemes are unable to deliver affordable housing at the level required by Policy H2. According to the Viability Study, at 35% affordable housing, most sites are not viable regardless of CIL.

16. As stated in the Viability Study, if a scheme is not viable before CIL is levied it is unlikely to come forward and CIL is, therefore, unlikely to be a material consideration in any development decision. Consequently, the Viability Study, sensibly in my view, did not factor in unviable schemes in recommending appropriate rates. The Viability Study is based on 35% provision of affordable housing (for schemes of 10 or more units). EXAM 3 contains further detail and analysis regarding the impact of CIL on the

provision of affordable housing and concludes that 'a variation in CIL has only a marginal effect on the viability of a scheme and the level of affordable housing that is secured'.

(Paras.15-16, Examiner's Report, July 2013, emphasis added)

6.7 London Borough of Waltham Forest

...

B) maximising the number of quality affordable homes in the Borough by:

i) maximising the number of quality affordable homes in the Borough by aiming to provide at least 50% (5,700 homes) of homes as affordable over the plan period...

ii) assessing the level of affordable housing on a site by site basis. In order to deliver the maximum amount of affordable housing, developments proposing less than 50% will need to demonstrate a viability case, in the form of a viability assessment...

(Policy CS2 Improving Housing Quality and Choice, Core Strategy, March 2012, emphasis added)

Notwithstanding the development plan requirement, the AHVS suggests that a maximum level of only 20% affordable housing can be delivered in current market conditions. The Council confirms that, in practice, a reduced level of affordable housing provision has been accepted in many cases where a proven viability case has been made. It is not for this report to comment upon the relationship between the 20% figure and the 50% target that is contained in the above-noted LP policies. However, bearing this evidence in mind, and notwithstanding the need to ensure that the Local Plan delivery target is not undermined by proposed CIL charging rates (a matter considered below), it is appropriate in principle for the VSU to test residential development viability against the lower figure as well as against the 50% target set out in the CS.

The VSU indicates that a residential CIL rate of £70 is generally viable in cases where affordable housing is provided at 20%. When tested against 50% affordable housing provision, two of the relevant development typologies (sites types 4 and 6) are shown to also be viable when CIL is charged at this rate. However, substantial viability problems are demonstrated in site type 5, which relates to a flatted scheme of 100 units, where affordable housing is provided at 50%. Given that the CS makes particular reference to intensifying residential uses and building at higher densities in the Borough's four key growth areas, site type 5 appears to represent an important part of the Borough's future housing supply. This suggests that, in present market conditions, achieving the 50% affordable housing target from general housing development within the Borough represents a significant challenge. It is contended by the Council that, within the Borough as a whole, the resulting shortfall has been compensated for by the delivery of 100% affordable housing developments that are subject to separate funding arrangements.

In any event, the VSU also demonstrates that, in respect of site type 5, the cost of providing affordable housing is considerably greater than the CIL rates that are now proposed. For example the residual land value (RLV) model suggests that increasing the amount of affordable housing from 20% to 50% in such a scheme would result in a cost of some £7m: in contrast, a CIL rate of £70 psm would result in a cost of some £½m. The potential CIL liability applying to such a development therefore represents a small percentage of the overall deficit arising from a scheme providing 50% affordable housing. As such, reducing the CIL requirement (or removing it altogether) would make little difference to overall scheme viability. A substantial deficit would remain even if a nil CIL charge was applied. Indeed, the sensitivity testing carried out for the VSU suggests that such a deficit would remain in some cases even if the amount of affordable housing is reduced well below the 50% figure. The underlying problem in such circumstances is that the value generated by residential development is lower than some existing use values.

(Paras.15-17, Examiner's Report, January 2014, emphasis added)

6.8 London Borough of Islington

...

G. Provide affordable housing by:

- requiring that 50% of additional housing to be built in the borough over the plan period should be affordable.
- seeking the maximum reasonable amount of affordable housing, especially social rented housing, from private residential and mixed-use schemes over the threshold set above, taking account of the overall borough wide strategic target. It is expected that many sites will deliver at least 50% of units as affordable, subject to a financial viability assessment, the availability of public subsidy and individual circumstances on the site.

(Policy CS12 Meeting the housing challenge, Core Strategy, February 2011, emphasis added)

This assessment shows that while a number of developments could provide 50% affordable housing under the charging rates now proposed, achieving this figure on all relevant sites remains a challenge. However, the wording of policy CS12(G) accepts that the 50% figure represents a Borough-wide target that may not be achieved within all individual schemes. As such, neither the conclusions of the CILVS nor the fact that lower levels of affordable housing have been tested are sufficient to undermine the CS policy requirement. Furthermore, as already noted, the CIL liability applying to such developments represents a small percentage of the overall development costs. The CILVS shows that substantial reductions in the proposed CIL rate would have very limited effects on the delivery of affordable housing. For example a change of £100 in the CIL rate would result in an average change of only 2% in affordable housing provision. I return to this matter when discussing the delivery of development below.

The CILVS states that the transition to CIL from payments under Section 106 would have a very limited impact on the delivery of affordable housing (an average change of less than 2%). As already noted, the costs arising from the CIL charges in respect of residential developments would represent a small percentage of the overall development costs. These factors suggest that, notwithstanding the challenges to date in achieving a Borough-wide target of 50% affordable housing provision, the introduction of CIL would not materially worsen the current position. Indeed, given that affordable housing (that is eligible for social housing relief) is presently subject to contributions under section 106 but would not be charged CIL, the introduction of CIL may potentially encourage the inclusion of more affordable housing.

(Paras.17 and 41, Examiner's Report, March 2014, emphasis added)

London Boroughs – Conclusion

- 6.9 If other CIL examinations had adopted a different approach by not considering the London Plan as the “relevant plan” (which allows flexibility in affordable housing policies, subject to local plan policies and other considerations), then approved CIL charges in London (including the Mayoral CIL which must raise funds to construct Crossrail) would be much lower (and indeed nil in many cases). This would jeopardise implementation of “relevant plans” in London in terms of not raising enough funding for necessary supporting infrastructure. Such lower CIL charges would be unlikely to cause any significant improvement in affordable housing delivery, because it has been demonstrated that CIL has a negligible impact on affordable housing delivery and other factors have a much greater impact (see Council's response to Question 5).
- 6.10 Such an approach could put “relevant plans” at greater risk and threaten their delivery. This would not be in accordance with the guidance which states that Councils should ensure that proposed CIL charges contribute “towards the implementation of” (NPPG CIL paras.009; 018); does “not threaten” (008; see also 009; 038; 093); and “be consistent with, and support the implementation of” (010) the “relevant plan”.

Mid Devon District Council

- 6.11 Reference has been made by the Examiner throughout this Council's examination of the Mid Devon examination where the proposed CIL charges were reduced by the examiner based on the Council's affordable housing policies. These are summarised below for information.

The diverse housing needs of the community will be met through the provision of approximately 6800 dwellings between 1st April 2006 and 31st March 2026, including a target of 30% (2000) affordable dwellings...

(COR3 Meeting Housing Needs, Core Strategy 2026, July 2007, emphasis added)

2000 or more affordable dwellings should be provided between 2006 – 2026...

(AL/DE/2 Overall Affordable Housing Provision, Allocations and Infrastructure DPD, October 2010, emphasis added)

- 6.12 The Examiner's report concluded that in light of these policies "the use of the 22.5% figure by the Council will be seen as a reason not to seek the achievement of the full target and consequently it will put the provision of affordable housing at serious risk" (para.14). This Council does not consider that the same argument can be followed for this borough because there is a considerably different policy context in London (see the Council's response to Questions 1 and 2) which means that the requirements to support the 'relevant plan' should be seen through the relevant plan policies in London and in the borough, rather than through those elsewhere.
- 6.13 It is also worth noting that Mid Devon District Council has subsequently made a Cabinet Decision on the 28th May 2014³⁵ not to implement CIL for a number of reasons, including "the amount raised through CIL would not fund the significant infrastructure costs of such sites" (emphasis added). This reiterates the point made in the Council's response to Question 4 that in 'striking an appropriate balance' in setting CIL rates, this Council must not only consider viability (and implementing affordable housing policies in the 'relevant plan') but also the need for funding of infrastructure to support development proposed in the 'relevant plan'. Notwithstanding the appropriate public consultation and examination process, Mid Devon have published a Preliminary Draft Charging Schedule (PDCS, June 2014) for consultation proposing rates higher than those recommended by the examiner.

³⁵ <http://www.middevon.gov.uk/CHttpHandler.ashx?id=23518&p=0>

Question 7: Does the Council's evidence support the imposition of the Zone F CIL charge (£110 psm) on the strategic site at Kensal?

- 7.1. Kensal has correctly been identified as the most important site left to be developed in terms of achieving the Borough's housing targets and delivery of the Core Strategy. This focus on the strategic (brownfield) site is in accordance with the guidance, which states:

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 is likely to be most significant.

(para.019, NPPG CIL, June 2014, emphasis added)

- 7.2. In accordance with the guidance, the council has focused on providing:

...a robust evidence base about the potential effects of the rates proposed, balanced against the need to avoid excessive detail.

A charging authority's proposed rate or rates should be reasonable, given the available evidence, but there is no requirement for a proposed rate to exactly mirror the evidence. For example, this might not be appropriate if the evidence pointed to setting a charge right at the margins of viability. There is room for some pragmatism. It would be appropriate to ensure that a 'buffer' or margin is included, so that the levy rate is able to support development when economic circumstances adjust. In all cases, the charging authority should be able to explain its approach clearly.

(para.019, NPPG CIL, June 2014, emphasis added)

- 7.3. To test "the potential effects of the rates proposed", the Council has undertaken Residual Land Value (RLV) appraisals as summarised in the table below and provided within **Appendix 3**. It should be noted that this has included testing a "No CIL" scenario and a "With CIL" scenario:

Appraisal (16.65ha site)	Residual Land Value (RLV)		Benchmark Land Value (BLV) ⁴ Community ³⁶	RLV – BLV ⁴	RLV as % of BLV ⁴
	Total	Per ha	Per ha	Per ha	
KGW1 No CIL 42.86% AH ³⁷	£63.44m	£3.8m/ha	£7.48m/ha	Negative	51%
KGW2 With CIL 42.86% AH ³⁸	£50.01m	£3.0m/ha		Negative	40%
Difference between No CIL & With CIL	£13.3m	£0.8m/ha		Remains negative	11%
	21% decrease				

³⁶ Paras.4.40-4.43, October 2012 report

³⁷ Referenced in para.3.1 and detailed in Appendix 3 of January 2014 report

³⁸ Referenced in para.3.1 of January 2014 report (note that text should have stated £50.01m rather than £50.14m) and not provided in the Appendix. This appraisal is now provided for the examination as Appendix 3.2 to this document

The 'potential effect' of CIL on viability at Kensal Gasworks is negligible

- 7.4. For the purposes of responding to the Examiner's concerns, the table above includes a comparison of RLV with Benchmark Land Values (BLVs) from the October 2012 report, for which the lowest BLV is £7.48m/ha (BLV4). Whilst the "With CIL" scenario results in a positive RLV, the Examiner has expressed concern that this RLV is below the lowest BLV in the October 2012 report (BLV4). It should be noted, however, that the RLV of the "No CIL" scenario is only £0.8m/ha greater at £3.8m/ha, which is still substantially below the lowest BLV from the October 2012 report.
- 7.5. This demonstrates that "the potential effects of the rates proposed" are largely negligible and there are much more important factors in scheme viability at Kensal than the proposed CIL rates, namely the BLV (and affordable housing). These factors are considered below:

Benchmark Land Values (BLVs)

- 7.6. It should be noted that the BLVs in the October 2012 report, which the Examiner is referring to for Kensal, are 'benchmarks' and can vary significantly, especially for Kensal. The October 2012 report stated: "Current use values can vary significantly" (para.4.33) and "current use values should be regarded as benchmarks rather than definitive fixed variables on a site by site basis" (para.4.37). The report also states:

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.

(para.4.38, October 2012 report, emphasis added)

- 7.7. In any case, the Council is of the view that £50.14m RLV still provides a significant incentive for landowners to bring the site forward for development, as stated in the January 2014 report:

The £50.14 million land value generated by our appraisal would be available to the current landowners in order to incentivise them to bring the site forward for development.

(para.3.1, January 2014 report)

- 7.8. This site, which contains a former gasworks, poses unique and abnormal development costs and any alternative scheme on the site would therefore generate a lower land value than other sites which do not share the same burdens. Furthermore, a gasworks site that has been decommissioned, with all the costs of dealing with extensive contamination and site preparation, is not the same proposition as operating industrial buildings. Clearly the latter would generate a higher value than the former. For this

reason it is difficult to draw comparison with other development sites and BLVs at Kensal.

Affordable housing

- 7.9. The submitted documentation already demonstrates that the viability impact of CIL at Kensal could be entirely mitigated by a small adjustment in the affordable housing of just 1.91%:

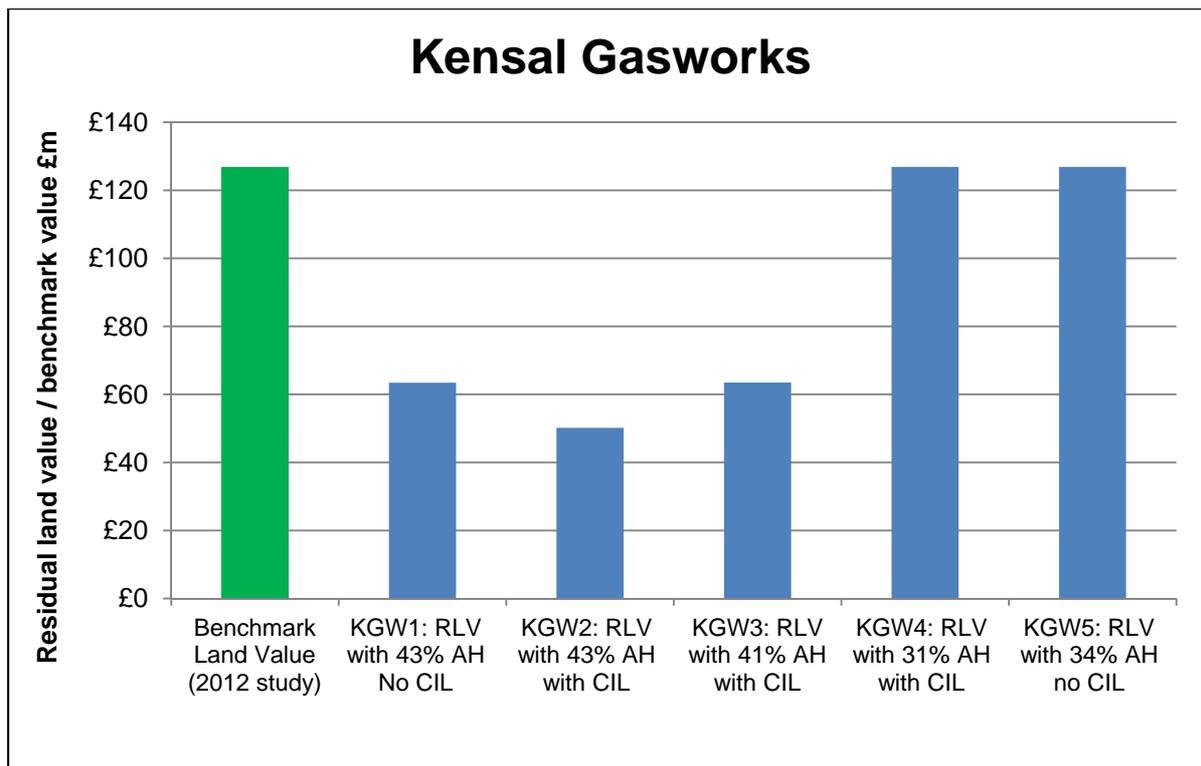
An alternative option would be to accept a small reduction in affordable housing. We have run a second appraisal of the site which maintains a residual land value of £63.4 million (i.e. the same residual as the nil-CIL rate appraisal) by altering the mix of private and affordable housing. Our appraisal indicates that the scheme could absorb the proposed CIL and generate a residual land value of £63.49 million if the affordable housing is reduced from 42.86% to 40.95% of units. This small reduction in affordable housing may be seen as striking an appropriate balance between the desirability of the additional funding for local infrastructure and provision of affordable housing. However, we should stress that we see no compelling reason at this early stage of scheme development why the site should not come forward at a lower land value, thus enabling the Council to secure 42.86% affordable housing.

(para.3.1, January 2014 report, emphasis added)

- 7.10. Whilst the Council is of the view that the RLV of development at Kensal should not solely be compared to BLVs provided in the October 2012 report (see previous section), for the purposes of responding to the Examiner's questions, the Council has provided further appraisals to show what adjustment in affordable housing would be required to deliver a RLV equal to the October 2012 BLVs. The appraisals are provided within **Appendix 3** and are summarised in the table below and the following graph:

Appraisal (16.65ha site)	Residual Land Value (RLV)		Benchmark Land Value (BLV) ⁴ Community	RLV – BLV ⁴	RLV as % of BLV ⁴
	Total	Per ha	Per ha	Per ha	
KGW3 With CIL 40.95% AH ³⁹	£63.49m	£3.8m/ha	£7.48m/ha	Remains negative	51%
KGW4 With CIL 31.43% AH	£130.4m	£7.83m/ha		Neutral / positive	105%
KGW5 No CIL 34.1% AH	£127.8m	£7.68m/ha		Neutral / positive	103%

³⁹ Referenced in para.3.1 of January 2014 report but not provided in Appendix. This appraisal is now provided for the examination as Appendix 3.3 to this document



7.11. This clearly shows that even if landowners were using BLVs comparable to the October 2012 BLVs (as the Examiner is suggesting, although the Council contends this), delivery of the site would still be possible with adjustments to the level affordable housing. Such an adjustment would still be capable of being policy-compliant as explained in the Council's responses to Questions 1-6 (subject to viability evidence and other considerations). This is especially the case since the 'relevant plan' (Core Strategy policy CA1 Kensal Gasworks, subsections (l)-(s)) provides a list of the infrastructure required associated with the delivery of the site which includes affordable housing alongside a number of other infrastructure requirements for the site.

7.12. This further demonstrates that "the potential effects of the rates proposed" on viability are largely negligible and affordable housing has a much greater impact on scheme viability at Kensal than the proposed CIL rates.

Timescales and delivery at Kensal

7.13. The Council would also wish to reiterate the time scales of delivery of this remaining strategic site. As a result of the site being used for ongoing Crossrail construction works, the site is unlikely to come forward for development before 2018. It is highly likely therefore that the site will be considered in light of a future charging schedule. The evidence has already stated:

The indicative programme for the development appears to suggest that it will not commence until 2018, by which time the Council may well be

reviewing its CIL Charging Schedule. There would be an opportunity to review the rates for the site based on the more detailed scheme that would have been worked up by that point.

(para.3.1, January 2014 report)

- 7.14. In addition to the above it should be noted that ownership of the site remains with the current occupiers, predominantly Ballymore and Sainsbury's, and the site has not been sold for development. It is therefore pragmatic to assume that any CIL charge could be reflected within the sale value of the site.

Conclusion

- 7.15. Referring back to the guidance on strategic sites, the Council's evidence has tested "the potential effects of the rates proposed" (para.019, NPPG CIL) and demonstrated that the effects on viability are negligible and that other factors have a much greater impact on viability.
- 7.16. As well as testing "the potential effects", the guidance also states that this should be "balanced against the need to avoid excessive detail" (para.019, NPPG CIL). In the absence of a more detailed scheme and viability work on Kensal, there is no further "appropriate available evidence" (S211(7A), Planning Act 2008, para.019, NPPG CIL) and the Council's appraisals on Kensal, summarised above, represent a proportionate approach. The Council has also had to "seek to avoid undue complexity" (para.021, NPPG CIL) in setting the differential rates, and so has proposed that Kensal is incorporated within Zone F, which has the lowest proposed residential CIL in the Borough. This is especially the case in light of the Examiner's concern that "the number of zones seems excessive and unduly complicated" (ED-3, Letter from the Examiner, 27th June 2014)⁴⁰. The Council considers the number of zones in the submitted Draft Charging Schedule is appropriate and that the available evidence does not justify a separate zone for Kensal.
- 7.17. Overall, given the circumstances of this site and the buffers and mechanisms integral within the CIL legislation and the Council's approach, incorporating the site within Zone F, which has the lowest proposed residential CIL in the Borough, is considered a 'pragmatic' and 'reasonable' approach (as per para.019, NPPG CIL).

⁴⁰ http://www.rbkc.gov.uk/pdf/1%20ED-3%20EXAMINER'S%20LETTER%20-%20RBK&C_.PDF

Question 8: Is there a case for treating the Kensal strategic site differently?

Note on Questions 7 and 8 - the Council should explain, through specific evidence, the justification for its CIL proposals in respect of the Kensal strategic site, particularly in terms of the divergence between the modelled residual land value and the benchmark land values employed in its methodology. The evidence should seek to demonstrate, in greater detail than presented to date, that the imposition of the proposed CIL charge (on top of a modelled land value well below the adopted lowest benchmark land value) would not threaten viability and that it would serve a positive purpose.

- 8.2. The Council has treated the Kensal strategic site differently so far as is required by the guidance on strategic sites: the Council has tested “the potential effects” on viability of the proposed CIL using “appropriate available evidence” and taken a ‘reasonable’ and ‘pragmatic’ approach (see Council’s response to Question 7). This does not necessarily mean that the concluding CIL rate is ‘different’ for Kensal, however. The Council has concluded that, in light of the evidence and in seeking to avoid “undue complexity”, Kensal should be incorporated within Zone F, which has the lowest proposed residential CIL in the borough.
- 8.3. The full detail behind this is provided in the Council’s response to Question 7.

Serving a positive purpose

- 8.4. The imposition of the proposed CIL at Kensal Gasworks will serve a positive purpose in the delivery of infrastructure to serve the site.
- 8.5. Although there are not yet any detailed plans for the development of the site at Kensal Gasworks and there is not yet a detailed infrastructure study for development at this particular site, the Council is also able to draw upon the infrastructure items listed in Core Strategy policy CA1 Kensal Gasworks subsection (l)-(s) which lists:
- A Crossrail station;
 - Social and community uses (including health, education and police);
 - Affordable housing;
 - Construction and maintenance of bridges over the canal and railway;
 - Improvements to Little Wormwood Scrubs and Kensal Green Cemetery;
 - Improved transport infrastructure including better bus links and new roads;
 - Landscaping and amenity improvements to the Grand Union Canal; and
 - Other contributions as set out in the Planning Obligations SPD and the site specific SPD.

- 8.6. In terms of the Planning Obligations SPD, the Council is able to use its existing Section 106 Calculator ⁴¹ for the purpose of indicating infrastructure 'need' arising from the delivery of Kensal Gasworks. For example, in terms of education, this calculates the likely child yield arising from a development. In the case of Kensal, if a scheme compliant with policy CA1 were run through the calculator this generates a need for a contribution of £10.2m towards education facilities; £2m towards health facilities and £2m towards sports facilities. It is acknowledged that transport infrastructure will also be required to serve Kensal Gasworks, however at this time the details and extent of this transport infrastructure are unknown and are dependent on negotiations surrounding a new Crossrail station and the quantum of housing which will be delivered on the site.
- 8.7. The Local Infrastructure Delivery Plan (IDP) (March 2014)⁴² submitted as part of the evidence base sets out a number of infrastructure schemes which relate to Kensal (see Annex 1: IDP Schedule), based on the original Infrastructure Table in the Core Strategy (Chapter 37). Schemes which would be capable of benefitting from CIL monies could include:
- Crossrail station;
 - Bridges over the canal and railway;
 - Improved transport infrastructure;
 - Contribution to improved Little Wormwood Scrubs and cemetery;
 - Enhanced pedestrian links;
 - Police facilities;
 - Health facilities;
 - Education facilities; and
 - Canal environmental improvements.
- 8.8. The Council has confirmed a commitment to consulting on a revised Draft Regulation 123 List, alongside a revised Planning Obligations SPD, to take effect at the same time as the Council's proposed CIL comes into effect to further take into account infrastructure projects in the IDP. This will further ensure that the proposed CIL in Kensal serves a positive purpose in helping to fund infrastructure to support delivery of the site.

⁴¹ <http://www.rbkc.gov.uk/planningandbuildingcontrol/planningpolicy/section106.aspx> Note that this will be revised for when CIL takes effect to ensure continued compliance with Regulation 122

⁴² <http://www.rbkc.gov.uk/pdf/LDF%20IDP%20March%202014.pdf>

Question 9: Are there any implications for other strategic sites arising from the Council's CIL proposals?

- 9.1. The strategic sites for the borough are listed in chapter 19.1 of the Core Strategy. They are:
- Kensal Gasworks (CA1)
 - Wornington Green (CA2)
 - Land adjacent to Trellick Tower (CA3)
 - Kensington Sports Centre (CA4)
 - Commonwealth Institute (CA5)
 - Warwick Road (CA6)
 - Earl's Court Exhibition Centre (CA7)
 - Lots Road Power Station (Chapter 27 – not a strategic site)
- 9.2. The delivery of the other strategic sites in the borough is summarised in the letter from the Council (RBKC/1, Letter from RBKC, 16th June 2014)⁴³. This demonstrates that all the strategic sites have received planning permission with housing figures which exceed those figures sought by the Core Strategy. With the exception of Earl's Court where implementation is expected later in 2014, Kensal Gasworks (discussed in the Council's response to Questions 7 and 8) and Land adjacent to Trellick Tower, all these sites are currently under construction.

Land adjacent to Trellick Tower

- 9.3. Land adjacent to Trellick Tower has yet to receive planning permission and this area is the subject of the draft Trellick-Edenham SPD⁴⁴ which has been the subject of public consultation from July to September 2014. Core Strategy Policy CA3 states:

The Council will require development on the site to deliver, in terms of: -

Land use allocation:

- a. a minimum of 60 residential units to fund regeneration;
- b. improvements to social and community facilities and housing;

Principles:

- c. the restoration of the Grade II* listed Trellick Tower;

Infrastructure and Planning Obligations:

- d. additional social and community uses, including health provision to be included as part of any redevelopment;
- e. other contributions may be required, as identified in the Planning Obligations and the Site Specific Supplementary Planning Documents.

⁴³ <http://www.rbkc.gov.uk/pdf/Response%20to%20Examiner%2020140616.pdf>

⁴⁴ <http://www.rbkc.gov.uk/housingintheroyalborougho/regenerationandcommunity/trellickandedenham.aspx>

It would be possible to establish a trust fund to ensure that the profits from redevelopment are reinvested in the restoration of Trellick Tower and/or other social, community and regeneration benefits.

(Policy CA3, Allocation for Land Adjacent to Trellick Tower)

- 9.4. The site is approximately 0.91 ha (paras.2-3-2.5, SPD) so achieving the Core Strategy minimum allocation of 60 homes would represent a density of around 66u/ha. However, "analysis suggests there is potential for this site to accommodate more. It is important that the final capacity of the site is established through a careful design process" (para.3.44, SPD). The London Plan's density matrix (Policy 3.4 / Table 3.2) suggests that such an "Urban" location with a Public Transport Accessibility Level (PTAL) of 3/4 (para.3.46, SPD), a density of between 45-170u/ha could be appropriate, meaning the number of dwellings could theoretically increase to around 155 units (although this would have to be subject to design). So an appropriate capacity of the site could range from 60-155 units with a density of 66-170u/ha (subject to design).
- 9.5. 'Site types' 3 (0.33ha, 150u/ha = 50 units) and 4 (0.5ha, 100u/ha = 100 units) and BLV4 (Community) presented in the October 2012 report (Table 4.45.1) represent good comparables for this particular site. The October 2012 appraisals show that the proposed charge in this zone (F) of £110 psm becomes viable when compared to BLV4 when affordable housing is achieved at 30% (site type 3) or 20% (at site type 4) (see also para.1.6, RBKC/2. Letter from RBKC, 15th June 2014)⁴⁵. As set out in the Council's response to Question 5, many of the sites tested are not viable regardless of whether CIL is included and that is again the case here, as summarised in the below table:

CIL ZONE F £110 psm		
Area 1		
BLV 4		
Aff Hsg %	Site 3	Site 4
50%	n	n
40%	n	n
30%	150	25
20%	500	350

- 9.6. The Council is satisfied that the existing appraisals test the "potential effects" of the proposed CIL charge for this site and demonstrate that the proposed charges have a negligible effect on viability (other factors, such as affordable housing, have a more significant impact).
- 9.7. In any case, it should be noted, that the Council owns the site and will be undertaking the development. Therefore, many of the 'normal' assumptions used in the appraisals for a private developer/landowner would not apply, and the Council would not necessarily need a RLV higher

⁴⁵ <http://www.rbkc.gov.uk/pdf/BNP%20-%20Response%20to%20Examiner%2020140616.pdf>

than BLV to justify initiating a development – there are other objectives to be achieved.

- 9.8. It should also be noted that the Policy and Guidance Impact Assessment prepared for the SPD states “The priorities and expectations of the SPD have been tested in terms of financial viability to ensure that they are reasonable”.
- 9.9. As supported in the Core Strategy policy CA3 (above), funds received in CIL could be used to support the regeneration of the local area, to help implement the ‘relevant plan’.

APPENDIX 1 – Sample of residential schemes approved after the adoption of the Core Strategy in December 2010

Development Site	Permission Reference	Summary of development	% of affordable floorspace secured*	Justification for <50% affordable floorspace	Notes
Appendix 1.1 Approvals with Affordable Housing Secured On Site					
6- 12 Cranley Gardens	PP/10/00364	Change of use of hotel to 11 flats and one house (7 market and 5 affordable units) with associated alterations	34%	Viability	
195 Warwick Road	PP/10/02817	Redevelopment to provide up to 243 C3 units; up to 89 C2 units and 430sqm of commercial/ community floorspace	12%	Viability	
205 Holland Park Avenue	PP/10/03130	Redevelopment to provide 50 residential units and B1 floorspace	17%	Viability	
100 and 100A West Cromwell Road, Shaftsbury Place, 135 Warwick Road	PP/11/00107	Redevelopment to provide upto 278 residential units, retail floorspace and community facilities	20%	Viability	
Silchester Garages Site, Latymer Nursery and Freston Road	PP/12/00646	Redevelopment to provide 112 units (including affordable), community and retail facilities	83%	Above 50%, viability assessment demonstrated maximum reasonable amount	Estate regeneration scheme
		Average (excluding estate regeneration)	20.75%		

Development Site	Permission Reference	Summary of development	% of affordable floorspace secured*	Justification for <50% affordable floorspace	Notes
Appendix 1.2 Approvals Securing Affordable Housing Off Site (please note these developments are presented in pairs comprising the original approval and the affordable scheme)					
Vicarage Gate	PP/11/01691	Redevelopment to provide 14 residential units	36%	Earlier 2008 appeal decision	Appeal decision provided material consideration and fallback position
120 Campden Hill Road	PP/11/01697	Conversion from 8 market residential units to 11 affordable units			
1- 8 and 16 De Vere Gardens and 5 Victoria Road	PP/06/01691	Redevelopment to provide 97 Market units	n/a (31% of units)	Initial permission pre-dates Core Strategy adoption	2006 planning permission secured the quantum of affordable units
536 Kings Road	PP/10/02164	Redevelopment to provide 43 affordable units			
Chelsea College of Art, Manresa Road	PP/06/02705	Redevelopment to provide 25 residential units including 8 affordable units on site	n/a (47% of units)	Initial permission pre-dates Core Strategy adoption	2006 planning permission secured the quantum of affordable units
344- 346 Old Brompton Road	PP/11/03380	Redevelopment to provide 7 affordable units			
263- 265 Kensington High Street	PP/11/02498	Redevelopment to provide cinema, 35 residential units, 5 townhouses	20%	Viability Earlier 2008 permission	S106 agreement secured a quantum of floorspace elsewhere
Associated donor site to be identified					

Development Site	Permission Reference	Summary of development	% of affordable floorspace secured*	Justification for <50% affordable floorspace	Notes
Appendix 1.3 Approvals where a Public Benefit was Secured					
Middle Row Primary School	PP/12/02862	Construction of buildings to provide 42 residential units and office floorspace	0%	Public benefit: new Middle Row Primary School	Supplemented by viability testing
Clearings 1 and 2, Draycott Avenue	PP/13/02659	Redevelopment to provide 69 residential units	0%	Public benefit: new Marlborough Primary School	Supplemented by viability testing Also £4.65m affordable housing contribution
375 Kensington High Street	PP/13/06801	Section 73 application for change in mix and tenure	Reduction to 0%	Public benefit: new primary school at Warwick Road	Supplemented by viability testing Affordable housing moved to other sites below
213- 215 Warwick Road	PP/13/06790	Section 73 application for change in mix and tenure	Change from 26% to 29%	Public benefit: new primary school at Warwick Road	Supplemented by viability testing
195 Warwick Road	PP/13/06787	Section 73 application for change in mix and tenure	Change from 12% to 20%	Public benefit: new primary school at Warwick Road	Supplemented by viability testing

*Please note in some cases the percentage figure given may be GIA rather than GEA, based on Committee Reports.

This list is not intended to be exhaustive and is provided for contextual information only. The full planning application records and decision-making reports should be consulted for full details and justification for each planning permission.

APPENDIX 2 – Summary of maximum CIL rates and affordable housing percentages

Site	CIL ZONE A £750 psm		CIL ZONE B £590 psm				CIL ZONE C £430 psm		CIL ZONE D £270 psm			CIL ZONE E £190 psm			CIL ZONE F £110 psm	
	Area 7		Area 6		Area 4		Area 2		Area 5			Area 3			Area 1	
	AH%	BLV1	AH%	BLV2	AH%	BLV2	AH%	BLV2	AH%	BLV2	BLV3	AH%	BLV2	BLV3		BLV 4
1*	-	1,000	-	1,000	-	1,000	-	1,000	-	500	1,000	-		1,000	0	1000
2*	-	1,000	-	1,000	-	1,000	-	1,000	-	1,000	1,000	-	1,000	1,000	0	1000
3	50%	1,000	50%	800	50%	600	30%	500	50%		500	50%	1,000	1,000	30%	150
4	50%	1,000	50%	1,000	50%	1,000	50%	1,000	50%		400	40%		250	20%	350
5	50%	1,000	50%	1,000	50%	1,000	40%	500	50%		350	40%		200	20%	250

*Sites 1 and 2 fall below the affordable housing threshold

APPENDIX 3 – Kensal Gasworks Appraisals

Appendix 3.1 KGW1: No CIL; 42.86% AH

RBKC CIL - Kensal Gas Works Site
No CIL, 42.9% aff hsg, £63m land value

Summary Appraisal for Phase 1

REVENUE

Sales Valuation	m ²	Rate m ²	Gross Sales	
Residential flats	150,000.00	£7,265.00	1,089,750,000	
Affordable housing	112,500.00	£1,399.00	157,387,500	
Totals	<u>262,500.00</u>		<u>1,247,137,500</u>	1,247,137,500

Rental Area Summary

	m ²	Rate m ²	Gross MRV
Office	8,500.00	£250.00	2,125,000
Supermarket	8,720.00	£310.00	2,703,200
Neighbourhood Centre	1,800.00	£150.00	270,000
Totals	<u>19,020.00</u>		<u>5,098,200</u>

Investment Valuation

Office					
Market Rent	2,125,000	YP @	6.5000%	15.3846	
(2yrs Rent Free)		PV 2yrs @	6.5000%	0.8817	28,823,477
Supermarket					
Market Rent	2,703,200	YP @	4.7500%	21.0526	
(1yr Rent Free)		PV 1yr @	4.7500%	0.9547	54,328,853
Neighbourhood Centre					
Market Rent	270,000	YP @	6.5000%	15.3846	
(2yrs Rent Free)		PV 2yrs @	6.5000%	0.8817	3,662,277
					86,814,607

GROSS DEVELOPMENT VALUE 1,333,952,107

Purchaser's Costs 5.80% (4,759,213)
 NET DEVELOPMENT VALUE 1,329,192,894

NET REALISATION 1,329,192,894

OUTLAY

ACQUISITION COSTS

Residualised Price			63,439,592
Stamp Duty		4.00%	2,537,584
Agent Fee		1.00%	634,396
Legal Fee		0.80%	507,517
			67,119,089

CONSTRUCTION COSTS

Construction	m ²	Rate m ²	Cost	
Office	10,000.00	£1,841.00	18,410,000	
Supermarket	8,720.00	£1,057.00	9,217,040	
Neighbourhood Centre	2,000.00	£1,175.00	2,350,000	
Residential flats	176,470.59	£2,105.00	371,470,588	
Affordable housing	132,360.00	£2,105.00	278,617,800	
Totals	<u>329,550.59</u>		<u>680,065,428</u>	680,065,428

Contingency 5.00% 34,003,271
 Decontamination - gas holder site 5,000,000
 39,003,271

Other Construction

External works 15.00% 102,009,814
 Bridge construction 29,809,000
 131,818,814

Municipal Costs

Section 106 3,500.00 units 1,000.00 /un 3,500,000
 Mayoral CIL 188,470.59 m² 50.00 pm² 9,423,529
 12,923,529

PROFESSIONAL FEES

Professional fees 12.00% 81,607,851
 81,607,851

MARKETING & LETTING

Marketing 3.00% 32,692,500
 Letting Agent Fee 10.00% 509,820
 Letting Legal Fee 5.00% 254,910
 33,457,230

MISCELLANEOUS FEES

Profit on private 20.00% 235,312,921
 Profit on affordable 6.00% 9,443,250
 244,756,171

**RBKC CIL - Kensal Gas Works Site
No CIL, 42.9% aff hsg, £63m land value****FINANCE**

Debit Rate 7.00% Credit Rate 0.00% (Nominal)

Land	32,848,508	
Construction	5,592,492	
Total Finance Cost		38,441,000

TOTAL COSTS**1,329,192,385****PROFIT****509****Performance Measures**

Profit on Cost%	0.00%
Profit on GDV%	0.00%
Profit on NDV%	0.00%
Development Yield% (on Rent)	0.38%
Equivalent Yield% (Nominal)	5.44%
Equivalent Yield% (True)	5.63%
Gross Initial Yield%	5.87%
Net Initial Yield%	5.87%
	7.79%
Rent Cover	0 yrs 0 mths
Profit Erosion (finance rate 7.000%)	0 yrs 0 mths

Appendix 3.2 KGW2: With CIL; 42.86% AH

**RBKC CIL - Kensal Gas Works Site
With CIL, 42.9% aff hsg, £50m land value**

Summary Appraisal for Phase 1

REVENUE

Sales Valuation	m ²	Rate m ²	Gross Sales	
Residential flats	150,000.00	£7,265.00	1,089,750,000	
Affordable housing	112,500.00	£1,399.00	157,387,500	
Totals	<u>262,500.00</u>		<u>1,247,137,500</u>	1,247,137,500

Rental Area Summary

	m ²	Rate m ²	Gross MRV
Office	8,500.00	£250.00	2,125,000
Supermarket	8,720.00	£310.00	2,703,200
Neighbourhood Centre	1,800.00	£150.00	270,000
Totals	<u>19,020.00</u>		<u>5,098,200</u>

Investment Valuation

Office					
Market Rent	2,125,000	YP @	6.5000%	15.3846	
(2yrs Rent Free)		PV 2yrs @	6.5000%	0.8817	28,823,477
Supermarket					
Market Rent	2,703,200	YP @	4.7500%	21.0526	
(1yr Rent Free)		PV 1yr @	4.7500%	0.9547	54,328,853
Neighbourhood Centre					
Market Rent	270,000	YP @	6.5000%	15.3846	
(2yrs Rent Free)		PV 2yrs @	6.5000%	0.8817	3,662,277
					86,814,607

GROSS DEVELOPMENT VALUE 1,333,952,107

Purchaser's Costs 5.80% (4,759,213)
NET DEVELOPMENT VALUE 1,329,192,894

NET REALISATION 1,329,192,894

OUTLAY

ACQUISITION COSTS

Residualised Price			50,014,671	
Stamp Duty		4.00%	2,000,587	
Agent Fee		1.00%	500,147	
Legal Fee		0.80%	400,117	
				52,915,521

CONSTRUCTION COSTS

Construction	m ²	Rate m ²	Cost	
Office	10,000.00	£1,841.00	18,410,000	
Supermarket	8,720.00	£1,057.00	9,217,040	
Neighbourhood Centre	2,000.00	£1,175.00	2,350,000	
Residential flats	176,470.59	£2,105.00	371,470,588	
Affordable housing	132,360.00	£2,105.00	278,617,800	
Totals	<u>329,550.59</u>		<u>680,065,428</u>	680,065,428

Contingency		5.00%	34,003,271	
Decontamination - gas holder site			5,000,000	
				39,003,271

Other Construction

External works		15.00%	102,009,814	
Bridge construction			29,809,000	
				131,818,814

Municipal Costs

Section 106	3,500.00 units	1,000.00 /un	3,500,000	
RBKC CIL	176,470.59 m ²	110.00 pm ²	19,411,765	
Mayoral CIL	188,470.59 m ²	50.00 pm ²	9,423,529	
				32,335,294

PROFESSIONAL FEES

Professional fees		12.00%	81,607,851	
				81,607,851

MARKETING & LETTING

Marketing		3.00%	32,692,500	
Letting Agent Fee		10.00%	509,820	
Letting Legal Fee		5.00%	254,910	
				33,457,230

MISCELLANEOUS FEES

Profit on private		20.00%	235,312,921	
Profit on affordable		6.00%	9,443,250	

**RBKC CIL - Kensal Gas Works Site
With CIL, 42.9% aff hsg, £50m land value**

		244,756,171
FINANCE		
Debit Rate 7.00% Credit Rate 0.00% (Nominal)		
Land	27,068,557	
Construction	6,164,451	
Total Finance Cost		33,233,007
TOTAL COSTS		
		1,329,192,589
PROFIT		
		304

Performance Measures

Profit on Cost%	0.00%
Profit on GDV%	0.00%
Profit on NDV%	0.00%
Development Yield% (on Rent)	0.38%
Equivalent Yield% (Nominal)	5.44%
Equivalent Yield% (True)	5.63%
Gross Initial Yield%	5.87%
Net Initial Yield%	5.87%
	7.89%
Rent Cover	0 yrs 0 mths
Profit Erosion (finance rate 7.000%)	0 yrs 0 mths

Appendix 3.3 KGW3: With CIL; 40.95% AH

**RBKC CIL - Kensal Gas Works Site
With CIL, reduced affordable housing (40.9%)**

Summary Appraisal for Phase 1

REVENUE

Sales Valuation	m²	Rate m²	Gross Sales	
Residential flats	155,025.00	£7,265.00	1,126,256,625	
Affordable housing	107,475.00	£1,399.00	150,357,525	
Totals	<u>262,500.00</u>		<u>1,276,614,150</u>	1,276,614,150

Rental Area Summary

	m²	Rate m²	Gross MRV
Office	8,500.00	£250.00	2,125,000
Supermarket	8,720.00	£310.00	2,703,200
Neighbourhood Centre	1,800.00	£150.00	270,000
Totals	<u>19,020.00</u>		<u>5,098,200</u>

Investment Valuation

Office					
Market Rent	2,125,000	YP @	6.5000%	15.3846	
(2yrs Rent Free)		PV 2yrs @	6.5000%	0.8817	28,823,477
Supermarket					
Market Rent	2,703,200	YP @	4.7500%	21.0526	
(1yr Rent Free)		PV 1yr @	4.7500%	0.9547	54,328,853
Neighbourhood Centre					
Market Rent	270,000	YP @	6.5000%	15.3846	
(2yrs Rent Free)		PV 2yrs @	6.5000%	0.8817	3,662,277
					86,814,607

GROSS DEVELOPMENT VALUE 1,363,428,756

Purchaser's Costs 5.80% (4,759,213)
NET DEVELOPMENT VALUE 1,358,669,544

NET REALISATION 1,358,669,544

OUTLAY

ACQUISITION COSTS

Residualised Price			63,488,691	
Stamp Duty		4.00%	2,539,548	
Agent Fee		1.00%	634,887	
Legal Fee		0.80%	507,910	
				67,171,035

CONSTRUCTION COSTS

Construction	m²	Rate m²	Cost	
Office	10,000.00	£1,841.00	18,410,000	
Supermarket	8,720.00	£1,057.00	9,217,040	
Neighbourhood Centre	2,000.00	£1,175.00	2,350,000	
Residential flats	182,382.35	£2,105.00	383,914,853	
Affordable housing	126,447.92	£2,105.00	266,172,872	
Totals	<u>329,550.27</u>		<u>680,064,764</u>	680,064,764

Contingency 5.00% 34,003,238
Decontamination - gas holder site 5,000,000
39,003,238

Other Construction

External works 15.00% 102,009,715
Bridge construction 29,809,000
131,818,715

Municipal Costs

Section 106 3,500.00 units 1,000.00 /un 3,500,000
RBKC CIL 182,382.35 m² 110.00 pm² 20,062,059
Mayoral CIL 194,382.35 m² 50.00 pm² 9,719,118
33,281,176

PROFESSIONAL FEES

Professional fees 12.00% 81,607,772
81,607,772

MARKETING & LETTING

Marketing 3.00% 33,787,699
Letting Agent Fee 10.00% 509,820
Letting Legal Fee 5.00% 254,910
34,552,429

MISCELLANEOUS FEES

Profit on private 20.00% 242,614,246
Profit on affordable 6.00% 9,021,452

**RBKC CIL - Kensal Gas Works Site
With CIL, reduced affordable housing (40.9%)**

		251,635,698
FINANCE		
Debit Rate 7.00% Credit Rate 0.00% (Nominal)		
Land	33,373,726	
Construction	6,160,619	
Total Finance Cost		39,534,345
TOTAL COSTS		1,358,669,173
PROFIT		371

Performance Measures

Profit on Cost%	0.00%
Profit on GDV%	0.00%
Profit on NDV%	0.00%
Development Yield% (on Rent)	0.38%
Equivalent Yield% (Nominal)	5.44%
Equivalent Yield% (True)	5.63%
Gross Initial Yield%	5.87%
Net Initial Yield%	5.87%
	7.79%
Rent Cover	0 yrs 0 mths
Profit Erosion (finance rate 7.000%)	0 yrs 0 mths

Appendix 3.4 KGW4: With CIL; 31.43% AH

RBKC CIL - Kensal Gas Works Site

Aff Hsg reduced to 31% to achieve BLV of £127m, with CIL

Summary Appraisal for Phase 1

REVENUE

Sales Valuation	m²	Rate m²	Gross Sales	
Residential flats	180,000.00	£7,265.00	1,307,699,999	
Affordable housing	82,500.00	£1,399.00	115,417,500	
Totals	<u>262,500.00</u>		<u>1,423,117,499</u>	1,423,117,499

Rental Area Summary

	m²	Rate m²	Gross MRV
Office	8,500.00	£250.00	2,125,000
Supermarket	8,720.00	£310.00	2,703,200
Neighbourhood Centre	1,800.00	£150.00	270,000
Totals	<u>19,020.00</u>		<u>5,098,200</u>

Investment Valuation

Office					
Market Rent	2,125,000	YP @	6.5000%	15.3846	
(2yrs Rent Free)		PV 2yrs @	6.5000%	0.8817	28,823,477
Supermarket					
Market Rent	2,703,200	YP @	4.7500%	21.0526	
(1yr Rent Free)		PV 1yr @	4.7500%	0.9547	54,328,853
Neighbourhood Centre					
Market Rent	270,000	YP @	6.5000%	15.3846	
(2yrs Rent Free)		PV 2yrs @	6.5000%	0.8817	3,662,277
					86,814,607

GROSS DEVELOPMENT VALUE 1,509,932,106

Purchaser's Costs 5.80% (4,759,213)
 NET DEVELOPMENT VALUE 1,505,172,893

NET REALISATION 1,505,172,893

OUTLAY

ACQUISITION COSTS

Residualised Price			130,428,825	
Stamp Duty		4.00%	5,217,153	
Agent Fee		1.00%	1,304,288	
Legal Fee		0.80%	1,043,431	
				137,993,697

CONSTRUCTION COSTS

Construction	m²	Rate m²	Cost
Office	10,000.00	£1,841.00	18,410,000
Supermarket	8,720.00	£1,057.00	9,217,040
Neighbourhood Centre	2,000.00	£1,175.00	2,350,000
Residential flats	211,764.71	£2,105.00	445,764,706
Affordable housing	97,064.00	£2,105.00	204,319,720
Totals	<u>329,548.71</u>		<u>680,061,466</u>

Contingency		5.00%	34,003,073	
Decontamination - gas holder site			5,000,000	
				39,003,073

Other Construction

External works		15.00%	102,009,220	
Bridge construction			29,809,000	
				131,818,220

Municipal Costs

Section 106	3,500.00 units	1,000.00 /un	3,500,000	
RBKC CIL	211,764.71 m ²	110.00 pm ²	23,294,118	
Mayoral CIL	223,764.71 m ²	50.00 pm ²	11,188,235	
				37,982,353

PROFESSIONAL FEES

Professional fees		12.00%	81,607,376	
				81,607,376

MARKETING & LETTING

Marketing		3.00%	39,231,000	
Letting Agent Fee		10.00%	509,820	
Letting Legal Fee		5.00%	254,910	
				39,995,730

MISCELLANEOUS FEES

Profit on private		20.00%	278,902,921	
Profit on affordable		6.00%	6,925,050	

RBKC CIL - Kensal Gas Works Site
Aff Hsg reduced to 31% to achieve BLV of £127m, with CIL

		285,827,971
FINANCE		
Debit Rate 7.00% Credit Rate 0.00% (Nominal)		
Land	64,308,766	
Construction	6,574,249	
Total Finance Cost		70,883,015
TOTAL COSTS		1,505,172,901
PROFIT		(8)

Performance Measures

Profit on Cost%	0.00%
Profit on GDV%	0.00%
Profit on NDV%	0.00%
Development Yield% (on Rent)	0.34%
Equivalent Yield% (Nominal)	5.44%
Equivalent Yield% (True)	5.63%
Gross Initial Yield%	5.87%
Net Initial Yield%	5.87%
	7.54%
Rent Cover	0 yrs 0 mths
Profit Erosion (finance rate 7.000%)	N/A

Appendix 3.5 KGW5: No CIL; 34.1% AH

RBKC CIL - Kensal Gas Works Site

Aff Hsg reduced to 34% to achieve BLV of £127m, no CIL

Summary Appraisal for Phase 1

REVENUE

Sales Valuation	m ²	Rate m ²	Gross Sales	
Residential flats	173,250.00	£7,265.00	1,258,661,250	
Affordable housing	89,250.00	£1,399.00	124,860,750	
Totals	<u>262,500.00</u>		<u>1,383,522,000</u>	1,383,522,000

Rental Area Summary

	m ²	Rate m ²	Gross MRV
Office	8,500.00	£250.00	2,125,000
Supermarket	8,720.00	£310.00	2,703,200
Neighbourhood Centre	1,800.00	£150.00	270,000
Totals	<u>19,020.00</u>		<u>5,098,200</u>

Investment Valuation

Office					
Market Rent	2,125,000	YP @	6.5000%	15.3846	
(2yrs Rent Free)		PV 2yrs @	6.5000%	0.8817	28,823,477
Supermarket					
Market Rent	2,703,200	YP @	4.7500%	21.0526	
(1yr Rent Free)		PV 1yr @	4.7500%	0.9547	54,328,853
Neighbourhood Centre					
Market Rent	270,000	YP @	6.5000%	15.3846	
(2yrs Rent Free)		PV 2yrs @	6.5000%	0.8817	3,662,277
					86,814,607

GROSS DEVELOPMENT VALUE 1,470,336,607

Purchaser's Costs 5.80% (4,759,213)
 NET DEVELOPMENT VALUE 1,465,577,394

NET REALISATION 1,465,577,394

OUTLAY

ACQUISITION COSTS

Residualised Price			127,838,666
Stamp Duty	4.00%		5,113,547
Agent Fee	1.00%		1,278,387
Legal Fee	0.80%		1,022,709
			135,253,308

CONSTRUCTION COSTS

Construction	m ²	Rate m ²	Cost	
Office	10,000.00	£1,841.00	18,410,000	
Supermarket	8,720.00	£1,057.00	9,217,040	
Neighbourhood Centre	2,000.00	£1,175.00	2,350,000	
Residential flats	203,823.53	£2,105.00	429,048,529	
Affordable housing	105,005.60	£2,105.00	221,036,788	
Totals	<u>329,549.13</u>		<u>680,062,357</u>	680,062,357

Contingency 5.00% 34,003,118
 Decontamination - gas holder site 5,000,000
 39,003,118

Other Construction

External works 15.00% 102,009,354
 Bridge construction 29,809,000
 131,818,354

Municipal Costs

Section 106 3,500.00 units 1,000.00 /un 3,500,000
 Mayoral CIL 215,823.53 m² 50.00 pm² 10,791,176
 14,291,176

PROFESSIONAL FEES

Professional fees 12.00% 81,607,483
 81,607,483

MARKETING & LETTING

Marketing 3.00% 37,759,837
 Letting Agent Fee 10.00% 509,820
 Letting Legal Fee 5.00% 254,910
 38,524,567

MISCELLANEOUS FEES

Profit on private 20.00% 269,095,171
 Profit on affordable 6.00% 7,491,645
 276,586,816

RBKC CIL - Kensal Gas Works Site

Aff Hsg reduced to 34% to achieve BLV of £127m, no CIL

FINANCE

Debit Rate 7.00% Credit Rate 0.00% (Nominal)

Land	62,436,001	
Construction	5,994,221	
Total Finance Cost		68,430,223

TOTAL COSTS

1,465,577,403

PROFIT

(9)

Performance Measures

Profit on Cost%	0.00%
Profit on GDV%	0.00%
Profit on NDV%	0.00%
Development Yield% (on Rent)	0.35%
Equivalent Yield% (Nominal)	5.44%
Equivalent Yield% (True)	5.63%
Gross Initial Yield%	5.87%
Net Initial Yield%	5.87%
	7.54%
Rent Cover	0 yrs 0 mths
Profit Erosion (finance rate 7.000%)	N/A